



**THE CHANGING PERSPECTIVE OF THE UNITED
NATIONS ON TERRORISM AND ITS ROLE IN
COUNTERING TERRORISM WITH SPECIFIC
REFERENCE TO THE POST-9/11 PERIOD**

By

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Annex

	Main Actors of the United Nations System in Counter-Terrorism Efforts	
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List of Abbreviations

AD	<i>Action directe</i>
AIO	Administrative and Information Office
ANO	Abu Nidal Organisation
ATAO	Assessment and Technical Assistance Office
BR	Red Brigades
CTC	Counter-Terrorism Committee
CTED	Counter-Terrorism Executive Directorate
CTITF	Counter-Terrorism Implementation Task Force
ECOSOC	Economic and Social Council
ELN	National Liberation Army (Colombia)
EOKA	<i>Ethniki Organosis Kypriakon Agosniston</i>
ETA	Basque Fatherland and Liberty
FARC	Revolutionary Armed Forces of Colombia
FLQ	Quebec Liberation Front
FRG	Federal Republic of Germany
GPML	Global Programme against Money Laundering
ICC	International Criminal Court
ICISS	International Commission on Intervention and State Sovereignty
ICRC	International Committee of the Red Cross
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the Former Yugoslavia
IRA	Irish Republican Army
NATO	North Atlantic Treaty Organisation
NGO	Non Governmental Organisation
OAU	Organisation of African Unity
PAN AM	Pan American Airways
PKK	Kurdistan Worker's Party
PLO	Palestine Liberation Organisation
POW	Prisoner of War
PRC	People's Republic of China
RAF	Red Army Faction
UK	United Kingdom
UN	United Nations
UNAMI	United Nations Assistance Mission in Iraq
UNGA	United Nations General Assembly
UNITA	National Union for the Total Independence of Angola
UNODC	United Nations Office on Drugs and Crime
UNSC	United Nations Security Council
UNSG	United Nations Secretary General
RUF	Revolutionary United Front
SL	<i>Sendero Luminoso</i> (Shining Path)
SPLA	National Liberation Army of Sudan
TPB	Terrorism Prevention Branch
TWA	Trans World Airlines
US	United States
USSR	Union of Soviet Socialist Republics
UTA	<i>Union de Transpots Aeriens</i>
WMD	Weapons of Mass Destruction
WTC	World Trade Centre

CHAPTER 1: INTRODUCTION

1. Identification of the Research Theme

The end of the Cold War brought an end to a long period of the constant threat of potential large-scale interstate conflict and ushered in a multipolar post-Cold War international system with different security challenges. The disappearance of two hostile military and political blocs, however, did not lead to greater international security, but rather to an array of diffused security threats which resulted in a range of new violent conflicts. This led to the rethinking of the basic assumptions of security, and a broadening of the security agenda. Although war has not become obsolete, and the military realities of the international system still needed to be included in security considerations, new concepts had to be developed to provide for sources of conflict on other levels. In this respect, Buzan argued that the security of human collectives, in addition to the military sector, is also affected by factors in the political, economic, social, and environmental spheres. (Buzan, 1991: 19)

With the end of the Cold War, the process of globalisation became more visible and challenged the state-centric view of international relations of the Realist School. The fragmentation of nation states, mostly in former Communist countries, led to new security issues caused by ethnic and religious conflicts within states, which for the greater part replaced large-scale conflicts between states. (Baylis, 2001: 269) This aggressive ethnic nationalism led to an epidemic of armed or intra-national conflict which constantly threatened to spill over the borders of nation states. Violence was now largely the result of civil war, fragile cease-fires that did not hold, and extremist movements that spread political violence in various forms, including terrorism.

Other post-Cold War changes affecting the international environment include the globalisation of the world economy, the emergence of new security issues such as environmental degradation and mass migration, and the growing importance of multilateral institutions. (Lynn-Jones, 1999: 65) The revival of multilateral cooperation

also signified a changing role for the United Nations (UN), as did the changing nature of threats such as international and transnational terrorism.

In considering the role or potential role of the UN in counter-terrorism, the most easily observable aspect is that terrorist acts attack the values that lie at the heart of the UN Charter. These include respect for human rights, the rule of law, rules of war that protect civilians, tolerance among peoples and nations, and the peaceful resolution of conflict. (UN, 2004, A/59/565: 45) Consequently, the UN, with its global membership and commitment to peace and security, can play an important role in coordinating counter-terrorism efforts at a global level. In this respect, it has, since 2001, adopted a proactive, rather than a reactive approach in focusing on the challenges of preventing terrorism by dividing its efforts and resources in three areas, namely following a comprehensive strategy; developing better counter-terrorism instruments; and by assisting states in confronting terrorism. (Du Plessis, 2005: 72-73)

The role that the UN played in countering terrorism during a specific time period was influenced by the prevailing international order. During the Cold War the UN was almost paralysed by the bipolar international order with the main rivals exercising their veto right in the UN Security Council (UNSC) and thereby stalemating many initiatives. This made the UN powerless to exercise its will over any of the two superpowers. (Meisler, 1995: 114) Although the UN felt itself unable to take action to resolve international conflicts during this time, it kept honouring the preamble of its Charter which commits it to the prevention of international conflict, fundamental human rights, and to the economic and social advancement of all people. (UN, 1945, Charter: Preamble) Although the UN Charter does not identify terrorism by name, the objectives of the UN include the prevention and countering of all acts of political violence.

Until the 1970s terrorism was predominantly viewed as a local phenomenon and the issue was rarely brought before the UN. (Luck, 2004a: 98) This perception started to change in the 1970s, and even more during the 1980s, when a more devastating kind of terrorism, called “new” terrorism began to appear. This was described as, *inter alia*,

having a religious motivation; striving to commit mass casualty, indiscriminate attacks; and favouring a less cohesive structure with a diffuse membership. The possibility of these groups obtaining and using weapons of mass destruction formed an important part of the debate on the “new” terrorism which ostensibly considered the whole globe as a theatre of operations. The UN reacted to this development by developing and approving conventions outlawing various kinds of terrorist acts and by adopting for the first time Chapter VII sanctions against certain member states, namely Libya, Sudan and Afghanistan for supporting international terrorism. (Luck, 2004b)

After the end of the Cold War, the UN regained much of the role that it was initially intended to play in international peace and security issues. With the stalemate of the Cold War removed, the UNSC was able to function more effectively. Observers talked about the “renaissance” of the UN and the UNSC broadened its interpretation of threats to international peace and security to include internal conflicts. This raised the question whether the UN’s basic function remains to prevent aggression between states or whether it includes dealing with violence within states. In the latter case this meant a shift towards a broad commitment to justice, law and order because Article 2(7) of the UN Charter restrains it from intervention in matters of domestic jurisdiction. (Urquhart, 2004: 82, 91) However, despite some notable successes, the UN could not solve longstanding regional conflicts and it failed to act in the face of genocide and ethnic cleansing. This eventually led to renewed cynicism about members’ willingness to support the organisation. (UN, 2004, A/59/565: 18)

The UN Charter also provides for a range of activities that form part of threats to international peace and security and this makes it possible for the organisation to address the phenomenon of terrorism in a variety of ways. The multidimensional nature of terrorism, a by-product of protracted political, socio-economic, religious and ethnic discontent, is also reflected in the fact that the UNSC, the United Nations General Assembly (UNGA), the UN Secretary-General (UNSG), as well as a range of UN associated bodies, are all involved in dealing with terrorism in a particular way. (Boulden, 2007: 427)

For thirty years prior to the terrorist attacks on the United States (US) on 11 September 2001 (9/11), the UNGA was the major player in shaping the UN agenda on terrorism. It began dealing with terrorism in 1972 after a number of high profile attacks but the issue did not reach the agenda of the UNSC, a more important UN body. Terrorist attacks at the time were primarily associated with the politics of the Middle East and the UNSC would not have been able to overcome the dominance of Cold War issues in considering a response. (Boulden, 2007: 428) In contrast, the UNGA has developed and adopted a number of international legal conventions relating to terrorism and, together with UNGA resolutions, these established a set of norms and legal requirements which conditioned behaviour and which encouraged states to take counter-terrorism measures. (Boulden, 2007: 428)

After struggling to distinguish between legitimate armed struggle and acts of terrorism for most of its existence, expressions of concern about conditions encouraging a resort to terrorism became less prominent in texts of UNGA resolutions adopted during the 1990s. Developments in the international environment aided the UNGA to overcome this dilemma. Firstly, the end of colonialism led to the disappearance of most national liberation movements. Secondly, new and continuing ethnic conflicts after the end of the Cold War highlighted attacks on civilians and led the UNGA to focus more on human security issues. Consequently, UNGA resolutions on terrorism started to encourage governments to treat terrorism as a form of criminal activity and transnational crime, to be handled through cooperative law enforcement. (Peterson, 2004: 182-183) This, together with the reluctance of some governments, mainly the US, to discuss the root causes of terrorism, led to a near consensus at the end of the 1990s that all forms of terrorism should be condemned.

In contrast with the UNGA, the UNSC's earlier approach was to deal with terrorism on a case-by-case basis, in the context of its role as custodian of international peace and security. Its response was predominantly reactive and punitive through the imposing of sanctions and the monitoring of their implementation. However, this changed after 9/11 when the UNSC established specialised bodies, namely the Counter-Terrorism

Committee (CTC) in 2001 and the Executive Directorate (CTED) in 2004, which signified a heightened level of interest of the UNSC in counter-terrorism issues.

The 9/11 terrorist attacks on the US marked a change in the reaction of the UN towards terror attacks. The willingness of the UNSC to invoke the right of self-defence in response to these attacks was the first time that the UNSC approved a resolution, namely Resolution 1368, reaffirming the inherent right of individual or collective self-defence in accordance with the UN Charter, Article 51. This reaction was in stark contrast with the previous history of ambivalence and hesitation of the UNSC in dealing with terrorism. (Luck, 2004c: 85) Consequently, the UNSC became the center of UN counter-terrorism activity, reflecting the dominance of the political paradigm of its most powerful member, namely the US concept of a “global war on terror”. The counter-terrorism agenda of the UN was thus influenced by political dynamics within the UNSC, which led to a greater focus on law enforcement measures and less attention to long term preventive strategies. (Cortright, 2005: 2)

Throughout its history, the absence of consensus on a definition of terrorism has been an impediment to the development of uniform norms and laws to be implemented across the international system. The debate on the issue led to divisions in the UNGA where some argued that terrorism can not be defined in a way that ruled it out in situations where individuals and groups have no other recourse than to use terrorism to achieve their political aims. In these instances, which include national liberation struggles, terrorism was justified. Others argued that a definition should include some recognition that states themselves engage in terrorism. In the absence of a consensus, the UN system has adjusted by addressing the question of method, even though the debate on the motive for terrorism, continued. (Boulden, 2007: 428)

From the above it can be seen that the UN originally viewed terrorism as a domestic issue and that it was mainly discussed in the UNGA which played a norm setting role in approving legal conventions relating to terrorism. With the changes in the international system and in terrorism itself as phenomenon, the UNSC became increasingly involved

in terrorism-related matters and the UN responded to the international security threat posed by states and organisations involved in terrorism. In addition, after 9/11 the UN has taken several important actions in order to promote the prevention of terrorism on a global level.

2. Study Objectives

The main objective of the study is to identify factors which caused the UN to change its perspective on terrorism; the main characteristics of this changed view; and to explore the evolvement of the counter-terrorism policy of the organisation, with specific reference to the post-9/11 period. The study does not include a prediction of future trends, but traces and analyses the development of the UN's counter-terrorism approach since terrorism first appeared on the UN agenda.

To achieve this aim, the study focuses on changes in the international security environment since the end of the Cold War, which resulted in a change in the role played by the UN in international peace and security issues. It also provides a conceptual framework of international terrorism as a strategy of political violence and indicates how the motivation, characteristics and application of the phenomenon have changed since the mid-1980s.

In addition, the study describes the institutions of the UN most relevant to its counter-terrorism program and the actions taken by these with the objective of determining the relevance and success of the UN counter-terrorism program, both on the operational level and in a supportive role.

The study aims to achieve the following specific objectives, namely:

- Describe the changes in the international security environment after the end of the Cold War.
- Analyse the changes in the phenomenon of terrorism since the mid-1980s.

- Describe the actions taken by the different UN institutions in countering terrorism.
- Assess the contribution of the UN system in countering terrorism, taking into account the influence of its most powerful members.

The relevance of the research is to make a contribution in terms of the investigation of counter-terrorism efforts by multilateral institutions, taking into account the consensus among authors that there currently exists a lack of literature on the subject.

3. Literature Survey

The general literature on terrorism has developed substantially since the early 1970s but it has paid relatively little attention to investigating the role of the UN in countering terrorism. The reasons for this are mainly internal to the field of terrorism studies. Firstly, the study of terrorism is interdisciplinary and tends to concentrate on explaining the phenomenon of terrorism itself. Consequently, academic specialists on terrorism often do not have a background in international relations or the study of international organisations. Secondly, until the attacks of 9/11, specialists in Security Studies, International Relations and Foreign Policy, did not consider terrorism to be a serious national security problem or an important threat to the international power structure. (Crenshaw, 2002: 1)

Crenshaw further points out that, despite agreement among terrorism specialists that international cooperation is essential for dealing with terrorism, the characteristics of the UN system contributed to a perception that the organisation was not an ideal vehicle for counter-terrorism efforts. Firstly, the UN failed to agree on a consensus definition of the phenomenon. During the Cold War, because of the politicisation of the concept, the UN could only deal with separate facets of terrorism, rather than with the threat holistically. After the end of the Cold War, the definitional issue remained contentious because governments continued to condemn political opponents as “terrorists”. (Crenshaw, 2002: 2)

Secondly, even if anti-terrorism conventions were successfully negotiated, the UN could not enforce them. Compliance by member states to these conventions was voluntary and considerations of state sovereignty blocked their full cooperation in UN counter-terrorism measures. Because terrorism was an internal security issue to most states, members treated the problem as an internal matter and it was not brought to the attention of UN institutions. In addition, when terrorism reached a point of threatening a state's interests abroad, states usually tended to resort to unilateral military action and justified this as self-defence. (Crenshaw, 2002: 2)

On the other hand, students of the UN have seen little purpose in researching an area in which the UN has contributed relatively little and which appeared to entail law enforcement and intelligence work for which the organisation was not suited. In addition, several of the UN's public constituencies, such as human rights groups, were uncomfortable with it playing a more prominent counter-terrorism role. Many UN members were also wary that the funding of counter-terrorism initiatives would drain resources available for development issues and that development programs may be distorted for strategic reasons. (Luck, 2004a: 100)

A further reason for the lack of research on the UN role in counter-terrorism is the role of the US as the dominant global political and military power. This position limited its resort to multilateral security organisations, viewing them rather as a potential constraint on its policy options. Consequently, scholars have virtually ignored the UN in this context other than as a place to negotiate additional legal constraints on terrorist activity and they viewed multilateral counter-terrorism approaches mostly as a supplement to the actions taken by member states themselves. (Luck, 2004d: 78-80)

Limited academic literature on the subject is to be found in the field of international law because the existing UN conventions on terrorism were negotiated within the Sixth Committee of the UNGA which deals with legal matters. However, this discussion mainly deals with the implications of these conventions rather than with the norm-setting

or operational role of the UN in counter-terrorism. (Boulden & Weiss, 2004: 7) In addition, the existing studies in counter-terrorism are mostly aimed at analysing the efforts of a particular country, while the contribution of multilateral organisations has not yet been studied extensively and on a systematic basis. Consequently, academic literature in explaining the factors and motivations underlying the response of the UN to terrorism-related matters was virtually absent.

Only after the terrorist attacks of 9/11, when the US made the “global war on terror” the cornerstone of its national security strategy, multilateral cooperation gained importance and there was an increase in efforts to investigate and analyse the utilisation of the UN system in counter-terrorism efforts. The subject became a point of discussion in counter-terrorism seminars and authors started publishing research articles on the UN’s potential useful role in this regard. The first comprehensive academic work on the subject was a publication edited by Boulden & Weiss, Terrorism and the UN, Before and After September 11, published in 2004. Subsequent publications which dedicate chapters to the UN counter-terrorism role are: Allied against Terrorism, What’s Needed to Strengthen Worldwide Commitment, by Millar and Rosand (2006), and Uniting Against Terror, Cooperative Nonmilitary Responses to the Global Terrorist Threat, edited by Cortright and Lopez (2007).

Literature sources on security changes after the end of the Cold War are to be found primarily in publications by authors specialising in Security Studies. These include: Security, A New Framework for Analysis, by Buzan, Weaver and de Wilde (1998), and the articles The Renaissance of Security Studies (Walt, 1991) and Rethinking Security After the Cold War. (Buzan, 1997) They emphasise the broadening of the concept of security to include non-military sectors and identify an array of new global security threats after the demise of the bipolar international security structure.

The literature on the changing nature of terrorism and especially on the characteristics of the “new” terrorism is mainly US-driven although other authors contributed in providing analysis on certain aspects. Relevant publications include: Countering the

New Terrorism, by Lesser, *et al.* (1999), and The “New” Terrorism, Myths and Reality, by Mockaitis (2008). The dominance of US publications is partly the result of an attempt by the US security community to identify and investigate new, post-Cold War security threats to the sole remaining superpower.

From the literature survey it is evident that the UN's political and institutional capacity to contribute to global counter-terrorism efforts, especially after 2001, has evolved in a positive direction. It also changed according to the role that it was allowed to play in peace and security issues by the existing international power structure. The interest in, and commitment of, member states regarding the issue of terrorism remains an important factor in the evolution of the role of the UN in counter-terrorism. In this respect, it is evident that the UN has paid more attention to counter-terrorism issues after 9/11, when member states came to the realisation that any country is a potential victim of a large-scale terrorist attack. At the same time it has become evident that the persistence of various constraints on the ability of the UN to play an active counter-terrorism role has ensured that progress in this regard can only be made incrementally. (Luck, 2004a: 106)

The rationale for this study is to provide a systematic analysis of the role of the UN in counter-terrorism and to indicate the useful role it has played in facilitating multilateral cooperation in this field. More specifically, the study aims to address shortcomings in the existing literature regarding the changes in the UN approach to the combating of terrorism during the post 9/11 period.

4. Formulation and Demarcation of the Research Problem

The main research problem of the study resides in determining a response to the following question, namely: For which reasons has the UN changed its viewpoints on terrorism-related issues and why has it treated the phenomenon differently in different stages of the development of international affairs? For example, before the 1980s, member states mostly refrained from submitting terrorism related issues to the UNSC

because these were mainly linked to Middle East political developments, subjected to a Cold War international dispensation which caused a deadlock in UNSC activities.

Secondary questions investigated through the study are the following:

- In which respects did the international security structure change after the end of the Cold War and what factors contributed to the broadening of the concept of security itself?
- How did the motivation, methods and weapons used in terrorism change since the 1980s? In contrast with earlier groups, contemporary terrorist groups are multinational and are challenging governments and societies in different ways than the previous, mainly ideologically motivated, groups. Furthermore, the phenomenon of globalisation facilitated terrorist operations on a global scale, with the result that counter-terrorism efforts equally needed to be coordinated globally.
- Has the UN been able to effectively address terrorism? What kind of role has it been able to play, especially after 9/11, and how successful was this role? This takes into account the particular constitution of the organisation and its membership, as well as the way it functions in maintaining international peace and security. In this respect, authors differ on the measure of commitment to counter-terrorism issues by the world body, as well as on the suitability of the organisation to play an effective role in this regard.
- In which aspect has the UN been most successful in its counter-terrorism actions? Different UN institutions have been active in different capacities in order to address certain aspects of terrorism. The study therefore has to determine which counter-terrorism actions by the UN can be considered as the most important contribution of the organisation.
- Why does the UN remain subjected to pressure from its most powerful members in its response to international terrorism? The 9/11 attack on the US has had an enormous effect on the international security environment and this created an opportunity for the UN to broaden its counter-terrorism program

and structures. The 9/11 incident also gave rise to a re-evaluation of the utilisation of UN structures for global counter-terrorism purposes.

The above questions form the basis of the research problem for the purposes of the study. Following from this, the study is based on the following assumptions:

- The UN remains sensitive to the pressure of its most powerful members, especially from the US as the only superpower, also in determining its counter-terrorism priorities.
- The UN system has been able to address the phenomenon of terrorism in a variety of ways but its role remains supportive rather than operational and success in this respect is difficult to measure.
- The most useful contribution in counter-terrorism made by the UN is the creation of a legal regime and norm-setting in terms of the identification and prevention of terrorist acts.
- The UN has changed its perspective on terrorism according to changes in the international security environment and in terrorism itself, and this changed perspective represents a significant shift from the prevailing UN perspective during the 1970s.

The 9/11 attacks on the US by the Al Qaeda network serves as a reference point throughout the study. This is because the incident impacted upon both the issue of new security threats after the Cold War and upon the issue of “new” terrorism. The 9/11 attacks, on the only remaining superpower, also had far-reaching implications for global strategic developments in that it served as motivation for the US to launch a “global war on terror” with particular consequences. The period covered in the study is from the late 1960s when terrorism became of concern to particular UN member states and subsequently appeared on the UN agenda in the early 1970s, to the end of 2008, with emphasis on the post-2001 period.

Lastly, in this study the policies and programs of the UN in response to terrorism are evaluated in a Security Studies context. As such, the actions of the UN in this regard are not considered in terms of the traditional role and functions of international organisations in the international system, namely as an instrument used by its members for particular ends; as an arena or forum; or as independent actors. (Archer, 2001: 68, 73, 79). However, there is an overlap in the roles of the UN as international organisation and as security actor, especially in terms of its function in contributing to norm-setting where the UN has played an important role to criminalise terrorist acts and to persuade member states to take specific counter-terrorism actions.

5. Methodology and Sources

The study makes use of description, analysis and comparison as research methods, which allow for an evaluation of recent historical developments, as well as of current information, to enable the contextualisation of the topic.

Description is used to determine the role that the UN has played in counter-terrorism since the founding of the organisation and to identify how this role has evolved as a result of changes in the global security environment and in the phenomenon of terrorism itself. The study also analyses the characteristics of the post-Cold War security milieu and that of both the traditional, mainly ideology-driven, terrorism, and the “new” terrorism, as identified by certain authors. Thirdly, a comparison is drawn between the counter-terrorism role that the UN has played before and after the 9/11 terror incident. The aim of the comparison is to outline the changing role of the UN in this respect as a reaction to international security related developments.

The conceptual framework used in this study is firstly based on the broadening of the concept of security, especially in the post-Cold War period, and the increasing emphasis on threats that are not essentially only military in nature. This also tended to change the global security agenda, previously largely dominated by nuclear deterrence and conventional military capabilities and related threats. Secondly, a conceptual

framework focusing on the main characteristics of, and trends in traditional terrorism, and comparing that to so-called new terrorism in the post-Cold War period, is developed.

The following criteria for successful international counter-terrorism cooperation are utilised in assessing the role of the UN in this regard, namely:

- Synchronising the more institutionalised, law enforcement approach with emphasis on regional cooperation and multilateral crime-fighting measures.
- Maintaining a balance between tactical counter-terrorism, where the object is to find and destroy operative terrorist groups, and strategic counter-terrorism, which aims to develop multiple policy responses designed to eliminate the sustaining and underlying conditions of terrorism. (Cortright & Lopez, 2007: 2)
- Compelling its members to utilise the existing UN structures for the development of political consensus in order to facilitate international counter-terrorism cooperation. Cooperation from all nations on the legal, economic, diplomatic and military levels is needed to counter a multifaceted threat such as terrorism.
- Maintaining respect for human rights and for the rule of law in the development and implementation of counter-terrorism measures.

In terms of sources, primary UN sources are readily available. Primary sources which are available and which were used for the study are from the UN itself and the official documentation of certain member states, mainly the US. These include mainly resolutions, declarations and other documentation as published by the UN's main bodies, the UNSC and the UNGA, and by the different specialised institutions focusing on countering terrorism. Reports issued by the UNSG relating to broader security issues, as well as to terrorism specifically, were also used, for instance, Uniting Against Terrorism: Recommendations for a Global Counter-Terrorism Strategy, (UN, 2006: A/60/825) issued in April 2006, and Measures to Eliminate International Terrorism, (UN, 2006: A/61/210) issued in August 2006.

The secondary sources, including books, journal articles and monographs, were analysed in order to provide a theoretical framework and to determine the development of the UN's role in responding to terrorism. Sources that were used include the research done by authors who specialise in UN-related matters, for example Cortright & Lopez (2002, 2007), international security issues, and in terrorism studies. These include People, States and Fear, an Agenda for International Security Studies by Buzan (1991), and The New Global Terrorism, Characteristics, Causes, Controls, edited by Kegley (2003). Secondary sources on the UN that were used include the work of academics such as Luck (2004), Boulden (2004, 2007) and Weiss (2004, 2007).

6. Structure of the Research

Chapter 1: Introduction.

The first chapter serves as an introduction and outlines the objectives and structure of the study, the research problems that are addressed, and the methodology and assumptions of the study.

Chapter 2: Changed Views on National and Global Security since the End of the Cold War

This chapter provides a conceptual framework on the security changes in the global arena since the end of the Cold War, for example, the end of a bipolar international power structure with the US as the only remaining superpower. The emergence of an array of new, diverse threats to security, parallel with the broadening of the concept of security, created new circumstances which led to a change in the role of the UN, as well as new expectations from the world organisation. Despite the political and institutional limitations of the UN, and in the absence of an alternative institution, members of the international community should utilise the UN mechanisms more effectively in order to meet the demands of the criteria for success in countering terrorism.

Chapter 3: The Changing Characteristics of Terrorism

In this chapter a conceptual framework on terrorism is provided and the concept of traditional and of a “new”, more destructive kind of terrorism, is analysed. Tendencies in terrorism and motivations for the changing nature of terrorism since the end of the Cold War, are investigated in order to determine how the phenomenon has changed. The lack of consensus on a definition of the phenomenon is addressed and an overview of the different forms of irregular warfare is provided in order to determine the role of terrorism in these kinds of political-military conflicts.

Chapter 4: The Development of the United Nations Perspective on Terrorism until 9/11

This chapter serves as background in analysing the development of the perspective of the UN on terrorism since the late 1960s until before the 9/11 attacks. To this end it evaluates the earlier attempts by the UN to address terrorism issues, firstly against the backdrop of the Cold War, and then amid the changing international security environment. For this purpose UN resolutions and declarations on terrorism, and the development of UN conventions and protocols against terrorism between 1960 and 2000, are discussed.

Chapter 5: The Post-9/11 United Nations Perspective on Terrorism

This chapter firstly provides an overview of different UN institutions involved in countering terrorism, namely the UNSC, the UNGA, the UNSG, the UN Office on Drugs and Crime (UNODC), as well as their dependent institutions, such as the Terrorism Prevention Branch (TPB), the CTC and the CTED. It then investigates how the UN perspective on terrorism has changed since 9/11 by analysing UN resolutions on terrorism adopted after 9/11 and by comparing these with the resolutions discussed in Chapter 4.

Chapter 6: United Nations Counter-Terrorism Measures: The Sanctions Regimes

The chapter discusses and analyses the specific actions taken by the UN in countering terrorism in terms of UN counter-terrorism sanctions regimes. In this respect, the mandating of sanctions against certain UN member countries and non-state entities supportive of terrorist activities, is discussed. This includes the drafting of lists of persons and organisations suspected to be involved in the promotion or financing of international terrorism.

Chapter 7: Reasons for the Changed United Nations Perspective on Terrorism

In this chapter the reasons for the change in the perspective of the UN on terrorism are investigated. These factors include the changes in terrorism itself and in the international security environment after the end of the Cold War which expanded the UN involvement in non-military security issues. In addition, the demise of most national liberation movements, as well as the involvement of actors outside of the formal UN system, contributed to the changing perspective of the UN on terrorism.

Chapter 8: Evaluation

The final chapter provides a summary and evaluation of the study and the different assumptions made in the introduction are tested against the findings of the study.

Chapter 2: Changed Views on National and Global Security since the End of the Cold War

1. Introduction

After the end of the Cold War, there were strong expectations of a near-conclusive new international peace order but, while it was accepted that military power had declined in importance in international relations, there were also warnings that states would still have to be concerned about military security. In general, there was an acceptance that there was a need to re-examine the way to think about security issues in international relations and an awareness of the collective failure to anticipate the end of the Cold War. Although the Cold War did not end in exhaustion through the use of military force like previous international conflicts, it was followed by a new political interest in the principles of security, as was the case after the First and Second World Wars. This led to an awareness that there was a need to broaden the concept of national security by either including national problems on its agenda or by treating non-military external threats to national well-being as security threats.

This chapter will firstly explore the theoretical concepts of security and international security, in a Cold War and in a post-Cold War context respectively, in order to demonstrate the changing perception and broadening of the security concept. Secondly, the chapter will discuss the practical and strategic implications of the end of the Cold War in terms of actual global security events and challenges. Thirdly, the new threat priorities which form part of the so-called new security agenda in the post-Cold War international system, and which are mostly non-military in nature, will be investigated.

2. The Concepts of Security and International Security

This section provides an overview of the concept of security and how the concept was perceived respectively during the Cold War, and during the post-Cold war period. It also discusses the process of transition towards a different view of security that provided for a broadened perspective of the concept, as well as criticism of the new approach towards security.

2.1 The Concept of Security

While other concepts of international relations were subjected to widespread debate since the beginning of the study of International Relations, the meaning of the concept of security was treated as a given and was principally linked to military security. As a result, most authors on security matters limited themselves to equating security with the absence of military threats or with the protection of the nation against external attacks. (Haftendorn, 1991: 4) However, since the 1990s, security has become a contested concept in a way that was not the case during the Cold War period of Realist hegemony and it was argued that the security of states and their populations rather be seen as being affected by a range of issues and not only by the military capability of other states. (Sheehan, 2005: 2)

The term security is ambiguous both in content and in format and there is no single concept of security. Terms such as national security, international security and global security refer to different sets of issues and have their origins in different historical and philosophical contexts. (Hafterdorn, 1991: 3) In addition, Buzan argued that security falls into the category of an essentially contested concept and describes it as an underdeveloped concept. (Buzan, 1991a: 3-4) Security is also a politically defined concept which sets political priorities; justifies the use of force; leads to the intensification of executive powers; and results in claims to rights of secrecy, or other measures. (Buzan, 1997: 21) When political priorities change, the nature and means of security will follow and adapt to the different areas of political action.

While Hobbes viewed security as an absolute value, security is usually balanced against other values. In liberal democracies it is routinely balanced against liberty, with some increments in/of security being traded for the advantages of liberty. (Ullman, 1983: 130) Ullman links security with threats by pointing out that security may also be defined as a consequence and not merely as a goal. While Ullman acted as one of the harbingers for the case of broadening the concept of security, the political climate in the early 1980s was not favourable to his argument. (Katzenstein, 1996: 8)

In a general sense security can be defined in terms of two dimensions, namely security for whom, and security for which values. In order to make sense, security needs to have a referent object such as an individual, a state or the international system and the particular choice will depend on the research question to be addressed. (Baldwin, 1997: 13) Additional questions that may assist to facilitate an evaluation of security policies are the following: (Baldwin, 1997: 14-17)

- How much security? The word security implies an absolute condition but it can also be conceived of as a matter of degree.
- From what threats? When the term security is used, a particular kind of threat is imagined.
- By what means? A variety of means can be used to reach a state of security.
- At what cost? Policy goals compete for scarce resources and some goals may need to be sacrificed in order to pursue security.
- In what time period? Security policies over the short term, medium term and long term will differ.

The ambiguities arising from a failure to define the concept of security are as valid for international security as for other forms of security. According to Haftendorn, the evolution of the security paradigm from national to international security is linked to the evolution of the international system and each phase presented Realist or Idealist interpretations based on theoretical assumptions about the nature of man and the behaviour of states. (Haftendorn, 1991: 5) International security is thus based on a mutual interest in survival and implies that states are interdependent in their security

affairs in that the security of one is affected by the actions of others, and *vice versa*. (Haftendorn, 1991: 9) However, international security does not explain the degree of security interdependence among states and needs the specification of a referent object, namely security for whom? Traditionally the referent object for security has been the state, and secondly, the nation. Survival for a state is usually about sovereignty and for a nation it is about identity. (Buzan, *et al.* 1998: 36)

2.2 Security in the Cold War Period

During the Cold War era national security was primarily seen as military security against the military power of other states and military aspects were over-emphasised at the expense of other aspects such as historical, cultural, psychological and political factors. In the global security arena, the security agenda was dominated by the concepts of nuclear deterrence and bipolarity, or the strategic balance between two ideologically opposed superpowers. It was assumed that state behaviour was based on power and the maximisation of security by influencing rivals to act in certain ways through threat manipulation and the projection of force. Attention was therefore focused away from how security policy fitted into foreign policy goals towards nuclear weapons and strategies; East-West relations; and the management of alliances in order to strengthen national security. (Snyder, 2008: 6)

In addition, the Cold War mindset was dominated by the concepts of nuclear deterrence and bipolarity in which nuclear weapons were used, not in a literal sense, but as a threat. The security dilemma led to a precarious global stability whose resilience was open to question and it was unknown whether nuclear weapons could be used without provoking a full-scale war. In these circumstances the “use” of nuclear weapons took the form of speech, backed up by ideology and deployment, but stayed within the realm of the hypothetical. (Lipschutz, 1995:11)

Because national security was mostly perceived in terms of external military threats, especially in the Western view, like-minded states formed alliances in order to meet real

or perceived external threats. Alliances served to deter an act of aggression by a foreign power in that any attacker would face the combined military force of alliance members and not that of the victim alone. During the Cold War the two major alliances were the North Atlantic Treaty Organisation (NATO), composed of the US, Canada and Western Europe, and the Warsaw Treaty Organisation (Warsaw Pact), composed of the Union of Soviet Socialist Republics (USSR) and its Eastern European allies.

At the time, the theory of Realism was commonly regarded as the dominant paradigm in international relations as well as in the subfield of international security studies. Realism argued that the state-centric, bipolar structure of the Cold War was the most efficient guarantee of preserving international stability and that a multipolar system would lead to instability. (Mearsheimer, 1990) The Cold War also provided a validation of the three key assumptions of Realism, namely that the international system is anarchic; that the key feature differentiating the units in the system is their relative power capacities; and that states are fearful and distrustful of the intentions of other states. (Dannreuther, 2007: 36-37)

However, Realism was continuously criticised, including for failing to predict the end of the Cold War, and it was argued that the Realist approach to international relations would not be useful for understanding international politics in the post-Cold War world. (Lynn-Jones, 1999: 53) It was agreed that the focus of Realism on military threats to the state emanating from outside of its borders was no longer sufficient to determine the referent object of security. Consequently, new concepts had to be developed which could address both the military realities of the post-Cold War world as well as its political, economic and social realities. (Snyder, 2008: 2)

2.3 Process of Transition to New Thinking on Security

With the end of the Cold War the political and intellectual climate changed and this facilitated different views about how to define the concept of security and about the scope of analytical approaches and empirical domains appropriate to Security Studies.

(Katzenstein, 1996: 9) Dissatisfaction with the narrow focus imposed on the security field by the military and nuclear obsessions of the Cold War led to discussion on the widening of the field to include other issues that became prominent in international relations. This debate fragmented into three schools, namely: traditionalists, who wanted to retain a largely military focus; wideners, who wanted to extend the range of issues on the security agenda; and Critical Security Studies (CSS), who proposed a more questioning attitude to the whole framework in which security is conceptualised. (Buzan, 1997: 5)

Already during the early 1980s critics began to question the meaning of security and the Report of the Palme Commission on common security of 1982 extended the concept of security to include economic and political aspects in addition to military objectives. The report subtitled, A Blueprint for Survival, presented security not only as a condition but as a process in which individuals and groups are the participants. It furthermore argued for replacing the strategy of mutual deterrence of the Cold War period with one of common security based on a commitment to joint survival and for a transformation of the international system to make it capable of peaceful and orderly change. (Haftendorn, 1991: 11)

However, although the new thinking on security since the 1980s has described it as a multidimensional concept, Wolfers already pointed out the need for specification with respect to which values to protect from which threats, by what means and at what cost, in 1952. He stated that security points to the protection of values previously acquired and described security as a value of which nations can have more or less and which it can aspire to have in greater or lesser measure. (Wolfers, 1952: 484) According to Baldwin, to the extent that the new thinking focuses on conceptual issues, it did not add much to the explication of the concept and most of the ideas could be accommodated by the conceptual framework of Wolfers. (Baldwin, 1997: 23)

2.4 Security in the Post-Cold War Period

Buzan and the Copenhagen School pioneered the widening of the concept of security by calling for a reassessment of the term and its application to a wider range of issues. They argued against the view that war and force constitute the core of Security Studies, and that other issues were only relevant if they relate to that. (Buzan, 1997: 13) To further this aim, they identified a number of new domains or sectors, in order to include all possible threats to human collectives. They suggested that the notion of security needed to be opened up in two directions, namely that it should have a more general meaning that could be applied not only to the military realm, but also to the political, economic, societal and environmental fields. Secondly, the referent object of security should not be conceptualised solely in terms of the state, but should include the individual below the state and the international system above it. (Sheehan, 2005: 44)

The emphasis on human security was the result of a gradual shift towards an interest in individual welfare in policy-making and the increasing importance of human rights issues since the end of the Cold War. It also became clear that the tradition to refer to security in terms of military issues was less relevant to the developing world where insecurity arose from factors such as disease; political repression; social conflict; malnutrition; unemployment; or crime. (Burgess, 2008: 63) Human security therefore needs a multidimensional approach and can not be satisfied through military or diplomatic measures alone.

In addition to raising questions about the appropriate level at which security should be assessed, Buzan (1991a: 368-372) provided three reasons for a broadened concept of security, namely:

- That the rising complexity of the international system changed the priority among security issues and created a powerful interplay between the anarchy of the international system and security interdependence among a range of issues. This makes a narrow view of national security inappropriate.

- The useful political qualities of the concept of security that, in its broadened form, creates action priorities and reduces the military tendency of security by widening its agenda to other sectors.
- A broad security agenda has intellectually attractive qualities in that it links many areas of theory and analysis within International Studies. It also underlines the centrality of security to the study of international relations.

In this broadened perspective of security, the military sector is being maintained as element of the security calculus but the political, economic, societal and environmental sectors are identified as additional security concerns. This was a result of the changing nature of military threats after the end of the Cold War which made other threats more visible even though they also became of more importance regardless of the decline of military concerns. (Buzan, 1991a: 369) These sectors represent views of the international system through a security lens, one aspect of the interaction between states, and are conceptualised as follows:

Military sector: In the military sector the referent object is usually the state, although it may also be other kinds of political identities. Military security then concerns the two-level interplay of the armed offensive and defensive capabilities of states, as well as the perceptions of states of each other's intentions. (Buzan, 1991a: 19)

Political sector: In the political sector, existential threats are defined in terms of the constituting principle, namely sovereignty, but sometimes also the ideology of the state. Sovereignty can be existentially threatened by anything that questions recognition, legitimacy, or governing authority. (Buzan, *et al.* 1998: 22) Political security therefore concerns the organisational stability of states, systems of government and the ideologies that give them legitimacy.

Economic sector: The economic sector presents some difficulty in identifying the referent objects of, and existential threats to, security, but as in the political sector, supranational referent objects from specific regimes to the global market can be

threatened by factors that undermine the rules, norms and institutions that constitute them. (Buzan, *et al.* 1998: 22) Economic security therefore concerns access to the resources, finance and markets necessary to sustain acceptable levels of welfare and state power. (Buzan, 1991a: 19)

Societal sector: In the societal sector, the referent object is large-scale collective identities that can function independently of the state, such as nations and religions, and societal security concerns the sustainability, within acceptable conditions for evolution, of traditional patterns of language, culture and religious and national identity and custom. Given the peculiar nature of the referent object, it is extremely difficult to establish definite boundaries that differentiate existential from lesser threats. (Buzan, *et al.* 1998: 23)

Environmental sector: Environmental security concerns the maintenance of the local and the planetary biosphere as the essential support system on which all other human enterprises depend. (Buzan, 1991a: 19-20) In this sector there is a range of possible referent objects ranging from the survival of individual species to climate change. Underlying these referent objects are concerns about the relationship between the human species and the rest of the biosphere and whether that relationship can be sustained without risking a collapse of the achieved levels of civilization, a disruption of the planet's biological legacy, or both. (Buzan, *et al.* 1998: 23)

2.5 Criticism of the New Thinking on Security

Proponents of the broadening of the concept of security argue that it is applicable to a range of issues and reject the traditionalist view of restricting security to one sector, namely the military and the use of force. In contrast, the critics of the broadening of the concept of security suggested that once the agenda is broadened beyond the military aspect, there will be no logical endpoint and the concept will become intellectually incoherent. In this respect, Walt suggested that defining the security field in this way would destroy its intellectual coherence and make it more difficult to devise solutions to

any of the various problems. He also warned that the fact that other threats exist, does not mean that the danger of war has been eliminated. (Walt, 1991: 213) In summary, while the traditionalists were willing to allow some widening of the security concept, this was only as far as it could be linked to concerns about the threat or use of force between political actors. (Buzan, 1997: 10)

Critics of a broadened approach to security also pointed out the dangers associated with securitisation, where nearly any issue is transformed into a potential threat by labeling it as a security issue. This, in turn, may lead to unconstitutional practices or authoritarian methods, such as using the armed forces of a state against its own citizens. In this respect, Weaver points out that the security of individuals can be affected in numerous ways, for example in terms of economic welfare, environmental concerns, cultural identity or political rights. To broaden the focus from the state, or national security, towards a focus on people, either as individuals or as a collective, poses the problem of where to stop, since the concept of security otherwise becomes a synonym for everything that is politically good or desirable. (Weaver, 1995: 47)

Traditionalist, who opposed broadening, reasserted their arguments about the enduring primacy of military security, although some accepted the need to consider non-military cases of conflict in the international system. In this respect, Ayoob, who wrote on security in the Third World, held the political sector as primary, suggested that all threats be filtered through the political domain, and for issues to constitute a threat, they must relate to the state as target. Non-political issues therefore only become part of the security calculus if they are acute enough to acquire a political dimension and are threatening state boundaries, state institutions or the survival of a particular regime. (Ayoob, 1995: 9) Ayoob also asserted that neither orthodox, nor new conceptions of security, adequately capture the security predicaments of Third World states which are inextricably linked to the ongoing process of state formation. (Krause, 1998: 126)

However, except for the potential dangers associated with securitisation, the continuous changes in the international environment make a narrow view of security, focusing on

material capabilities and the use and control of military force by states, inappropriate. In addition, Buzan points out that a broad conceptualisation of security did exist at the beginning of the Cold War in that the rivalry was between two mutually exclusive systems of political economy and the security problem for the West was how to respond to a broad spectrum of challenges from the USSR. However, this wide interpretation quickly narrowed down to a military focus under the pressure of a nuclear arms race that came to dominate the security discourse. (Buzan, 1997: 6)

The following section will explore the practical consequences of the end of the Cold War period in terms of security related issues against the background of the evolution in the understanding of the concept of security.

3. The Global Security Situation in the Post-Cold War Period

The sudden reconfiguration of the Cold War international security structure after the demise of the USSR led to far-reaching changes in the relations between the major powers and in the nature of conflict in the international system. It furthermore led to changes in the roles played respectively by states and non-state actors in terms of security-related issues and in the prominence of factors such as ethnicity, cultural identity and religion.

3.1 End of East-West Nuclear Arms Race

The end of the Cold War brought an end to the nuclear arms race between the US and the USSR and the perception of an imminent threat to the survival of the US and Western Europe was removed by the sudden demise of the former USSR. The unexpectedness of the self-implosion of the USSR meant that, in contrast to the efforts made during the First and Second World Wars, there was no security or strategic planning in place for a post-Cold War period. (Roper, 1999: 102)

For the US, the main strategic implication was that it was left as the only superpower and it had to find its role in the new international security environment. In Europe, the US attempted to maintain a strategic relation with the Russian Federation while working with its NATO allies in the Kosovo conflict. In other regions of the world, the end of the bipolar structure meant a reduction in interest by the US because political developments were no longer viewed in terms of competition with the USSR. For the Russian Federation, the dissolution of the Warsaw Pact meant the loss of a geographical security buffer, followed by the independence of the non-Russian republics of the USSR. The loss of external power, compounded by a difficult transition to a market economy and a democratic political system, increased a sense of national humiliation. (Roper, 1999: 108, 104)

At the same time, there was a debate on the future stability of the international system as a unipolar system, with the US as the only remaining superpower. For example, Goldgeier & McFaul argued that the great powers will focus primarily on maximising wealth and will henceforth act in a “great power society”. (Goldgeier & McFaul, 1992: 468) They further predicted that the collapse of Communism as ideology will continue to move the world closer to an international order governed politically by collective action among the great powers, rather than by balance-of-power politics. (Goldgeier & McFaul, 1992: 468) In his contribution, Buzan favoured a core-periphery approach in which “center” implies the globally dominant core of capitalist economies and “periphery” implies the group of industrially, financially and politically weaker states operating within a set of relationships constructed by the centre. This approach by Buzan captured the international relations hierarchy of a multipolar international system since the events of 1989 in Europe but which affected the international system as a whole. (Buzan, 1991b: 432, 434)

3.2 Increase in Intrastate War

Another consequence of the end of the Cold War was a change in the nature of war in that the threat of large-scale conflict between the great powers appears to have

disappeared or has been greatly reduced. (Dannreuther, 2007: 13) This shift away from interstate conflict gave rise to optimistic views about a new era of international peace after the end of the Cold War. However, these were soon countered by the sudden manifestation of aggressive nationalism with the outbreak of the wars of secession in the former Yugoslavia in the early 1990s. As people could no longer identify with Communism, they had to find new identities which were provided by enduring factors such as ethnicity and religion and which assumed new relevance and intensified once a conflict had broken out. (Huntington, 1996: 262, 269)

The civil wars in the Balkans, and subsequently in African countries such as Liberia and Sierra Leone, were also fuelled by the negative consequences of globalisation, such as the international trade in arms or valuable materials which created self sustained war economies. These intrastate conflicts exposed civilian populations to state violence or genocide, for example during the Kosovo crisis, and led to the perceived increase of the relevance of issues of religion and cultural identity, including human rights issues. (Katzenstein, 1996: 7)

3.3 Transnational Terror

The rise in prominence of non-state actors in security affairs after the Cold War was demonstrated by the 9/11 terrorist attacks on the US in 2001 and which posed a direct challenge to the traditional prerogative of the state, namely the protection of its citizens from external danger. It further gave impetus to the idea of a new, more destructive kind of terrorism where the objective was to inflict as much damage as possible on the enemy by employing a mixture of modern technology and radical religious ideology. These and other attacks by the Al Qaeda movement, which is considered to exemplify the new transnational nature of terrorism, placed terrorism at the centre of security challenges and signified that states could no longer assume that existential threats emanated only from rival states. (Boyle, 2008: 172) It also created a context in which weak or failed states were viewed as humanitarian challenges and thereby opened up opportunities for intervention by the UN.

However, the disappearance of two hostile military and political blocs did not lead to greater international security. On the contrary, instead of one clear threat during the Cold War, the international system had to confront diffuse threats originating as a consequence of the disintegration of the USSR. These developments presented the international community with serious security problems and the newly formed states found themselves in a security vacuum. (Kistersky, 1996: 1-2) As a result, it was observed that post-Cold War developments have generally led to a worsening of the international security environment. The earlier optimism which initially led to the revitalisation of the UN, was soon replaced by a number of intractable problems, such as ethnic conflict and the rise of international terrorism, and this contributed to a deterioration in international trust. (Dannreuther, 2007: 212)

The following section investigates the nature of these new, non-military international security threats, and how they gained prominence on the security agenda of the post-Cold War environment.

4. Changing Perceptions on Post-Cold War Global Threats

With the removal of the power struggle between two ideological blocs that defined the Cold War, an array of transnational security threats emerged within the international system. These threats were emanating from both state and non-state actors, included threats to the individual and society, and some, such as terrorism discussed above, organised crime and arms- and drug trafficking, directly called the authority of the state into question.

In addition, the international system underwent important changes which led to changing perceptions of global threats, for example:

- The role of military power was increasingly questioned. Although it was formerly accepted that military force also has to be considered in the wider context of political and economic aspects, the revival of multilateral cooperation substantially delegitimised force as a tool of statecraft. (Snyder, 2008: 8)

- The disappearance of the constraints associated with nuclear bipolarity has allowed historical structures to re-emerge. This led to uncertainties in regions that seemed to be stable for decades, for example the Balkans. (Lipschutz, 1995: 4)
- The shifting of attention from an East-West to a North-South axis, with a growing skepticism of the capacity of the state to fulfill its traditional responsibility of providing security. This has made inequalities of wealth and political status and the resentments these have generated, important security issues. (Dannreuther, 2007: 13)
- The process of globalisation and the effects of the information revolution meant that states found it increasingly difficult to deal with new, non-territorial security problems by way of traditional state-centered responses. (Sheehan, 2005: 23)
- The anchors that allowed collectivities to identify themselves and others, as well as threats to the self and others, have come loose. A proliferation of new identities (states, cultures, ethnic groups) made it difficult to find new foundations on which to base stable political systems and relations. (Lipschutz, 1995: 4)

In reaction to the profound changes in the international security environment, the UNSG, Kofi Annan, in 2004 appointed a panel to investigate how the UN would be able to rise to these new challenges. In the Report of the UN High-level Panel on Threats, Challenges and Change, A More Secure World: Our Shared Responsibility, a threat to international security was identified as “any event or process that leads to large-scale death or lessening of life chances and undermines States as the basic unit of the international system”. The report then identified the following six clusters of threats: (UN, 2004, A/59/565: 25)

- Economic and social threats, including poverty, infectious disease and environmental degradation.
- Interstate conflict.
- Internal conflict, including civil war, genocide and other large-scale atrocities.
- Nuclear, radiological, chemical and biological weapons.
- Terrorism
- Transnational organised crime.

These six clusters represented a mixture of traditional, mainly military, and new, non-traditional security threats. Although these non-military security threats were not entirely new and some have been concealed by the Cold War conflict, they are identifiable by the following dimensions which make them different from traditional security threats: (Krahmann, 2005: 7)

- They are transnational security threats that are challenging the authority and reach of individual states.
- They are more pervasive and probable than traditional threats. While nuclear warfare was the primary security threat during the Cold War, its frequency was low. In contrast, new threats such as intrastate conflict and terrorism are much more pervasive.
- They are more diverse in terms of their scope and intensity and therefore more difficult to assess. Their effects may not be immediately apparent and their consequences may only be indirect and be measured in the long term.
- They do not primarily target states, but societies and the individual, and their ability to cross national boundaries challenges the security provisions of a system based on sovereign nation states.

In order to conceptualise the new security agenda, Kirchner & Sperling have developed a typology which defines threats along two dimensions, namely the target of the threat (state or society) and the agent of the threat (state or non-state). They found that states play a relatively minor role as protagonists in the current security system; that agency is mostly attributed to non-state actors; that threats to states are indirect rather than direct; and that threats are generally aimed at society. They also identified twelve conceivable security threats on the new security agenda, namely a biological/chemical attack; a nuclear attack; the criminalisation of economies; narcotics trafficking; ethnic conflict; macro-economic destabilisation; general environmental threats; specific environmental threats; cyber warfare or cyber vandalism against commercial structures; terrorism against state structures; and migratory pressures. Of these threats, only two fall into the

traditional category where the state is both the agent and the target of a security threat, namely a nuclear attack and cyber warfare against state structures. (Kirchner & Sperling, 2002)

The diverse nature of these non-military security threats had specific implications for international cooperation and for multilateral organisations involved in security matters. The following section sets out some of these implications, especially in terms of the changing role of the UN, and how the UN perceives its future role in this respect.

5. Implications of the Post-Cold War Changes for Multilateral Organisations with Specific Reference to the United Nations

During the Cold War the bipolar international power structure had the effect of compromising an interventionist role by multilateral actors such as the UN. In this context the UN's room for action was limited to the margins of international politics and its mandate for collective security was essentially paralysed. As a result of this paralysis, the concept of peacekeeping was developed to provide an *ad hoc* role for UN intervention in those conflicts where the superpowers agreed that it was in their interests to deploy a multilateral external force. In addition, humanitarian organisations, whose fields of operation included many conflicts supported by the superpowers, developed their own conception of an impartial and apolitical humanitarianism. (Dannreuther, 2007: 144-145)

In contrast, the new circumstances of the post-Cold War context changed the role of the UN by facilitating greater intervention by the UN and the UNSC broadened its interpretation of threats to international peace and security to include internal conflicts. The new expectations from the UN to play a more active and effective intervention role, led to an increase in the number of UN-mandated peacekeeping operations and it assumed new tasks such as providing humanitarian aid, decommissioning arms and demobilising combatants, monitoring elections and supporting democratisation. Humanitarian agencies also experienced a liberating effect in that the post-Cold War

environment enabled humanitarian objectives to find more international political support which led to an expansion of their tasks and mandates. (Dannreuther, 2007: 147)

The perception of the UN about the role it had to play in the new global security environment was set out in the Millennium Declaration that was adopted by the UNGA in September 2000. In this respect, the Declaration set out the following aspects: (UN, 2000: A/55/2)

- In terms of values and principles, certain fundamental values are considered as essential to future international relations, namely freedom, equality, solidarity, respect for nature, and a shared responsibility for managing economic and social development and threats to international peace and security.
- In relation to peace, security and disarmament, the UN undertook *inter alia* to combat war, whether within or between states, by strengthening the respect for the rule of law and strengthening cooperation between the UN and regional organisations; to strive for the elimination of weapons of mass destruction; to take concerted action against international terrorism; to fight transnational crime, money laundering and drug and human trafficking; and to take action against the illicit traffic in small and light weapons.
- Relating to development and poverty eradication, the UN undertook to create an environment that is conducive to development and the elimination of extreme poverty, to address the special needs of the least developed countries, and to grant more development assistance and implement a program for debt relief for heavily indebted countries. It also noted the importance of good governance within member states as well as of transparency in financial, monetary and trading systems.
- In terms of environmental protection, the UN reaffirmed its support for the principles of sustainable development and an ethic of conservation and the implementation of protocols on environmental protection such as the Kyoto Protocol.

- In relation to human rights, democracy and good governance, the UN undertook to uphold the Universal Declaration of Human Rights, to strengthen the capacity of members to implement democracy, to combat violence against women, to protect the human rights of migrants and migrant workers, and to ensure media freedom.

In order to strengthen the UN to meet these future security goals, the High-level Panel on Threats, Challenges and Change made some recommendations on the way the UN needed to overcome its institutional weaknesses in order to meet the new security challenges. These recommendations included that: (UN, 2004: A/59/565: 64-65)

- Members should renew their efforts to enable the UNGA to perform its function as the main deliberative organ of the UN because it has lost vitality and often fails to focus effectively on the most important issues.
- The UNSC needs greater credibility, legitimacy and representation and will need to be more proactive. Members who contribute most to the UN financially should participate more in decision-making and members who participate in decision-making should contribute more to the UN.
- The UNSC should make the most of the advantages of working with regional and sub-regional organisations.
- Countries under stress and countries emerging from conflict should receive more attention from the UN in terms of policy guidance and resources.
- There must be new institutional arrangements to address the economic and social threats to international security.
- The Commission on Human Rights suffers from a legitimacy deficit that casts doubts on the overall reputation of the UN.
- There is a need for a more professional UN Secretariat that is more capable of concerted action.

Despite these weaknesses, the UN has performed an increasing role in the post-Cold War security environment in conflict prevention and peace building, as well as in

creating a context for cooperation in countering non-military security threats. It has also encouraged member states to make every effort to achieve the peaceful settlement of local disputes through regional security arrangements and to keep the UN informed of these activities. (Kirchner & Sperling, 2007: 9)

However, the above does not imply the increased effectiveness of multilateral institutions in countering new security threats. Even if considerable success has been achieved through the cooperation between states, non-state entities and international institutions, especially the UN has been criticised for failing to reform in order to act more effectively against new security threats. While the nature of international politics and security issues has changed since the end of the Cold War, the structure and the rules of the UN have remained unchanged. This has resulted in occasional attempts to bypass the UN when its processes are too cumbersome or decisions that were taken were inconvenient. (Florini & Pascual, 2007: 61) Especially the fact that violence is more likely to involve internal conflicts within states, rather than between states, and between states and non-state actors, has left the UN only partially prepared to cope with the new security threats.

6. Conclusion

During the Cold War the conceptualisation of security was dominated by military concerns and external threats to national security. The intense rivalry between the superpowers during this period was characterised by a highly militarised and ideological confrontation. At the same time, the confrontation was transmitted into the Third World through arms transfers to exploit existing differences in the Third World in order to pursue superpower objectives. As this rivalry wound down, other security concerns such as economic, societal and environmental issues, started to become of greater importance. As a result, security threats were no longer viewed solely in terms of traditional forms of interstate conflict which needed to be addressed through deterrence and the forming of alliances.

After the end of the Cold War it became important to define security as a policy objective because security competes with other policy objectives for the allocation of resources. Concerns about the excessive spending on military defense during the Cold War also led to pressure to revise the concept of security and how to redistribute resources from security allocations to other policy objectives.

However, the dimensions of security have not changed with the end of the Cold War but rather the specifications of these dimensions. With the broadening of the security concept to include additional areas to the military, there are different forms of security but not fundamentally different concepts of security. In this sense, security has almost gone full circle from a concern with the war capabilities and economies of the superpowers during the Cold War, to an interest in some of the smallest members of the international state structure after the Cold War.

Both the origins and targets of security threats have changed in the post-Cold War period and this led to new security challenges. Although states still remain central in the security debate, they no longer dominated as the exclusive referent objects or as the main agents of threat and a range of additional referent objects was established. Although these issues were not entirely new, the characterisation and treatment of them as security issues represented a new development. Consequently, the current debate centers around whether the latter are appropriate subjects for security policy and what priority they should have relative to traditional military-related concerns.

There is also a contradiction between the transnational nature of current security threats and the national character of state instruments to counter these threats, which indicates that they cannot be addressed by a traditional, state-centric view of security. These threats are often perpetrated by non-state actors who now have access to resources that previously belonged to nation states alone and who target individuals and the functioning of society. As a consequence, states find it difficult to provide adequate protection against these threats and seek the assistance of multilateral organisations such as the UN or regional security structures.

The following chapter will provide an analysis of one of the more prominent of the new security threats, namely international terrorism. This phenomenon will be explored both in its traditional, mostly ideologically motivated, form, as well as in terms of the origins, motivation and structure of the new transnational terrorist organisations.

Chapter 3: The Changing Characteristics of Terrorism

1. Introduction

Since the end of the Cold War there has been a debate among terrorism specialists on whether terrorism has changed as far as motivation, organisation and strategy are concerned since the demise of a bipolar, ideologically based, international political structure. This has led to the identification of a “new” terrorism, in some views mainly motivated by religious extremism, global in orientation and more lethal, and which has replaced the formerly predominantly ideologically motivated terrorism. These assumptions of a new kind of terrorism aiming to cause mass casualties, seemed to have been confirmed by the 9/11 attacks on the US. However, some analysts have argued that existing trends in international terrorism are largely a continuation of previous motivations and practices.

This chapter will discuss the lack of consensus on a definition of the concept of terrorism and the distinction between domestic, international and transnational terrorism. Secondly, it briefly explores the distinction between the different forms of irregular or asymmetric warfare, including terrorism, in terms of its characteristics and success as a strategy of warfare. It then provides a conceptual framework on terrorism in terms of its historical or traditional manifestations as well as the more recent phenomenon of a new, more destructive kind of terrorism. Finally, tendencies in terrorism and the motivations for the changing nature of terrorism since the end of the Cold War, are investigated.

2. Defining Terrorism

Despite the efforts by analysts to formulate a definition of terrorism which could be considered as neutral with respect to the perpetrators of a terrorist act, consensus on an adequate social science definition of terrorism as tactic and as doctrine remains lacking

and this has remained an enduring question in terrorism research. This problem of definition is primarily caused by the moral judgement which must be made when describing a person or a group as terrorists and which necessarily leads to subjectivity and the politicisation of the concept. This also applies to the question whether the problem is the violence itself or its underlying causes. (Gearson, 2002: 13)

Most definitions classify an act of terrorism based on three broad criteria. (Mockaitis, 2008: 1) However, each criterion in itself or in any combination presents some difficulties in providing a complete definition. These criteria are:

- The target: almost all experts agree that indiscriminate attacks on civilians constitute terrorism.
- The type of weapon used: the use of certain weapons deemed as unacceptable by the international community, such as suicide bombing.
- The perpetrator: the legitimacy and objectives of the perpetrators are assessed to decide whether an act constitutes terrorism.

According to Wilkinson, terrorism can be described as “the systematic use of murder, injury and destruction or threat of same to create a climate of terror, to publicise a cause and to intimidate a wider target into conceding to the terrorists’ aims”. (Wilkinson, 2005: 9) The importance of a political motivation is emphasised in the definition by Moghaddam, namely: “politically motivated violence, perpetrated by individuals, groups or state-sponsored agents, intended to bring about feelings of terror and helplessness in a civilian population in order to influence decision making and to change behaviour”. (Moghaddam, 2006:9) In his definition, Radu highlights the criterion of civilians as targets, namely: “any attack, or threat of attack, against unarmed targets, intended to influence, change, or divert major political decisions”. (Radu, 2002: 275) However, it is accepted that attacks are also launched against military or semi-military targets, for instance by Basque Fatherland and Liberty (ETA) against the *Guarda Civil* or rural police force in Spain.

Other definitions of the phenomenon include: “the sub-state application of violence or threatened violence intended to sow panic in a society, to weaken or even overthrow the incumbents, and to bring about political change”, (Laqueur, 1996: 24) and “the use (or threatened use) of violence in order to achieve psychological effects in a particular target audience, fomenting widespread fear and intimidation”. (Roy, *et al.* 2000: 166)

Crenshaw points out that, even if the term is used objectively as an analytical tool, it is still difficult to find a satisfactory definition that distinguishes terrorism from other forms of violent action. The author describes terrorism as pre-eminently political and symbolic, and as “deliberate and systematic violence performed by small numbers of people with the purpose of intimidating a watching audience”. (Crenshaw, 2000: 406) Because terrorism is basically a political communication strategy, it is not used primarily for destruction, but as a signal to achieve a widespread psychological impact. (Hirschmann, 2000) As such, it has essentially been a strategy of the weak, namely the use of violence by small groups in order to effect political or social change. (Silke, 2004: 9)

A consensus definition has also been an enduring dilemma for the UN since the subject was first discussed by the organisation in the early 1970s. After debate about a consensus definition centered on the UNGA, the UNSC has adopted a range of measures addressing terrorist threats to peace and security since 1985 without defining the concept. After the 9/11 attacks the problem of an operational definition became more acute because the UNSC adopted binding counter-terrorism measures without a common understanding of terrorism. (Saul, 2005) Only in 2004 did the UNSC adopt a resolution which generically defined terrorism as “criminal violence intended to provoke a state of terror, intimidate a population or compel a government or organisation to act in a certain manner”. (UN Security Council, 2004: Res 1566) The resolution also declared that terrorist acts can not be condoned or excused under any circumstances. (Wilkinson, 2006: 2)

The failure to reach a universally accepted agreement on a definition of terrorism is also applicable to international terrorism. While academic definitions are often designed to fit

specific incidents into statistical models, government definitions usually attempt to provide a politically convenient interpretation of terrorism incidents. (Badey, 1998: 90) Amid the lack of consensus, the most widely used definition of international terrorism remains that of the US Government, namely: “The term international terrorism means terrorism involving citizens or the territory of more than one country”. (Patterns of Global Terrorism, 2003)

2.1 Domestic and International Terrorism

A distinction can be made between domestic and international terrorism where the former is confined within the borders of one country or a particular part of a country. (Wilkinson, 2000: 19) In contrast, acts of international terrorism will transcend national boundaries in terms of the means by which they are accomplished, the persons they are intending to intimidate, or the locale in which the perpetrators operate. (Nacos, 2006: 22) However, contemporary groups are seldom operating only in one country or region and in practice most terrorism campaigns will cross international borders because terrorist groups seek political support, funding, weaponry or safe haven outside their own countries. (Wilkinson, 2000: 19) It has therefore become difficult to find terrorist activity that is not internationally supported; has international repercussions; is fomented by the prevailing global circumstances; or is addressed to the international community in some manner. (Kegley, 2003: 9)

The classification of international terrorism into different forms assists in distinguishing it from domestic terrorism. In this respect, the following categorisation is suggested: (Hough, 2004: 5)

- As part of a broader domestic insurgency or manifesting largely as “pure” international terror.
- Conducted by autonomous non-state actors.
- State-sponsored terrorism conducted by people controlled by a sovereign state.
- Conducted by a state using its own agents.

2.2 Transnational Terrorism

In addition to the distinction between domestic and international terrorism, the concept of transnational terrorism has developed as a third category, both as a new trend in terrorism and as a new perception. (Hough, 2005: 8) Transnational terrorism has been described as referring to terrorists who “operate internationally with the expressed long term aim of global revolution or of establishing a revolutionary supranational world order.” (Wilkinson, 1977: 174) Currently transnational terrorism is mainly based on decentralised local groups inspired by radical Islam and in this sense a domestic terrorism act could also be viewed as “transnational”. (Hough, 2005: 8) While the terms international and transnational terrorism are often used interchangeably, international terrorism may also be associated with state sponsorship, while transnational terrorism can not. (Lia, 2005: 11)

In summary, terrorism in its different forms can be described as a versatile weapon that can be used by different actors. As such, it has been used by states to discipline subjects; by insurgents as part of a comprehensive strategy to take over power; and by criminal groups to eliminate rivals and to keep members in line. In addition, terrorists usually apply violence in the service of religious or other objectives in order to seek awareness of a political grievance, rather than as part of a designed strategy to take over political power. (Mockaitis, 2008: 16, 17) Even if terrorism is only one of many forms of political struggle, it is a broad concept which includes a variety of applications.

The following section will explore the different types of sub-state violence that can be applied by groups to further their political objectives. Of these, terrorism is the most pervasive technique and is applied at a given stage in almost all revolutionary campaigns.

3. Irregular Warfare: Distinction between Guerrilla Warfare, Insurgency and Terrorism

The purpose of this section is to draw a broad distinction between the terms which are used to describe the different forms of sub-state or revolutionary violence which collectively constitute irregular warfare.

3.1 Irregular warfare

Irregular warfare constitutes asymmetrical conflicts between the armed forces of a state and armed forces of non-state political entities. The immediate purpose of violence in irregular warfare is to demonstrate the political ineptitude of the ruling government. It is also used as a tool to intimidate and coerce the civilian population. The ultimate goal of this type of warfare is political power for the purposes of political, social, economic or religious change. The character of irregular warfare is dynamic and is shaped by the existing social and cultural context, as well as by technological and environmental factors. (Kiras, 2008: 226)

The armed forces of a state usually have an advantage in terms of numbers and equipment which have compelled revolutionaries, insurgents and terrorists to wage a pragmatic style of warfare that favours their particular strengths, and disadvantages the regular forces. (Gray, 2007: 246) Because of the subjective element, where the terminology chosen depends on the political views of whom uses the term, there is an overlap between the terms that are used to describe these conflicts. In addition, it can be difficult to classify some groups, for example the Lebanese group Hizbollah, which was responsible both for spectacular acts of terrorism and for fighting a protracted guerrilla war against Israel. (Kiras, 2007: 167) Besides the political element commonly involved in these limited wars, there is also a legal dimension in that certain combatants are entitled to the status of Prisoner of War (POW) in terms of international law.

3.2 The Legal Status of Irregular Combatants

From the point of view of international law, combatants in irregular warfare will under certain instances be entitled to POW status. The Third Geneva Convention of 1949 relative to the Treatment of Prisoners of War was amended in 1977 by two Protocols, the first relating to the Protection of Victims of International Armed Conflicts, and the second relating to the Protection of Victims of Non-International Armed Conflicts. (ICRC, 1997) These Protocols were produced by conferences held under the auspices of the International Committee of the Red Cross (ICRC), and which were attended by radical groups who endeavored to influence the conference proceedings. (Sofaer, 1986: 912)

As a result of the efforts of these groups, primarily the Palestine Liberation Organisation (PLO), Protocol I extended the protection offered by the Geneva Convention to national liberation movements by according them prisoner of war status even if they did not distinguish themselves from the civilian population. Article 1(4) of Protocol I thereby makes the laws of international armed conflict applicable to “armed conflicts in which peoples are fighting against colonial domination and alien occupation and against racist regimes in the exercise of their right of self-determination”. National liberation movements are then considered to fight in an international conflict, while other armed opposition groups are a party to an internal conflict. (ICRC, 1997; Zegveld, 2007: 17-18)

In addition, Protocol I stipulates that, once a group is considered as a national liberation movement, no conduct by a member can lead to the loss of the group’s status as a protected organisation (Article 44). To this effect, it is stipulated that, in situations where, owing to the nature of the hostilities, an armed combatant cannot so distinguish himself, he shall retain his status as a combatant, provided that he carries his arms openly. These stipulations in Paragraphs 3 to 5 are the reason for the protocol not being ratified by the US as they are in contrast with the Geneva Convention, according to which irregular forces achieve combatant (and, when captured, POW) status when they are commanded by a leader, bear fixed insignia, carry weapons openly and conduct their operations in accordance with the laws of war. (Sofaer, 1986: 914)

In summary, even if the changes in international humanitarian law made it applicable to irregular fighters, including guerrillas, insurgents and terrorists, this concerns principles, rather than detailed rules, and they remain subject to international criminal law. (Zegveld, 2007: 9) With regard to terrorists specifically, unlike diplomats and spies, there is no distinct legal category applicable to them in international law. Furthermore, persons who unlawfully participate in hostilities by committing terrorist acts are legitimate objects of attack during armed engagements, although they usually regain protected status after the end of hostilities. (Saul, 2008: 311-312) However, this provision has been ignored by the US in relation to suspected offenders since the start of the “global war on terror” after the 9/11 attacks on the US.

3.3 Guerrilla Warfare

Guerrilla warfare strategy is a method of warfare waged of necessity by irregular belligerents and is characterised by surprise and the avoidance of large-scale open combat. (Gray, 2007: 248) The strategy can be described as the organisation of a portion of society for the purpose of imposing costs on an adversary using armed forces trained to avoid direct confrontation. Although guerrilla warfare strategy primarily targets regular forces and their resources, its goal is not to destroy their capacity, but rather to destroy the political will of the established authority. (Arreguin-Toft, 2008: 32, 33)

In his theory of protracted popular war, Mao Tse-tung stated that a guerrilla strategy will eventually evolve into a full conventional confrontation, but in the analysis by other theorists this will represent a shift in strategy from an indirect to a direct strategic approach. However, Mao’s theory has the unique feature of providing a framework for victory by identifying three sequential but overlapping phases - strategic defence, strategic stalemate, and strategic offense - to outline an achievable vision of victory. (Kiras, 2008: 255) He also emphasised the primacy of politics and the importance of gaining the mass support of the peasants as a basis for revolutionary struggle. (Wilkinson, 2006: 14) In this respect, he made a distinction between two types of

guerrilla warfare, namely those that are based on the support of the masses and those without a foundation in the population. (Mao Tse-tung, 2005: 47)

To be successful, guerrilla warfare strategy requires two essential elements, namely sanctuary and a supportive, or at least tolerant, population. Sanctuary can be physical in terms of mountains, jungles or swamps, or political in terms of porous borders. A supportive population is needed to supply fighters, supplies and logistical support. (Arrequin-Toft, 2008: 33) Guerrilla campaigns are also time-consuming and the length of these irregular campaigns is measured in decades, rather than in years. (Kiras, 2007: 167)

3.4 Insurgency

Insurgency can be defined as a struggle between a non-ruling group and the established authorities in which the non-ruling group consciously uses political resources (for instance organisational expertise, propaganda, demonstrations) and violence to destroy, reformulate, or sustain the basis of legitimacy of one or more aspects of politics. (O'Neill, 2005: 15) The use of violence by opponents of the government distinguishes insurgencies from socio-political protest movements. Insurgents will employ irregular tactics if they are seriously inferior in combat strength to the regular army and, in its final stage, a successful insurgency will transition to regular or conventional warfare. (Gray, 2007: 249)

According to O'Neill, (O'Neill, 2005: 20) the following nine types of insurgencies can be identified, namely: anarchist, egalitarian, traditionalist, apocalyptic-utopian, pluralist, secessionist, reformist, preservationist and commercialist. The first five can be considered as revolutionary because they all seek to completely change an existing political system. However, insurgencies can be motivated by a combination of factors, for example by religion and politics (Hamas), ideology and separatism (Kurdistan Worker's Party (PKK)), or religion and ethnic separatism (Kashmir). (Wilkinson, 2006: 10-11)

During the wars of national liberation in the late 1950s and early 1960s, insurgent groups followed the following strategies, which were used independently, in parallel or in sequence: (Kiras, 2008: 258-259)

- Imitating the success of Mao Tse-Tung by following the guidelines in his writings. This was used to great effect by General Nguyen Giap in Vietnam but was less successful in countries such as Sri Lanka, Peru and the Philippines.
- Convincing the colonial power that the costs of maintaining its hold over the country were unacceptable without fighting major battles, for example Palestine.
- Seeking a diplomatic solution because the conflict has reached a stalemate. For example, insurgent leaders in Algeria and Indonesia sought the attention of UN members in the hope that their cause would be raised in a resolution of the UNGA.
- “Propaganda by Deed”. Writers such as Marighella, Guevara and Debray broke from established socialist revolutionary theory by suggesting that action should take the place of organisation. These writings inspired Marxist-Leninist terrorists until the collapse of the USSR.

In their political struggle, insurgents disseminate propaganda, arrange demonstrations, create support groups, recruit and train members, infiltrate members into official establishments, raise finances, and provide services to the population. They also seek assistance from foreign powers in terms of diplomatic support, arms and logistics, and perhaps military advisers, but not combat troops. In its violent or military struggle, insurgencies use different kinds of warfare, primarily terrorism, guerilla tactics and, usually in its final stages, conventional warfare. (O’Neill, 2005: 32-36)

During the 1980s and 1990s a new type of organized violence developed, especially in Africa, for example Sierra Leone and Liberia, as well as in Bosnia and Kosovo in Europe. These conflicts, described by Kaldor as “new wars”, (Kaldor, 1999: 1) were a consequence of the end of the Cold War in that they reflected a power vacuum characteristic of transition periods in global affairs. They coincided with the withdrawal of superpower support to client states, the discrediting of socialist ideologies, the

availability of surplus arms and the erosion of the authority of the state and the consequent spread of criminality and corruption. The goals of the new wars, in which violence is directed against civilians, are about identity politics, in contrast with the geopolitical or ideological goals of earlier wars. (Kaldor, 1999: 4-6)

The main characteristics of these new wars can be identified as follows: (Kaldor, 1999:138)

- Political character: an extreme political ideology based on a common ethnic or religious identity which serves as a claim to state power.
- Use of violence: violence is directed against civilians and forms the central methodology of the war.
- War economy: new wars occur in countries where state revenues have declined and groups seek alternative forms of financing through illegal trafficking.

Although these wars are internal, they involve a network of transnational contacts so that a distinction between internal and external factors becomes difficult to sustain. They also coincided with an upsurge in ethno-nationalism because ethnic identity has proven to be a durable influence on human behaviour (Wilkinson, 2006: 11) and frequently cross national boundaries. As a result of the spread of criminality and corruption, linkages between these wars and international criminal and terrorism networks are increasingly being drawn, for example by Snow, who described them as criminal insurgencies. According to Snow, these conflicts differ from classic insurgent warfare in that they have no clear military objectives and in that the irregular forces display no military order or discipline. These factors result in the high levels of ferocity and atrocity which are characteristic of these wars. (Snow, 1996: 106-107) This was illustrated in Sierra Leone where militias of the Revolutionary United Front (RUF) targeted the population during the civil war from 1991 to 2001 which was driven rather by criminality and socio-economic factors than by political considerations. (Gberie, 2005: 118-155)

3.5 Terrorism

Four types of terrorist organisations can be identified according to their dominant source of motivation, namely: ethno-nationalist or separatist groups, ideological groups, religio-political or “sacred” groups, and single issues groups. A further distinction can be made between corrigible terrorism, where there exists a possibility of addressing the underlying causes, and incorrigible terrorism, where a group has absolutist aims and can only be approached by using suppressive measures. (Wilkinson, 2006: 4) According to Wilkinson, terrorism can be conceptually and empirically distinguished from other forms of political violence by the following distinctive characteristics: (Wilkinson, 2006: 1)

- It is premeditated and designed to create a climate of extreme fear.
- It is directed at a wider target than the immediate victims.
- It inherently involves attacks at random or symbolic targets, including civilians.
- It is considered by the society in which it occurs as violating the norms regulating dissent and protest.
- It is used primarily to influence the political behaviour of governments, communities or specific social groups.

3.5.1 Terrorism as a Strategy of Warfare

Terrorism is a mode of irregular combat which was chosen because its practitioners are unable to compete in regular combat. In some respects it is closely related to guerrilla warfare in that it often has similar political objectives, and if their cause prospers, terrorists eventually become insurgents. (Gray, 2007: 247) While terrorism is largely an urban phenomenon, most of its logic reflects that of coercive strategic bombing which is also employed in guerrilla warfare. A further similarity is that terrorism generally seeks either to inflict damage on non-combatants so that they will pressure their government to accede to the terrorists’ political demands, or to delegitimise a government as a means of replacing it. (Arreguin-Toft, 2008: 32)

Terrorism may be employed alone as an expedient tactical means to a political end or it may be applied as part of an insurgency or a guerrilla campaign. This is because terrorism in itself would not be able to defeat an established authority unless the authority panics and overreact or loses the political will to continue its anti-terror campaign. In addition, if a government handles terrorism poorly, the result may be mass recruitment and the creation of a popular insurgency. Unlike terrorism, an insurgency potentially poses a real danger to established authority and may even become stronger until it is able to defeat the regular state forces. (Gray, 2007: 247)

In considering terrorism as a strategy of warfare, Merari firstly emphasises the central role of the psychological element in terrorism actions, namely that terrorism is a strategy based on psychological impact. (Merari, 1993: 231-233) Even if all wars have a significant psychological ingredient, terrorism groups are usually small and need to apply surprise attacks in a protracted struggle without engaging the enemy in a physical encounter. The strategies applied by terrorism groups do not constitute a comprehensive plan for taking over political power, but rather serve to create a public mood to allow them to continue their struggle in an unspecified way. These strategies can be identified as follows: (Merari, 1993: 233-236)

- “Propaganda by deed”: This implies that the terrorist act would serve to change a small group into a revolutionary movement. While earlier groups have chosen symbolic targets to this end, indiscriminate attacks have become more frequent in order to maximise the propaganda value of attacks.
- Intimidation: Terrorists have sometimes succeeded to intimidate a selected sector of people, such as judges, through a systematic campaign of maiming, kidnapping or assassination.
- Provocation: Attacks by terrorists draw repressive responses by the authorities which necessarily affects the whole population and which make the government unpopular. This, in turn, will increase public sympathy for the terrorist cause.
- Strategy of chaos: This strategy, often involving random bombings, is typical of right wing groups who attempt to create an atmosphere of chaos to demonstrate

the inability of the government to maintain law and order. It is then hoped that the population will demand the replacement of the existing government.

- Strategy of attrition: Terrorists believe that they have greater stamina than the government and that if they persist, the government would eventually yield to their demands. The strategy is defined by the relative importance of the issues at stake for the government.

However, the mode of struggle adopted by terrorists is dictated by circumstances, rather than by choice, and a mixture of strategies is usually applied. It is sometimes difficult to distinguish terrorism from guerrilla warfare. For example, while the Irish Republican Army (IRA) did not attempt to seize territory, the Palestinian groups have maintained territorial control in Lebanon. In Peru, the Sendero Luminoso (SL) movement has waged a guerrilla struggle in certain rural areas, while waging a typical terrorist campaign in the cities. A dual guerrilla-terrorist strategy was also characteristic of the Vietcong in Vietnam. Because terrorism is the least demanding form of insurgency, it has always been used simultaneously with other strategies. The relative importance of terrorism in the overall struggle is determined by particular circumstances but it always forms part of the campaign. (Merari, 1993: 242-243)

3.5.2 The Effectiveness of Terrorism as a Strategy

While terrorism has remained popular throughout history, the only instances where sub-state organisations were able to obtain their long term political goals through this strategy were during the era of anti-colonial struggles. The examples which are generally accepted by analysts in this respect are that of Cyprus, Algeria and Palestine. (Lutz, 2004: 246) In Cyprus the urban terror campaign by EOKA (Ethniki Organosis Kypriakon Agosniston) was instrumental in convincing the British to grant independence to its colony. In Algeria, the French were faced with a guerrilla insurgency and persistent terrorist attacks, and in Palestine the British mandate was ended by the terrorist campaigns of Jewish resistance movements. In these successes terrorism was used as an auxiliary weapon in a wider military campaign and its application in this way has

proven to make it more effective than as a stand-alone strategy which may ultimately prove counterproductive. (Wilkinson, 2006: 6, 8)

While there are few cases of terrorism alone succeeding in attaining strategic aims, it often succeeds in obtaining short term tactical objectives, for example in gaining worldwide publicity, extorting ransom payment, or obtaining the release of imprisoned companions. A protracted terrorism campaign can also endanger the security of weaker states and threaten the stability of their governments. In addition, in the cases of Sri Lanka and Colombia, terrorism succeeded in making vast areas of state territory ungovernable. (Wilkinson, 1990: 4-5)

Even if terrorists are illegal actors and their acts are condemned by most states, international terrorism has formed an integral part of international relations. The manifestations of terrorism are also influenced by the nature of the international system in a particular period and the domestic and foreign policies of specific states. Terrorist organisations are transnational non-state actors as they form linkages, operate together and have an independent impact on state policy. (Richardson, 1999: 216) The destructive capability of contemporary terrorist networks has also empowered them and has elevated them to significant actors in the international political system. (Lia, 2005: 2) The most important example is that of the 9/11 attacks by the Al Qaeda movement which has changed the manner in which the US, the remaining superpower, viewed its national security and foreign policy objectives.

The following section provides a description of the identifiable characteristics of terrorist movements, respectively of the traditional or Cold War groups, and of groups considered as part of new terrorism. Firstly, a brief overview of the historical development of international terrorism is provided.

4. Characteristics of Terrorism

In order to consider the characteristics of new terrorism in perspective, it is necessary to provide a concise historical overview of the development of international terrorism. This will be followed by the identification of the characteristics of traditional terrorism and those of what is described as new terrorism.

4.1 Brief Historical Overview of Terrorism

Terrorism has been a feature of political strife throughout human history but its trajectory in modern history can be described in terms of the four waves identified by Rapoport. (Rapoport, 2003: 37) While these waves are to a certain extent overlapping, the name of each reflects the dominant, but not the only, feature of the wave. The first or Anarchist wave began in Russia during the 1880s and was the first real international terrorist experience in modern history. The prime strategy of the anarchists was assassination campaigns against prominent political figures and this was soon adopted by revolutionary groups in other countries.

The second or anti-colonial wave of international terrorism started during the 1920s and crested in the 1960s. (Rapoport, 2003: 40-41) This wave was stimulated by national self-determination and it receded largely as colonial empires disappeared. The era of colonial independence struggles was also when the strategy of terrorism proved more successful in comparison with other periods. It played a decisive role in persuading colonial powers such as Great Britain and France to relinquish control over its colonial territories, for instance in Palestine in 1948 and Algeria in 1962. (Wilkinson, 2000: 25) In Europe, terrorism during the 1920s and 1930s stemmed more from the right of the political spectrum and right wing groups were active in Germany, Italy, and Eastern Europe. (Laqueur, 1999: 21-22) Fascist parties used violence in their efforts to gain power and, after World War II, right wing ideologies became a basis for dissident terrorism in Europe and North America. (Lutz, 2004: 162)

The third or “New Left” wave started after the appearance of various leftist dissident groups willing to use violence to achieve their goals during the 1960s and 1970s. This upsurge in terrorist activity was facilitated by a combination of historical factors, especially the US involvement in Vietnam and the 1967 Middle East War, after which the PLO opted to rely on terrorism as an additional weapon in its struggle. (Lutz, 2005: 99) There was also a shift in revolutionary thinking from rural to urban based terrorism and the emergence of small left wing revolutionary groups in the industrialised world dedicated to counter the capitalist system through violent means. (Wilkinson, 2000: 30) During this period, symbols of Western, particularly US affluence, were the most popular targets for attacks.

In the third wave the international dimension of terrorism during the anarchist period was revived with the cooperation between revolutionary groups of different nationalities. The targets chosen reflected international dimensions and individuals of different nationalities cooperated during attacks. (Rapoport, 2003: 42) Terrorism became an international security concern with frequent airline hijackings by Palestinian groups, while the 1972 attack at the Munich Olympic Games for the first time gave terrorism, and the Palestinian cause, worldwide media attention. These incidents forced the UN to take cognisance of the issue and to include it on its security agenda. This period also saw the broadening of the motivational basis of international terrorism, from being principally politically and ideologically motivated towards a broader motivation including religious and economic factors. However, it largely ended after the collapse of Communism and the end of the Cold War.

After terrorism was mainly motivated by ideological and political motives such as anarchism, nationalism and revolutionary Marxism for nearly a century, there was a resurgence of religious terrorism during the fourth wave which emerged as of 1979. Although religious identity was present in earlier periods, it now gained a different significance and aimed at establishing sovereign states based on religious tenets. (Rapoport, 2003: 43) The phenomenon of religious cults using terrorist methods also appeared, for instance the Aum Shinrikyo cult in Japan.

The re-emergence of religiously inspired terrorism began after the Islamic revolution in Iran and spread beyond Islam to other religions. In India the Sikhs sought to establish a religious state in the Punjab, Jewish terrorists were active in Israel and in the US the Christian Identity movement, based on racial interpretations of the Bible, emerged. (Rapoport, 2003: 43) The founding of Al Qaeda, a Sunni-inspired Muslim movement, marked the rise of a transnational terrorist organisation capable of functioning at a global level. This period is also characterised by the prevalence of suicide attacks; the opposition against globalisation by terrorist groups; and the increased involvement of terrorist groups with organised crime, especially drug trafficking. (Lutz, 2005: 152-153)

4.2 Characteristics of Traditional Terrorism

While terrorism as a political instrument has been present throughout history, the 1960s and 1970s presented two kinds of groups, namely those motivated principally by an anti-capitalist ideology and those motivated by ethno-separatism as an outgrowth of national liberation struggles. Ideological terrorists generally sought to change the existing political, social and economic system. They considered themselves as the “vanguard of a people’s revolution” and created their own rationality which interpreted reality in terms of a revolutionary ideology. (Wilkinson, 2000: 27) Examples of groups representing ideological terrorism were the Red Army Faction (RAF) in Germany, the Red Brigades (BR) in Italy, *Action directe* (AD) in France and the Weathermen in the US. (Gearson, 2002: 15)

On the other hand, nationalist groups sought political self-determination, were able to mobilise substantial support from the population and were more capable of sustaining a protracted campaign than ideological groups. (Wilkinson, 2000: 19) These included ETA in Spain, the PLO and other groups connected with the Arab-Israeli dispute, the IRA in the United Kingdom (UK) and the Quebec Liberation Front (FLQ) in Canada. (Gearson, 2002: 16)

Traditional groups operated out of defined sanctuaries or safe-havens, their operational areas were mostly predictable and the threat they posed was limited in consequences and effect. (Hirschmann, 2000) They usually confined themselves to launching attacks in one country or region even though they sometimes developed external support networks to obtain weapons and finances or to be used as safe haven. (Wilkinson, 2006:5) In terms of choice of weapons, traditional terrorism relied on the use of the bomb and gun as the weapons of choice. Being ideologically motivated, these groups enjoyed state sponsorship from the USSR and Eastern European countries who strived to promote Communism during the Cold War era.

Except where traditional movements evolved into an insurgency or civil war, they maintained the principle of constrained violence. They operated on the basis of the minimum force necessary and calculated that indiscriminate violence would alienate supporters and undermine their claim to legitimacy among the broader public. (Simon & Benjamin, 2000: 66) They viewed terrorism as a relatively low-risk, low-cost and potentially high yield way of struggling for political goals. Even if this may not have led them to reach strategic objectives in the long term, they could win tactical gains such as publicity for their cause. Regarding specific tactics, the following were used: bombings, assassinations, armed assaults, kidnappings, hijackings and hostage takings. (Jenkins, 1987) During the 1970s the seizing of embassies was a popular tactic but this has declined as a result of more effective counter measures by governments.

The organisational structure of traditional terrorist groups has been considered to be hierarchical, with a clear command and control apparatus and therefore forming a distinct organisational entity. (Mayntz, 2004: 11) However, it also displayed features typical of decentralised or networked organisations which facilitated *ad hoc* cooperation with ideological counterparts, for example regarding training or the procurement of weapons. Although these groups expressed the common long term aim of global revolution, they remained distinctive organisational entities. Traditional terrorism was mostly left wing in inspiration and it was partly considered as a response to perceived injustices. The end of the Cold War started a process of politically marginalising these

groups by removing their ideological relevance, which left a vacuum for the rise of terror motivated by other factors.

4.3 Origin and Characteristics of Post-Cold War Terrorism

The profound changes in the international political environment after the end of the Cold War led to new perceptions of warfare and the use of violence in sub-state conflicts. This included new interpretations of the motivation and aims of terrorism as a political strategy.

4.3.1 The Origin of New Terrorism

The starting point of the “new” terrorism is identified by the majority of authors to be the 1993 World Trade Center (WTC) attack and the attacks on the Tokyo subway and in Oklahoma City two years later. (Simon & Benjamin, 2000: 59) These events were considered as harbingers of a new and more threatening kind of terrorism, capable of producing mass casualties. At the same time, the emergence of a religious, mainly Islamist, motivation for attacks during the 1980s was mentioned as an important element of the new terrorism.

Ideas around the possible use of non-conventional weapons by terrorist groups were explored by various authors, including Laqueur, who identified a new fanaticism due to the religious motivation of Islamist and right wing extremists. The emergence of the logic of “maximal terrorism” cautioned that, even if only one such attack succeeds, the perpetrators will have created the impression that they have won their struggle and this would seriously affect the public sense of security. (Simon & Benjamin, 2000: 73)

In the absence of consensus on the concept of terrorism, the “new” terrorism has equally led researchers towards divergent conclusions on its nature and meaning. (Zimmermann: 2003: 25) While the use of the concept has become commonplace among certain terrorism specialists, others have contested the idea of a new or super-

terrorism. This has been described as more dangerous than previous forms of terrorism, as incorrigible in its beliefs and actions, and as demonstrating specific characteristics which differ from that of earlier forms of terrorism. These characteristics indicated a shift in terrorism which was mainly the result of changes in the international system and which created new opportunities for its use as a political instrument.

4.3.2 Characteristics of New Terrorism

Religious Motivation: Although it is not a new phenomenon, a religious imperative is an important characteristic of the new terrorism. Religiously motivated terrorism may be anti-modernist or anti-Western as in Islam, or developed as an ultra-nationalist tendency as with Jewish and Hindu groups. In right wing religious terrorism, manifested mainly in the US, theories of racial supremacy are combined with far right extremism. Jurgensmeyer identified three common characteristics of religious terrorism, namely that they perceive their objective as a defense of basic identity and dignity; that losing their struggle would be unthinkable; and that the struggle is in stalemate and cannot be won in real time or in real terms. (Jurgensmeyer, 2000: 161-162) In addition, religiously motivated terrorists lack an earthly constituency and they only feel accountable to a deity or some transcendental or mystical idea.

A religious motivation makes the new terrorist groups more than an organisation and they can rather be viewed as an ideology, a set of attitudes, or a belief system which is organised to function as a recruiting network. Religious terrorism has therefore been driven by an inner logic of faith which has used political violence to further sacred causes. Religion also serves to define the causes and enemies of the violence itself. (Ranstorp, 1996: 62) In contrast, secular terrorism may view indiscriminate violence as immoral and is more attuned to public opinion and the need to appeal to a specific audience.

Mass Casualty, Indiscriminate Attacks: A trend towards large-sale, indiscriminate violence started during the 1980s when huge car bombs were detonated amid a

concentration of civilians. At the time Jenkins contributed this escalation to the following factors: (Jenkins, 1987)

- Experience made it easier for terrorists to kill.
- Terrorists needed to kill more people to obtain the same amount of publicity.
- Terrorists have become technically more proficient.
- Terrorist groups attracted more ruthless elements.
- Religious motivation leads to mass murder.
- State sponsorship has provided groups with resources and know-how to operate on a more lethal level.

As stated by Jenkins, indiscriminate mass casualty attacks were also the result of a need to attain the same degree of media coverage previously generated by smaller attacks. (Hirschmann, 2000) The contemporary mass media frequently conveys images of terrorist activity, and spectacular attacks are therefore needed to capture and maintain broad public attention. Terrorists have also realised that soft targets involve less risk to themselves and there was a shift from the politically minded terrorist to a more vengeful, hard line fanatic. (Wilkinson, 1990: 7-8) Furthermore, Gunaratna attributes the increased lethality of terrorism to the systematic and careful planning by groups who have become more knowledgeable and sophisticated, and who prefer to stage fewer but more efficient attacks. (Gunaratna, 2004: 19)

Organisational Structure: In contrast with the hierarchical organisational structures of traditional groups, terrorists increasingly formed part of amorphous, indistinct broader movements which tend to operate on a linear basis. This has affected their operations, decision-making and targeting in allowing greater freedom and independence in tactical decisions, given the absence of an identifiable central command. (Hoffman, 2001: 418) A less cohesive structure with diffuse membership also allows for small dispersed groups to communicate, coordinate and conduct their operations through the use of modern communication media, especially the Internet. Clearly identifiable leaderships are being overtaken by loose transnational agreements between franchises, and

adherents are united by common experience and inspiration, rather than personal interaction. (Crenshaw, 2000: 411)

Analysts at the Rand Corporation, who developed theories on the organisational structure of the new terrorism groups, provided the concept of “nodes” which represent an intermediate level of leadership in flat hierarchies. The functions of these “nodes” are to serve as assembly points, to perform recruitment and to accommodate logistical managers. In order to serve these functions, the “nodes” are forced to operate in a semi-public manner. (Wright, 2006: 285) They furthermore proposed that a network form of organisation is a key consequence of the ongoing information revolution. The concepts of cyberwar and netwar are utilised to describe a globalised, low intensity conflict where actors such as terrorist organisations are not acting on behalf of states and are utilising advanced technology for their operations. (Arquilla, *et al.* 1999: 39, 46)

Possibility of Use of Non-Conventional Weapons: The new terrorist groups are considered to actively pursue non-conventional weapons and the confirmation of the possession of weapons of mass destruction (WMD) capacity by terrorist groups has been a constant priority of state intelligence services. The new terrorist thesis holds that these groups, because of their particular worldview and aim of mass destruction, will have no restraint in crossing the threshold of using such weapons to perpetrate spectacular attacks. In contrast, some authors placed more emphasis on the technical and other disincentives for using such weapons. (Gurr & Cole, 2005: 1) Although the technology to develop lower-grade WMD is theoretically within reach of some larger groups, terrorists have proven to be politically radical but operationally conservative, and have mostly adhered to weapons which have been successful in the past.

In addition, the debate during the 1990s about terrorism using chemical, nuclear, biological and radiological weapons had an impact upon national security debates in many states but was led by US terrorism specialists who provided most of the alarmist rhetoric and worst-case scenario's. (Gurr & Cole, 2005: 1) However, the debate was changed from theory to reality in 1995 when the Aum Shinrikyo (Supreme Truth)

religious cult attacked the Tokyo subway using sarin nerve gas. The event also introduced the notion of religious or millennium cults as terrorist actors, as opposed to movements that linked nationalism and religion, but the incident did not appear to have established a precedent. (Crenshaw, 2000: 414)

Amateurs: The loose structure of contemporary terrorist movements allows for both professional, full-time terrorists and part-time amateurs. The “lone wolf” syndrome, where individuals act on their own under the influence of extremist ideologies, first developed in US right wing movements. Operatives do not seek formal affiliation with a specific extremists group but act alone under the influence of radical ideologists. They keep in touch with an organisation through the Internet but their actions are perpetrated independently. (Whine, 2002) The perpetration of attacks by small groups of part-time terrorists developed as a result of the breakdown of traditional structures evolving into less hierarchical organisations. The conspiracy of only two persons that resulted in the Oklahoma City attack in 1995 brought to prominence the idea of “leaderless resistance”. The term, formulated by Luis Beam, lays down a strategy of violence perpetrated by autonomous leadership units. The doctrine may inspire individuals to take action and allows leaders of a movement to claim credit for the actions of individuals who adopted its propaganda. (Jenkins, 2001: 325)

Unclaimed Attacks: In traditional terrorism, attacks were usually preceded by issuing a warning, or alternatively, followed by a *communiqué* explaining why a particular target was attacked. In contrast, a characteristic of terrorist attacks since the 1990s was an increase in the number of incidents which were neither announced, nor claimed. This has made it more difficult to understand the political motivation of the attackers and the official interpretations by targeted governments have seldom been disputed. Possible explanations for this phenomenon include:

- That publicity is no longer a main priority of the perpetrators and that their objectives have changed towards punishment itself. In the mind of the terrorists,

the act speaks for itself and the need to claim credit is not as important. (Gearson, 2002:11)

- By maintaining their anonymity, terrorists may believe that they are able to capitalise further on the fear and alarm generated by their violent acts. (Hoffman, 2001: 418)
- Religiously motivated terrorists are not overly concerned about winning popular support and thus do not need to justify their actions. (Crenshaw, 2000: 411)
- The efficiency and global reach of the contemporary mass media is already covering the need for publicity of a specific attack, increasing the psychological effect when the perpetrators remain unknown.

The following section will draw a number of parallels between the traditional and new forms of terrorism in terms of the various characteristics identified above. Such comparison will serve as measurement to determine how, and in which respects, terrorism has evolved during the course of recent world history.

5. A Comparison between Traditional and New Terrorism

The differences between traditional and new terrorism are not all measurable or tangible, but rather represent a difference in perspective and in degree of complexity. Contrary to the traditional means-end construction of terrorism, the new organisations are considered as fanatic extremists who do not feel constrained by moral or humanitarian considerations. (Morgan, 2004) However, despite the characteristics identified as describing a new terrorism, a number of those associated with traditional terrorism have been resilient and have found expression in the new terrorism. For example, the 9/11 attackers did not use sophisticated weapons of mass destruction but utilised a traditional approach of careful planning, simple tactics and operational surprise. (Gearson, 2002: 7) The resemblances between traditional and new terrorism thus represent the enduring characteristics of terrorism as a political strategy and can be considered in terms of the following aspects.

5.1 Motivation

Since the end of the Cold War, terrorism has been principally characterised by religious motivation, mainly Muslim extremism, as well as a new far right dimension or neo-facism. This is in contrast with traditional terrorism which was characterised by an ideological motivation, mainly anti-capitalist, and by separatist nationalistic movements. Although the new terrorism is predominantly religiously motivated, it retains a political objective, as had traditional terrorism. However, this does not mean that traditional terrorism was void of religious motivation and various groups, for instance the IRA in Northern Ireland, Irgun in Israel, and EOKA in Cyprus, were linked to different religions. (Spencer, 2006: 14) Religiously inspired terrorism has also existed throughout history and was at times the only acceptable justification for terrorism. Furthermore, terrorism is usually characterised by an array of overlapping motivations.

5.2 Objectives

In traditional groups the ideology, aims and motivations were clear and comprehensible with a defined set of political, social and economic objectives. In contrast, the new religiously motivated groups are considered to have no clear set of negotiable political demands and their goals constitute a reshaping of global political and military realities. Nevertheless, the long term objectives of the new terrorist groups are similar to that of the traditional groups in the sense that neither seems likely to be attained. (Duyvesteyn, 2004: 446) Traditional groups strived for revolutionary change while the political aim of a new terrorist group such as Al Qaeda, includes ridding Muslim countries of Western influence and to establish a caliphate stretching from North Africa to Southeast Asia.

5.3 Application of Violence

During the era of traditional terrorism, it was emphasised that terrorism was a communication strategy with political objectives and that terrorists were interested in publicity, not in killing a great number of people. This view has changed with the era of

the new terrorism where mass destruction has come to be considered as an important characteristic. (Jenkins, 1995: 46) This includes the use of advanced weaponry, for example surface-to-air missiles to target passenger aircraft, as well as the possible use of non-conventional weapons. New terrorism is therefore said to be more lethal, less discriminating in its target selection and more likely to target civilian populations. Consequently, it has resulted in more casualties than the attacks perpetrated by traditional groups. However, it can be pointed out that the lethality of traditional terrorism also increased when they started to use large trucks bombs, ostensibly to ensure media attention.

Regarding the question of mass casualty attacks and increased lethality of the new terrorism, Hoffman referred to the data of the Rand-St Andrews Chronology that was used as proof that terrorism became more lethal during the 1990s. However, he also stated that it was unclear whether this development represented an enduring trend. (Hoffman, 1998: 201) In this respect, other authors have also pointed out that the assumptions regarding the increased lethality of terrorism remain problematic because of the small sample of attacks which made the data too limited to allow for significant conclusions. (Gearson, 2002: 20)

5.4 Target Selection and Tactics

Traditional groups were numerically constrained and their operations represented discriminate acts against their traditional single enemy in a specific country or region. Attacks against selective, primarily symbolic targets, limited their threat in terms of consequences and effects, and terrorism was considered more as a public disturbance than as a security threat. In contrast, new terrorism demonstrates indiscriminate targeting, resulting in greater lethality. However, the target selection of new groups has remained largely symbolic, for example the WTC in New York was selected as a symbol of capitalism and the Federal Building in Oklahoma City was considered as a symbol of US federal power. (Duyvesteyn, 2004: 448)

In terms of tactics, the new terrorism rather represents an adjustment in tactics in pursuit of the same aims. Even the 9/11 attacks, which caused mass casualties, used the methodology of traditional terrorism, coupled with a willingness to commit suicide. This indicates that, even during the era of new terrorism, terrorists have proven themselves to be operationally conservative, although at the same time able to innovate. (Gearson, 2002: 23) Traditional tactical patterns of terrorist groups have also remained valid in that the attainment of surprise remains the immediate effect aimed at by both traditional and new terrorism. The non-claiming of attacks is also not entirely new and adds to the uncertainty that attackers want to achieve, as well as to make retaliation more difficult. (Duyvesteyn, 2004: 449)

5.5 Organisational Structure

The structure of new terrorist groups is described as being different from that of traditional groups which are more hierarchically structured. In this respect, Wilkinson describes the Al Qaeda movement as a “world-wide network of networks” in which the leadership provides ideological direction and inspiration while the affiliated networks and cells carry out attacks against appropriate targets. (Wilkinson, 2006: 42) This loose structure across national boundaries facilitates Al Qaeda’s global reach and demonstrates many of the characteristics of a global insurgency, namely a transnational ideology, propaganda campaigns, grassroots support, and political and territorial ambitions. (US Country Reports on Terrorism. 2008)

However, the Anarchist International movement, active during the late nineteenth century, also promoted violence perpetrated by loosely aligned, unconnected cells of like-minded radicals. (Hoffman, 1998: 19-20) Likewise, Wright observes that the nodal activity of new terrorism structures is not radically different from the type of cellular structure adopted by the IRA in the mid-1970s, after the British succeeded in penetrating its traditional hierarchical structure. (Wright, 2006: 285) In addition, the PLO and Hezbollah also operate as networks where little formal central control is being exercised. (Tucker, 2001: 3-4)

5.6 Transnational Nature

The issue of the transnational character of new terrorism is not entirely new although it has been facilitated by new means of communication, principally the Internet, and was highlighted by globalisation. Traditional groups used to maintain extensive international contacts with external sponsors and partner groups. For example, the Japanese Red Army never had a real base in Japan itself but carried out attacks in Israel, Singapore and the Netherlands. (Duyvesteyn, 2004: 444)

New groups such as Al Qaeda have not been completely free from national and territorial considerations in that it originally needed Afghanistan as an operational base. However, Al Qaeda has incorporated many different nationalities and represents a transnational effort to religious purification by connecting members in an “imagined community” through Islam. (Wiktorowitz, 2001: 20) In summary, it can therefore be stated that, while the transnational ideology of the new terrorism is more visible, it was not absent during the era of traditional terrorism as many revolutionary groups adhered to a Marxist-inspired ideology aimed at changing society and fighting capitalism.

5.7 Sponsorship

During the period of traditional terrorism, groups were supported by the USSR and other Eastern Bloc countries for ideological reasons. After the demise of these Communist regimes, state sponsorship of ideological groups has mostly disappeared and was replaced with the sponsorship by Islamic-orientated countries such as Iran and Syria of religiously motivated groups, for example Hamas and Hezbollah. In addition, the US State Department also includes socialist-orientated states such as Cuba on its list of state sponsors of international terrorism (US State Department, 2006) and the country was included in the list in 1982 for assisting the Spanish separatist group ETA and some Colombian terror groups.

The principal difference with traditional groups is that contemporary terrorist groups such as Al Qaeda are largely self-financing, mainly through their involvement in criminal activities. In this respect, previously ideologically motivated groups, such as the Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army (ELN) in Colombia, have virtually become criminal cartels through their involvement in the global narcotics trade.

The following section will briefly explore the most important factors that have influenced the nature and activities of contemporary terrorist movements. These factors have transformed terrorism from being considered mainly as a public order issue to a constant global security concern that needs to be addressed by multilateral counter-terrorism efforts.

6. Factors Influencing Contemporary Terrorism

Contemporary terrorism has been influenced by various events, including the end of the Cold War and the subsequent rise in religious and ethnic awareness, globalisation, new technological developments and cultural factors.

6.1 The End of the Cold War

The end of the Cold War has had a major impact on the nature and rhetoric of international terrorism as the disintegration of the USSR and subsequent political changes in Eastern European countries removed the sponsorship of Marxist-orientated groups and Communism as an ideology became discredited. The disappearance of USSR influence on terrorist movements created a power vacuum which was filled by religiously motivated groups and ethnic movements striving for political self-determination. The waning of revolutionary thinking also subverted the model of urban guerrilla warfare which served as an inspiration to a generation of revolutionary groups. (Lia, 2005: 161)

At the beginning of the 1990s there was an assumption that terrorism may diminish. In contrast, the end of the Cold War created new domestic tensions and political strains which led to terrorist acts by different ethnic groups and right wing radicals. (Harmon, 2000: 3) This was most evident in the struggle between ethnic groups in the Balkans after the disintegration of Yugoslavia. Terrorism based on ethno-nationalist or separatist motivation also continued in other regions, for instance Chechnya, Kashmir, Sri Lanka, Spain, and in Turkey by Kurdish separatists. (Harmon, 2000: 139-142) In addition, a number of leftist groups in the Third World have managed to become financially self-sufficient, mainly through drug trafficking, and thereby continued their activities. This partly explains the continuation of terrorism as a strategy after the end of the Cold War.

Terrorism motivated by ethnic considerations has usually had a clear political or territorial aim which may be negotiable, although it may not always be justifiable. Contrary to groups which are mainly motivated by ideological or religious motives, their focus is on gains to be made within the traditional state-orientated international system. (Cronin, 2003: 40) The support these groups receive from their ethnic constituencies makes it possible to sustain their campaigns over lengthy periods.

In terms of religious motivation, the current threat from international terrorism emanates largely from Muslim extremism. Although it does have a religious motivation, the aims of the Islamist fundamentalist or *jihadi* movements remain primarily political. It also forms part of a larger anti-modernist and anti-globalisation tendency in conservative Muslim societies; of tensions between rich and poor countries; and between the elite and underprivileged within Muslim countries. (Cronin, 2003: 35)

The dismantling of the military structures in the former USSR and other Warsaw Pact countries has also led to the availability of an array of weaponry on the international black market. (Wilkinson, 2000: 37) Retrenched members of military and nuclear establishments of these states may have cooperated with crime syndicates in arms trafficking. Exponents of the new terrorism thesis, who place emphasis on the desire of

these kind of terrorist groups to perpetrate spectacular mass casualty attacks, argue that they could seek to obtain these weapons on the informal black market.

6.2 Globalisation

Globalisation has removed the traditional barriers of distance and geography; (Lia, 2005: 1) has led to the breaking up of traditional hierarchies; and represents the imposition of foreign ideals. At the same time, it has enabled terrorist groups to take advantage of the ease of movement, of global communication networks and of the electronic transfer of financial resources. This has allowed them to open new channels and to operate simultaneously in various countries, in a similar way as international commerce and business ventures. (Cronin, 2003: 48)

In Muslim states, globalisation has led to an erosion of traditional values; political and economic upheaval; and the accentuation of inequality. Together with a perceived threat of Western influence, this has led to a belief among Muslims that their own religious identity must be protected, which in turn has served as impetus to radical ideas and a fertile recruitment ground for movements willing to use terrorist strategies. Furthermore, globalisation gave rise to new radicals who are not linked to a specific state but who belong to religious and other transnational networks. Contemporary terrorist organisations are therefore a product of globalisation and they are using its instruments to pursue their objectives. In this manner the disruptive effects of globalisation are facilitating world-wide networks which increase the possibility that transnational terrorism may emanate from distant geographical conflicts. (Lia, 2005: 17)

6.3 Technological Developments

The effectiveness of terrorist techniques has been constrained by the technology and weaponry available during a particular period. In line with the progression of globalisation since the 1980s, terrorism has been influenced by new technological

developments, principally in the fields of mass communication, weaponry and civil aviation.

The mass media has always been of particular importance to terrorist organisations because of the importance of publicity and the need to attract attention to their cause. In this respect, the advent of satellite television has equipped terrorists with an instrument which provides instant global coverage, thereby enabling them to magnify the element of fear and to promote awareness of their aims and demands. (Wilkinson, 2000: 29) The Internet has also provided transnational terrorist organisations with a powerful tool by linking like-minded groups and making it easier to set up support structures among migrant communities around the world. In this respect, most contemporary terrorist groups maintain websites for propaganda purposes that disseminate their ideology, charters and activities and serve to raise funds or recruit new members. E-mail correspondence is then used to transmit specific instructions such as directions, photographs or technical detail; to procure weapons; or for training purposes. (Wade, 2004: 133)

The continuous technological advances made in the weapons industry led to the development of weaponry more suitable to the specific needs of terrorist groups. For example, after the earlier invention of dynamite provided radical groups with the means to use bombs more effectively, bombing has remained a preferred technique of terrorist groups. Afterwards, the development of plastic explosives such as Semtex became an effective tool of various groups. (Wilkinson, 2000: 29) Modern electronic techniques also led to the use of remote controlled detonation and other devices benefiting dissident groups and which provided them with the potential for launching increasingly lethal attacks. (Lutz, 2005: 18)

In addition, the importance of civil aviation to terrorism was amply illustrated by the effective use of airline hijackings by Palestinian groups during the 1970s and which contributed to make them the first real international terrorist movement. (Hoffman, 1998: 84) Since then, globalisation has led to an increase in the volume of civil aviation which

facilitated the ease of international travel. At the same time, this has opened up possibilities to attack new targets (Wilkinson, 2000: 29) and by the late 1990s, civilian aircraft had emerged both as part of terrorist armoury and as targets. Incidents involving civilian aircraft during the 1990s demonstrated the separate use of the tactics which were eventually used in combination in the 9/11 attacks in the US. (Carlton, 2005: 236)

6.4 Cultural and Ideological Factors

Because the global political and economic integration process will continue, the potential for terrorism and other forms of violence in the international system will remain. As such, the era of dominant leftist and rightist ideologies has been overtaken by new transnational movements which defy traditional ideological categorisation. In this respect, Huntington proposed that violence in the contemporary international system can be explained in terms of a “clash of civilisations”, while Kaplan predicted a return to tribalism, disorder and anarchy. (Lia, 2005: 160)

Huntington’s ideas are noteworthy in terms of religiously-motivated terrorism because the major world religions are contributing to culturally define the dominant world civilisations. For example, the Al Qaeda movement views and promotes the struggle between Islam and the West in terms of a clash of civilisations, and militant Islamic rhetoric proclaims that the values of Islam are more worthy than those of the Western world. (Lutz, 2004: 73) Radical Islamist movements thus aim to exploit the historical and cultural differences between the West and the Muslim world. These differences have been compounded by cultural factors which led to mistrust and competition and which were accentuated and brought to the foreground by the advent of globalisation. Radical Islamist groups are also exploiting hostility in Third World countries towards the US and its allies because of their political intervention and military actions in Muslim countries

In terms of radicalisation, the way societies view their history is of particular relevance as Muslim societies have been keeping their history alive at both the individual and collective level and can thus be described as “living-history” societies. In this sense,

events of a thousand years ago remain a powerful and active force in the everyday lives of contemporary Muslims, also through informal narratives about the collective past which still form part of the fabric of daily practices. In contrast, “dead-history” societies, as found in the US and the rest of the Western world, do not view the past as of vital importance to the present. (Moghaddam, 2006: 52-54) These different views of history play a role in the radicalisation of Muslim youth when they are urged by the global media or their Westernised élite to become more like members of Western society.

7. Conclusion

Among the different forms of sub-state violence, terrorism is the easiest technique to apply and also the most cost effective and for these reasons it almost always forms part of insurgencies. As a result, it may sometimes be problematic to identify and categorise the particular type of insurgency in question. At the same time, its versatile nature and the political connotation of a particular terrorist act have prevented the reaching of a consensus definition of the phenomenon.

Terrorism has evolved in its application as a strategy and as a tactic throughout history but has retained some of its enduring characteristics. Although it has shown new manifestations and new types of actors since the 1980s, this does not demarcate an absolute clear distinction between old and new actors, tactics or weapons. Nevertheless, terrorism has endured because its practitioners have been able to adapt to changing circumstances by identifying new targets or exploiting new vulnerabilities. In addition, groups and individuals participating in terrorism are also responding to political and socio-economic circumstances in certain countries or prevailing in the international system during a particular time period.

However, and despite the focus on a new kind of terrorism, much of contemporary terrorism demonstrates the characteristics of traditional terrorism, with pragmatic and comprehensible aims. Innovation has rather been in the changing of targets by shifting attacks towards softer targets as a reaction to more effective counter-terrorism

measures by national authorities or multilateral organisations. The differentiation between traditional and new terrorism is therefore to some extent an artificial one and a matter of perspective.

The changing international environment since the end of the Cold War led to the emergence of new transnational international terrorist groups with different ways of planning and action than the earlier traditional groups. By making use of the opportunities created by globalisation, terrorist movements have been able to access new technology; to exploit new resources; to recruit more easily; and to attack remote targets. A changing international environment has also created new issues within or between states, as well as empowering religio-cultural groupings, which in turn led to new motives for extremist behaviour.

The following chapter will provide the historical background against which the UN developed its perspective on terrorism, before and after the issue started to be discussed at the world body in the early 1970s. For this purpose, the resolutions and conventions on terrorism adopted by the UN from the 1960s until 2000 will be discussed. The year 2000 is used as a point of division for two reasons. Firstly, because previously important issues, such as colonialism, have ceased to be a priority for the UN after it changed its views on national liberation struggles by the end of the 1990s. Secondly, after the 9/11 attacks on the US in 2001, the UN has substantially changed its perspective on the issue of terrorism and has adopted new initiatives in terms of its counter-terrorism program.

Chapter 4: The Development of the United Nations Perspective on Terrorism until 9/11

1. Introduction

This chapter will investigate the attempts by the UN to address terrorism issues, firstly against the background of the Cold War when the UN was prioritising the process of decolonisation, and secondly during the post-Cold War period until September 2001. During the period of anti-colonial struggles from the late 1950s to the middle 1970s, the UNGA was attempting to protect the activities of national liberation movements and the UN system experienced difficulty in distinguishing between terrorist acts and political violence perpetrated in the various struggles towards political self-determination.

The international security environment underwent profound changes during the 1990s, also regarding the use of terrorism as a political instrument. Resolutions adopted by the UNSC and the UNGA on terrorism, as well as the development of conventions and protocols on terrorism during the post-Cold War era up to the 9/11 terrorist attacks against the US, will be discussed. The aim of the analysis is to identify and assess the UN view on terrorism and changes in emphasis over this period, as well as to ascertain specific reasons or circumstances that led the UN to change its view.

2. Early United Nations Perspective on Terrorism

The early perspective of the UN on terrorism must be considered against the background of the promotion of the right to political self-determination as set out in Articles 73 and 74 of Chapter XI of the UN Charter. (UN, 1945: Charter) This provision underpinned the conviction that the continued existence of colonialism militates against the UN ideal of universal peace. The ideal was set out in 1960 in Resolution 1514 adopted by the UNGA, the Declaration on the Granting of Independence to Colonial Countries and Peoples. The resolution stated *inter alia* that the increase in conflicts

resulting from the impediment of self-determination constituted a serious threat to world peace; that the process of liberation was irreversible; that the subjection of peoples to alien domination and exploitation constitutes a denial of fundamental human rights; and that all armed action or repressive measures against dependent peoples shall cease. (UN General Assembly, 1960: Res1514)

During these UN debates on anti-colonialism and self-determination in the UNGA, the membership of the UN continuously increased as Third World countries gained political independence. In 1945 the UN membership was 51, in 1958 it increased to 82, in 1964 it was 115 and in 1984 the UN membership reached 158. The Third World countries realised that, if they work together, they could control the debate in the UNGA and in 1968 they formed the Group of 77 which, under the leadership of Algeria, became a powerful influence in the UNGA. (Meisler, 1995: 208-209) As a result, the Third World bloc in the UNGA was able to defend the status of, and methods used by the remaining national liberation movements.

Although the UN support for self-determination struggles won respect from the Third World, aspects of its approach, especially its support for some national liberation movements during the 1970s and 1980s, were considered in Western countries as casting doubt on the impartiality of the organisation. UN resolutions which promoted self-determination adopted during this period did not address the question of restraints that should be exercised in the methods applied by national liberation movements. Consequently, the validity of the specific tactics used by these movements, and which was considered as terrorism in Western countries, was only addressed slowly and in piecemeal fashion by the UN system. (Roberts & Kingsbury, 2004: 28)

In accordance with the UN's objective of maintaining peace and security in the international system after the end of the Second World War, the UNGA debated the issue of the use of force in international relations. This led to the adoption of a declaration on the inadmissibility of intervention in the domestic affairs of other states in 1965; of a declaration concerning friendly relations and cooperation according to the UN

Charter in 1970; and of a definition of aggression in international relations in 1974. These declarations were aimed at regulating the indirect use of force and expressed concern about terrorist acts and their pernicious impact on international relations. However, no definition of such acts was provided and the matter was not debated extensively. (Saul, 2006: 194-195)

Although the UNGA, which adopted these declarations, is mainly a political body expressing political opinions and cannot take binding decisions, the declarations served a dual purpose. Firstly, being supported by the majority of states, they placed a moral obligation on members of the international community to adhere to what has been recommended and therefore provided an imperative of good international conduct. Secondly, relating to terrorism itself, these declarations formed part of a larger body of principles serving as a moral impediment to the threat or use of force in international relations. As such they provided a basis for the drafting of resolutions on terrorism and also served to supplement these resolutions. (Du Plessis, 2005: 79)

In summary, during the Cold War, the UNGA continuously insisted on a differentiation between terrorism on the one hand, and the struggle against colonial rule on the other hand. This policy distinction was mostly promoted by Arab states, supported by other Muslim countries, after the 1967 Israeli-Arab War when the Arab defeat was followed by the appearance of more frequent terrorist attacks with an international dimension. However, while various attacks by the PLO made the subject of terrorism a regular item on the UNGA agenda, the PLO was granted observer status in the UNGA in 1974. (UN General Assembly, 1974: Res 3237(XXIX)) Other national liberation movements were accorded varying degrees of participation in UN conferences and committees. (Roberts & Kingsbury, 2004: 27)

In the following section the gradual change in the position of the UN on terrorism during the era of the struggle for self-determination and up to the end of the Cold War will be analysed. For this purpose, resolutions adopted by the UNSC and by the UNGA, as well as terrorism conventions approved by the UNGA, until the year 1989 will be discussed.

3. United Nations Views and Documents: The Cold War Period

During the Cold War, the global political context was reflected in the UN system as the bipolar superpower rivalry was playing itself out in the UNSC. This situation constrained the UNSC in its treatment of peace and security issues and any references to the issue of terrorism were superficial and without substance. As a result, terrorism-related matters were debated in the UNGA, which stressed both the importance of political self-determination and the legitimacy of the various national liberation struggles.

3.1 United Nations Security Council Resolutions on Terrorism until 1989

The first reference to terrorism was made by the UNSC in 1948 after the assassination of Count Folke Bernadotte, the UN mediator in Palestine. The UNSC expressed its shock over the cowardly act which “appears to have been committed by a criminal group of terrorists” in Resolution 57 of 18 September 1948. (UN Security Council, 1948: Res 57)

During the Cold War period the UNSC was restrained in its handling of issues of international peace and security because of the deadlock between permanent members and the frequent use, or threat to use, the veto. (Cousens, 2004: 102) The result of this situation was that issues pertaining to terrorism mainly featured in the UNGA. The UNSC also did not adopt a clear position on terrorism even though it had various opportunities to debate the matter. For example, during the 1950s and 1960s terrorism in Kashmir, Northern Ireland, Sri Lanka, Vietnam and in Kurdish areas of Turkey were not placed on the UNSC agenda. As a result of the links between permanent members and various militant groups and/or their opponents, terrorist incidents were treated as isolated incidents, rather than as part of a pattern which needs to be addressed.

In addition, member countries doubted that the UNSC could be of assistance in counter-terrorism actions, feared the politicisation of underlying issues and therefore did not

bring terrorism to the UNSC agenda. Instead, the UNSC focused on the problems of the Middle East, a constant problematic area for UN peace and security initiatives. In this regard, the US consistently endorsed Israeli counter-terrorism measures while the USSR and People's Republic of China (PRC) supported the Palestinian cause. (Luck, 2004c: 86)

Only in 1970, after a series of aircraft hijackings by the PLO which received widespread media attention, did the UNSC approve a resolution, without vote, which called on states to "take all possible legal steps to prevent further hijackings or any other interference with international civil air travel". (UN Security Council, 1970: Res 286) With the occurrence of other attacks during the 1970s, and in the absence of consensus on its causes or how the UN should address terrorism, the UNSC was often deadlocked on how to respond. (Stiles, 2006: 41) This was demonstrated in its reaction to the 1972 killing of Israeli athletes at the Munich Olympics when a weak resolution condemning terrorism was vetoed by the USSR and the PRC. The draft resolution also received negative votes from Guinea, Somalia, Sudan and Yugoslavia. (Luck, 2004c: 87)

The year 1985 saw a number of serious terrorist incidents, including the hijacking of a Trans World Airlines (TWA) flight from Athens to Rome and of an Egypt Air flight; the bombing and destruction of an Air India flight over the Atlantic Ocean; the hijacking of the Italian cruise liner, the *Achille Lauro*; and the kidnapping of Soviet diplomats in Beirut. These incidents indicated that terrorism had assumed international dimensions and led to the unanimous adoption of Resolution 579 by the UNSC. The resolution "condemns unequivocally all acts of hostage-taking and abduction", and "calls for the immediate safe release of all hostages and abducted persons wherever and by whomever they are being held". (UN Security Council, 1985: Res 579, para 1, 2) With the USSR having become a victim of international terrorism, its endorsement of Resolution 579 represented an indication of a shift in its attitude towards the UN as institution, as well as towards the issue of terrorism. (Luck, 2004c: 90)

During this period, Israel was a frequent target of draft resolutions in which the country was condemned for its military counter measures against the PLO but these were vetoed by the US. Even when Israel intercepted a Libyan aircraft *en route* from Libya to Syria on 4 February 1986 and forced it to land in the mistaken believe that there were terrorists on board, the US vetoed a draft resolution condemning Israel, stating that terrorist violence, and not the response to it, was the cause of the cycle of violence. (Luck, 2004c: 90, 91) The incident followed four months after the US intercepted an Egyptian airliner carrying suspects linked to the *Achille Lauro* hijacking. In April 1986, nine members of the UNSC condemned the US for not exercising sufficient restraint in response to the bombing of a Berlin discotheque frequented by US soldiers when air strikes were launched against Tripoli and Benghazi in Libya. After nine meetings of the UNSC, a resolution sponsored by five developing countries were put to the vote and vetoed by France, the UK, and the US, while receiving negative votes from Australia, Venezuela and Denmark. (Luck, 2004c: 92) During these UNSC debates, the US claimed that it was acting in self-defence, in conformity with Article 51 of the UN Charter. (Roberts & Kingsbury, 2004: 29)

In summary, during the Cold War the question of terrorism was largely consigned to the UNGA and, because of Cold War politics, the UNSC was reluctant to regard terrorist acts as threats to international peace and security. Even the 1972 attack at the Munich Olympics, which internationalised the Palestinian liberation struggle, failed to produce any action by the UNSC and in 1979 the UNSC's response to the occupation of the US Embassy in Tehran avoided any reference to terrorism. (Saul, 2006: 216) It therefore remained silent on the issue except for a few resolutions on individual country cases, mainly in relation to hostage-taking.

3.2 United Nations General Assembly Resolutions on Terrorism until 1989

Given the inability of the UNSC to function freely during the duration of the Cold War, when the hostile bipolar international system led to the frequent use of the veto, the UNGA became the focus for discussing terrorism-related matters. However, because of

its structural constraints as a political body expressing opinions, and which cannot take binding decisions, the UNGA treated terrorism as a general problem, rather than focusing on responses to particular incidents, as was the case with the UNSC. However, many of the UNGA resolutions on terrorism during the early years were adopted with a small majority of votes which hampered their legitimacy. Even if a resolution was adopted by consensus, this did not signify universal acceptance of its provisions because states might believe it is non-binding or because an agreement was vaguely worded and open to different interpretations. There was also a constant tension between the principle of security from terrorism and the principle of the use of force for political self-determination. (Stiles, 2006:39)

The first major UN resolutions which also mentioned the issue of terrorism were adopted by the UNGA in 1965 and in 1970. Resolution 2131 of 21 December 1965, the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty, prohibits “terrorist or armed activities directed towards the violent overthrow of the regime of another state”. (UN General Assembly, 1965: Res 2131, para 2)

In the Declaration on Principles of International Law Concerning Friendly Relations and Cooperation Among States in Accordance with the Charter of the UN, (UN General Assembly, 1970: Res 2625) adopted in 1970 on the twenty-fifth anniversary of the UN, “terrorism acts” are mentioned twice although no definition of such acts is provided and the matter received little attention during the drafting process. (Saul, 2006: 193) This declaration, adopted without objection, was drafted with the intention of confronting the indirect use of force after 1945. The reference to “irregular forces or armed bands” was non-exhaustive and, though not mentioned specifically, could include terrorist groups. The document therefore failed to establish effective criteria for determining which peoples are appropriate candidates for self-determination. (Roberts & Kingsbury, 2004: 27) At the time, the reference to terrorism was influenced by the Cold War and some states considered the Vietcong as terrorists while others considered them as victims of

terrorism. Equally, some states considered Latin America as a victim of terrorism while others condemned it for exporting terrorism. (Saul, 2006: 194, 195)

The apparent contradictory principles regarding the legality of support for national liberation movements was also evident in the 1974 Definition of Aggression, annexed to UNGA Resolution 3314(XXIX) of 14 December 1974. (Roberts & Kingsbury, 2004: 27) Another declaration of the UNGA which dealt with the use of force, and which mentioned terrorism, was the 1987 Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations, annexed to Resolution 42/22. The declaration expressed concern about the “pernicious impact of terrorism on international relations” and called upon states to cooperate to “prevent and combat international terrorism”. It further emphasised the “right to self-determination, freedom and independence, as derived from the UN Charter”, and called upon the international community to pay special attention to situations that might give rise to international terrorism, including situations involving colonialism, racism, violation of human rights and fundamental freedoms, as well as alien domination and occupation. (UN General Assembly, 1987: Res 42/22)

In its efforts to develop a normative framework on the issue of terrorism, the UNGA has broadly proceeded in three streams of resolutions addressing terrorism, namely the “measures to prevent international terrorism” stream (1972-1989); the “measures to eliminate international terrorism” stream (1991-2008); and the “human rights and terrorism” stream (1993-2008). (Peterson, 2004: 176-177)

The UNGA first described international terrorism as a general problem in 1972 after the then Secretary-General, Kurt Waldheim, urged the body to take up the subject in the aftermath of several serious attacks, including on the Lod Airport in Tel Aviv and the September 1972 attack at the Munich Olympics. However, divisions among member states on the nature of terrorism immediately became evident. Waldheim suggested that the item be put on the agenda as “measures to prevent terrorism and other forms of violence which endanger or take innocent human lives or jeopardise fundamental

freedoms”. This formulation met with considerable opposition from a coalition of Third World countries, the Soviet bloc and the PRC, and it was quickly reformulated towards reaffirming the rights of national liberation movements fighting against colonial or racist rule, condemning them for their repression, and emphasising that the way to end terrorism was to eliminate these forms of political domination. (Halberstam, 2003: 573; Peterson, 2004: 179) This new formulation then became the title of the “measures to prevent international terrorism” stream of UNGA resolutions.

The first of the “measures to prevent terrorism” resolutions, adopted on 18 December 1972, clearly demonstrated the divisions within the UNGA. Neither a US-sponsored resolution, which included the prosecution and extradition of terrorist suspects, nor a compromise draft proposed by Italy, Austria, Canada and the UK, was put to a vote. (Luck, 2004c: 88) Instead, the UNGA adopted, by a vote of 76 to 35 with 17 abstentions, an alternative sponsored by Algeria which, although it expressed “deep concern over increasing acts of violence which endanger or take innocent human lives”, condemned the “continuation of repressive and terrorist acts by colonial, racist and alien regimes in denying peoples their legitimate right to self-determination and independence and other human rights and fundamental freedoms”. (UN General Assembly, 1972: Res 3034(XXVII), para 1, 4) Similar resolutions, which expressed concern over acts of terrorism and urging states to eliminate its causes, while at the same time reaffirming the right to self-determination, without explicitly condemning terrorism regardless of its cause, were adopted in 1977, 1979, 1981 and 1983. (Halberstam, 2003: 574)

Resolution 3034(XXVII) also established an *Ad Hoc* Committee on International Terrorism, tasked to “provide concrete proposals for finding an effective solution” to the problem of terrorism. However, the provision was set that the committee must bear in mind the principle of the inalienable right to self-determination and the legitimacy of national liberation struggles. (UN General Assembly, 1972: Res 3034(XXVII), para 7, 10) Continued disagreement over how the discussions should develop within the *Ad Hoc* Committee led to the committee being deferred. After its mandate was renewed in

1976 through Resolution 31/102 and in 1977 through Resolution 32/147, a final report was submitted in 1979. During the work of the committee most states agreed that it was important to address the causes of terrorism but disagreed on the identification of these causes and how they should be addressed. (Saul, 2006: 72)

The increase in terrorist incidents during the 1980s forced the UNGA to keep the subject of international terrorism on the agenda but only in 1985, after the *Achille Lauro* incident, did the UNGA adopt Resolution 40/61 which “unequivocally condemns, as criminal, all acts, methods and practices of terrorism wherever and by whomever committed, including those which jeopardise friendly relations among States and their security”. However, the resolution, which was adopted without a vote, retains the paragraph which reaffirms the principle of self-determination and the legitimacy of the struggle of national liberation movements. These provisions were maintained in subsequent resolutions adopted in 1987, 1989 and 1991, even though terrorism “wherever and by whomever committed” was unequivocally condemned. (Halberstam, 2003:575)

With the re-intensification of the Cold War in the early 1980s, the USSR and radical Third World countries raised the issue of “state terrorism”. This was defined as the use of force by the US, Israel and South Africa against leftist revolutionary movements, Palestinians and anti-apartheid activists. While this concept of state terrorism was not completely endorsed by Third World members, it received sufficient support to be discussed in the First Committee on Disarmament and International Security, and continued to be invoked in criticism of the US, Israel and South Africa during the 1990s. (Peterson, 2004: 179-180) Conversely, ongoing discussions on terrorism during this period also included government support to terrorist activity and were accommodated through the use of the term state-sponsored terrorism. However, a gradual shift in attention from “state terrorism” to state-sponsored terrorism, reflected a shift in emphasis in attempts to distinguish between terrorism and the use of armed force by non-state actors. (Peterson, 2004: 181)

In conclusion, although attempts in the UNGA during this period to reach consensus on terrorism failed, gradual progress was made as the earlier emphasis on “state terrorism” eventually dissipated and by 1989 the implied exemption of liberation or self-determination movements was removed from UNGA resolutions. (Saul, 2006: 213) During the 1970s and early 1980s a number of UNGA delegates ensured that language was used that protected national liberation movements struggling for self-determination from being labeled as terrorists, while condemning state-sponsored terrorism. However, as moderate Arab and other developing countries increasingly became victims of terrorism, the ideological polarisation towards terrorism began to diminish. While the UNGA repeatedly urged the UN to find solutions to the underlying causes of terrorism, references to these disappeared and Resolution 44/29 of 1989 was the last to make reference to “measures to prevent” international terrorism. (Mani, 2004: 231)

3.3 United Nations Treaties and Conventions on Terrorism

During the Cold War era seven multilateral conventions and two protocols addressing a variety of terrorist acts were adopted by the UN, some of which were drafted by the Legal or Sixth Committee of the UNGA. These conventions and protocols defined a particular type of violence as an offense under a specific convention; required states to penalise it in their domestic law; and to prosecute or extradite suspected offenders. The goal of these documents was therefore to create a basis for universal condemnation and criminalisation of the types of crimes that terrorists commit but not of terrorism *per se* (Rostow, 2002: 480) and they constitute agreements among states that are respected as binding agreements under international law. However, because these conventions mostly aimed at overcoming the different viewpoints of member states on terrorism, this resulted in a relatively low number of ratifications of these conventions. (Stiles, 2006: 41)

The first of these conventions related to aviation and, except for the Tokyo Convention, were adopted in reaction to the frequent hijacking of civilian aircraft by the PLO. The Tokyo Convention on Offenses and Certain Other Acts Committed on Board Aircraft of

14 September 1963, does not define specific offences but broadly covers acts which may jeopardise the safety of an aircraft and persons on board. This followed after a number of unauthorised incidents by private individuals during transnational flights. Many of the acts that fall within the scope of this convention were addressed in more detail in the following two conventions, namely the Hague Convention for the Suppression of Unlawful Seizure of Aircraft of 16 December 1970, and the Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation of 23 September 1971. These conventions apply to acts while a civilian aircraft is in flight, while an additional protocol to the Montreal Convention, the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation of 24 February 1988, covers acts against persons at airports, airport facilities and aircraft not in service. (Trahan, 2002: 217)

The above aviation-related treaties were followed by the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents, adopted by the UNGA on 14 December 1973. The treaty covers violent acts against heads of state and representatives of governments and international organisations that are protected under international law and requires states to make these crimes punishable by appropriate penalties in relation to the gravity of the crime. (UN General Assembly, 1973: Res 3166(XXVIII)) This convention also requires states to exchange information to prevent the commission of these crimes. (Trahan, 2002: 222)

In 1976 the UNGA adopted a resolution in which it expressed concern about the increase in incidents of hostage-taking and it established an *ad hoc* committee to draft an International Convention against the Taking of Hostages. (UN General Assembly, 1976: Res 31/103) The resolution was introduced by the Federal Republic of Germany (FRG) after it was affected by several internationally significant acts of hostage taking. During the drafting of the convention, African countries demanded that “innocent” persons should be included in the definition of the offense and submitted that “guilty” individuals such as Ian Smith, at the time prime minister of Rhodesia, should not be

protected against being taken hostage. Delegations from Arab and African countries also demanded that a distinction be made between political and ordinary crimes and that the convention should not be capable of being invoked against national liberation movements. However, despite the pressure from the drawn-out hostage drama at the US Embassy in Iran at the time, the Sixth Committee was able to adopt the draft convention on 7 December 1979 by consensus. (Verwey, 1981: 69, 71, 75)

The Convention on the Physical Protection of Nuclear Material, adopted on 3 March 1980 in Vienna, set the standards for the protection of nuclear material used for peaceful purposes, especially in the international transport of nuclear material. States were required to criminalise acts such as the theft of nuclear material and must prosecute or extradite suspected offenders located in their territory.

In 1988 two documents were adopted, namely the Rome Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, and the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf. The Rome Convention was drafted largely in response to the hijacking in 1985 of the cruise liner, the *Achille Lauro* by the Palestinian terrorist group led by Abu Nidal. As such, it addressed terrorist acts aboard civilian ships and required states to take measures to establish jurisdiction over these offences and offenders. The protocol supplemented the Rome Convention and provided for the prosecution of violent acts committed against structures attached to the sea bed for exploration and other economic purposes. (NYCBA, 2006: 4, 5)

The sudden demise of the bipolar international power structure at the end of 1989 had a profound influence on the functioning of the UN system and on its evolving perspective of terrorism. The following section provides an overview in this regard.

4. The United Nations and the End of the Cold War

The division of UNSC members in two ideological camps during the Cold War made conflict management difficult as belligerents in any conflict sought support from one of the superpowers which would block effective UN involvement through the use of the veto. (Weiss, *et al.* 2001: 47) With the Cold War defining international politics, the UNSC concentrated on the solution of regional conflicts and preventing them from escalating into global problems, (Malone, 2004: 4) namely in Palestine, Korea, the Suez crisis and in the Congo. However, although the Cold War significantly constrained the role of the UN system in international peace and security matters, it did not prevent success in other international concerns, such as promoting the process of decolonisation, preventing and reversing military incursions by Western powers into Third World states, and in facilitating various accords on arms control. (Price & Zacher, 2004: IX)

The end of the Cold War marked a profound change in the international environment which led to changes in the role of the UN in peace and security issues. The enlargement of the security agenda to include new concepts such as human security and environmental security was reflected in UNSC and UNGA resolutions as security was viewed in a broader perspective. This prompted the UNSC to introduce a broader analysis of international peace and security, including the root causes of conflict; economic and social dimensions; and the link between peace and security and sustainable development. (Malone, 2004: 28-29) However, despite these changes, the primary concern of the UNSC in the post-Cold War period remained the management of international crises and armed conflict, including the issue of international terrorism.

The new security environment, in which internal conflicts demanded increasing attention from the international community, led to expectations among members that the UN would be able to address these conflicts in a proactive manner. This was illustrated in the steep increase in the number of UNSC resolutions on peace and security and the number of UN operations mandated in the area; the reduction in the use of the veto;

and the expansion of the concept of peace operations to include peace building. (MacFarlane, 2004:35) In addition, the norm of consensus became diffused throughout the UN system, with consensus resolutions becoming the norm in the UNGA and the use of the veto in the UNSC only occurring seven times during the 1990s. Members of the UNSC avoided issues that were guaranteed to lead to a veto, with the exception of the Middle East situation, where Arab states were under pressure to publicly support the Palestinian cause. (Stiles, 2006: 42)

In his report on peace and security in the immediate post-Cold War environment, An Agenda for Peace - Preventive Diplomacy, Peacemaking and Peace-Keeping, the then UNSG, Boutros Boutros-Ghali, re-emphasised the core values of the UN and called for a new and more active role for the organisation. This role was not only in terms of peace and security, but also in the areas of human rights and economic and social development or distributive justice, considered as necessary conditions for peace and security. The report stated that there was a conviction that the opportunity had been regained to achieve the objectives set out in the UN Charter, including maintaining justice and human rights and promoting “social progress and better standards of living in larger freedom”. (Boutros-Ghali, 1992: Paragraph 3) This was indicative of a broadened concept of security, to increasingly include non-military aspects, that was taking root at the UN.

The post-Cold War period also brought a marked difference in the nature of the peacekeeping operations undertaken by the UN. During the Cold War era, UN peacekeeping operations had largely been military in nature and were restricted to separating national armies involved in conflicts between states. Peacekeepers were deployed with the agreement of the belligerent parties to keep opposing forces apart while other means were employed to address the underlying causes of conflict. However, since 1988, with the change in the nature of armed conflict after the end of the Cold War, UN peacekeeping mainly took place in internal conflicts that involved non-state or rebel forces whose commitment to the mandate of a UN operation was much more tenuous. As a result, the emphasis on the military changed and

peacekeeping operations frequently used substantial civilian elements. This became necessary because the tasks to be performed by UN peacekeepers were designed to address the root causes of conflicts; were more complex; and needed more than military skills only. (Goulding, 1993: 456)

These UN interventions in internal conflicts, which involved peacekeeping operations, differed from UN intervention as part of a collective security system, such as in Korea in 1953 and in Kuwait in 1991. In the latter examples, intervention referred to military intervention where the UNSC authorised certain members to use force to ensure compliance with a UNSC resolution. In contrast, UN involvement in peacekeeping referred to a UN operation set up with the consent of the parties to a conflict where the peacekeepers must act impartially and should use force to the minimum extent necessary, usually only for the purpose of self-defence. (Goulding, 1993: 453-455)

The numerous UN interventions in civil conflicts during the early 1990s had important implications for the balance between the rights of sovereign states and the rights of the community of states. In this respect, UNSC resolutions took advantage of Article 2(7) of the UN Charter which stipulates that: “Nothing contained in the present Charter shall authorise the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII”. (UN, 1945: Charter, Article 2(7)) The article therefore allowed that the sovereign jurisdiction of states could be overridden where events within state borders threatened international peace and security. This violation of the principle of non-interference was apparently confirmed in the 1991 Report of the Secretary-General on the Work of the Organization which stated that “It is now increasingly felt that the principle of non-interference with the essential domestic jurisdiction of States cannot be regarded as a protective barrier behind which human rights could be massively or systematically violated with impunity”. (UN, 1991: A/46/1, part VI)

This changing view of state sovereignty by the UN was further explained by the UNSG, Kofi Annan, when he stated that “states are now widely understood to be instruments at the service of their peoples, and not *vice versa*”. (Annan, 1999) He identified specific aspects of intervention to be taken into consideration in the post-Cold War era, namely that intervention should not be understood as referring only to the use of force; that a broader definition of national interest is needed which would induce states to find greater unity in the pursuit of common goals and values; in cases where forceful intervention becomes necessary, the UNSC should be able to rise to the challenge by finding common ground in upholding Charter values and acting in defence of common values; and, when hostilities have ended, the international commitment to humanitarian action must continue until a lasting peace is obtained. (Annan, 1999)

In addition, the nature of warfare in the post-Cold War period also led to an emphasis on human security issues when it became apparent that civilians frequently became the targets in internal conflicts. Together with the increasing preoccupation of UN organs, especially the UNSC, with humanitarian intervention, the issue of individual rights became more prominent. This was also reflected in the activities of UN specialised agencies which increasingly privileged individual protection and welfare at the expense of traditional security concerns and the preoccupation of states with sovereignty issues. (MacFarlane, 2004: 36) These developments raised fundamental questions about the nature of the mission of the UN and how it would enforce its decisions in a post-Cold War world where it had to deal with violence and abuse of human rights within the borders of states, and without the excuse of the obstacles created by the Cold War. (Urquhart, 2004: 82)

Changes in the international security environment after the end of the Cold War therefore led to a growing emphasis on human security and humanitarian intervention. This was evident in the discourse and practice of UN bodies which reflected a shift in the balance between state and individual rights towards the latter. These changing views towards a focus on the individual were followed-on by important UN documents setting out the role of the UN in the new security environment, for instance the

Millennium Declaration in 2000, and the report of the High-level Panel on Threats, Challenges and Change, A More Secure World, Our Shared Responsibility, in 2004. (UN General Assembly, 2000: Res A/55/2; UN, 2004, A/59/565)

In addition to the above factors, new developments in international terrorism took place during the 1990s which would be described as the appearance of a “new” form of terrorism, as previously discussed. In summary, these involve an increased religious motivation, which according to some authors facilitated mass casualty, indiscriminate attacks; (Cronin, 2002: 122-123) fears that terrorist groups may obtain and use chemical, biological, radiological or nuclear weapons; and the global reach of terrorist networks, as illustrated by the Al Qaeda phenomenon. These trends, which already started during the mid-1980s, demonstrated the changing nature of the international terrorist threat and attracted the attention of the UNSC, mainly on the instigation of the US after US facilities and personnel abroad increasingly became the targets of terrorist attacks. According to Cronin, attacks on US targets increased from around 20 percent of total attacks in 1993-1995 to around 50 percent of total attacks in 2000. (Cronin, 2002: 123)

The following section will discuss the views of and resolutions on terrorism adopted by the UNSC; the terrorism related activities of the UNGA during the post-Cold War period; and the development of additional international counter-terrorism conventions during the period 1990 to 2001. The year 2001 is used as a point of departure because, as a result of the 9/11 terrorist attacks in September 2001, the UN adopted a more active role in global counter-terrorism issues.

5. United Nations Views and Documents: 1990 to 2001

This section describes how the UNSC became more active in anti-terrorism issues after the end of the Cold War while the UNGA continued its terrorism-related activities, mainly through the Sixth Committee, and by adopting resolutions of the “measures to eliminate international terrorism” stream.

5.1 United Nations Security Council Resolutions on Terrorism since the End of the Cold War until 9/11

With the lifting of Cold War constraints on its functioning, the UNSC could act more forcefully in addressing issues of international peace and security. The expansion of terrorist threats and attacks led the UNSC to expand its scope to include terrorism on its agenda and the UNGA ceded its leading role in this regard to the UNSC. (Mani, 2004: 223) Functioning without the constant threat of the veto, the UNSC succeeded in mandating sanctions against Libya, Sudan and the Taliban in Afghanistan because of their support to international terrorism, even though the UN system could not reach a consensus definition of the term.

With the demise of ideologically motivated terrorism, the USSR and the PRC suspended their support to Marxist terrorist and guerrilla groups and the US backed away from the Contras in Nicaragua and the *mujahideen* in Afghanistan. As a result, the permanent members of the UNSC (US, United Kingdom (UK), France, the USSR and the PRC) became more willing to discuss the issue of terrorism; to consider actions that might disadvantage former clients; and to reach agreement on condemnation of terrorist actions. (Stiles, 2006: 51) Due to this gradual shift from state sponsored terrorism towards transnational terrorism, the UNSC had to adapt its counter-terrorism measures. After first mandating sanctions against states, namely Libya and Sudan, the UNSC shifted its focus to non-state entities which were serving as support bases to transnational terrorism, for example the Taliban which supported the Al Qaeda movement in Afghanistan. The UNSC therefore came to the realisation that the specific features of transnational terrorism required new counter strategies. (Heupel, 2007: 479)

Illustrating its willingness to act against international terrorism, the UNSC mandated sanctions against Libya through Resolutions 731 and 748 of 1992 after the country failed to respond to requests to cooperate in establishing responsibility for the destruction of Pan American Airways (PAN AM) Flight 103 and *Union de Transpots Aeriens* (UTA) Flight 772. Sanctions against Sudan were mandated through Resolutions

1044 and 1054 of 1996 after the country failed to extradite persons who were responsible for an assassination attempt on President Mubarak of Egypt in Addis Ababa in Ethiopia. (De Jonge Oudraat, 2004: 154-156)

After adopting Resolution 1189 in August 1998 to condemn a specific terrorist act, namely the East Africa US Embassy bombings in Nairobi and Dar es Salaam, the UNSC proceeded the following year to take measures against Al Qaeda, a transnational terrorism organisation, responsible for the attacks, by adopting Resolution 1267. The aim of the resolution, adopted on 15 October 1999, was twofold, namely, firstly to impose an air embargo and asset freeze on the Taliban movement which was at the time the *de facto* government of Afghanistan. This was done after the Taliban refused to extradite the leader of Al Qaeda, Osama bin Laden, in connection with the US Embassy bombings. Secondly, the resolution established the Al Qaeda and Taliban Sanctions Committee, consisting of all the members of the UNSC, and which should monitor and report on the implementation of the measures against the Taliban. (UN Security Council, 1999: Res 1267) These measures were decisions of the UNSC taken under Chapter VII of the UN Charter and were therefore mandatory for all member states. (Rostow, 2002: 486)

Shortly after establishing the sanctions committee against Al Qaeda and the Taliban, the UNSC adopted Resolution 1269 on 19 October 1999, condemning terrorism in general. This was in contrast with earlier UNSC resolutions which treated specific instances of terrorism. (Halberstam, 2003: 577) The resolution commended the work done by the UNGA, other UN organs and regional organisations to combat international terrorism and reaffirmed that the suppression of international terrorism was an essential contribution to the maintenance of international peace and security. Although the resolution did not provide a definition of terrorism, it was stated that the UNSC “Unequivocally condemns all acts, methods and practices of terrorism as criminal and unjustifiable, regardless of their motivation, in all their forms and manifestations, wherever and by whomever committed, in particular those which could threaten international peace and security”. (UN Security Council, 1999: Res 1269, para 1)

After realising that the UN sanctions against the Taliban had no noticeable effect, the UNSC decided in late 2000 to strengthen its sanctions package by adopting Resolution 1333. (De Jonge Oudraat, 2003: 167) However, the implementation of anti-Taliban sanctions proved problematic and six months later the UN adopted Resolution 1363 to establish a monitoring mechanism, the Monitoring Group, and a Sanctions Enforcement Support Team of members with expertise in customs, border security and counter-terrorism. The resolution also tasked the Monitoring Group with offering assistance to states bordering Afghanistan to increase their capacity to implement the sanctions against the Taliban movement. (UN Security Council, 2001: Res 1363)

In summary, although the UNSC sanctions regime during the 1990s failed to prevent international terrorism, it contributed towards a trend away from state sponsorship of terrorism by making the support of terrorism activities more costly to states. The sanctions also stigmatised terrorism and contributed to the general notion that it is an illegal activity; that it constitutes a threat to international peace and security; and that it should be countered by collective international action. It furthermore forced transnational groups such as Al Qaeda to adapt by diversifying its sources of funding to become less dependent on state support. (De Jonge Oudraat, 2003: 167) The UN sanctions regime is discussed in more detail in Chapter 6.

5.2 United Nations General Assembly Resolutions on Terrorism since the End of the Cold War until 9/11

After the end of the Cold War, members of the UNGA have generally agreed on cooperative procedures and more resolutions and agreements were adopted by consensus. However, especially in the case of terrorism-related matters, underlying disagreements continued and were merely papered over.

During this period important international developments created a need for further debate on terrorism-related issues. Firstly, nearly all former colonies had gained their independence and, together with states which earlier formed part of the USSR, they

perceived terrorist actors as threatening. Secondly, the rapid spread of democracy created an environment in which aggrieved minorities could express their opinions, and many new democracies accepted the views on international law and terrorism that were held in Western countries. Lastly, the UNGA believed that it could strengthen its role as creator of international law through the adoption of consensus resolutions and the Sixth Committee functioned mainly on consensus in order to lend more universal validity to its documents. (Stiles, 2006: 42)

In 1991 the first of the “measures to eliminate international terrorism” stream of resolutions was adopted by consensus. (UN General Assembly, 1991: Res 46/51) This renaming of the agenda item from “measures to prevent”, to “measures to eliminate” international terrorism, reflected wider agreement among UN member states that the existence of root causes of terrorism did not justify terrorist acts and the efforts to ensure that justifiable armed struggles were not labeled as terrorism, shifted from the goals of such struggles to the means employed. (Peterson, 2004: 176)

Therefore, although many member states continued to emphasise the need to remove root causes of terrorism, they also acknowledged that cooperation was needed to act against anyone engaging in terrorist acts. This shift in attitude and perspective was compounded by the emergence in 1993 from the Third Committee, on Social, Humanitarian and Cultural issues, of the “human rights and terrorism” stream of resolutions. These resolutions addressed the situation of the victims of terrorism as well as of those accused of engaging in terrorism. (Peterson, 2004: 176) A resolution titled Human Rights and Terrorism, thus “unequivocally condemns all acts, methods and practices of terrorism in all its forms and manifestations, wherever and by whomever committed”. (UN General Assembly, 1993: Res 48/122) Significantly, the resolution did not include a paragraph reaffirming the inherent right to self-determination. (Halberstam, 2003: 575)

Elements of the “human rights and terrorism” stream of resolutions were incorporated into the “measures to eliminate international terrorism” stream with the adoption of

Resolution 49/60 at the 49th session of the UNGA on 9 December 1994. This resolution included the Declaration on Measures to Eliminate International Terrorism which served to highlight international agreement on the elimination of terrorism, in part by reducing the number of exceptions to previous rules. (Stiles, 2006: 42) The declaration gave impetus to the active consideration of terrorism-related issues and signified the initiation of the process of a total condemnation of international terrorism. In addition, the declaration provided a first concept UN definition of terrorism, namely: “Criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes”, and stated that such acts are “in any circumstances unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or any other nature that may be invoked to justify them”. (UN General Assembly, 1995: Res 49/60, Annex, para 3) It then continues by stipulating what states and the UN should do to combat terrorism. The adoption of Resolution 49/60 largely ended the defence of non-state terrorism by UN organs. (Mani, 2004: 223)

At its 51st session, the UNGA adopted a Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism and established an *ad hoc* committee with the mandate to elaborate a convention on terrorist bombings and another on the suppression of acts of nuclear terrorism. (UN General Assembly, 1997: Res 51/210)

Thus, from 1991 onwards the title of the agenda item in the UNGA simply became “Measure to Eliminate International Terrorism” and resolutions under this title were adopted in 1995, 1996, 1997, 1999 and 2001. These resolutions reaffirmed the Declaration of Resolution 49/60; repeated the language condemning terrorism; and urged states to take various actions to combat terrorism, including to “refrain from financing, encouraging, providing training for or otherwise supporting terrorist activities”. (Halberstam, 2003: 576) In addition, except for Resolution 46/51 of 1991, these resolutions refrained from referring to the legitimacy of liberation struggles for political self-determination. (Saul, 2006: 201)

5.3 Post-Cold War Conventions against Terrorism

The drafting of anti-terrorism treaties and conventions continued in the post-Cold War period as reaction to important international terrorism incidents. During this period a number of conventions were adopted.

The bombing of a PAN AM passenger flight over Lockerbie, Scotland, in 1988 led to the drafting of the Convention on the Marking of Plastic Explosives for the Purpose of Detection which was adopted on 1 March 1991. This convention recognised the role that plastic explosives played in terrorist bombings and required states to mark plastic explosives with a detection agent that will enhance their detectability. To the extent that states' police and military forces retain unmarked plastic explosives, they must be consumed or destroyed within fifteen years. (NYCBA, 2006: 5)

On 15 December 1997 the UNGA adopted the Convention for the Suppression of Terrorist Bombings which set out a broad regime of jurisdiction for international cooperation on the unlawful use of explosives and other lethal devices. It also expanded the legal framework for states to cooperate in the investigation, prosecution and extradition of persons involved in such acts. (UN General Assembly, 1997: A/52/653) The negotiation of the convention was initiated by the US after the truck bombing on US military personnel in Dhahran, Saudi Arabia, on 25 June 1996, which followed other serious attacks, including the sarin gas attack on the Tokyo subway. As with other counter-terrorism conventions, most of its provisions applied only to conduct with an international element and Article 3 provided that the convention generally does not apply where the offence was committed within a single state.

The above convention, which entered into force on 23 May 2001, was of particular interest to the US which maintained numerous official facilities outside its territory because Article 6(2)(b) would recognise US jurisdiction to prosecute perpetrators against US facilities abroad, in US courts. (Witten, 1998: 774, 777, 778) While the convention repeated familiar clauses, Article 5 represented an innovation as it clearly

stated that bombings are “not justifiable by consideration of a political, philosophical, ideological, racial, ethnic, religious or other similar nature”. The convention also did not make any reference to the idea of, or right to, self-determination in its text. (Stiles, 2006: 43)

After noting that the number and seriousness of terrorist acts depended on obtaining funding, the UNGA in 1999 adopted the Convention for the Suppression of the Financing of Terrorism on the initiative of France. (Bantekas, 2003: 323) The convention, which entered into force on 10 April 2002, criminalised the provision or collecting of funds for terrorist organisations or persons engaged in terrorism. States were required to take appropriate measures for the identification, detection and freezing or seizure of any funds used or allocated for the financing of terrorism, or that are proceeds from terrorism, and must establish jurisdiction over suspected offenders located in their territory and prosecute or extradite them. Thus, in addition to requiring the prosecution of persons and entities that finance terrorist organisations, this convention was of importance because it was inherently designed to attempt to prevent terrorist acts. (Trahan, 2002: 225)

It is also notable that Article 2 (1)(b) of the above convention sets out a definition of financing of terrorism which comes close to setting forth a general definition of terrorism. However, Saul (2006: 211) points out that this definition does not establish general terrorist offences and only applies to financial offences. Therefore, the definition as set out in the 1994 Declaration on Measures to Eliminate International Terrorism, which defines terrorism as “criminal acts intended to provoke terror in certain persons for political purposes”, is more representative of a possible consensus as it indicates a minimal political agreement on the scope of terrorism as phenomenon. (Saul, 2006: 211; UN General Assembly, 1994: Res 49/60)

These conventions, drafted by the international community to serve as universal counter-terrorism instruments, are important in requiring states to take action against terrorist acts and actors within their territories and to ensure that their legal systems are

equipped to address these crimes. However, with the exception of the Convention for the Suppression of the Financing of Terrorism, which contained a preventive element, they all focused on the “suppression” of terrorist acts and none deal with their underlying causes or their prevention. (Mani, 2004: 232) As such, they are limited in what they are able to accomplish as they are focused on prosecution and not on prevention and, because of their *ad hoc* nature, there are gaps in what they cover. (NYCBA, 2006: 6) Furthermore, they generally excluded domestic terrorist acts; failed to require states to take sufficient measures against domestic terrorism; and were inconsistent as to whether they permitted the extradition of suspects to be avoided on the grounds that the act was political in nature. (Trahan, 2002: 215)

6. Conclusion

Although the UN system was aware of the problem of international terrorism, it has struggled to reach consensus on the ways and means of an effective response. During its first two decades the UN mostly gave attention to anti-colonialism and became an important forum of support for groups with credible anti-colonial and self-determination aims. UN debates merely confirmed that dissident groups be viewed as fighting for political self-determination and that terrorism was considered to be a domestic issue.

After terrorism became a concern of member states during the late 1960s, it became a discussion point at the UN in the 1970s. During this and the following decade, the UNGA played the leading role in discussing measures to prevent international terrorism; measures to eliminate international terrorism; as well as the issue of terrorism and human rights. However, as a deliberative institution, the UNGA could only act in a reactive, rather than a proactive manner. Differences of opinion among members on the use of force by national liberation movements seemed insurmountable and the UNGA settled for a piecemeal approach in developing conventions which targeted specific aspects of terrorism aimed at obligating states to prosecute persons suspected of involvement in terrorist activities.

During the Cold War, the approach of the UNGA generally coincided with developments in the international system. Consequently, adversarial procedures were deployed to the advantage of the non-aligned countries and much of the debate centered on legitimising the use of violence by national liberation movements. In the UNSC, global conditions affected procedures and Cold War antagonisms manifested in the frequent use of the veto. The issue of terrorism was seldom placed on the agenda because most terrorist groups maintained links with one of the permanent UNSC member countries. With the UNSC hampered by the Cold War stalemate and unable to function freely, both the UNGA and the UNSC addressed terrorism issues only tentatively and policy outcomes were often ambivalent in condemning and condoning different aspects of terrorism. This was also the result of a reflection of the confrontational global structure in voting patterns at the UN, with the exception of the adoption of conventions which tended to cover up differences between member states.

With the end of the Cold War, and the US becoming a target of terrorist attacks more frequently, the subject became an important item on the UNSC agenda during the 1990s. The changing nature of terrorism during the 1990s, principally its global reach, transformed the phenomenon into a threat to international peace and security and the UNSC started to act more forcefully by mandating sanctions against states and non-state actors supportive of terrorism. As a target of various terrorist attacks, the US became the driving force behind the more active role of the UNSC in terrorism-related issues. The UNGA continued its work on the subject through its Sixth Committee and the *ad hoc* committee and working group on terrorism but, despite the adoption of important counter-terrorism resolutions, such as the Declaration on Measures to Eliminate International Terrorism, it failed to conclude a comprehensive convention on international terrorism.

In summary, despite a commitment to consensus as a result of a desire to enhance the relevance of the UN in solving global problems after the end of the Cold War, member states failed to agree on a consensus definition of terrorism; what constitutes a terrorist act; and what should be considered as international terrorism. This was mainly the

result of subjective political judgement, and the matter became an enduring theme in UN discussions.

The next chapter will firstly analyse the existing counter-terrorism structures of the UN, especially as they developed after the 9/11 attacks on the US. Secondly, UN views and documentation on terrorism after 9/11 will be analysed and these will be compared with UN views and documents on the subject prior to the 9/11 attacks.

Chapter 5: The Post-9/11 United Nations Perspective on Terrorism

1. Introduction

This chapter will firstly provide an overview of the main UN institutions involved in the current counter-terrorism program of the world body. These include the Secretariat, the UNSG, and the UNSC with its four special committees, namely the CTC and its CTED, the 1267 Committee, the 1540 Committee and the 1566 Working Group. In addition, the UNGA and its structures active in counter-terrorism, as well as specialised agencies, such as UNODC and its TPB, will be discussed.

Secondly, the chapter will discuss the most important terrorism-related resolutions which were adopted by the UNSC and UNGA since the 9/11 terrorist attacks against the US. These include Resolution 1373 of the UNSC, which became the cornerstone of UNSC actions against terrorism, and Resolution 60/288 of the UNGA which sets out the UN Global Counter-Terrorism Strategy. Additional UN documentation on terrorism, including reports of the UNSG and other *ad hoc* reports, will be discussed in order to illustrate the involvement of the UN with the issue.

2. United Nations Structures Engaged in Counter-Terrorism

The counter-terrorism actions of the UN are executed through the activities of various structures forming part of the UN system, including the Secretariat, UNSC, the UNGA, specialised agencies, funds, offices and programs, and are coordinated by the Counter-Terrorism Implementation Task Force (CTITF).

2.1 United Nations Secretariat: Counter-Terrorism Implementation Task Force

Since the 9/11 terrorist attacks, the former UNSG, Kofi Annan, played a leading role in counter-terrorism as he had the ability to surpass member state debates to highlight key themes and strategies, and to consider issues over the longer term. (Boulden, 2007:432) The UNSG's role in counter-terrorism issues is facilitated by the narrow description of the powers of the UNSG in Article 99 of the UN Charter which allows for some discretion by the person occupying the office. (Coicaud, 2007: 38) As such, the UNSG plays a role in the search for suitable institutional partners on regional and sub-regional levels in an effort to enhance the UN's post-9/11 counter-terrorism program. The UNSG also regularly issues press releases and statements condemning terrorism and has produced numerous reports pursuant to UN resolutions adopted on the subject.

The CTIFT was established by the UNSG in 2005 and is based in this office. It consists of representatives of twenty-four UN agencies, offices and UN-related institutions which all play a role in counter-terrorism in terms of their mandates and respective fields of activity. Its main task is to ensure the overall coordination and coherence of the counter-terrorism efforts of the UN system, maximising synergies and avoiding duplication. It also assisted the UNSG in drafting the recommendations for the UN Global Counter-Terrorism Strategy. (UN, 2006: A/60/825, para 3) As such, the CTIFT has filled an important void, namely to provide a forum for discussing strategic issues and coordinating counter-terrorism actions.

In order to structure its activities, the CTIFT has drafted a set of initiatives in support of the UN's counter-terrorism program, namely to factor counter-terrorism into conflict prevention; to provide a forum for ending political and economic exclusion, especially among the youth; to enhance technical assistance assessment, delivery, and follow-up; to improve UN coordination in planning the response to a terrorist attack that uses

chemical, biological, radiological, or nuclear materials; to bring together stakeholders and partners to discuss and develop measures to counter the use of the Internet by terrorists for propaganda, incitement, and recruitment purposes; to find ways to meet international standards to block the financing of terrorism; to establish best practices to protect vulnerable targets, including UN field staff, and create a mechanism to share expertise; to assist countries in strengthening domestic legislation to protect human rights in accordance with international standards; and to bring together victims from around the world to identify their needs and determine viable government responses to those needs. (The Stanley Foundation: 2007, 19-20)

In exercising its function of coordinating the counter-terrorism activities of the UN system, the CTITF has created working groups according to the deliverables of the UN Global Counter-Terrorism Strategy which was adopted by the UNGA on 8 September 2006. In terms of the first pillar of the strategy, “addressing the conditions conducive to the spread of terrorism”, CTITF members are pursuing their efforts through working groups on preventing and resolving conflicts; addressing radicalisation and extremism that lead to terrorism; and a working group on supporting and highlighting victims of terrorism. (UN, 2009: DPI/2439/Rev.4)

In terms of the second pillar, preventing and combating terrorism, working groups on preventing and responding to weapons of mass destruction terrorist attacks; tackling the financing of terrorism; and countering the use of the Internet for terrorist purposes, were constituted. Regarding the third pillar of the strategy, building state capacity to counter terrorism, two working groups were formed, namely one on facilitating the integrated implementation of the UN Global Counter-Terrorism Strategy, or integrated assistance for Countering Terrorism (I-ACT), and one on strengthening the protection of vulnerable targets. The fourth pillar, defending human rights while combating terrorism, is served by a working group on the subject. (UN, 2009: DPI/2439/Rev.4)

The CTITF functions to achieve its goals in two ways, namely, firstly, through the sharing of information on activities undertaken or planned by the different CTITF entities, thereby creating opportunities for increased collaboration, and, secondly, through the joint work programs of its nine working groups. (UN, 2008: A/62/898, para 5) It also cooperates with a number of regional and sub-regional organisations. Furthermore, with the status of a neutral body of the UNSG, the CTITF can play the role as a bridge-builder to overcome tension between the UNSC and the UNGA, caused by the UNGA guarding its budgetary prerogatives and the UNSC its primary responsibility for maintaining international peace and security. (Rostow, 2009: 477)

2.2 United Nations Security Council

Since the events of September 2001, the activities of the UNSC included an important role in counter-terrorism and it has created two counter-terrorism committees, namely the CTC and the Committee on Weapons of Mass Destruction and Terrorism (1540 Committee), as well as one working group, the 1566 Working Group. In contrast to earlier UNSC committees, which were country-specific, these structures were given a mandate to focus on global security threats.

The UNSC created its counter-terrorism structures by using Article 29 of the UN Charter which allows the UNSC to establish subsidiary bodies to enable it to function more effectively. Each body comprises all fifteen members of the UNSC and is modeled on the committees which the UNSC created over the years to monitor the implementation of sanctions that were mandated. Member states are then called upon to report to a committee on issues related to its mandate. In addition, a team of independent experts or consultants is hired by the UN Secretariat to analyse the reports and provide guidance to the specific committee. The committees all function by consensus, usually hold closed meetings and periodically report to the UNSC. (Rosand, 2006: 408)

2.2.1 Counter-Terrorism Committee and the Counter-Terrorism Executive Directorate

The CTC was established by the UNSC on 28 September 2001 through Resolution 1373 with the aim “to monitor implementation of this resolution, with the assistance of appropriate expertise”. (UN Security Council, 2001: Res 1373, para 6) It includes all fifteen members of the UNSC and operates by consensus, meaning that all members of the committee have a veto, and it is the chairperson’s responsibility to facilitate consensus. The chairperson, who must be the permanent representative of a UNSC member, is assisted by three vice-chairs who steer the work of sub-committees created to scrutinise reports submitted by member countries. However, given the technical nature of these reports, external experts were hired to assist the CTC in the execution of its functions. Meetings of the CTC are closed but its chairperson reports to the UNSC at open meetings based upon a six-month work program. (Murthy, 2007: 5)

The CTC also holds regular meetings to assist poorer nations to build more effective legislative and institutional barriers to terrorist financing and illegal weapons trafficking, and seeks to establish dialogue with all members to raise national counter-terrorism capacities and to foster international cooperation. After the revitalisation of the CTC in 2004, its structure has become three tier, namely the Plenary, the Bureau, and the CTED. The responsibilities of the Plenary are to set priorities for implementing Resolution 1373; to report difficulties in this process to the UNSC; to propose improvements in technical assistance; to strengthen coordination between the CTC and other UN bodies; to intensify interaction with regional and sub-regional organisations; and to approve the working program of the CTED. The Bureau consists of the chairman and three vice-chairs and deals with issues which could later be reported to the Plenary for confirmation. Its second task is to set guidelines for the work of the sub-committees. The third tier consists of the CTED. (Murthy, 2007:5)

An executive body of the CTC, the CTED, was established in 2004 through Resolution 1535 in order to provide the CTC with a permanent professional staff and thereby reinforce the CTC's work in monitoring member states' implementation of Resolution 1373. The CTED was conceived as a "special political mission, under the policy guidance of the Plenary, for an initial period ending December 2007". Its director was to be appointed after consultation with, and subject to, the approval of the UNSC. (UN Security Council, 2004: Res 1535, para 2, 3) The specific tasks of the CTED include: supporting and advising the plenary and the chairperson; ensuring the comprehensive follow-up of all of the CTC's decisions; facilitating the provision of assistance to states in order to further their implementation of Resolution 1373; and supervising the collection of all relevant information in following up such implementation. (UN. 2004: Press Release SC/8041).

The CTED comprises around forty staff members, half of whom are legal experts who analyse the reports submitted by states on the drafting of legislation; the financing of terrorism; border and customs control; police and law enforcement; refugee and migration law; arms trafficking; and maritime and transport security. It is divided in two sections, namely an Assessment and Technical Assistance Office (ATAO), divided into three geographical clusters, and an Administrative and Information Office (AIO). In addition, five technical groups work horizontally across the ATAO to identify issues and criteria for making assessments in their area of technical expertise and then disseminate these across the three clusters. The AIO is divided into a quality control unit and a public communication and outreach unit. The CTED also has a senior human rights officer. (UN, 2009a)

2.2.2 Committee on Weapons of Mass Destruction and Terrorism

This committee, consisting of all members of the UNSC, was established in 2004 through UNSC Resolution 1540 which obliged states "to refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical, or biological weapons and their means of

delivery”. Member states were requested to provide reports within six months of the adoption of the resolution on steps they have taken to implement the resolution. The committee, which is allowed to call upon “other expertise” and therefore functions with the assistance of experts, must report to the UNSC on the implementation of the resolution, adopted under Chapter VII of the UN Charter. (UN Security Council, 2004: Res 1540, para 1, 4) In April 2006 the mandate of the 1540 Committee was extended for two years through the adoption of Resolution 1673, (UN Security Council, 2006: Res 1673, para 4) after which its mandate was again extended until April 2011. (UN Security Council, 2008: Res 1810, para 6)

Resolution 1540 was aimed at reducing global nuclear dangers by seeking to prevent weapons of mass destruction and their means of delivery from falling into the hands of non-state actors; requiring UN member states to take legislative and regulatory steps in this direction; and linking these steps to other international security and governance challenges. (Rosand, 2009: 1) As such, the 1540 Committee does not act as an international policing body but rather deals with the legal framework in terms of legislation and export and customs control that member states can use to help prevent the proliferation of these kind of weapons to non-state actors.

2.2.3 The 1566 Working Group

In addition to the above committees, a Working Group was established by UNSC Resolution 1566 in 2004 after the Beslan terrorist attack in Russia, with the task to consider practical measures to be taken against terrorist groups other than those designated by the Al Qaeda/Taliban Sanctions Committee. The 1566 Working Group was to submit recommendations to the UNSC, “including more effective procedures considered to be appropriate for bringing them to justice through prosecution or extradition, freezing of their financial assets, preventing their movement through the territories of Member States, preventing supply to them of all types of arms and related material, and on the procedures for implementing these measures”. (UN Security Council, 2004: Res 1566, para 9)

2.3 United Nations General Assembly

The role which the UNGA can play in the implementation of the counter-terrorism efforts of the UN is limited by its institutional constraints. Firstly, the UNGA is unable to act as coordinator in counter-terrorism action because it lacks authority to command governments, and, secondly, the UNGA has no administrative structure capable of implementing its decisions. Consequently, as the only intergovernmental body dealing with broad political issues in which all states have an equal vote, the UNGA has been able to develop the normative discourse on the issue of terrorism, as well as to encourage cooperation between member states. (Peterson, 2004: 173)

2.3.1 Sixth Committee (Legal Committee)

The UNGA, through the work of its Sixth or Legal Committee, has created a framework of international law that defines acts of terrorism and obliges member states to cooperate both in preventing these acts and in bringing perpetrators to justice. In this vein the UNGA has adopted a number of major conventions and protocols designed to counter terrorism which obliges states to cooperate on various related issues although there are no mechanisms to compel members to comply with these measures.

2.3.2 *Ad Hoc* Committee and Working Group on Terrorism

An *Ad Hoc* Committee with a mandate to draft a comprehensive international convention on terrorism was originally established in 1996 in response to Resolution 51/210 “to address means of further developing a comprehensive legal framework of conventions dealing with international terrorism”. (UN General Assembly, 1996: Res 51/210, para 9) The events of 9/11 made the work of this committee, namely the development of a comprehensive anti-terrorism convention aimed at overcoming the shortcomings of existing conventions, more urgent. In 2002 the committee reached broad agreement on 27 articles of the convention while articles dealing with the definition of terrorism, its relation to national liberation movements and possible

exemptions to the scope of the convention, in particular the activities of armed forces, were yet to be agreed on. (UN, 2002: UN Chronicle, Issue 1) However, in 2005 the committee reported that finalising the comprehensive convention has been elusive. (UN General Assembly, 2005: GA/L/3292) In 2008 the committee stated that differences regarding a clear legal definition of terrorism establishing a distinction between acts of terrorism and the legitimate struggle of self-determination or against foreign occupation remain the subject of negotiations. (UN General Assembly, 2008: A/63/37, Annex) Given the long-standing inability to overcome divergent viewpoints, it seems unlikely that the committee may reach a final agreement in the near future.

2.4 United Nations Subsidiary Bodies

Because the global counter-terrorism effort of the UN is permeated throughout the UN system, a number of UN bodies have become involved in providing training and assistance to member states in this field, each within its own specific mandate.

After the 9/11 attacks, UNODC, based in Vienna, became an important component in providing assistance to member states in counter-terrorism matters. Its TPB, which functions under the guidance of the Division for Treaty Affairs (DTA), focuses on assisting states to ratify and implement the international conventions and protocols related to countering terrorism. The TPB researches terrorism trends; provides technical assistance and advisory services to countries in upgrading their counter-terrorism capacity; and fosters international cooperation. It also provides technical assistance in the drafting of domestic legislation against terrorism and to strengthen the capacity of national criminal justice systems. (UN, 2009b) In addition, the Global Programme against Money Laundering (GPML) provides states with assistance in implementing the convention against terrorist financing and its specific recommendations.

UNODC works closely with the CTC, which receives and analyses reports from member states in response to their compliance with the requirements of Resolution 1373, and which then arranges the technical assistance provided by the TPB. The TPB draws on

existing UNODC internal expertise, such as in the areas of money laundering, organised crime and corruption and when appropriate, other UN agencies, for instance the Office of Legal Affairs, may be consulted. UNODC has staff and consultants stationed in regional and country offices throughout the world and it has been able to coordinate their activities with regional organisations. (Rosand, 2007, 13)

The following section provides an analysis of the most important counter-terrorism resolutions that were adopted by the UNSC and the UNGA since the 9/11 attacks. These resolutions served to conceive, guide and implement the UN counter-terrorism effort and to keep the UN engaged with the subject.

3. United Nations Resolutions on Counter-Terrorism adopted since 9/11

The prominence of terrorism on the UN agenda as a result of the 9/11 attacks, led to dedicated efforts by designated UN structures to address the matter as an issue of international peace and security. The resolutions adopted by the UNSC and UNGA during this period all contributed to enhance the effectiveness of these structures and to implement a more holistic counter-terrorism role by the UN.

3.1 United Nations Security Council Resolutions

Since the events of 9/11, the issue of terrorism has been a constant item on the agenda of the UNSC, leading to the adoption of several binding resolutions aimed at preventing support to terrorist groups and to make it more difficult for terrorists to act. UNSC resolutions since the events of 9/11 until 2008 ranged from being broad, such as Resolution 1373, which became the cornerstone of the UNSC counter-terrorism action, and being more specific, such as resolutions which strengthened the UNSC sanctions regime.

3.1.1 United Nations Security Council Resolution 1368

The first post-9/11 UNSC resolution, adopted on 12 September 2001, unequivocally condemned the 9/11 attacks; called on all states to “work together urgently to bring to justice the perpetrators, organisers and sponsors” of the attacks; and called on the international community to “redouble their efforts to prevent and suppress terrorist acts, including by increased cooperation and implementation of the relevant international anti-terrorist conventions and Security Council resolutions”. (UN Security Council, 2001: Res 1368) The resolution reaffirmed the inherent right of individual or collective self-defence in accordance with Article 51 of the UN Charter, even if at the time it was not known who launched the attacks, or why. (Rostow, 2002: 481)

This resolution therefore provided international legitimacy for military action against the perpetrators of the 9/11 attacks. Subsequently the US, invoking Article 51 of the UN Charter, submitted the requisite notification for military action to the president of the UNSC. In calling upon the international community to increase its efforts to prevent terrorist attacks, the UNSC indicated its willingness to take the necessary steps to respond to the 9/11 attacks in accordance with its responsibilities under the UN Charter in the maintenance of international peace and security. (Ward, 2003: 293)

3.1.2 United Nations Security Council Resolution 1373

Resolution 1373, which the UNSC adopted on 28 September 2001 under the immediate pressure of the 9/11 attacks, became a central instrument in the implementation of UN counter-terrorism measures. In the resolution the UNSC decided to impose a number of binding legal obligations on member states, of the kind that are usually contained in treaties developed through the normal treaty-making process. (Rostow, 2002:482)

The adoption of this resolution signified the first time that the UNSC used its Chapter VII powers to declare terrorism a threat to international peace and security and instructed all states to take or refrain from specified actions in a context not limited to disciplining a

particular country. (Szasz, 2002: 901) The resolution therefore differs from previous UNSC decisions under Chapter VII, to the extent that the threat to peace is not a specific situation but rather a form of behaviour, namely “terrorist acts”. (Happold, 2003:598) However, this form of behaviour is not defined in the resolution, leaving the matter to be treated by other UN bodies and allowing the resolution to focus on increasing the capacity of member states to counter terrorism. The UNSC thus imposed a number of legally binding obligations on all member states without reference to geographic boundaries or temporal limits.

This followed after the UNSC had increasingly started to adopt decisions which deal with conflicts in general, such as the protection of civilians; the role of women in security; and humanitarian issues, rather than with a particular conflict or situation. However, the operative paragraphs of these resolutions were not formulated in compulsory terms but merely “call upon” states or “urge” states. (Szasz, 2002: 902) In contrast, Resolution 1373, following a draft proposal by the US, states in two operative paragraphs that “all States shall” take certain actions in order to prevent support for terrorists and terrorist activities. The resolution required that states prohibit both active and passive support for terrorists and are to punish financial transactions on behalf of terrorists and freeze the assets of terrorists and their supporters. Member states must also tighten border controls; increase vigilance against passport and identification forgery; deny safe haven to terrorists; and work towards enhancing international cooperation against terrorism. Furthermore, the resolution established a plenary committee of the UNSC, the CTC, which was tasked to monitor implementation of the resolution and called upon all states to report on their compliance with it. (UN Security Council, 2001: Res 1373, para 6)

These rules, which were imposed by the UNSC on all states, were not suddenly invented by the UNSC but corresponded to recommendations in UNGA resolutions which were previously adopted without objection, especially the 1994 Declaration to Eliminate International Terrorism and the 1996 Declaration to Supplement the 1994 Declaration. In this respect, the provisions of paragraph 1 of Resolution 1373, pertaining

to the prevention and suppression of the financing of terrorist acts, are based upon the International Convention for the Suppression of the Financing of Terrorism which was adopted by the UNGA without a vote on 9 December 1999. (Szasz, 2002: 902) As such, Resolution 1373 was in line with the counter-terrorism conventions and protocols produced by the traditional treaty-making process and which required states to criminalise the acts covered by them. (Cardenas, 2004:2) In this sense Resolution 1373 reflected the general will of the world community as expressed by the UNGA, which allowed the UNSC to put pressure on recalcitrant states. (Szasz, 2002:905)

However, the adoption of Resolution 1373, as well as Resolution 1540 which was adopted in 2004, aimed at preventing the proliferation of nuclear, chemical and biological weapons, was criticised by some member states as falling outside the mandate of the UNSC. They argued that it could disrupt the balance between the UNSC and the UNGA as set out in the UN Charter, in that the UNGA has the role of considering peace and security in general while the UNSC acts in specific situations. The UNSC can therefore only react to particular threats but is not allowed to bind states to prevent certain threats from arising. Unilateral attempts by the UNSC to act as legislator would also be destructive of the international legal order by weakening a cornerstone of international law, namely that it is based upon the consent of all states. (Happold, 2003:600) In contrast, others argued that the UN Charter has evolved over time to allow the UNSC to act as a legislator under certain circumstances, such as to address threats posed by non-state actors within a state-centered UN system. (Rosand, 2006:409)

Soon hereafter the UNSC adopted Resolution 1377, which referred to the plenary debate in the UNGA from 1 to 5 October 2001, during which member states expressed their commitment to counter international terrorism. It also reaffirmed the condemnation of all acts of terrorism as criminal and unjustifiable “regardless of their motivation, in all their forms and manifestations, wherever and by whomever committed”. (UN Security Council, 2001, Res 1377, Annex)

3.1.3 Other United Nations Security Council Resolutions

Other UNSC resolutions relating to international terrorism adopted during the period between September 2001 and the end of 2008 can be divided into those dealing with specific issues; those pertaining to the UN sanctions regime; and those which form part of the UN counter-terrorism structure and program.

3.1.3.1 *Ad Hoc* United Nations Security Council Resolutions on Terrorism

The UNSC generally adopted resolutions condemning major terrorist attacks, for instance Resolution 1502, which condemned the attack against the Headquarters of the UN Assistance Mission in Iraq (UNAMI) in Baghdad on 19 August 2003 and reaffirmed the provisions for the safety of humanitarian and UN personnel in situations of armed conflict. (UN Security Council, 2003: Res 1502) After the 2004 terrorist attack in Madrid, Spain, the UNSC adopted a resolution condemning the attacks while urging all states to cooperate in accordance with their obligations under Resolution 1373. (UN Security Council, 2004: Res 1530)

Also in 2004, the UNSC adopted Resolution 1566 which established the 1566 Working Group, and which was tasked to consider measures against individuals, groups and entities other than Al Qaeda and the Taliban, as well as to consider the possibility of establishing an international fund to compensate victims of terrorist acts and their families. (UN Security Council, 2004: Res 1566, para 10) However, after delivering reports in December 2005 (UNSC, 2005: S/2005/789) and in December 2007, (UNSC, 2007: S/2007/775) the working group remained largely dormant. (Murthy, 2007: 10)

3.1.3.2 United Nations Security Council Resolutions relating to the 1267 Sanctions Regime

As stated, the UNSC first adopted sanctions against the Taliban regime in Afghanistan in 1999 and established the 1267 Committee to monitor its implementation. Subsequent

UNSC resolutions adopted in the post-9/11 period, relating to the refinement of the functioning of this committee and the maintaining of the consolidated list, are the following:

- **Resolution 1390:** Extended the applicability of the Taliban sanctions to the Al Qaeda network and other individuals, groups and entities associated with them. (UN Security Council, 2002: Res 1390)
- **Resolution 1452:** Provided humanitarian exemptions to the assets freeze of those on the consolidated list. (UN Security Council, 2002: Res 1452)
- **Resolution 1455:** Enhanced the monitoring role of the 1267 Committee. To this effect it urged states to report progress on the implementation of the sanctions; stressed the need for improved cooperation and increased exchange of information between the 1267 Committee and the CTC; and established further reporting requirements by states. (UN Security Council, 2003: Res 1455)
- **Resolution 1526:** Strengthened the mandate of the 1267 Committee by appointing a Monitoring Team of eight members. (UN Security Council, 2004: Res 1526)
- **Resolution 1617:** Provided guidelines to identify those associated with Al Qaeda or the Taliban. (UN Security Council, 2005: Res 1617)
- **Resolution 1730:** Established a focal point within the UN Secretariat to process submissions for de-listing. (UN Security Council, 2006: Res 1617)
- **Resolution 1735:** Established a mechanism on notifying the individual or entity being added to the consolidated list. (UN Security Council, 2006: Res 1735)
- **Resolution 1822:** Extended the mandate of the 1267 Monitoring Team until 31 December 2009. (UN Security Council, 2008: Res 1822)

The above resolutions will be discussed in more detail in the following chapter, relating to UNSC sanctions aimed at countering international terrorism.

3.1.3.3 United Nations Security Council Counter-Terrorism Resolutions

UNSC resolutions pertaining directly to its counter-terrorism program were aimed at increasing the effectiveness of the CTC and the CTED in the implementation of Resolution 1373 and in building state capacity to counter terrorism. These resolutions are the following:

- **Resolution 1456:** This resolution reinforced the mandate of the CTC. It called upon member states to urgently become party to international counter-terrorism conventions and protocols; to assist each other in countering terrorism; to cooperate in implementing counter-terrorism sanctions; and to respond to the requests of the CTC. It also called upon the CTC to intensify its efforts to promote the implementation of Resolution 1373 while bearing in mind all international best practices. (UN Security Council, 2003: Res 1456, para 2, 4)
- **Resolution 1535:** The resolution established the CTED with the aim of revitalising the CTC after the UNSC endorsed the report on this subject submitted by the CTC. (UN Security Council, 2004: S/2004/124) This followed after the CTC had to rely almost exclusively on written reports even though it was accepted that the effective monitoring of Resolution 1373 may require site visits to state capitals. (Cardenas, 2004: 3) While Resolution 1373 did not explicitly authorise the CTC to undertake visits to member states, Resolution 1535 enabled the CTED to visit member states provided they consent to such visits. The resolution also stipulated that the CTED reported regularly on the progress of states in implementing Resolution 1373 and on their participation in international counter-terrorism conventions. In December 2007 the UNSC decided to extend the mandate of the CTED for one year (UN Security Council, 2007: Res 1787) after which it decided in March 2008 that CTED will “continue to operate as a special political mission under the policy guidance of the CTC” until the end of 2010. (UN Security Council, 2008: Res 1805, para 2)
- **Resolution 1540:** The resolution, aimed at preventing non-state actors to acquire nuclear, chemical and biological weapons, followed a similar model to that of Resolution 1373. To this effect it stated that “all states shall take and

enforce effective measures to establish appropriate and effective laws” which prohibit non-state actors from supporting or engaging in specified terror-related activities. (UN Security Council, 2004: Res 1540, para 3) It also established the 1540 Committee, as stated previously.

- **Resolution 1624:** This resolution, adopted on the fourth anniversary of the 9/11 attacks, is similar to Resolution 1456 in reinforcing the mandate of the CTC. It called upon states to adopt the appropriate measures to prohibit and prevent terrorist acts and to deny safe haven to suspects guilty of such behaviour. It furthermore called upon states to report to the CTC; directed the CTC to work with members to build capacity and exchange information on counter-terrorism; and to report to the UNSC on the implementation of the resolution within twelve months. (UN Security Council, 2005: Res 1624, para 1, 5, 6)

An analysis of the resolutions adopted by the UNSC after 9/11 clearly illustrates the change in approach by the UNSC towards international terrorism. On the one hand, these resolutions established committees tasked to implement specific counter-terrorism actions, principally prescribed by Resolution 1373. On the other hand, the UNSC maintained and intensified the implementation of its counter-terrorism sanctions regime. This more focused and coordinated action by the UNSC clearly indicated that, contrary to the pre-9/11 period, the body considered international terrorism as an important threat to international peace and security.

The following section will discuss the relevant resolutions adopted by the UNGA during the post-9/11 period and which culminated in the adoption of the UN Global Counter-Terrorism Strategy in 2006, the first time that all UN member states could reach agreement on the politically polarising subject of terrorism.

3.2 United Nations General Assembly Resolutions

After the 9/11 attacks on the US, two streams of UNGA resolutions on terrorism, namely the “measures to eliminate international terrorism”, stream and the “protection of human

rights while countering terrorism” stream, continued. Other resolutions on terrorism adopted by the UNGA between 9/11 and the end of 2008 consisted of the condemnation of specific terrorism attacks and the presentation of the UN Global Counter-Terrorism Strategy in 2006.

The initial reaction of the UNGA to Resolution 1373 of the UNSC was low key and the Sixth Committee made no effort to incorporate any of its provisions into its draft of a comprehensive convention on terrorism. (Szasz, 2002: 903) In addition, the UNGA resolution of 12 December 2001 only refers to Resolution 1373 once, citing a non-binding paragraph. (UN General Assembly, 2001: Res 56/88, para 7) However, the “measures to eliminate” stream of UNGA resolutions thereafter routinely mentioned Resolution 1373 in reminding states of the obligations imposed by the UNSC, including to ensure that the perpetrators of terrorist attacks are brought to justice.

3.2.1 Measures to Eliminate International Terrorism

The “measures to eliminate international terrorism” stream of UNGA resolutions, sponsored by the Sixth Committee, laid down a normative framework to encourage member states to treat terrorism as a form of criminal activity to be suppressed by mutual cooperation on law enforcement. The characterisation of acts likely to be attempted by terrorists as unlawful in this stream, also served to avoid the stalemate over a consensus definition of terrorism. (Petersen, 2004: 182) Since 9/11, this stream consisted of Resolutions 56/88(2002), 57/27(2003), 58/81(2004), 59/46(2004), 60/43(2006), 61/40(2006) and 62/71(2008).

After 9/11, the “measures to eliminate international terrorism” stream, similar to the earlier “measures to prevent international terrorism” stream, aimed to distinguish between terrorism and legitimate armed resistance and emphasised the need to develop national and international legal rules to suppress terrorism. These resolutions also routinely called on member states to provide the UNGA with information on their

adherence to the international conventions against terrorism and on the development of their national counter-terrorism legislation. (Peterson, 2004: 184)

3.2.2 Protection of Human Rights while Countering Terrorism

The “human rights and terrorism” stream of UNGA resolutions, sponsored by the Third Committee, continued after the 9/11 attacks. This stream of resolutions started as an expression of concern for the victims of terrorism on the one hand, and for the due process rights of individuals accused of terrorist acts on the other hand. In the course of time, the emphasis shifted towards avoiding the erosion of human rights in urging governments to take effective actions against perpetrators of terrorist acts. (Peterson, 2004: 182) Since 9/11, this stream consisted of Resolutions 56/160(2002), 58/187(2004), 59/191(2005), 60/158(2006), 61/171(2007) and 62/159(2008).

Especially after 9/11, these resolutions expressed concern over the tendency of certain member states to subordinate human rights issues to the implementation of counter-terrorism measures. In this respect, as of 2004, the first paragraph of the resolutions in this stream “Reaffirms that States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights, refugee and humanitarian law”. (UN General Assembly, 2004: Res 58/187, para 1) These resolutions also reiterated the “unequivocal condemnation of the acts, methods and practices of terrorism in all its forms and manifestations as activities aimed at the destruction of human rights, fundamental freedoms and democracy...” (UN General Assembly, 2002: Res 56/160, para 3)

3.2.3 United Nations Global Counter-Terrorism Strategy

Resolution 60/288 of 2006 represented the most important post-9/11 resolution adopted by the UNGA in terms of counter-terrorism as it set out the UN Global Counter-Terrorism Strategy. By agreeing to undertake a set of concrete measures to address terrorism in all its aspects, the resolution for the first time united all 192 UN members

behind a common strategic framework. The strategy was adopted in reaction to the 2005 World Summit during which world leaders challenged the UNGA to implement “a strategy to promote comprehensive, coordinated and consistent responses, at the national, regional and international levels, to counter terrorism, which also takes into account the conditions conducive to the spread of terrorism”. (UN General Assembly, 2006: Res 60/1, para 82)

Resolution 60/288 was loosely based on the recommendations for a global counter-terrorism strategy and proposals for strengthening the capacity of the UN to combat terrorism made by the UNSG in his report of April 2006. (UN General Assembly, 2006, A/60/825) The strategy reiterated that countering terrorism requires a holistic and multifaceted response which is premised on respect for human rights and the rule of law and it included a plan of action based upon four pillars, namely measures to address the conditions conducive to the spread of terrorism; measures to prevent and combat terrorism; measures to build states’ capacity to prevent and combat terrorism; and measures to ensure respect for human rights for all and the rule of law as the fundamental basis of the fight against terrorism. It also called for the involvement of civil society, the private sector and regional and sub-regional organisations, and made special reference to the need to protect the rights of victims of terrorism. (UN General Assembly, 2006: Res 60/288, Annex)

3.3 Additional United Nations Documentation on Terrorism

In addition to the resolutions adopted by the UNSC and the UNGA, other important post-9/11 UN documentation ensured that the issue of international terrorism remained an important element of the UN's peace and security agenda.

3.3.1 Reports of the United Nations Secretary-General

Since 9/11, the UNSG at the time, Kofi Annan, issued a number of reports which formed an important addition to the UN counter-terrorism program. These reports served as a

vehicle to make suggestions and to make known personal preferences to the UNSC. (Coicaud, 2007: 38) As such, they supplemented the active role Annan played in the counter-terrorism activities of the UN system.

Since the adoption of the Declaration on Measures to Eliminate International Terrorism, annexed to UNGA Resolution 49/60 in February 1995, the UNSG has been issuing annual reports pursuant to Article 10 of the Declaration which requested the UNSG to assist in the implementation of the said Declaration. These reports generally consisted of the submissions received from member states and international organisations on the practical measures they have taken regarding the prevention and suppression of international terrorism and provided updates on the state of signature and ratification of international conventions pertaining to terrorism. The reports also provided information on developments related to UNGA Resolution 51/210, the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism, as well as on workshops and training courses in countering terrorism. In addition, the report issued in 2005 provided a comprehensive inventory of the response of the UN Secretariat to terrorism. (UN General Assembly, 2005: A/60/228, Chapter III)

UNSG reports were also issued regularly pursuant to the “human rights and terrorism” stream of UNGA resolutions. These reports emphasised the importance of human rights, namely that respect for human rights should be an essential part of an effective counter-terrorism strategy, and not an impediment to it. It is also pointed out that human rights have come under significant pressure worldwide as a result of counter-terrorism measures. (UN, 2003: A/58/266, para 55) In this regard, the following aspects are mentioned, namely the right to life; the right to freedom from torture and cruel, inhuman or degrading treatment or punishment; conditions and treatment in detention; the principle of legality; pre-trial detention; the right to fair trial and access to counsel; freedom of thought, conscience and religion; freedom of expression and assembly; freedom from discrimination; treatment of non-nationals and asylum seekers; and states of emergency. (UN, 2003: A/58/266, Chapter V)

In addition, the UNSG issued the following *ad hoc* reports pertaining to UN counter-terrorism activities:

- In March 2005, a report titled In Larger Freedom: Towards Development, Security and Human Rights for All, was issued. The report served as a follow-up to the outcome of the Millennium Summit and followed the recommendations of the 2004 High-level Panel on Threats, Challenges and Change in terms of the elements of a global counter-terrorism strategy. In the report, the UNSG set out the elements of a global counter-terrorism strategy based upon four pillars, namely dissuading people from resorting to terrorism or supporting it; denying terrorists the means to carry out an attack; deterring states from supporting terrorism; developing state capacity to defeat terrorism; and defending human rights. (UN General Assembly, 2005: A/59/2005, para 88)
- In April 2006, in response to the 2005 World Summit Outcome, the UNSG elaborated further on the four pillar counter-terrorism strategy set out in the report In Larger Freedom: Towards Development, Security and Human Rights for All. In his report, titled Uniting against Terrorism: Recommendations for a Global Counter-Terrorism Strategy, he emphasised the operational elements of dissuasion, denial, deterrence, development of state capacity and the defence of human rights in the UN counter-terrorism strategy. (UN General Assembly, 2006: A/60/825) The report, drafted with the assistance of the CTITF, pointed out the central role of human rights and the indispensability of the national and international rule of law. (UN General Assembly, 2006: A/60/825, para 4, 5) This report served as the direct inspiration for the adoption of a UN global counter-terrorism strategy by the UNGA six months later.
- In July 2006, the UNSG issued a report titled Strengthening International Cooperation and Technical Assistance in Promoting the Implementation of the Universal Conventions and Protocols related to Terrorism within the Framework of the Activities of the United Nations Office on Drugs and Crime. (UN General Assembly, 2006: A/61/178) The report was issued pursuant to a request of the Economic and Social Council (ECOSOC) to UNODC to intensify its efforts to provide member states with technical assistance in order to strengthen

international counter-terrorism cooperation. The report evaluated the progress made by UNODC in this respect and provided information on cooperation between UNODC and UNSC counter-terrorism committees and with various international, regional and sub-regional organisations. It also stated that the counter-terrorism activities of UNODC were aligned with its strategic objective of promoting the rule of law, and provided a set of tangible indicators to measure the impact of its activities. (UN General Assembly, 2006: A/61/178, para 30, 47)

- In July 2008, the UNSG issued a report titled United Nations Global Counter-Terrorism Strategy: Activities of the United Nations System in Implementing the Strategy. (UN General Assembly, 2008: A/62/898) The report was issued pursuant to article 3(b) and 3(c) of UNGA Resolution 60/288, which presented the UN Global Counter-Terrorism Strategy, and as such served as the UNSG's input on the evaluation of the strategy after its adoption two years earlier. The UNSG pointed out that since the adoption of the strategy, the UN system has contributed to its implementation in two ways. Firstly, the various departments, specialised agencies, funds and programs of the UN have taken action within their terrains, both individually and in cooperation, and, secondly, 24 UN entities, together with Interpol have been working together through the CTITF. (UN General Assembly, 2008: A/62/898, para 4) The UNSG also provided recommendations on how to make the CTITF more effective and pointed out that the UN system has not yet fully tapped the resources of global, regional, sub-regional organisations and of civil society to its advantage. (UN General Assembly, 2008: A/62/898, para 92)

3.3.2 *Ad Hoc* United Nations Documentation on Terrorism

In addition to the important contribution made by the UNSG reports, the following documentation ensured that the UN sustained its efforts in countering international terrorism after the subject became a constant issue in matters relating to peace and security.

3.3.2.1 Report of the Policy Working Group on the United Nations and Terrorism

A Policy Working Group on the United Nations and Terrorism with the purpose of identifying the implications and policy dimensions of terrorism for the UN and to formulate recommendations on steps that the UN system might take to address the issue, was established by the UNSG in October 2001 in reaction to the 9/11 attacks. (UN, 2002: PI/1440) The Working Group, composed of senior Secretariat staff and external experts, aimed to place the counter-terrorism role of the UN in context; to prioritise the activities of the organisation in this regard; and to make recommendations on how it might function more effectively to counter international terrorism.

The report of the Working Group recommended a UN strategy that supports global efforts to dissuade disaffected groups from adopting terrorism; denies groups or individuals the means to carry out acts of terrorism; and sustains broad-based international cooperation to counter terrorism. It also made 31 recommendations to improve the UN's role in counter-terrorism, stressing *inter alia* the importance of protecting human rights (Recommendation 4); to improve cooperation between the UN and regional organisations (Recommendation 26); and to improve coordination on counter-terrorism within the UN system (Recommendation 31). (UN, 2002: A/57/273, Annex) This report was important in terms of identifying and laying down the first principles of the UN global counter-terrorism strategy adopted in 2006.

3.3.2.2 High-level Panel on Threats, Challenges and Change

A sixteen-member High-level Panel on Threats, Challenges and Change was appointed by the UNSG in November 2003 with the aim of assessing current threats to international peace and security and to make proposals on the strengthening of the UN collective security system. (UN, 2003: SG/A/857) In its findings on terrorism, the Panel identified two new dynamics relating to the threat of terrorism. Firstly, it pointed out that Al Qaeda was a “non-state network with global reach” and that it has identified the UN

as an enemy, and, secondly, that terrorists will seek to cause mass casualties. (UN, 2004: A/59/565, para 146) The Panel stressed the importance of a comprehensive counter-terrorism strategy that addresses root causes while respecting human rights and the rule of law, and recommended that the UNSC should take measures to ensure that member states comply with their obligations towards the CTC and CTED. It also emphasised the importance of reaching agreement on an anti-terrorism convention, including a definition of terrorism. (UN, 2004: A/59/565, para 156, 163)

3.3.2.3 2005 World Summit Outcome

After the annual meeting of Heads of State and Governments of UN members in September 2005, the UNGA reiterated the UN's condemnation of terrorism "in all its forms and manifestations, committed by whomever, wherever and for whatever purpose, as it constitutes one of the most serious threats to international peace and security". (UN General Assembly, 2005: Res 60/1, para 81)

The UNGA furthermore welcomed the identification of the elements of a counter-terrorism strategy by the UNSG; stressed the need to reach agreement on a convention on international terrorism; recognised the importance of international law while countering terrorism; called upon states to refrain from facilitating terrorist activities; called for the strengthening of the UN system in assisting states to combat terrorism; and encouraged states to become parties to the existing international conventions and protocols against terrorism. The UNGA also pledged its commitment in cooperating fully with the three subsidiary bodies of the UNSC responsible for countering terrorism and recognised that many states continued to require assistance in implementing the relevant UNSC resolutions. (UN General Assembly, 2005: Res 60/1, para 82-91)

The following section summarises the main resolutions adopted by the UNSC and the UNGA respectively relating to terrorism before and after the 9/11 attacks. This will assist in determining how the UN has gradually changed its perspective on the issue.

4. Summary of the Pre-9/11 and Post-9/11 Terrorism Resolutions adopted by the United Nations

For analytical purposes, this section will firstly list UNSC resolutions on terrorism before and after the 9/11 attacks, and secondly, those adopted by the UNGA on the same subject.

TABLE I: SELECTED UNSC RESOLUTIONS ON TERRORISM

RESOLUTION	DATE	SUBJECT/SIGNIFICANCE
PRE-9 /11		
57	18/09/1948	Condemnation of the assassination of Count Folke Bernadotte, the UN mediator in Palestine. The first UN resolution on the subject of terrorism.
286	09/09/1970	Condemns the threat to innocent civilian lives from the hijacking of aircraft. A brief resolution adopted by the UNSC without vote.
579	18/12/1985	Condemns hostage-taking and abductions. Recalls a statement of the UNSC President on 9 October 1985 condemning all acts of terrorism.
731, 748	21/01/1992 31/03/1992	The mandating of travel-, arms- and diplomatic sanctions against Libya because of its involvement in, and support to, terrorist actions.
1044, 1054	31/01/1996 26/04/1996	The mandating of diplomatic sanctions against Sudan for support of an assassination attempt on the Egyptian president in Ethiopia.
1189	13/08/1998	Condemnation of the bombing of US Embassies in East Africa.
1267	15/10/1999	Mandating of travel and financial sanctions against the Taliban of Afghanistan and the establishment of the 1267 Sanctions Committee.
1269	19/10/1999	Condemnation of all acts of terrorism as criminal and unjustifiable. The first condemnation by the UNSC of terrorism irrespective of motive, wherever and by whomever committed.
1333	19/12/2000	Strengthening of sanctions against the Taliban: appointment of a committee of experts and lists of associated individuals and entities.
1363	30/07/2001	Establishment of a Monitoring Group of the implementation of the above sanctions.

POST-9/11		
1368	12/09/2001	Condemnation of the 9/11 attacks on the US. Invokes Article 51 of the UN Charter on the right of individual or collective self-defence.
1373	28/09/2001	Establishment of the Counter-Terrorism Committee (CTC). The first time that the UNSC imposed binding obligations on all member states without reference to geographical boundaries or temporal limits.
1390	28/01/2002	Extends the applicability of Taliban sanctions to the Al Qaeda network.
1455	17/01/2003	Enhances the monitoring role of the 1267 Sanctions Committee
1456	20/01/2003	Calls on the CTC to intensify its efforts to promote the implementation of all aspects of Resolution 1373 by member states.
1535	26/03/2004	Establishment of the Counter-Terrorism Executive Directorate (CTED) to serve as executive branch of the CTC and enhance the implementation of Resolution 1373 by member states.
1540	28/04/2004	Establishes a Committee aimed at preventing non-state actors to acquire nuclear, chemical and biological weapons.
1624	14/09/2005	Reinforcement of the CTC. Adopted on the 4th anniversary of 9/11.

4.1 United Nations Security Council Resolutions

In terms of the UNSC, the rapid, unanimous and decisive counter-terrorism action that was taken directly after 9/11 was unprecedented. This was in contrast with its preceding history during which the UNSC acted in an ambivalent and hesitant manner in dealing with terrorism-related matters. (Luck, 2004c: 85) Until the 1990s, the UNSC was reluctant to regard terrorist acts as threats to international peace and security. This was mainly the result of Cold War politics, rather than because of an absence of terrorist attacks. In this context, and in order to avoid the political and ideological differences surrounding the term “terrorism”, the UNSC treated such acts within the framework of the use of force in international relations and in terms of international civil aviation. (Saul, 2008: 4)

However, although the decisive action by the UNSC after 9/11 made its previous actions seem ambivalent, the main UN body did concern itself with terrorism during the 1990s. As stated, this involvement was mainly the result of the attacks against Pan Am

Flight 103 in Scotland in December 1988 and against UTA Flight 772 in September 1989 over Niger, and which led the US, UK and France to involve the UNSC in counter-terrorism action. (De Jonge Oudraat, 2004:153) In this regard, see Table 1, the pre-9/11 period. Subsequently, in 1992, UNSC members expressed their “deep concern over acts of international terrorism and emphasize the need for the international community to deal effectively with all such acts”. (UN Security Council, 1992: S/23500) Thereafter, economic sanctions became the main counter-terrorism policy instrument used by the UNSC and this stigmatised terrorism as an illegitimate activity that needed to be countered through international cooperation. (De Jonge Oudraat, 2004: 153)

As stated, after the 9/11 attacks there was a radical shift in the UNSC approach to terrorism as it viewed such acts as a threat to peace and security and imposed binding measures against terrorism in general and unlimited in time. (Saul, 2008: 2) In addition, the UNSC created dedicated counter-terrorism structures; strived to make its sanctions regime more effective; to build the counter-terrorism capacity of member states; and to advance international cooperation in this field. The various UNSC resolutions and activities initiated by the UN were then aimed at improving coordination within the UN system and between UN specialised agencies and regional organisations.

4.2 United Nations General Assembly Resolutions

Earlier UNGA resolutions on the issue of international terrorism were characterised by the failure to agree on a definition of the term because of differences of opinion about the use of violence by national liberation movements. Recognising that the ideological differences between the non-aligned countries, Communist states and the developed Western countries may not be solved, the UNGA adopted a piecemeal approach to terrorism and developed several conventions addressing specific kinds of terrorist acts. The main UNGA resolutions relating to terrorism are listed in Table 2.

TABLE 2: SELECTED UNGA RESOLUTIONS ON TERRORISM

RESOLUTION	DATE	SUBJECT/SIGNIFICANCE
PRE-9/11		
1514	14/12/1960	Declaration on the Granting of Independence to Colonial Countries and Peoples. Determines that all peoples have a right to political freedom and self-determination.
2131	21/12/1965	Inadmissibility of Intervention in the Domestic Affairs of States. Prohibits terrorist activity against the regime of another state.
2625	24/10/1970	Declaration on Friendly Relations among States. The declaration mentions “terrorist acts” twice but does not describe these acts.
3237	22/11/1974	Invites the Palestine Liberation Organisation (PLO) to participate in the sessions of the UNGA in the capacity of observer.
3314	14/12/1974	Definition of Aggression. Demonstrates the contradictory principles regarding the legality of support for national liberation movements.
40/61	09/12/1985	<i>Achille Lauro</i> incident. Condemns all terrorist acts as criminal but maintains the legitimacy of the struggle of armed liberation movements.
42/22	18/11/1987	Declaration on the Use of Force. Calls upon states to prevent terrorism but emphasises the right to political self-determination.
3034(XXVII),31/102, 32/147,34/145,36/109, 38/130,40/61,42/159,44/29	1972-1989	“Measures to prevent terrorism” stream. (Sixth Committee) This stream urges states to eliminate causes of terrorism while at the same time reaffirming the right to political self-determination.
48/122,49/185,50/186, 52/133,54/164,56/160	1993-2001	“Human Rights and terrorism” stream. (Third Committee). Expresses concern for victims and perpetrators of terrorism.
46/51,49/60,50/53, 51/210,52/165,55/158	1991-2000	“Measures to eliminate terrorism” stream. (Sixth Committee). Emphasises means of armed struggle, not goals thereof.
POST-9/11		
56/1	18/09/2001	Condemnation of the 9/11 attacks on the US.
60/288	20/09/2006	Adoption of the UN Global Counter-Terrorism Strategy.
62/272	15/09/2008	Reaffirms the UN Global Counter-Terrorism Strategy, creates the Counter-Terrorism Implementation Task Force (CTITF)
56/88, 57/27,58/81, 59/46,60/43, 61/40, 62/71	2002-2008	“Measures to eliminate terrorism” stream. (Sixth Committee) Aims to distinguish between terrorism and legitimate armed resistance, treats terrorism as form of criminal activity.
56/160,58/187,59/191, 60/158,61/171,62/159	2002-2008	“Human rights and terrorism” stream. (Third Committee) States to comply with human rights while countering terrorism.

As stated, the pre-9/11 period was thus mostly dominated by a debate on the legitimacy of armed struggle and the meaning of the term terrorism. Significantly, since 1991, UNGA resolutions on terrorism have refrained from reaffirming the right to self-determination and since 1994 terrorism was described as a “criminal act” which is unjustifiable in any circumstances. (Saul, 2006: 201, 209) While many states continued to stress the need to remove the root causes of terrorism, they also acknowledged that international cooperation was needed to act against anyone engaging in such activity.

After 9/11, the UNSC took over the leading role in UN counter-terrorism activities and the agenda changed from preventing terrorism to countering terrorism. As a result, the UNGA and developing nations had less input in shaping UN policy than was the case before 9/11. Even within the UNSC, non-permanent members were not able to exert leadership regarding major UNSC policy initiatives and this was also the case after 9/11 on counter-terrorism issues. (Cortright, 2005: 4) These factors resulted in perceptions among some countries that Western security interests had taken command of, and were driving the UN counter-terrorism program. However, with the adoption of Resolution 60/288 in 2006, the UNGA gained back some ground in the UN counter-terrorism effort, also by including development issues related to conditions conducive to the spread of terrorism, such as poverty and lack of good governance, which constitute priority issues for developing countries.

5. Conclusion

In a similar fashion to the end of the Cold War creating circumstances conducive to reconsidering the problem of international terrorism, the 9/11 attacks created an opportunity for the UN to reconsider and strengthen its counter-terrorism program. Especially the UNSC, driven by the initiative of the US, reacted strongly to the attacks. Since the adoption of Resolution 1373, the UNSC, with a clear combating and security focused approach, was at the forefront of international counter-terrorism efforts while the UNGA played a less visible role. The UNSC therefore became the center of UN counter-terrorism actions by taking the initiative and creating structures aimed at the

establishment and implementation of a sustainable global UN counter-terrorism campaign. The 9/11 attacks furthermore changed the international security context of UN activities and increased the incentive for member states to take action against terrorism and to use the UN as a forum for doing so. Before these attacks, the UN treated the general subject of terrorism as an issue to be discussed by the UNGA, a body dealing with broad political issues in which all members have an equal vote and which served mainly to develop norms and to encourage international cooperation. These characteristics led the UNGA to treat terrorism as a general problem, rather than primarily focus on the implementation of counter-terrorism measures.

The adoption of the UN Global Counter-Terrorism Strategy by the UNGA, and therefore the collective UN membership, represented an instrument of consensus on an issue where the UN has found it difficult to reach consensus for an extended period of time. Of further importance was the fact that the collective membership of the UN, through the UNGA, accepted that countering terrorism requires a holistic and multifaceted response, premised on respect for human rights and the rule of law. By adopting the strategy, all governments conveyed the message that terrorism is never justifiable and the strategy therefore represented the culmination of the process to separate terrorist acts from other forms of political violence. The adoption of the strategy also assisted in reconciling the security agenda of the global North with the development priorities of the global South. Even if member states could still not agree on a consensus definition of terrorism, this long-standing difficulty came to be considered as a symptom of normal political disagreement.

The following chapter will discuss the UN counter-terrorism sanctions regimes against Libya, Sudan, the previous Taliban regime in Afghanistan and the global Al Qaeda terrorist network, as well as in Lebanon, and will distinguish the particular challenges pertaining to implementing UNSC sanctions against international terrorism. The mandating of these sanctions regimes forms part of the counter-terrorism actions of the UNSC which were intensified after the 9/11 attacks on the US.

Chapter 6: United Nations Counter-Terrorism Measures: The Sanctions Regimes

1. Introduction

The mandating of sanctions by the UN against terrorism was indicative of the changed perspective of the UN on the phenomenon. After the UNSC first identified international terrorism as a security threat in 1992, it maintained that the suppression of terrorist acts, including those in which states were involved, was essential for the maintenance of international peace and security. However, as the negative humanitarian impact of traditional, mainly economic, UN sanctions became evident, there was a growing consensus that sanctions should be more carefully targeted and used less indiscriminately. In its Millennium Declaration the UN therefore undertook to minimise the adverse effects of economic sanctions. (UN General Assembly, 2000: Res 55/2) As a result, the UNSC developed so-called “targeted” sanctions which were aimed at limiting the capacity of certain political actors to undertake actions deemed as undesirable and proved to be easier to initiate politically and to sustain in the long term.

These targeted sanctions, representing a necessary middle ground between war and routine diplomacy, were applied in response to acts of terrorism, seeking to eliminate, rather than change the behaviour of terrorists and their supporters. As such, they have served as a vital tool against individuals, groups or states violating international norms and even the threat of sanctions played an important symbolic role in deterrence and prevention. (UN, 2004: A/59/565, para 178, 179) In terms of the UN measures in countering international terrorism, the UNSC mandated targeted sanctions against Libya (1992-2003); Sudan (1996-2001); the Taliban regime in Afghanistan and the Al Qaeda global terrorist network (1999-); and against suspects of the assassination of former Lebanese Prime Minister, Rafik Hariri. (2005-).

2. United Nations Security Council 748 Sanctions Regime against Libya

The mandating of sanctions against Libya, the first application of targeted sanctions by the UNSC, also constituted the first time that UNSC sanctions were used to counter international terrorism. The Libyan sanctions represented a special case as they followed the non-compliance of the country with specific demands of the UNSC, rather than aggression against another state, or as a result of the internal situation in the country.

2.1 Reasons for the Mandating of United Nations Sanctions against Libya

The adoption of UN sanctions against Libya in 1992 followed a prolonged period during which Libya supported international terrorism. The support of radical Arab nationalism and terrorism by the Libyan leader, Mohamar Gaddafi, led to persistent confrontation between Libya and the US throughout the 1980s. Already in 1978, the US banned the sale of military equipment to Libya and in 1979 Libya was added to the US list of state sponsors of terrorism. Following a military clash between Libya and the US in the Gulf of Sidra in August 1981, the assassination of the US military attaché in France in December 1981 aroused suspicion that Libya was responsible. The bombing of a nightclub frequented by US soldiers in Berlin in April 1986 was traced to Libya and led to a raid by US military aircraft on Tripoli and Benghazi, destroying Gaddafi's offices and residence, as well as suspected terrorist training camps. (McNamara, 2007: 86, 90)

Libya's provocative policy towards neighbouring Chad, where it claimed and annexed the disputed Aozou border territory in 1975, also brought it in conflict with France whose military forces supported the government of Chad. (McNamara, 2007:87) In addition, Libya's disruptive and interfering policies in the region and Gaddafi's direct support for Arab terrorism led to dissatisfaction among moderate Arab leaders in North Africa and the Middle East.

Libya directly supported the Abu Nidal Organisation (ANO), one of the most active terrorist organisations during the 1980s and responsible for the attacks on passengers at Rome and Vienna airports in December 1985. Gaddafi allowed ANO to establish a substantial presence in Libya in the early 1980s and ANO was headquartered in the country from 1987 to 1989. ANO provided Gaddafi with a capacity to launch attacks against his political opponents outside the country and Libya provided the organisation with funds, training camps and logistical support. In September 1986, soon after the US attack on Tripoli, four ANO members and one Libyan national attempted to hijack Pan Am Flight 73 in Pakistan. (McNamara, 2007: 93-94)

The adoption of sanctions against Libya was precipitated by two incidents which constituted a major breach of aviation security and which were considered as Gaddafi's revenge for the US attacks on Tripoli in April 1986. The first was the explosion on 21 December 1988 of Pan Am Flight 103 over Lockerbie, Scotland, resulting in the death of 259 passengers and crew and eleven residents of the town. The second incident was an attack on UTA Flight 772 in September 1989 over Niger with the loss of 171 lives. After investigations by Western intelligence, it became evident that Libyan nationals were involved in these incidents. (Hurd, 2005: 503; McNamara, 2007:100)

2.2 Sanctions adopted by the United Nations Security Council against Libya

The sanctions that were adopted against Libya, with the objective of ensuring the cooperation of the Libyan authorities with investigations into the bombings of the above-mentioned international flights, were contained in the following UNSC resolutions:

- **Resolution 731:** This resolution, adopted on 21 January 1992, reaffirmed previous resolutions condemning the unlawful interference in the security of civil aviation, namely Resolution 286, adopted in 1970, and Resolution 635, adopted in 1989, and defined the changes in policy required from Libya. Regarding the destruction of Pan Am Flight 103 and UTA Flight 772, Resolution 731 deplored the fact that the Libyan Government had not responded to the request to cooperate in establishing responsibility for these acts. It then urged Libya to

immediately provide a full and effective response to this request in order to contribute to the elimination of international terrorism. (UN Security Council, 1992: Res 731) The resolution did not mention further action should Libya fail to comply, neither did it specify under which UN Charter provision it was adopted. (Hurd, 2005: 505)

- **Resolution 748:** Adopted on 31 March 1992, this resolution determined that Libya failed to hand over two of its citizens suspected of terrorist activity aimed at international aviation. Acting under Chapter VII of the UN Charter, the resolution then imposed a regime of mandatory sanctions. These sanctions prohibited air travel from or to Libya; prohibited the supply of arms and military equipment to the country; and required the reduction of personnel at Libyan diplomatic and consular missions abroad. It furthermore restricted the travel of Libyan nationals suspected of terrorist activity and created a sanctions committee. (UN Security Council, 1992: Res 748; Farrall, 2007: 299)
- **Resolution 883:** In Resolution 883 of 11 November 1993, the UNSC expressed its concern that, after more than twenty months, Libya had not complied with Resolutions 731 and 748 and determined that this constituted a threat to international peace and security. While noting a letter of the Libyan representative which stated the intention of encouraging those responsible for the bombing of the two flights to stand trial, the UNSC expanded sanctions by freezing some Libyan assets abroad, halting the transfer of oil technology and tightening the aviation sanctions. (UN Security Council, 1993: Res 883, para 3, 5, 6) The resolution was adopted by eleven votes to none, with four abstentions from the PRC, Djibouti, Morocco and Pakistan. Significantly, the resolution did not restrict the purchase of Libyan petroleum or affected its assets regarding oil imports and exports. Although the Libyan economy was heavily dependent on oil revenue, the UNSC did not directly interrupt this trade because of the significance of Libyan oil exports to several major European countries. (Hurd, 2005: 504) Furthermore Resolution 883 also instructed the Committee established by Resolution 748 to draw up guidelines for the implementation of these measures and to deal with requests for assistance under Article 50 of the

UN Charter for countries that suffered indirectly as a result of the sanctions. (UN Security Council, 1993: Res 883, para 10)

- **Resolution 1192:** During a meeting of the UNSC on 20 July 1998 it was decided that the conditions did not exist to modify the measures against Libya and on 27 August 1998 the UNSC adopted Resolution 1192. This resolution once again demanded that the Libyan Government comply with previous resolutions and reaffirmed that the measures set out in those resolutions remained in effect. It furthermore stipulated that sanctions will be suspended when the UNSG reports that the two Lockerbie accused have arrived in the Netherlands for trial and after Libya satisfied the French authorities with regard to the bombing of UTA Flight 772. (UN Security Council, 1998: Res 1192)
- **Resolution 1506:** After adopting a Presidential Statement on 5 April 1999, which noted that the conditions for suspending the range of sanctions against Libya had been fulfilled, the sanctions were suspended. (Farrall, 2007: 303) On 12 September 2003 the UNSC adopted Resolution 1506 which stated that the UNSC decided to lift sanctions against Libya with immediate effect and to dissolve the committee established by Resolution 748 (1992). (UN Security Council, 2003: Res 1506)

2.3 The Drafting and Implementation of the Sanctions against Libya

The Lockerbie incident entered the agenda of the UNSC on 30 December 1988 when a statement by the UNSC President condemned the bombing of the passenger flight. Thereafter, the US, UK and France promoted and established the Libyan sanctions regime over a period of two years. These countries considered it important that the vote on Resolution 731 be unanimous in order to strengthen the argument that the dispute was between Libya and the rest of the international community. The introduction of the resolution was therefore delayed to January 1992 after the terms of Cuba and Yemen, two likely negative votes, had expired. (Hurd, 2005: 506) The drafters also did not refer to international conventions on aviation safety, which Libya had signed, to prevent the

process from becoming a purely legal dispute, which would remove the issue from the sphere of the activities of the UNSC. (Hurd, 2005: 511)

The subsequent drafting of Resolution 748, which was also sponsored by the US, UK and France, provoked more controversy than that of Resolution 731 because terrorism had not previously been identified as falling within the ambit of UNSC sanction measures. The identification of a global threat to peace and security was intended to prevent Libya from arguing that the dispute was a legal one or a bilateral one between Libya and each of the sponsors of the resolution. The US representative argued that terrorism constituted a threat to international peace and security and therefore justified the adoption of measures by the UNSC pursuant to Chapter VII of the UN Charter. The adoption of Resolution 748 thus constituted an important development in the counter-terrorism role of the UNSC as it set the precedent that international terrorism automatically falls within the jurisdiction of this body. (Hurd, 2005: 507)

Following the adoption of Resolutions 731 and 748, a protracted diplomatic stalemate between Libya and the UN ensued. Libya argued that its citizens would not receive a fair trial in Scotland where the passenger aircraft had crashed. (Mack & Khan, 2000: 287) In January 1992 the UNSG sent a special envoy to Libya to discuss Resolution 731 with the Libyan authorities, after which the country stated that it was prepared to cooperate with the UNSC. (UN Security Council, 1992: S/23574) During its tenure, the 748 Sanctions Committee held ninety-one formal meetings and issued five annual reports. (Farrall, 2007: 302) Libya also responded, before and after sanctions were imposed, by offering to hand over the suspected terrorists for trial in international or Arab courts but this was not acceptable to the UNSC. (Cortright & Lopez, 2002: 14)

After the reaffirmation of the sanctions through Resolution 883, Libya denounced the resolution as a product of hostile policy by the UN, while at the same time affirming the need to seek a solution to the crisis. The Libyan policy in reaction to the UNSC sanctions, which was consistently followed throughout the process, contended that the sanctions violated the norms of procedural justice as recognised in international and

domestic law, including that of the US and UK, and that supporting the sanctions was against the will of the international community, which in itself constituted a threat to international peace and security. (Hurd, 2005: 510) Libyan official statements routinely mentioned the humanitarian costs of the sanctions; stated that Resolution 731 was adopted in contravention of the principles and purpose of the UN Charter; and emphasised the deliberate disregard of the Montreal Convention on the Suppression of Unlawful Acts Against the Safety of Civil Aviation of 23 September 1971. (UN Security Council, 1998: S/1998/597)

After Libya probed the limits of the sanctions in 1995 by allowing flights to Mecca for the *hajj*, violation of the sanctions by third countries culminated in a resolution of the Organisation of African Unity (OAU) in 1998, deciding not to comply with the sanctions as of September 1998. (UN Security Council, 1998: S/1998/597, para 5) This decision threatened the legitimacy of the UNSC and the diplomatic stalemate was eventually broken in August 1998 when the US and UK offered to hold the trial of the suspects under Scottish law in a court in the Netherlands. The offer, made in response to demands from Arab and North African states to negotiate a settlement, was accepted by Libya and the suspects arrived for trial in The Hague in April 1999. (Cortright & Lopez, 2002: 119) The suspension of the sanctions followed after nearly a decade during which the removal of UNSC sanctions and a normal relationship with Western economies, constituted the main objective of Libyan foreign policy. (Hurd, 2005: 505)

In summary, the UN sanctions imposed on Libya, where a state's failure to cease supporting international terrorism was viewed for the first time as a threat to international peace and security, represented an important development in the UN counter-terrorism trajectory. The sanctions had a positive effect in restraining the country's support for international terrorism and, although it caused some economic losses, the primary impact was to isolate the country from the international community, which had a politically sensitive impact on the Libyan government. The sanctions regime also provided a bargaining tool which eventually led to a settlement of the dispute and gradually allowed Libya back into the international arena.

The following section will discuss the sanctions which were imposed against Sudan in 1996. The sanctions followed a period during which the country was used by the former leader of Al Qaeda, Osama bin Laden, as sanctuary and were imposed following an assassination attempt aimed at the Egyptian head of state which took place in Ethiopia.

3. United Nations Security Council 1054 Sanctions Regime against Sudan

The circumstances that led to the mandating of UN sanctions against Sudan in 1996 manifested on various levels. On a regional level it involved Sudan's neighbouring states; on a continental level it involved the OAU; and at international level it involved a global fundamentalist Islamic movement.

3.1 Reasons for the Mandating of United Nations Sanctions against Sudan

The reasons for the imposition of sanctions against Sudan were set out in UNSC Resolution 1044 adopted on 31 January 1996 and followed an assassination attempt on the life of President Mubarak of Egypt which took place on 26 June 1995 in Addis Ababa, Ethiopia. The resolution, adopted under Chapter VI of the UN Charter, stated that “the suppression of acts of terrorism, including those in which States are involved, is an essential element for the maintenance of international peace and security”. (UN Security Council, 1996: Res 1044) In its preamble the resolution also recalled the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents which was adopted by the UNGA on 14 December 1973. It then called upon Sudan to comply with a request of the OAU to extradite the three suspects involved in the assassination attempt, to Ethiopia. Secondly, the resolution called upon Sudan to “desist from engaging in activities of assisting, supporting and facilitating terrorist activities and from giving shelter and sanctuaries to terrorist elements”, and to act according to the Charters of the UN and

the OAU in its relations with neighbours and other states. (UN Security Council, 1996: Res 1044, para 4)

The above events were linked to the domestic situation in Sudan where an Islamist regime took over power in 1989 and, under the influence of the leading Islamist ideologue, Hassan al-Turabi, invited Osama bin Laden and his associates to take up residence in Sudan. From the Sudanese perspective it was hoped that bin Laden would make funds available to the benefit of the Islamist cause in support of Sudan's attempt to counter the pre-eminence of Saudi Arabia in the Sunni Islamic world. From the perspective of bin Laden and his associates, it would enable them to launch attacks on Egyptian targets across the unguarded border. However, ideological differences and international pressure made Sudan realise that the presence of bin Laden in the country might not be beneficial. As a result, after arriving in Sudan from Pakistan in 1992, bin Laden left Sudan on 18 May 1996 for Afghanistan. (Burke, 2004: 144-157)

The involvement of the UNSC in Sudan as from 1995, followed after the country was placed on the terrorism list of the US State Department in August 1993 because of its support to a range of terrorist groups and allowing them to operate training camps in the country. The US Government also objected to Sudan's military attacks against rebels in Southern Sudan; human rights violations; and the lack of religious freedom, and in 1997 imposed a general trade embargo and a total freeze on the country's assets. (Cortright & Lopez, 2002: 117)

3.2 Sanctions adopted by the United Nations Security Council against Sudan

In its attempt to induce the extradition of the suspects wanted in connection with the assassination attempt on President Mubarak, the UNSC adopted the following resolutions:

- **Resolution 1054:** Adopted on 26 April 1996, the resolution reaffirmed that the suppression of acts of international terrorism, including those in which states are involved, is essential for the maintenance of international peace and security,

and repeated the demands to Sudan that were set out in Resolution 1044. It then adopted diplomatic sanctions by calling on member states to reduce the number of staff at diplomatic missions and consular posts; to restrict the movement of those that remained; and to restrict entry into their country of Sudanese government officials and military personnel. It also called upon international institutions and regional organisations to refrain from convening any conferences in Sudan. (UN Security Council, 1996: Res 1054, para 3, 4)

- **Resolution 1070:** This resolution of 16 August 1996, regretted that Sudan had not yet complied with the requests of the OAU or with those stated in Resolutions 1044 and 1054. It therefore imposed air travel sanctions against Sudan, requiring all states to deny Sudanese aircraft permission to take off from, land in, or overfly their territories. The resolution furthermore stated that the UNSC will determine within ninety days a date for entry into force of this provision and the modalities of its implementation. (UN Security Council, 1996: Res 1070, para 3, 4) The ninety days delay was approved to allow a humanitarian study team to assess the potential impact of the sanctions and to allow for further negotiations on Sudanese compliance. (Cortright & Lopez, 2002: 118)

3.3 The Implementation and Monitoring of the Sanctions against Sudan

The UNSC did not create a sanctions committee or any other subsidiary body in connection with the sanctions regime against Sudan, but requested the UNSG to perform the various tasks related to the administration and implementation of the sanctions. (Farrall, 2007:356) The UNSG therefore sent special envoys to the region to monitor compliance by Sudan with the requests of the UNSC, as well as to gather further information. In meetings with the UNSG envoys, the Sudanese authorities maintained their view that UNSC Resolution 1044 was “unfair, unjust and unbalanced” because it was based on the Ethiopian allegation that Sudan had identified the three suspects and knew where they were, an assumption which was not factual. The Sudanese authorities also maintained that the allegations regarding Sudan’s support for terrorist activities were unfounded and that it was in fact Sudan which was the victim of

destabilisation and aggression emanating from its neighbours. (UN Security Council, 1996: S/1996/179)

During a follow-up visit to Sudan by a UNSG envoy in October 1996, the Sudanese authorities stated that one of the three suspects in the assassination attempt was in Afghanistan, one had left for Kenya and that the other was killed. The Sudanese officials also acknowledged that the open-door policy they had established in 1990 in the name of “pan-Arabism” might have allowed some terrorists to enter the country and that some alleged terrorists might have entered Sudan’s unguarded borders. In addition, Sudan pointed out the potential humanitarian and economic effects of the flight ban envisioned in Resolution 1070. (UN Security Council, 1996: S/1996/940)

Sudan initially responded to the sanctions in Resolution 1054, and the threat of stronger measures, by sending three successive letters to the UNSC. In one letter Sudan indicated that it requested Osama bin Laden to leave the country, even though he had already left Sudan a few weeks after the imposition of sanctions. (Cortright & Lopez, 2002: 14) After further visits by his envoys to Sudan, the UNSG reached the conclusion that the situation had not changed. (UN Security Council, 1996: S/1996/940) Consequently, no decision was taken on the date for the entry into force of the air travel sanctions and these sanctions were not implemented.

After receiving a letter from the Sudanese Minister of External Relations, (UNSC, 2000: S/2000/513) explaining the compliance of Sudan to the demands of the UNSC in terms of the three suspects; the eschewal of terrorist activities; and Sudan’s relations with neighbouring states, the sanctions were terminated by Resolution 1372 of 28 September 2001. (UN Security Council, 2001: Res 1372) During the debate on the resolution, the representatives of Russia and the UK mentioned that Sudan had completed its accession to all international conventions against terrorism. However, the US stated that, even though Sudan had taken substantial steps to meet the demands of Resolution 1054, ongoing concerns about human rights in the country led the US to abstain. (UN Security Council, 2001: SC/7157)

In conclusion, the role and actions of the UNSC contributed to a large extent to Sudan's decision to reconsider its quest to play a leading role in the global radical Islamist movement and to rethink its policy of supporting and facilitating international terrorism.

The following section will investigate the UN sanctions regime that was mandated against the Taliban regime in Afghanistan in 1999 due to its support for Osama bin Laden and the Al Qaeda movement.

4. United Nations Security Council Sanctions against the Taliban and Al Qaeda

While the sanctions against Libya and Sudan were directed at viable nation states, the sanctions regime against Afghanistan targeted the ruling elite of a failed state and, as from 2002, a global terrorist network.

4.1 Reasons for the Mandating of United Nations Sanctions against the Taliban

After the orthodox Islamist Taliban movement took control of the capital of Afghanistan, Kabul, in September 1996, factional warfare and political instability in the country continued. The Taliban received support from neighbouring Pakistan and during a debate in the UNSC on the situation in Afghanistan, the first such debate in six years, the US proposed an international arms embargo on the country. (Rashid, 2001: 45) The UN, concerned about the humanitarian crisis and the cultivation of drugs in the country, attempted to promote a cease-fire, but the Taliban refused to meet with UN officials, and ethnic minorities doubted that the UN would protect their interests. After a visit in September 1997 by the UNSG envoy and subsequent mediator, Lakhdar Brahimi, to the region, the UNSG accused Pakistan and Iran of fomenting the conflict in Afghanistan. (Rashid, 2001: 64, 66)

In the late 1990s and up to the 9/11 attacks, the US demonstrated scant interest in events in Afghanistan. Even though some officials recognised the dangers emanating from the country in terms of becoming a conduit for terrorism, drug trafficking and crime, there was no US commitment to the region other than mentioning ongoing human rights violations. (Rashid, 2001: 178) Consequently, much of the US response to the Taliban regime in Afghanistan was channeled through the UNSC. (Cortright & Lopez, 2002: 120) In contrast, Russia maintained its influence in the country by supplying the anti-Taliban alliance with arms. Russian accusations against the Taliban increased after it recognised the government of the break-away Russian republic of Chechnya. (Rashid, 2001: 61, 80) These factors contributed to the leading role which the US and Russia played in the UNSC in drafting anti-Taliban UNSC resolutions up to 9/11, after which the US dominated these activities in the UNSC.

International frustration with the continued warfare and violation of human rights in Afghanistan resulted in the adoption of Resolution 1214 on 8 December 1998 by the UNSC, in which the Taliban was threatened with unspecified sanctions for “the sheltering and training of terrorists and the planning of terrorist acts”. (UN Security Council 1998: Res 1214) The resolution reiterated that the suppression of international terrorism is essential for the maintenance of international peace and security and demanded that the Taliban and other factions conclude a cease-fire and resume negotiations under UN auspices. The resolution further demanded that the Taliban stop providing sanctuary and training to international terrorists; halt the cultivation and trafficking of illegal drugs; and end its discrimination against girls and women. (UN Security Council 1998: Res 1214, para 1, 12-14) Pakistan was the only state that did not support the resolution and instead called it biased. (Rashid, 2001: 78)

The particular economic and military conditions in Afghanistan posed substantial challenges to the UN in designing the kind of sanctions that might be successful. The Afghan economy was characterised by decentralisation and criminalisation and this made traditional mechanisms for monitoring or controlling commerce irrelevant. The

profits generated by the Taliban from drugs trafficking left little incentive to end violence or build viable state institutions based on the rule of law. (Cortright & Lopez, 2002:13) The humanitarian emergency in the country ruled out broader economic sanctions, and on a regional level, the role of Pakistan as a major arms supplier to the Taliban needed to be taken into account. (Cortright & Lopez, 2002:12) Following the implementation of sanctions, the Taliban regime became more insular, after initially responding to the threat of sanctions by offering to present the case of Osama bin Laden to an Islamic court. However, this was unacceptable to the UNSC. (Cortright & Lopez, 2002: 14)

4.2 United Nations Security Council Resolutions adopted during the Pre-9/11 Period

In order to ensure that the Taliban ceased providing sanctuary to international terrorists and surrender Osama bin Laden for prosecution, the UNSC adopted the following resolutions between 1999 and September 2001:

- **Resolution 1267:** In response to the failure of the Taliban to react to paragraph 13 of Resolution 1214, namely that “all Afghan factions cooperate with efforts to bring indicted terrorists to justice”, the UNSC adopted Resolution 1267 on 15 October 1999. The resolution deplored the fact that the Taliban continued to provide safe haven to Osama bin Laden and to allow him and others to operate a network of terrorist training camps in Taliban-controlled territory. It referred to the indictment by the US of bin Laden for the August 1998 bombing of US Embassies in East Africa, and requested that the Taliban turn him over to the appropriate authorities. Resolution 1267 then imposed aviation and financial sanctions on the Taliban whereby all funds directly or indirectly owned or controlled by the organisation would be frozen. It also created the 1267 Sanctions Committee to oversee the implementation of the sanctions, including the obtaining of information from member states on their actions regarding the implementation of the sanctions; to report regularly to the UNSC; and to consider requests for exemption from the measures. (UN Security Council, 1999: Res 1267)

- **Resolution 1333:** On 19 December 2000 the UNSC adopted Resolution 1333 which recalled the relevant counter-terrorism conventions and the obligations to extradite or prosecute terrorists; condemned the Taliban for sheltering terrorists; and reaffirmed that the suppression of terrorism is essential for the maintenance of international peace and security. The resolution then expanded the sanctions relating to Taliban-controlled territory to include an arms embargo and broadened the asset freeze to include the financial assets of Osama bin Laden, Al Qaeda, and individuals and entities associated with them. These sanctions were limited to a one year period. In addition, Resolution 1333 requested the 1267 Sanctions Committee to maintain an updated list of individuals and entities associated with bin Laden and Al Qaeda, and established a committee of experts to recommend ways of improving the monitoring of sanctions, also by reviewing its humanitarian implications. (UN Security Council, 2000: Res 1333; Farrall, 2007: 387)
- **Resolution 1363:** This resolution reaffirmed that the situation in Afghanistan constituted a threat to international peace and to security in the region. It then requested the UNSG to establish, within 30 days, a mechanism to monitor the implementation and/or violation of the measures imposed by Resolutions 1267 and 1333 and to offer assistance to states, especially states bordering Afghanistan, to implement the sanctions. The monitoring mechanism was to be composed of a Monitoring Group of five experts stationed at UN headquarters in New York, and a Sanctions Enforcement Support Team of fifteen members to be deployed in the countries surrounding Afghanistan. (UN Security Council, 2001: Res 1363)

4.3 United Nations Security Council Resolutions adopted during the Post-9/11 Period

Subsequent UNSC resolutions adopted in the post-9/11 period, related to the modification and refinement of the functioning of the 1267 Sanctions Committee. The UNSC also had to restructure the sanctions after the military collapse of the Taliban during November and December 2001 as a result of the US invasion of Afghanistan in

October 2001 and the installation of the UN-brokered interim authority in Kabul. (Cottee, 2003: 175) The sanctions were now principally targeted against the Al Qaeda terrorist network and were aimed at eliminating, rather than changing, the behaviour of terrorists. (Anthony, 2002: 225) During this period, the following resolutions were adopted:

- **Resolution 1390:** After the UNSC terminated the sanction measures that applied to the Ariana Afghan Airlines through Resolution 1388, Resolution 1390 of 28 January 2002 served to restructure the UN sanctions regime. It maintained all sanctions measures of Resolution 1267, except the flight embargo, for a period of twelve months and extended the applicability of the Taliban sanctions to Al Qaeda and individuals, groups and entities associated with them. It also redefined the tasks of the 1267 Sanctions Committee. (UN Security Council, 2002: Res 1390) The counter-terrorism measures imposed by this resolution were similar to those of Resolution 1373 which was adopted in reaction to the 9/11 attacks on the US. (Cortright & Lopez, 2002: 49)
- **Resolution 1452:** This resolution, adopted on 20 December 2002, provided humanitarian exemptions to the assets freeze of those on the Consolidated List in order to provide for basic expenses such as foodstuffs, rent or mortgage, as well as extraordinary expenses to be approved by the 1267 Sanctions Committee. Member states were urged to take full account of the considerations set out in Resolution 1373 when applying Resolution 1452. (UN Security Council, 2002: Res 1452)
- **Resolution 1455:** This resolution, adopted on 17 January 2003, renewed the existing sanctions regime; declared the UNSC's intention to improve those measures within the next twelve months; and requested the Monitoring Group to report on further improvements. The resolution also enhanced the monitoring role of the 1267 Sanctions Committee in order to determine which states were failing to live up to their obligations and to this effect it urged states to report their progress on the implementation of the sanctions; stressed the need for improved cooperation and increased exchange of information between the 1267 Committee and the CTC; and established further reporting requirements by

states. It also underlined the obligation placed upon all member states to implement Resolution 1373. (UN Security Council, 2003: Res 1455)

- **Resolution 1526:** One year later, the UNSC adopted Resolution 1526 which did not modify the existing sanctions but placed greater emphasis on compliance. The resolution again underlined the obligation on all member states to implement Resolution 1373 and condemned the Al Qaeda network for ongoing terrorist acts. To strengthen the mandate of the 1267 Sanctions Committee, it was given a central role in assessing information for review by the UNSC regarding the effective implementation of measures, in addition to its oversight role in the implementation of these measures by member states. Resolution 1526 also appointed a Monitoring Team of eight members with expertise in areas related to the activities of the Al Qaeda organisation and/or the Taliban. (UN Security Council, 2004: Res 1526, para 2, 7)
- **Resolution 1617:** In its preamble the resolution reaffirmed that terrorism in all its forms and manifestations constituted a serious threat to peace and security; expressed concern over the use of the Internet by Al Qaeda, the Taliban and their associates for propaganda and inciting terrorist violence; and emphasised the obligation on member states to implement Resolution 1373. Resolution 1617 then re-stated the financial, travel and arms embargo measures as imposed by previous resolutions and provided guidelines to identify those associated with Al Qaeda or the Taliban. Regarding the Consolidated List, the resolution decided that a statement of case, describing the basis of the proposal to list a name, must be provided, and that states should inform individuals and entities, to the extent possible, of the measures imposed on them and about the listing and de-listing procedures. Resolution 1617 also reiterated the need for ongoing close cooperation and exchange of information between the 1267 Sanctions Committee, the CTC and the 1540 Committee. In addition, the responsibilities of the Monitoring Team are set out in Annex I to the resolution. (UN Security Council, 2005: Res 1617)
- **Resolution 1730:** This resolution, adopted on 19 December 2006, emphasised that sanctions were an important tool in the maintenance and restoration of

international peace and security and that they must be “carefully targeted in support of clear objectives and implemented in ways that balance effectiveness against possible adverse consequences”. The resolution then established a focal point within the UN Secretariat to process the submissions for de-listing and set out the de-listing procedure to be followed after receiving requests in this regard. The de-listing procedure limited the responsibility of the focal point to forwarding requests to appropriate governments and following up with these governments to determine if the request should be reviewed by the full 1267 Sanctions Committee. (UN Security Council, 2006: Res 1730)

- **Resolution 1735:** The resolution re-affirmed the need to combat threats to international peace and security caused by terrorist acts and stressed that terrorism can only be defeated by a sustained and comprehensive approach involving all states and international and regional organisations. Resolution 1735 re-stated the measures taken by previous resolutions and, regarding the listing process, provided a template to be used when submitting individuals or entities to the 1267 Sanctions Committee. The resolution furthermore decided that the UN Secretariat would notify the Permanent Mission of the country where the individual or entity was believed to be located, or country of which an individual was a national, of it being added to the Consolidated List, as well as the reasons for, and effects of, this designation. (UN Security Council, 2006: Res 1735)
- **Resolution 1822:** Eighteen months after the adoption of Resolution 1735, Resolution 1822 was adopted on 30 June 2008 with the main objective of confirming the measures under the mandate of the 1267 Sanctions Committee; confirming the procedures for maintaining the Consolidated List; and to extend the mandate of the 1267 Monitoring Team for eighteen months. (UN Security Council, 2008: Res 1822, para 39) The preamble of the resolution reaffirmed that terrorism constitutes a serious threat to peace and security and the important role that the UN plays in leading and coordinating the combating of terrorism in accordance with the UN Charter and international law, including applicable human rights-, refugee- and humanitarian law. In addition, it expressed concern about the increased violence and terrorist activities in Afghanistan and reiterated

the UN's support for the fight against the production and trafficking of drugs in the country. (UN Security Council, 2008: Res 1822)

4.4 The Implementation and Monitoring of the Sanctions against the Taliban and Al Qaeda

The implementation and monitoring of the sanctions regime against the Taliban and Al Qaeda proved a complicated process and more challenging than implementing measures against viable states such as Libya and Sudan. Although the UNSC had previously targeted sanctions at individuals, namely in 1994 against the military *junta* in Haiti and in 1998 against senior officials of the National Union for the Total Independence of Angola (UNITA), and has created various other sanctions committees that have some responsibility in listing individuals and entities who were the target of sanctions, the 1267 Sanctions Committee has received the most criticism. This was mainly because the 1267 sanctions regime was clearly directed against terrorism and because many states were reluctant to risk accusations of human rights violations in the context of counter-terrorism. Additional reasons for the controversy surrounding the 1267 regime are that its scope was the widest of the UNSC sanction regimes, given that it has a global reach; that it was more directly focused on non-state actors; and that it was preventative in character. (Johnstone, 2008: 341-342) Resolutions adopted after 9/11 also failed to articulate explicit objectives for the sanctions and it was unclear what conditions needed to be fulfilled by those targeted before sanctions would be terminated. (Farrall, 2007: 394)

The challenges experienced in the implementation of the 1267 sanctions regime were reflected in the reports provided to the UNSC by monitoring mechanisms. The Monitoring Group, established by Resolution 1363, mentioned the continued reluctance of many states to provide names for listing to the 1267 Committee, "even as they take action against such persons or entities, or provide information to other countries through limited bilateral channels". The Monitoring Group further stated that it encountered "serious difficulties" in monitoring and reporting on the implementation of the arms

embargo measures and regretted the lack of assistance and cooperation of states in this regard. (UN Security Council, 2003: S/2003/1070, para 16, 107, 112) It then concluded that, without a much tougher and comprehensive resolution, “little or no progress” will be achieved with regard to the sanctions regime. (UN, 2003: S/2003/1070, para 173)

In its first report, the Analytical Support and Sanctions Monitoring Team, established by Resolution 1526, stated that, although it had received reports from 130 member states, only nineteen states recorded the presence of any individual or entity associated with Al Qaeda inside their borders. The report noted some inconsistencies between what certain states had reported to the 1267 Committee and what they reported to the CTC, and stated that it appears that the sanctions have had a limited impact. The main reason for this was that the UNSC has reacted to events while Al Qaeda has demonstrated flexibility and adaptability in staying ahead of the sanctions. In addition, the report added that it would always be difficult to design and enforce sanctions against “diverse groups of individuals who are not in one location, who can adopt different identities, and who need no special equipment to launch their attacks”. (UN, 2004: S/2004/679, para 28-30)

In terms of the implementation of the Taliban/Al Qaeda sanctions, the asset freeze was its most prominent component and has proved valuable in assisting to internationalise the policy of freezing terrorist financial resources. However, because these sanctions were focused on a worldwide terrorist organisation and not on a particular state or conflict situation, more countries were forced to implement measures against individuals and entities within their jurisdiction, regardless of whether its judicial system had found them guilty of a crime. States were required to freeze the assets of persons and entities on the Consolidated List which demonstrated a lack of transparency and raised human rights concerns. (Rosand, 2004: 749) The 1267 sanctions regime thus ran the risk of illegality, because if it violated human rights, the UNSC would be acting outside the UN Charter and states would not be obliged to abide by its decisions. (Hudson, 2007: 109)

Maintaining the Consolidated List proved especially difficult to manage effectively and transparently, mainly because the targeted individuals and entities in the case of terrorism were not state actors but included private individuals, businesses, charities and other non-profit organisations. (Comras, 2008: 11) This was also the result of the inadequate nature of the information provided during the process of designation because ongoing investigations or court cases prevented the release of certain information. For example, after the 9/11 attacks more than two hundred names were added, mostly on the initiative of the US, and not much attention was given to the due process of submitting names for the designation. However, since 2003, enthusiasm for the sanctions against Al Qaeda waned and countries became less supportive, in part because of opposition to the US-led war in Iraq. (Whitlock, 2008) Countries became increasingly reluctant to submit names or additional information with regard to those already listed and rather preferred to use their own means or work through regional arrangements to act against terrorism. (Comras, 2008: 12) It also became evident that some countries were reluctant to submit names of Islamic individuals or groups for fear of being labeled as anti-Islamic. (Rosand, 2004: 752)

The unsatisfactory functioning of the Consolidated List in terms of accuracy, fairness and due process, soon resonated within the UN. The 2005 World Summit called upon the UNSC to ensure “fair and clear procedures for placing individuals and entities on sanctions lists and for removing them”. (UN General Assembly, 2005: Res 60/1, para 109) Pursuant to this appeal, the UN Office of Legal Affairs commissioned a study of the legal implications as individuals started to challenge their UN listing in court cases, with negative implications for the legitimacy of the UNSC sanctions. The study found that, in exercising its principal duty to maintain and restore international peace and security, the UNSC should respect the human rights and fundamental freedoms of targeted individuals to the “greatest possible extent” and that the measures must be “necessary and proportionate to the aim it is meant to achieve”. (Fassbender, 2006: 7)

In Afghanistan, as a failed state, the Taliban was shielded from the effects of country-specific sanctions. With the extension of the sanctions to include the Al Qaeda network,

the sanctions regime had to be applied on a global level and thereby became the first UNSC sanctions regime to focus on targets without a specific geographical base. Questions then arose whether the UNSC could legitimately target individuals and entities who were not yet charged by domestic law agencies, and the sanctions risked violating universally recognised human rights. The challenges experienced in the implementation and monitoring of the UNSC 1267 sanctions regime thus demonstrated the difficulties in targeting international terrorism and its supporters on a global scale.

5. The 1636 Hariri Sanctions Regime regarding Lebanon

The 1636 sanctions regime followed an unprecedented interest by the UN in a singular terrorist attack. This was motivated by the fact that Syria was a known state sponsor of international terrorism and had maintained a military presence in Lebanon since 1976. Secondly, the UN aimed to create a stable political environment for an upcoming presidential election in Lebanon.

5.1 Reasons for the Mandating of Sanctions

On 14 February 2005 a bomb explosion in the Lebanese capital Beirut killed former Prime Minister Rafik Hariri and twenty-two other individuals. The incident followed after Hariri and other anti-Syrian politicians questioned the intention of Syria to extend the term of Lebanese President Emile Lahoud. It also followed the adoption of UNSC Resolution 1559 in September 2004 which expressed strong support for the territorial integrity, sovereignty and political independence of Lebanon and called for the withdrawal of all foreign forces from the country. (UN Security Council, 2004: Res 1559, para 2)

Due to UNSC concern about the fragile political situation in Lebanon, a fact-finding mission was sent to Lebanon, and reported on 24 March 2005 that, since the credibility of the Lebanese authorities conducting the investigation into the bomb explosion was questioned, an independent international investigation should be launched. (UN, 2005:

S/2005/203) Resolution 1595 then created such an investigation commission based in Lebanon to assist the Lebanese authorities in their investigation of “all aspects of this terrorist act, including to help identify its perpetrators, sponsors, organizers and accomplices”. (UN Security Council, 2005: Res 1595, para 1) The commission concluded that the motive for the attack was political and that it could not have been executed without the knowledge of the Syrian authorities. It also identified several individuals who were suspected of involvement in the assassination. (UN, 2005: S/2005/662)

5.2 United Nations Security Council Resolution 1636

Resolution 1636, adopted on 31 October 2005, reaffirmed that terrorism in all its forms and manifestations was one of the most serious threats to peace and security and determined that the involvement of any state in the assassination of Hariri would constitute a serious violation of that state’s obligation to “work to prevent and refrain from supporting terrorism in accordance in particular with resolutions 1373(2001) and 1566(2004)”. (UN Security Council, 2005: Res 1636, para 4) The resolution then imposed a travel ban and asset freeze on all individuals who were designated by the investigation commission established pursuant to UNSC Resolution 1595, or by the Lebanese Government, as suspected of involvement in the planning, sponsoring or perpetrating of the assassination. It further decided that Syria must detain those Syrian individuals who were suspected of involvement and that the country must cooperate unconditionally with the UN investigation commission. (UN Security Council, 2005: Res 1636, para 3, 11)

5.3 Implementation and Monitoring of Resolution 1636

UNSC Resolution 1636 established a committee to undertake the monitoring of the sanctions which entailed the registration of the suspected individuals; the approval of exceptions to the sanctions; the removal of individuals no longer suspected of involvement; and to inform member states in this regard. (UN Security Council, 2005:

Res 1636, Annex) In March 2006 the UNSC adopted Resolution 1664 which provided for the negotiation of an agreement with Lebanon for the establishment of an international tribunal to try individuals suspected of involvement in the Hariri assassination. (UN Security Council, 2006: Res 1664, para 1; Farrall, 2007:452)

In conclusion, the 1636 sanctions regime confirmed that the combination of a travel ban and assets freeze was the UNSC's tool of choice against individuals who threatened international peace and security. It also represented the evolvement of the UNSC counter-terrorism effort as it included the creation of an investigation team and endorsed the creation of a special tribunal. Lastly, it strengthened the willingness of the UNSC, already evident in the 1267 sanctions regime, to internationalise the prosecution of suspected terrorists.

6. Conclusion

The mandating of sanctions by the UNSC remains an integral instrument of multilateral action and the resort to mandatory sanctions under Chapter VII of the UN Charter has been more common than military enforcement decisions by the UNSC. However, even after the UNSC adjusted its sanctions design towards the adoption of more targeted sanctions in order to counter humanitarian costs, the implementation of sanctions regimes remained controversial. On the other hand, there is consensus that the international community needs an instrument that lies between mere diplomatic censure and military force and that there is no realistic alternative to the mandating of sanctions in cases of major transgressions of international law.

The UN sanctions against international terrorism were mandated after improvements in the design of sanctions in order to utilise them as a tool of persuasion, rather than as a punitive action. As from 1995, UN sanctions were principally designed to be applied to specific targets and therefore became more difficult to design. With the Al Qaeda movement consisting of some known entities and a large number of unknown

individuals, the design and implementation of the 1267 sanctions regime after 9/11 against a global terrorist network, became even more complicated and controversial.

The sanctions resolutions regarding Libya were important documents in the UN role in countering terrorism. In addition to being the first sanctions against a UN member state for engaging in terrorism, it also broke new ground in requiring a member to formally denounce terrorism. This demonstrated the growing trend whereby the UNSC regulated policies of member states; interactions within states; and intruded upon domestic jurisdiction. In similar fashion, the 1267 sanctions regime demonstrated an evolution in the UNSC characterisation of the existence of a threat to international peace and security. While the Taliban was in power, the UNSC determined that its failure to comply with the requirements of the sanctions constituted a threat to international peace and security. However, as of January 2002, the UNSC simply reaffirmed that acts of international terrorism constituted such a threat.

In summary, the examples of Libya and Sudan demonstrated that UN sanctions have an important role to play in countering international terrorism. In these cases the sanctions were implemented against state entities which made the process relatively easier to monitor. In contrast, the implementation and monitoring of the UN sanctions regime against the global Al Qaeda network, as well as against suspects in the Hariri assassination, presented an array of difficulties. Increased international cooperation and greater compliance will be needed to sustain these sanctions regimes and to maximise their contribution to a decrease in international terrorist activity.

The next chapter will investigate the reasons for the changes in the perspectives of the UN on the phenomenon of international terrorism in the 1970 to 2008 period. This will be done against the background of the changes in the international security environment, the new manifestations of terrorism, and the reaction of the UN to these developments.

Chapter 7: Reasons for the Changed United Nations Perspective on Terrorism

1. Introduction

The norms and institutions of the UN are created and maintained within the context of prevailing international dynamics and circumstances at a specific time and which determine the demands and challenges facing the organisation. In this sense, the norms and values of the UN are in constant flux as it strives to counter evolving or new security challenges while adapting to changes in the international power configuration. This was also evident in the UN perspective on the issue of terrorism as an element of its responsibilities regarding peace and security. As such, the UN has changed its perspective on terrorism from an earlier emphasis on debating the causes of the phenomenon, towards a greater concern on taking measures to counter the manifestations of terrorism itself. However, with the adoption of the UN Global Counter-Terrorism Strategy in 2006, these two approaches were both incorporated into a more balanced and holistic perspective on terrorism.

In this chapter the principal factors responsible for this gradual change in the perspective of the UN on international terrorism, as well as its integration into the UN system, will be discussed and analysed. The first factor involves the changes in the nature of terrorism in terms of various aspects, and which caused the UN to evaluate and adjust its approach to the challenges posed by terrorism. Secondly, the near-completion of the process of decolonisation facilitated a changed perspective by the world body towards the issue of terrorism. Thirdly, the profound changes in the security environment after the end of the Cold War played an important role in re-directing the UN system towards countering new, mainly non-military, security threats and thereby contributed in changing its perspective on international terrorism. Lastly, the involvement of entities outside the formal UN structures played a significant role in guiding the UN towards a more inclusive perspective on terrorism and ways of countering it.

2. Developments in International Terrorism as Factor in the Changing United Nations Perspective on Terrorism

The aims and tactics of terrorist groups in terms of their domestic and international involvement had an important impact on the changing perspective of the UN on the phenomenon, as well as on the counter-terrorism measures taken by the organisation.

2.1 Changes in the Characteristics of Terrorism

As from the mid-1980s the nature of international terrorism changed and these changes continued to manifest themselves after the end of the Cold War. As stated in Chapter 3, the most important characteristics of what became known as “new” terrorism, were its religious motivation, mass casualty attacks, transnational nature and the possible use of non-conventional weapons.

In terms of religious motivation, terrorism has become non-secular in nature and has been mainly driven by religious considerations, principally Muslim extremism, as well as by a new far right extremist dimension in Western countries. Even if religious identity previously served as a motivation for violence, the revolution in Iran in 1979 contributed to the re-emergence of religiously motivated terrorism which was now aimed at establishing sovereign states based on religious tenets. (Rapoport, 2003: 43) Terrorism also became more lethal, less discriminate in its target selection and therefore capable of producing mass human casualties. This trend first became evident during the mid-1980s when large truck bombs were detonated amid a concentration of people and it was in contrast with traditional terrorism when terrorism was rather considered as a political communication strategy aimed at seeking publicity. (Jenkins, 1987)

The transnational nature and global reach of the new terrorist movements became evident with the founding of Al Qaeda, a Sunni-inspired Islamist movement. This movement was described as a “world-wide network of networks” in which the leadership provides ideological direction and inspiration while the affiliated networks carry out

attacks against appropriate targets. (Wilkinson, 2006: 42) Al Qaeda also illustrated that terrorists increasingly became part of amorphous, indistinct broader movements without a central command and which allowed for greater freedom and independence in tactical decisions. (Hoffman, 2001: 418) In terms of weaponry, terrorist groups started to use weapons capable of inflicting greater destruction and it became an enduring concern that they might pursue non-conventional weaponry. It was reasoned that, because of their particular worldview and aim of mass destruction, these groups would have no restraint in using these weapons in order to perpetrate spectacular terrorist attacks.

In conclusion, the above developments, which were facilitated by the process of globalisation, allowed terrorist groups to benefit from new technologies which enabled them to operate simultaneously in various countries. (Cronin, 2003: 48) Globalisation also accentuated the cultural and religious differences between Islam and the Western world which some terrorist movements sought to exploit.

2.2 The Effect of these Developments on the United Nations Perspective on Terrorism

As mentioned in Chapter 4, the increased incidents of large-scale terrorism, especially during the 1980s, forced UN member states to consider the phenomenon, which was previously mainly viewed as a domestic issue, more seriously. This changing perspective culminated after the 9/11 incident which proved that terrorism had become a strategic issue and that terrorists could attack a superpower on home soil.

The above developments were frequently mentioned in important UN policy documents, as well as in the resolutions adopted by the UNSC and the UNGA on terrorism. Resolutions adopted by the UNSC, specifically during the post 9/11 period, frequently reflected aspects of the new terrorism, for instance in condemning “multiple criminal, terrorist acts, aimed at causing the deaths of numerous innocent civilians”. (UN Security Council, 2002: Res 1390, preamble) The UNSC then expressed concern about the risk that non-state actors may “acquire, develop, traffic or use nuclear, chemical and

biological weapons and their means of delivery”, and added that this new dimension of proliferation posed a threat to international peace and security. (UN Security Council, 2004: Res 1540, preamble) Reference is further made to the “criminal misuse of the Internet” in furtherance of terrorist acts, specifically by Al Qaeda. (UN Security Council, 2006: Res 1735, preamble; UN Security Council, 2008: Res 1822, preamble)

Resolutions adopted by the UNGA also frequently reflected aspects of the new terrorism. For example, in reaction to the 9/11 attacks, UNGA resolutions as from 2002 reaffirmed a strong condemnation of the “heinous acts of terrorism that caused enormous loss of human life, destruction and damage”. (UN General Assembly, 2002: Res 56/88, preamble; UN General Assembly, 2003: Res 57/27, preamble; UN General Assembly, 2004: Res 58/81, preamble; UN General Assembly, 2005: Res 59/46, preamble) With reference to the religions motivation of the new terrorism, it was further stated that terrorism “cannot and should not be associated with any religion, nationality, civilisation or ethnic group”. (UN General Assembly, 2007: Res 61/171, preamble; UN General Assembly, 2008: Res 62/159, preamble)

The UN also had to incorporate the new developments in terrorism into its counter-terrorism program and activities, for example through the creation of new counter-terrorism structures. As stated in Chapter 5, especially after 2001, the UNSC embarked on a decisive campaign in order to counter the manifestations of what was considered a new kind of terrorism. In this respect, the CTC was created in 2001, the CTED in 2004 and the CTITF in 2005, and these structures were tasked with designing the UN counter-terrorism program and with coordinating its implementation.

In conclusion, the UN had to take cognisance of the above developments in the field of international terrorism, take them into account in its activities regarding peace and security issues, and this has contributed to mould its perspective on the issue.

The following section will investigate how the end of the era of anti-colonial struggles served to contribute to the change in perspective of the UN on terrorism.

3. The Demise of National Liberation Movements

The near-completion of the process of decolonisation around 1980 largely removed the dilemma of the legitimacy of political violence in national liberation struggles from the UN agenda. This assisted the world body to change its perspective on terrorism towards increasingly taking action against the manifestations of terrorism.

3.1 United Nations Support of National Liberation Movements

Together with peace and security, development, and human rights, the idea of the right to political self-determination was one of the four main ideals enshrined in the UN Charter. This followed after the League of Nations supported the idea of national self-determination and after the US, a critic of European imperialism, took the initiative in the establishment of a new global security institution after World War II.

As discussed in Chapter 3, the wars of national liberation during the 1950s, 1960s and 1970s were mainly associated with guerrilla warfare, insurgency and terrorism. This not only testified to the revolutionary intent of these wars, with the pursuit of radical political change the dominant aim, but also to the military weakness of the respective liberation movements. Meanwhile, the balance of world public opinion shifted against the perpetuation of Western authority in their colonial territories, where this authority rested on contested moral grounds. (Moran, 2006: 23, 32)

The UNGA, as barometer of world public opinion, was therefore well positioned to support the various struggles for national liberation in territories forming part of Western empires. Already in 1952 the UNGA adopted a resolution which stated that the right of peoples and nations to self-determination is a prerequisite to fundamental human rights, and that UN members “shall recognise and promote the realisation of the right of self-determination of the peoples of Non-Self Governing and Trust Territories who are under their administration...” (UN General Assembly, 1952. Res 637(VII), para 2) This was

followed by the adoption of the landmark Declaration on the Granting of Independence to Colonial Countries and Peoples (UN General Assembly, 1960: Res 1514(XV)) which led to the establishment of a “Decolonisation Committee”. This committee then maintained a close relationship with the Liberation Committee of the OAU regarding the activities of liberation movements in the remaining European political dependencies in Africa. (Sellstrom, 2009: 112-113)

In conjunction with the above, and as stated in Chapter 4, the earlier resolutions adopted by the UNGA on terrorism consistently referred to the legitimacy of national liberation struggles and the inalienable right of political self-determination. The UNGA strongly defended the inherent right to self-determination and the legitimacy of liberation struggles since terrorism was first discussed by the UNGA in the early 1970s. By the 1980s, when most former colonial territories had attained political independence, the UNGA responded in reconsidering and amending its acceptance of the use of force by liberation movements and in 1985 it condemned terrorism “wherever and whomever committed” for the first time. However, it was only a decade later that references to the legitimacy of liberation struggles were removed from UN resolutions and UNGA Resolution 44/29 was the last to mention the subject. (UN General Assembly, 1989, Res 44/29)

Despite this condemnation of terrorism by the UNGA, most Arab states, motivated by the struggle for the liberation of Palestine, continued to advocate the right to use force by liberation movements in order to obtain political objectives. As such, Libya requested that the Geneva Declaration on Terrorism, adopted by a conference of the International Progress Organization (IPO), be circulated as a UNGA document. In a reflection of the viewpoints on terrorism of these countries, it stated that terrorism originated from “the statist system of structural violence and domination that denies the right of self-determination to peoples”, and that “real terrorism is founded in the imposition of the will of the powerful states upon the weak by means of economic, political, cultural and military domination”. (UN General Assembly, 1987: A/42/ 307)

3.2 The Effect of the End of Decolonisation on the United Nations Perspective on Terrorism

Following the end of most national liberation struggles, which were perceived as legitimate by the majority of UN member states, the UN was freed of maintaining an ambivalent policy towards terrorism. This ambivalence was characterised by continued support to these struggles for national self-determination without condemning the terrorist acts committed by liberation movements. With the gaining of political independence by most former colonies, the UN could proceed to “unequivocally” condemn all acts, methods and practices of terrorism “in all its forms and manifestations, wherever and by whomever committed”, (UN General Assembly, 1993: Res 48/122) without including a reference reaffirming the right to self-determination. This less favourable view of the UN towards liberation movements was also facilitated by the end of the Cold War when non-state entities became security actors subjected to UN measures aimed at safeguarding international peace and security.

The end of the era of national liberation struggles and the gaining of independence by former colonies mostly ended the earlier debate on the root causes of terrorism at the UN. However, movements considering themselves as liberation movements, such as the separatist organisation ETA in Spain, or the National Liberation Army of Sudan (SPLA), in Sudan, continued their activities. Meanwhile, as the manifestations of new terrorism became more visible and threatening since the mid-1980s, the UN invested in the design of a global counter-terrorism strategy which revisited the root causes of terrorism and which were incorporated into a more holistic perspective on the subject.

The following section will investigate and analyse the changes in international security after the end of the Cold War and the subsequent impact of these on the UN perspective on international terrorism.

4. Changes in the International Security Environment

Changes in national and international security and security-related issues since the end of the Cold War, including the emphasis on non-military threats, also contributed to a change in the threat perception of the UN. As a result, the UN adjusted its focus in terms of peace and security towards issues such as intrastate conflict; its involvement in peace operations; countering ethnic conflict; the protection of human rights and human security; the promotion of democracy and good governance; and humanitarian intervention.

4.1 The Characteristics of Post-Cold War Security

As stated in Chapter 2, already during the Cold War there was concern among academics about the narrow focus on military and nuclear issues and this led to discussions on the possibilities of broadening the concept of security. As a result, the end of the Cold War was followed by a new interest in the principles of security and an awareness of the need to widen the concept of national security to increasingly include non-military threats. It was therefore suggested firstly, that, in addition to the military domain, threats in the political sector, economic sector, societal sector and the environmental sector, should be included as security concerns. (Buzan, *et al.* 1998: 22, 23) Secondly, the referent object of security should also include the individual, in addition to the state and the international system. (Sheehan, 2005: 44)

An important feature of the new, less ideological security environment was a change in the nature of conflict which manifested itself as a shift away from conflict between states towards predominantly intrastate conflict. As such, the sudden manifestations of ethnicity during the wars of succession in the Balkans in the early 1990s, as well as civil wars in some African countries, exposed civilian populations to state violence or genocide. Amid the vacuum left by the end of the East-West ideological conflict, these conflicts led to an increase in the relevance of religious beliefs, collective and cultural identity and of human rights issues in security affairs. (Katzenstein, 1996: 7)

In addition, the post-Cold War security environment also allowed for the proliferation of non-state actors in international security affairs and for the emergence of new transnational security threats. This was equally evident in the field of international terrorism with the appearance of the transnational Al Qaeda network. In addition, actors such as human rights advocates; gender activists; indigenous peoples; and an array of Non Governmental Organisations (NGO) became active in contexts which were previously thought to be the exclusive domain of states. (Weiss & Daws, 2007: 6) With the removal of the Cold War conflict, new transnational security threats emerged within the international system and some, such as terrorism, organised crime and arms-and drug trafficking, directly called the authority of the state into question. As stated in Chapter 2, the manifestation of these transnational security threats was facilitated by changes in the international system, including the process of globalisation and advances in information technology, and this made it increasingly difficult for states to deal with new, non-territorial security problems by way of traditional state-centered responses. (Sheehan, 2005: 23)

The gradual realisation by states that the new security threats could be countered more effectively through international cooperation, and no longer primarily by the use of military power, led to a revival in multilateral cooperation. (Snyder, 2008: 8) As such, the changes in the perception and manifestation of new security issues after the end of the Cold War had a profound effect on the role of the UN in terms of its responsibilities regarding international peace and security. Especially the shift from interstate conflict to intrastate conflict has had a determining influence on the activities of the UN as this created various humanitarian challenges in weak states and opened up new opportunities for UN intervention.

In summary, the above developments led the UN to change its perception of security threats from the emphasis on military threats during the Cold War period towards an emphasis on broader, non-military, security threats.

4.2 The Effect of Security Developments on the United Nations Perspective on Terrorism

The new security architecture of the post-Cold War context, especially the predominance of intrastate conflict, fundamentally changed the traditional, collective security role of the UN. As the only global body concerned with security issues, including international terrorism, the UN reacted to these changes, both in terms of policy and in relation to the actions it took aimed at safeguarding or re-establishing peace and security. In addition, the UNSC broadened its interpretation of the concept of security to include non-military threats to international peace and security, which facilitated greater intervention on different levels by the world body.

The above developments were reflected in important UN policy documents, as well as in resolutions adopted by the UNSC and the UNGA. For instance, resolutions adopted by the UNSC pertaining to international terrorism frequently reflected the changes in the international security environment, and the determination by the UNSC that international terrorism constituted a threat to international peace and security, demonstrated the rise of non-state actors as important security actors in the prevailing security environment. After the 9/11 attacks, the UNGA stated that the world was witness to “historic and far-reaching transformations”, in the course of which forces of “aggressive nationalism and religions and ethnic extremisms” have produced new challenges. (UN General Assembly, 2002: Res 56/160, preamble) In addition, the emergence in 1993 of the “human rights and terrorism” stream of UNGA resolutions (1993-2008) confirmed the importance of human rights and human security issues as part of the post-Cold War agenda where the focus moved away from predominantly military security issues.

In a related development, the broadening of security to include non-military issues, led the UNSC to include a focus on thematic issues that were not directly linked to a specific conflict. In this respect, the UNSC adopted resolutions on the protection of civilians in armed conflict; (UN Security Council, 1999: Res 1265) on the impact of HIV/AIDS; (UN Security Council, 2000: Res 1308) the protection of children in armed

conflict; (UN Security Council, 2000: Res 1314; UN Security Council, 2005: Res 1612) and women and peace and security. (UN Security Council, 2000: Res 1325)

In conclusion, the different aspects of the post-Cold War security environment, especially the intrastate nature of conflict in which civilians became the main targets, encouraged the development of the concept of human security. It also created pressure on governments and the UN to take human security into account in policy responses to threats to international peace and security, including those posed by terrorism. (MacFarlane & Khong, 2006: 8-9)

The following section will discuss how the new, broader UN focus on security issues led the UN to expand its activities in terms of non-military security-related aspects, a development which contributed to the gradual expansion of a more holistic UN perspective on the prevention and countering of terrorism.

5. The Change of the United Nations Focus towards Non-Military Security Issues

During the 1990s, the UNSC started to move beyond its traditional conception of security threats and determining that domestic violations of human rights also constituted threats to international peace and security. As such, the UN system became involved in an array of activities which, on the one hand, led it to devise and adopt a more holistic perspective on terrorism and, on the other hand, to counter terrorism through taking action on different levels.

5.1 United Nations Protection of Human Rights

The protection of human rights has been a main objective of the UN since its founding, and the organisation has been successful in the development of international human rights norms. Starting with the 1948 Universal Declaration of Human Rights, the UN has

developed an international code of human rights, governing almost all areas of the relationship between the individual and the state. (Ramcharan, 2006: 443) In this endeavor the UN had to deal with the fact that the guarantee of human rights has traditionally been a subject of domestic jurisdiction, which made international authority in the area controversial. However, in the post-Cold War period, there has been a transition from purely domestic jurisdiction in terms of human rights towards international concerns about the standards and instruments for the implementation and enforcement of human rights criteria. (Bennett & Oliver, 2002: 409-411)

The post-Cold War security environment especially highlighted the human impact of war and thereby encouraged the development of the concept of human security where the security of humans, rather than states, is emphasised. This has made human security a main objective of the UN by placing the individual, subjected to an array of security threats, including terrorism, at the centre of its understanding of threats to international peace and security. (MacFarlane & Khong, 2006: 8-9)

In addition, although the UN has long considered terrorism as aimed at the destruction of human rights, fundamental freedoms and democracy, respect for human rights has formed an integral part of the UN counter-terrorism thinking. As such, the UNGA stream of resolutions on “human rights and terrorism” expressed concern for the human rights of both the victims of terrorism and of the perpetrators of terrorist acts. In a further development against the background of the US-led global war on terrorism, the UNGA tasked the UN High Commissioner for Human Rights to investigate and report on the issue of protecting human rights and fundamental freedoms while countering terrorism. (UN General Assembly, 2004: A/59/428; UN General Assembly, 2007: A/62/263) The violation of human rights through terrorist acts also opened the way for the creation of *ad hoc* tribunals responsible for addressing “crimes against humanity”.

5.2 United Nations Involvement in Peacekeeping

The changes in the patterns of political violence in the post-Cold War era forced the UN to shift its original focus from military conflict between states towards the managing of intrastate warfare. (Weiss & Daws, 2007: 5) The outbreak of civil wars, which often coincided with an upsurge in ethno-nationalism crossing national boundaries, presented the UN with substantial challenges in terms of peacekeeping and post-conflict peacebuilding, and required extended periods of international involvement in order to rebuild state capacity. In addition, the UNSC, freed from the Cold War ideological deadlock, had the capacity to agree on the action to be taken in particular crisis situations and there was optimism that the UN could play a significant role in preventing conflict through assisting the development of democracy and human rights. (O'Neill & Rees, 2005: 38)

In contrast with traditional peacekeeping, which usually involved the monitoring of a specific cease-fire, the new era of peacekeeping operations included nation-building and were complex operations characterised by multifunctionality. As such, the UN had to assume various non-military tasks, including conflict prevention; providing humanitarian assistance; decommissioning arms; demobilising combatants; monitoring elections; and supporting democratisation. (Dannreuther, 2007: 147) These new functions followed after the then UNSG, Boutros Boutros-Ghali, described the conceptual foundations of the future role of the UN in his report, An Agenda for Peace, which, in addition to preventive diplomacy, outlined four interconnected roles for the UN, namely peace-enforcement, peacemaking, peacekeeping and post-conflict reconstruction. (UN, 1992: A/47/277-S/24111)

As mentioned in Chapter 3, civilians became the main victims of the intrastate conflicts characteristic of the post-Cold War environment and humanitarian concerns raised expectations from the UN to play an active intervention role. This led to a substantial increase in the number of UN-mandated peacekeeping operations, even if these

conflicts rarely posed a strategic threat to the permanent members of the UNSC. However, despite some notable success in Namibia, El Salvador and Mozambique, the failures in Somalia and Bosnia tarnished the reputation of the UN. As a result, by the mid-1990s, the failure of these increasingly complex operations, as well as rapid escalation in costs, made the UNSC less willing to use this instrument. (Jett, 2001: 11)

5.3 The United Nations Role in Humanitarian Intervention

Humanitarian intervention, or the use of military force on the territory of a state without its consent with the goal of protecting innocent victims of large-scale atrocities, (Thakur, 2007: 388) stands in contrast with Article 2(7) of the UN Charter which prohibits the UN from intervening in matters that are essentially within the domestic jurisdiction of a member state. However, after the UN gave priority to state sovereignty during its first four decades, during the 1990s the UNSC endorsed the use of force aimed at humanitarian protection and assistance. This development was facilitated by the end of the Cold War which decreased fears that international action in defense of human rights would threaten the existing international peace. (Thakur, 2007: 391)

Even though the contestation between non-intervention and humanitarian intervention continued, the Report of the Panel on UN Peace Operations (Brahimi Report) of 2000 concluded that the protection of human rights was essential to effective peace-building. (UN, 2000: A/55/305/305-S/2000/809) This was followed by the report of the International Commission on Intervention and State Sovereignty (ICISS), sponsored by the Canadian Government, which concluded that sovereignty should be considered as a responsibility, rather than as a right, and that the most basic responsibility of a state is to protect its own citizens. Should a state fail to live up to this, the “responsibility to protect” shifts to the international community. (ICISS Report, 2001) Subsequently, the concept of the “responsibility to protect” populations from genocide, war crimes, ethnic cleansing and crimes against humanity was adopted by the 2005 UN World Summit. (UN General Assembly, 2005: Res 60/1, para 138-139)

In summary, the proliferation of new actors and new threats amid the process of globalisation led to the erosion of state sovereignty and the principle of non-intervention in domestic affairs was no longer considered as absolute. This allowed the UN to undertake operations of humanitarian intervention in situations of serious violations of human rights. The UN was also uniquely placed to use this instrument in managing or preventing internal conflicts, which included instances of terrorism, and the various operations led by the UN have attracted criticism for their effectiveness, but little criticism of their legitimacy. (Finnemore, 1996: 180-181)

5.4 United Nations Promotion of Democracy

The fostering of a particular form of domestic governance has never been a stated purpose of the UN, neither is democracy a precondition for UN membership. However, in considering the basic purposes of the organisation as set out in the preamble to the UN Charter, namely, to save succeeding generations from the scourge of war; to maintain respect for fundamental human rights; and to promote social progress and better standards of living, it becomes clear that democracy plays a role in achieving each of these goals. (Newman & Rich, 2004: 5-10) The UN's role in promoting democracy was also enhanced by the end of the Cold War and it was suddenly called upon to assume a more active role in conflict resolution, peacemaking and the protection of human rights. At the same time, the issues of governance and democracy became integral aspects of conflict resolution.

As a result, the UN has become involved in providing assistance in the conduct of democratic elections, an activity which reflected the principle of equal rights and self-determination set out in the UN Charter. With the adoption of a resolution by the UNGA aimed at enhancing the effectiveness of periodic elections in 1991, a UN structure was established for the provision of electoral assistance. (UN General Assembly, 1991: Res 46/137) However, due to continuing sensitivities around sovereignty and interference in domestic affairs, the UN's electoral assistance, especially in the beginning, was not without controversy. (Newman & Rich, 2004: 14)

Therefore, even if the UN was not previously aiming at promoting a specific form of internal governance, since the 1990s it has increasingly regarded democratisation as a means to serve its purposes, including the prevention of internal conflict, because it addresses exclusionary politics which could lead to violence, including terrorist acts. This argument was also confirmed by the then UNSG, Kofi Annan when he stated that, as a way to counter political dissent and violence, democratisation served to prevent conflict and to support the UN development agenda. (Annan, 2002: 139)

As such, the UN has accepted democracy as a universal value and has accepted that democracy, development and respect for human rights are interdependent and mutually reinforcing. In addition, the UN also made a linkage between democracy and terrorism in its counter-terrorism program in stating that the support provided to strengthen national anti-terrorism legislation supports progress in building democratic societies in new or restored democracies. (UN General Assembly, 2007: A/62/296, para 44)

5.5 Linkage made by the United Nations between Terrorism and Organised Crime

The UN has frequently established a link between international terrorism and transnational organised crime. In addition to pointing out in various resolutions of the UNSC and UNGA that the two phenomena enjoy a mutually beneficial relationship, other documentation also illustrates a firm conviction by the UN of the links between organised crime and terrorism. In this respect, the Vienna Declaration on Crime and Justice committed the UN to, in order to prevent and combat terrorism, take effective measures for “preventing and combating criminal activities carried out for the purpose of furthering terrorism in all its forms and manifestations”. (UN General Assembly, 2001: Res 55/59, para 19)

Likewise, the UN Convention against Transnational Organized Crime emphasised the concern of the UN over the growing links between transnational organised crime and “terrorist crimes”. (UN General Assembly, 2001: Res 55/25, preamble) The convention

called upon all states to recognise these links and to apply the convention in combating all forms of criminal activity. Significantly, a recommendation is made that the *ad hoc* committee responsible for developing a convention on international terrorism should take the provisions of the Convention against Transnational Organized Crime into consideration. (UN General Assembly, 2001: Res 55/25, para 7)

5.6 Creation of Judicial Institutions to Prosecute Human Rights Violations

Due to the importance of human rights as a cornerstone of the UN, acts of terrorism have been considered as grave violations of humanitarian law. In addition to the establishment of specific counter-terrorism institutions, the frequent recurrence of crimes against humanity in the 1990s, led international society to react by creating judicial institutions aimed at prosecuting individuals responsible for grave violations of human rights. The underlying logic for the creation of these tribunals was that gross violations of international humanitarian law had to be addressed to obtain lasting peace in post-conflict societies. Although terrorist acts are not directly mentioned in the establishment of these tribunals, they can be conceived as crimes against humanity because terrorism represents direct and planned attacks on civilians. An additional motive for the application of judicial procedures against suspected terrorists, was the linkage made by the UN between international terrorism and criminal activities.

5.6.1 Establishment of the International Criminal Court

Concern by states and NGO's about the selectivity of justice in cases where the UNSC chose not to take action, led to a process of establishing an international criminal court with universal jurisdiction. (MacFarlane & Khong, 2006: 192) The creation of the court started in 1989 when the UNGA requested the International Law Commission (ILC) to investigate the establishment of an international criminal court. (Goldstone, 2007: 473) The Rome Statute of the International Criminal Court, adopted on 17 July 1998 to prosecute individuals for genocide, crimes against humanity, war crimes and crimes of aggression (Article 5), subsequently created the International Criminal Court (ICC).

During the drafting of the statute a number of states, including Israel and Turkey, proposed the inclusion of the “crime of terrorism” but this was rejected because of definitional difficulties. (Simpson, 2003: 28)

The ICC may not try governments; only has jurisdiction over individuals; and has no jurisdiction directly related to international terrorism. Where non-state parties who do not accept the jurisdiction of the ICC are involved, the case must be referred by the UNSC, acting under Chapter VII of the UN Charter. The act under investigation must have occurred in the territory of a state party to the Rome Statute, or the accused must be a national of a state party. (Wiharta, 2004: 192-193) According to the Rome Statute, the principle of complementarity is built into the ICC statute, meaning that the jurisdiction of national courts displaces that of the ICC when national jurisdictions are willing and able to prosecute. The ICC can therefore only step in if domestic legal systems are “unable or unwilling” to investigate and prosecute suspects. (UN, 1998: A/CONF.183/9, Article 17) The ICC is not a constituent body of the UN and their relationship is based upon a working partnership set out in a formal agreement. (UN General Assembly, 2004: Res 58/318). Of importance is to note that the US does not support the ICC and has preferred to sign bilateral immunity agreements by which the US and co-signatories pledge not to surrender nationals to the ICC. (Goldstone, 2007: 475)

5.6.2 *Ad hoc* Tribunals for Yugoslavia and Rwanda

While the UN has assisted in setting up special courts to investigate violations of international humanitarian law in Sierra Leone, East Timor, Kosovo, Bosnia and Herzegovina, Cambodia and Lebanon, only the *ad hoc* tribunals for the former Yugoslavia and for Rwanda were created as sub-organs of the UNSC. The International Criminal Tribunal for the Former Yugoslavia (ICTY) was established after the UNSC determined that the continuing widespread violations of international humanitarian law in the country constituted a threat to international peace and security. (UN Security Council, 1993: Res 808) The ICTY was subsequently established in May 1993 with jurisdiction over grave breaches of humanitarian law committed on the territory of the

former Yugoslavia since 1991. (UN Security Council, 1993: Res 827) The International Criminal Tribunal for Rwanda (ICTR) was created for the prosecution of persons responsible for genocide and other serious violations of international humanitarian law committed in Rwanda in 1994 and for the prosecution of Rwandan nationals who committed such violations in neighbouring states. (UN Security Council, 1994: Res 955)

In contrast with the ICC, the statutes of the ICTY and ICTR specified that these tribunals had primacy over national courts. This contributed to the difficulties experienced by these tribunals, in addition to those in terms of legitimacy, autonomy and procedures. However, they were designed to be temporary judicial institutions and were requested by the UNSC to terminate their activities by the end of 2010. (Wiharta, 2004: 192) Since their creation both these tribunals contributed to the development and application of international criminal law, also because the UNSC resolutions did not mandate particular rules of evidence and procedures and the elected judges had to devise the appropriate regulations themselves. (Goldstone, 2007: 466)

In conclusion, although these judicial institutions do not have direct jurisdiction over terrorist crimes, they contributed to address violations of international humanitarian law and, in the cases of the ICTY and the ICTR, contributed to the field of post-conflict justice. Regarding the ICC, it created a permanent institutional apparatus for addressing crimes against humanity and might eventually provide an appropriate and convenient court for the trying of terrorists.

The following section will discuss the important role played by entities, movements, groups and individuals from outside the formal UN framework in contributing to the changing of the UN perspective on terrorism.

6. The Involvement and Influence of Non-United Nations Entities

In addition to the activities of the formal UN structures, the world body has traditionally engaged with entities outside the UN, often called panels of experts, in order to obtain

new information and ideas on UN activities. This was mostly the case when subjects were of a technical or scientific nature and the UN itself lacked sufficient knowledge in the area. These entities may consist of NGO's, academics, consultants, independent commissions or other groups of individuals and their functions include advocacy, research, policy analysis or idea mongering. (Weiss, *et al.* 2009: 124)

In relation to the subject of terrorism, the Policy Working Group on the UN and Terrorism, appointed by the UNSG, Annan, in October 2001, formed part of this trend. The appointment of the working group, shortly after the 9/11 attacks, demonstrated an increase in the demand for expertise after the sudden change in the nature of terrorist attacks and of uncertainty on how the UN should respond to this threat. Another example is the Monitoring Groups which were constituted by the CTC in order to monitoring the implementation of the 1267 sanctions regime against Al Qaeda and the Taliban when the UN realised that it needed persons with expertise on the different elements playing a role in the implementation of the sanctions. This was also the case with the convening of the High-level Panel on Threats, Challenges and Change in 2004 which aimed to guide the UN in managing threats in the evolving post-Cold War international security environment.

Regarding global civil society, the UN has formed partnerships with NGO's to overcome its state-centered character with the aim of enhancing its legitimacy and Chapter 71 of the UN Charter empowers the Economic and Social Council (ECOSOC) to grant them consultative status. This civil society participation in the UN expanded significantly during the 1990s and enabled them to influence almost all aspects of significant UN policymaking. In turn, global civil society actors have engaged with the UN in order to offer their expertise and to win support for issues they consider important by gaining a foothold in global governance. (Wapner, 2007: 257, 259) These external influences in the functioning of the formal UN structures was mostly driven by the expansion of global civil society which challenged traditional multilateralism and acted as a leading force of norm-setting in the post-Cold War era.

In summary, these entities consist of social movements aimed at expanding globalisation; movements or groups coalescing around a universal moral principle; and knowledge-based communities consisting of both policy actors and issue specialists aimed at exploring and advancing ideas on change in a specific area. (Acharya, 2006: 107) The involvement of these external entities has also contributed to mould the UN perspective on terrorism as it allowed for the putting across of new ideas on a controversial issue. As such, in suggesting different approaches which may be considered undesirable by some member states, these independent actors brought new perspectives to the UN agenda. They also contributed significantly to the redefinition of the security role of the UN towards emphasising human security, in contrast with its traditional focus on state and national security. (Acharya, 2006: 108)

In conclusion, these external role payers reflected the shift in international morality as international circumstances evolved after the Cold War. An important element of this new morality was a concern about human rights and human security issues and which contributed to influence the UN attitude towards terrorism and counter-terrorism.

7. Conclusion

Since its establishment in 1945, the UN has demonstrated continuity and change as it adapted to international dynamics in the pursuit of its main objectives as set out in the UN Charter. Because the UN does not exist in isolation from the world it attempts to serve, it had to adapt to evolving security challenges, including that posed by terrorism. Because terrorism is aimed at creating insecurity and fear at the expense of innocent persons, the UN has adjusted its perspective on this form of political violence from an initial ambivalent view during the era of national liberation struggles towards a total condemnation of terrorism as an assault on human rights, democracy and the rule of law. As such, after the UNSC first condemned terrorism in 1985, it has steadily expanded its understanding of events and issues causing instability in the international system and in 1992 the UNSC for the first time determined that international terrorism constituted a threat to peace and security.

During the era of national liberation struggles the UN experienced difficulty in debating the root causes of terrorism while it considered political self-determination and the process of decolonisation as priority issues. In this respect, the issue of the legitimate use of force in obtaining these goals proved to be controversial and politically divisive. Even after most colonies attaining political independence by 1980, the UN continued to struggle to reach a consensus definition of terrorism. However, as the negative effects of terrorist activities manifested themselves worldwide, followed by changes in the nature of terrorism as from the mid-1980s, the UN perspective changed towards a focus on devising a sustainable global counter-terrorism strategy.

Security-related developments after the end of the Cold War also contributed towards the gradual changing of the UN perspective on terrorism in leading the organisation towards a focus on non-military security threats. This had the effect of involving the whole spectrum of the UN system in an array of issues considered as contributing to the prevention of and countering instances of terrorism. The engagement of the broader UN structure in counter-terrorism activities was aided by the incorporation of the suggestions and ideas of a variety of external groups and entities into the policy formulation processes of the world organisation. These external influences reflected a new international morality, also in terms of the punishment of crimes against humanity, and thereby aided the UN in changing its perspective on terrorism.

In the aftermath of the 9/11 terrorist attacks, the UN system started to consider terrorism and efforts to counter it as a priority issue. However, as the UNSC designed its counter-terrorism structures, it became evident that the root causes of terrorism also had to be considered and be addressed. With the adoption of the UN Global Counter-Terrorism Strategy in 2006, the UN incorporated its earlier perspective on terrorism into an all-inclusive, holistic view on the issue. This changed perspective then guided the UN towards addressing both the causes and the manifestations of terrorism as an ongoing and pervasive security threat.

Chapter 8: Evaluation

1. Summary

The main objective of the research, as set out in the introductory chapter, was firstly to identify developments causing the UN to change its views on international terrorism. Secondly, the study aimed at determining the main characteristics of the UN's changed view by investigating the manner in which the UN viewed and treated the subject of terrorism since it first appeared on the UN agenda in the 1970s, until the end of 2008. Thirdly, the objective of the research was to explore the evolvement of the counter-terrorism policy of the UN, with specific reference to the post-9/11 period.

In addition, the rationale for the study was to supplement the limited existing literature regarding the reasons underlying the response of the UN to terrorism since this was incorporated in the UN agenda. To this end, the study made use of description, analyses and comparison as research methods and it mainly used primary sources in the form of UN documentation.

In order to reach the objectives of the research, the study focused on changes in the international security environment since the end of the Cold War and on changes in terrorism since the mid-1980s in terms of motivation, characteristics and the application of the phenomenon as a strategy of political violence. In addition, the study described the development and functioning of the UN institutions most relevant to its counter-terrorism program and the actions taken by these institutions, primarily during the post-9/11 period up to the end of 2008. This was mainly achieved by analysing the resolutions adopted by the UNSC and UNGA relevant to terrorism, the UN conventions against terrorism, as well as other important UN policy documents. The objective of the analyses was to illustrate how the UN as organisation has changed its perspective on terrorism and to determine what factors led to this change, taking into account the influence of its most powerful members, especially that of the US.

Chapter 2 of the research presented a theoretical framework of security and international security, respectively in a Cold War and in a post-Cold War context. It then investigated the changes in the global security arena since the end of the Cold War, including the demise of the former USSR. These events led to an acceptance of the decline of the importance of military affairs in international relations; a new interest in the principles of security; and the broadening of the concept to increasingly include non-military aspects. Together with the broadening of the concept of security, the post-Cold War global environment was characterised by a different international security dispensation which led to a change in the role of the UN. Lastly, the end of a bipolar international power structure, which left the US as the only remaining superpower, and the emergence of an array of diverse security threats to which the UN had to respond, were discussed. These threats, of which international terrorism formed an important element, constituted a new security agenda in the post-Cold War international system which was predominantly non-military in nature.

In Chapter 3 the changes in terrorism as a political phenomenon since the mid-1980s were investigated in order to determine whether it has changed in terms of motivation, strategy and structure since the end of the Cold War. It was argued that a “new” kind of terrorism had developed which was predominantly religiously motivated; global in reach; and aimed at causing mass destruction – assumptions which seemed to have been confirmed by the 9/11 attacks on the US. To this effect, the lack of consensus on a definition of terrorism and the distinction between domestic, international and transnational terrorism were discussed. Secondly, the distinctions between the different forms of irregular warfare were discussed in order to demonstrate how terrorism relates to, and complements, these strategies of warfare. Finally, a conceptual framework of terrorism in terms of its traditional manifestations and in terms of a new, more destructive kind of terrorism, was provided in order to determine how the phenomenon has changed.

Chapter 4 discusses and analysis the development of the perspective of the UN on terrorism during the period from the 1960s until before the 9/11 attacks. To this effect, it described the earlier attempts by the UN to address terrorism, firstly against the background of the anti-colonial struggles from the late 1950s to the middle 1970s when the UNGA attempted to protect the activities of national liberation movements. During this period the UN continuously experienced difficulty in distinguishing between terrorist acts and the acts of violence perpetrated in the name of political self-determination. Secondly, during the post-Cold War period until September 2001, the international security environment underwent profound changes, also relating to the use of terrorism as a political instrument. In order to analyse the above-mentioned developments, resolutions adopted by the UNSC and the UNGA, as well as the development of UN conventions and protocols on terrorism during these periods, were discussed. The objective of the analysis was to determine and assess the views of the UN on terrorism, as well as to identify specific reasons or circumstances that led the UN to change its perspective on terrorism during this period.

In Chapter 5 the post-9/11 UN perspective on terrorism was discussed by, firstly, providing an overview of the different UN institutions involved in countering terrorism. These include the UNSC and its special committees, the CTC, CTED, the 1267 Committee and the 1540 Committee; the UNGA; the UNSG; the Secretariat; and specialised agencies such as UNODC and its dependent institution, the TPB. The chapter then investigated how the UN perspective on terrorism has changed since 9/11 by discussing the resolutions adopted by respectively the UNSC and the UNGA on terrorism during the post-9/11 period until the end of 2008. These resolutions included UNSC Resolution 1373 which became the cornerstone of UNSC action against terrorism, and UNGA Resolution 60/288 which sets out the UN Global Counter-Terrorism Strategy. Lastly, additional UN documentation relating to terrorism was discussed in order to demonstrate the sustained involvement of the UN with the subject.

In Chapter 6 the specific actions taken by the UN in countering terrorism in terms of the mandating of sanctions regimes against certain UN member states and non-state entities supportive of terrorist activities, were analysed. The mandating of these sanctions was indicative of the changed UN perspective on terrorism as the UNSC for the first time, in 1992, identified terrorism as a threat to international peace and security. The UNSC therefore considered the prevention and suppression of terrorist acts as essential for the maintenance of international peace and security and, in response to terrorist acts, mandated “targeted” sanctions which were aimed at limiting the capacity of certain political actors to undertake actions deemed as undesirable. To this effect, the sanctions regimes against Libya (1992-2003); Sudan (1996-2001); the Taliban regime in Afghanistan and the Al Qaeda global terrorist network (1999-); and against suspects involved in the assassination of former Lebanese Prime Minister, Rafik Hariri (2005-), were discussed. The chapter concluded that these sanctions served as a valuable instrument to change the behaviour of UN member states supportive of international terrorism but were less effective against the transnational Al Qaeda terrorist network.

Chapter 7 summarises the main reasons for the gradual change in the perspective of the UN on terrorism. Firstly, the manifestation of terrorism as a security threat started to change in the mid-1980s and continued in the post-Cold War period. These changes led the UN to reconsider the causes of terrorism and the manner in which it was to be countered. Secondly, the international security environment after the Cold War led to new perspectives on national and international security and the role of multilateral organisations in countering the new transnational security threats. In the third place, the near-completion of the process of decolonisation by the early 1980s freed the UN from the dilemma of defending the activities of national liberation movements while refraining from condemning their activities which constituted acts of terrorism. Lastly, the almost continuous influence of actors outside the formal UN framework on policymaking and on the perspectives held by the world body, contributed markedly to shape the activities and views of the UN relating to the controversial issue of terrorism.

2. Testing of the Assumptions on which the Study was Based

The assumptions as formulated in Chapter 1, are evaluated below.

Assumption: The UN remains sensitive to the pressure of its most powerful members, especially from the US as the only superpower, also in determining its counter-terrorism priorities.

During the Cold War, the US had to deal with resentment from the anti-colonial majority of UN-members on the one hand, and with the former USSR, who was skeptical about international institutions, on the other hand, and by the 1960s the original US commitment to the UN as institution started to decrease. As a result, the US viewed the UN mainly as a valuable diplomatic channel for contact between the two superpowers and as a forum for humanitarian programs and peacekeeping. (Bloomfield, 1966: 357) After the Cold War, the US became the sole superpower and it often failed to recognise the benefits of the UN in channeling US power, conferring a degree of legitimacy on US policies and thereby enhancing its national security. However, as interdependence among states increased, it also became clear that the US would not be able to resolve security problems alone and that the UN could serve as a useful forum to garner international cooperation in countering new global challenges. This was also the case in terms of the campaign against international terrorism. In this sense the UN could provide legitimacy to US initiatives and assist in mitigating the costs of US strategies by absorbing some international resentment towards the global leadership role of the US. (Brooks & Wohlforth, 2009: 49-52)

The interest of the UNSC in discussing issues relating to international terrorism increased as the US more frequently became the target of terrorist attacks by global Islamic extremists during the 1990s. For example, after the US became the target of truck bombings abroad, it led the negotiation process of the International Convention for the Suppression of Terrorist Bombings which enabled it to prosecute perpetrators in US

courts. (Witten, 1998: 778) During this period the US took a leading role in UN counter-terrorism actions, even though it maintained an ambivalent attitude towards the world body in whose creation the US played an instrumental role. However, despite the occasional US antipathy towards the UN, the US also played a leading role in countering the possible use of non-conventional weapons as it was particularly concerned that states supporting international terrorism might provide terrorist groups with non-conventional weapons. (De Jonge Oudraat, 2004: 152)

In its counter-terrorism actions, the UNSC frequently reflected the influence of US national security priorities and perceptions when the US choose to take the lead to counter what was perceived to be a specific terrorist threat. This often took place in close cooperation with allies, such as the UK in the case of mandating sanctions against Libya, when the UN provided a structural context to define and coordinate their policies. However, the most prominent of these cases was the adoption of UNSC Resolution 1373 on the motion of the US, when it succeeded in transforming US-sponsored counter-terrorism measures into legally binding international commitments. The adoption of Resolution 1373 also demonstrated that the absence of consensus on a definition of terrorism allowed the US and other permanent UNSC members to pursue counter-terrorism measures which reflected and advanced their own national security perceptions.

This was especially the case after the 9/11 attacks which led the Bush Administration (2000-2008) to a re-evaluation of US national security policy and which defined international terrorism as its first security priority. Thus, the 2002 National Security Strategy referred to “shadowy networks of individuals” and to rogue states and stated that, in order to prevent hostile attacks, the US will act pre-emptively if necessary. This policy of preventive war was in conflict with basic principles of the UN Charter such as non-aggression and respect for sovereignty. (Ryan, 2006: 173-174) However, the US also realised that its goals in countering terrorism could only be achieved through multilateral action. In this respect, one of the consequences of the 9/11 attacks was a close working relationship between the US and the UN on the issue of international

terrorism as the US utilised the UN system as a platform for global dialogue and to facilitate counter-terrorism cooperation in parallel with own initiatives in order to serve the US national strategy.

Historically the US has often sought to satisfy short-term political goals through the UN system. At the same time, no US president has completely accepted the primacy of UN Charter principles on collective security when they were in conflict with perceived vital US interests. This is evident in the selective engagement of the US with the UN, entailing cooperation when interests overlap but the marginalisation of the UN when the world body appears to affect US interests negatively. (Ryan, 2006: 185) However, the 9/11 attacks proved that the US as superpower will remain a target of terrorist groups and this led the US to re-evaluate its cooperation with the UN. It is therefore in the interest of the US to support UN actions to counter terrorism if it wants to build a long term coalition to serve its stated purpose of countering international terrorism. The assumption about the role of the US as formulated above can therefore be validated.

Assumption: The UN system has been able to address the phenomenon of terrorism in a variety of ways but its role remains supportive rather than operational and success in this respect is difficult to measure.

As an institution consisting of sovereign states and which often reflects state interests, the UN as organisation lacks capacity in terms of enforcement mechanisms in order to play a decisive counter-terrorism role. In this respect, terrorism remains a problem to be countered mainly through the law enforcement agencies of member states, even though the UN plays an important supportive role in, for example, providing technical assistance in the drafting of national terrorism legislation. In addition, in its reaction to the manifestations of terrorism in the international system, the UNSC mandated sanctions regimes under Chapter VII of the UN Charter. These sanctions regimes stigmatised terrorism as criminal and illegal but proved to be difficult to implement against non-state actors. (De Jonge Oudraat, 2004: 158) Therefore, because they could

not be fully enforced, they rather served to emphasise the importance of international cooperation in counter-terrorism efforts and the role of the UN in coordinating these global initiatives.

The UN counter-terrorism policies adopted after the 9/11 attacks were also evident of the supportive role of the UN. These included the freezing of assets of terrorist groups and the tightening of border controls or overseeing the transport of arms. These and other policies were distributed throughout the UN system, and all relevant UN bodies re-evaluated their focus on countering terrorist activities. Despite these initiatives by the UN to criminalise terrorism and to foster multilateral crime-fighting measures, close operational cooperation between individual states remains the key to the effective combating of terrorism.

The success of UN counter-terrorism activities could be measured by the effectiveness of the implementation of the UN Global Counter-Terrorism Strategy but this subject has not yet been fully researched. (Schmid, 2011: 77) However, it can be stated that progress in its implementation has been hampered by the failure to agree on a consensus definition of terrorism as a political phenomenon. In the large volume of UN documents on the subject, the issue of a definition has been treated in half measures or completely ignored, even though the UN was able to make progress in proceeding to adopt a counter-terrorism policy without such a definition. The absence of a clear target of UN counter-terrorism policy has thus led to some impediments in the implementation of its policy guidelines in this respect.

Secondly, and complementary to the problem of a lack of definition of terrorism, the willingness of its members to use the UNGA as a forum for discussing and cooperating in countering global security issues, most of which were virtually unknown when the UN was founded in 1945, has been hampered by political considerations. In this respect, the difference in outlook between developed and developing countries, as well as between African, Arab and Asian regional views, has complicated the reaching of global consensus on security threats, including terrorism, which is necessary for effective

counter measures. As such, the UN has not been able to compel its members to fully utilise the existing UN structures for consensus on counter-terrorism initiatives and the organisation has been hampered by the North–South divide in its structure, as at times represented respectively by the UNSC and the UNGA, and the pursuit of two different forms of world order. The one, represented by the enforcement actions of the UNSC, led by the US and other world powers, and the other by the policy prescriptions on terrorism by the UNGA. In addition, UN counter-terrorism activities have been constrained by opposition from certain UN support constituencies who opposed the diversion of resources from the UN development agenda towards its security agenda. (Thakur, 2006: 187)

The UN's supportive role in counter-terrorism is also evident through its role relating to so-called "soft" security issues, such as furthering its development agenda; assisting in processes of democratisation; and the protection of human rights. In this respect, it serves as a platform for the exchange of best practice between member states. Its supportive role is further demonstrated in that the UN forms an important part of the process to legitimise actions taken by states in combating terrorism. As a diverse organisation active in various fields, the UN has therefore been able to contribute to addressing some of the underlying conditions that may lead to terrorism, including through technical assistance programs and cooperation with regional institutions.

Although the UN can therefore contribute in different ways to address the multidimensional issue of terrorism, it is unable to replace the functions of national law enforcement agencies; to properly serve as mechanism for intelligence collection and sharing; or to facilitate operational cooperation between member states and regional institutions. Instead, its counter-terrorism role remains supportive and the assumption about the role of the UN in addressing terrorism as formulated above can therefore be confirmed.

Assumption: The most useful contribution in counter-terrorism made by the UN is the creation of a legal regime and norm-setting in terms of the identification and prevention of terrorist acts.

The UN consists of a complex system which carries out a diversity of activities and functions. One of these functions is norm setting and a number of UN agencies are engaged in generating prescriptive statements or norms in the form of guidelines, principles, standards and rules. Even if these guidelines and norms are non-binding, especially the UNGA has played an important role in the drafting of counter-terrorism conventions; in developing a normative framework to serve as platform for the development of the UN Global Counter-Terrorism Strategy; and by encouraging cooperative action between member states. (Thakur, 2006: 185) This was made possible by the obtaining of information through its own working groups or from external institutions working on issues related to terrorism.

As the only body with global representation, the UN enjoys authority in terms of norm-setting which has enabled it to set standards in the field of counter-terrorism. This is well-illustrated in the establishment of the legal regime consisting of the counter-terrorism conventions drafted by the UNGA Sixth Committee. Even though the UN as organisation lacks enforcement capacity, it remains the preferred forum for promoting the normative framework for a global counter-terrorism policy, as well as for coordinating the efforts of member states in this respect. The UN furthermore served as a generator of ideas regarding the issue of international terrorism and acted as a forum for advocacy and as a legitimising device. In this respect, the then UNSG, Kofi Annan, played an important role in the immediate post-9/11 period in promoting the adoption of the UN Global Counter-Terrorism Strategy and in encouraging international cooperation in its implementation.

Through the UNGA, the UN also provides an intergovernmental structure in which all member states have equal voting power which enabled it to develop a normative

framework which identified terrorism as unlawful and as a common threat to peace and security. As such, the UNGA provided a platform to states to raise issues considered as important and a forum to discuss possible ways of addressing these issues. (Peterson, 2004: 173-174) In terms of the development of a normative framework to address international terrorism, the UNGA, in addition to the drafting of counter-terrorism conventions, proceeded by adopting resolutions in three streams, namely measures to prevent international terrorism; measures to eliminate international terrorism; and human rights and terrorism. The UN also contributed in creating an opportunity for states to commit themselves to countering terrorism and in providing a collective legitimacy for actions to be taken in this regard. In this respect, the UN contributed to translate the widespread post-Cold War concern about human security into the development of new norms. (MacFarlane & Khong, 2006: 200)

The development of a new international morality, especially after the end of the Cold War when major powers demonstrated a renewed interest in multilateral cooperation, also assisted the UN in its normative function. In this respect, the UN's counter-terrorism prescriptions are about instilling certain universal values, such as human rights; justice; human dignity; and fair treatment before the law. (Joyner, 2004: 255) This includes the evolving of public discourse on human rights issues where worldwide public opinion towards human rights enforcement has been strengthened and became embedded in multilateral institutions. In this respect, the UN has emphasised that respect for human rights and for the rule of law must be maintained in the development and implementation of counter-terrorism measures, both by the organisation and by individual member states.

Since the 1970s when terrorism was first discussed by the UN, international society has experienced profound changes. As barometer of world public opinion, the UNGA reflected these changing patterns in the setting of new norms. This is illustrated by the fact that the UN's original support of national liberations movements tended to overlook certain acts of terror. It also demonstrated that the UN's counter-terrorism regime has not always remained rigid as the world body reacted and adapted to changes in the

international environment. The assumption as formulated above can therefore also be validated.

Assumption: The UN has changed its perspective on terrorism according to changes in the international security environment and in terrorism itself.

During the Cold War the UN maintained an ambivalent perspective on terrorism by recognising the legitimacy of liberation struggles without specifying the permissible means of achieving liberation. (Saul, 2006: 75) However, after the Cold War, the UN was led by international events towards reaching an all-inclusive, holistic view on terrorism with the adoption of the UN Global Counter-Terrorism Strategy in 2006. This strategy was drafted by building on the unequivocal condemnation of terrorism by UN member states and, for the first time, brought together a range of proposals to be adopted by the UN in cooperation with other international and regional actors under a common strategic framework. (UN, 2007: DPI/2439B/Rev.1) The adoption of this important policy document was made possible by the profound changes in the international security environment since the end of the Cold War, as well as by new developments in the nature of international terrorism since the mid-1980s.

In terms of security-related issues, the UN as a world body reacts to changes and events in the international environment. This was also the case in its perspective on terrorism as the security changes caused by the end of the Cold War forced the UN to take these developments into consideration, both in terms of policy formulation and in terms of the actions it took to counter transnational security threats. The new security agenda of the post-Cold War context, characterised by the broadening of the concept and a shift away from predominantly military threats, led the UN to expand its focus to include non-military security issues. Especially the predominance of intrastate conflict

in which civilians became the main targets, led the UN to become involved in an array of non-military matters, including conflict resolution, peace-building, human rights and human security issues, assisting electoral processes, or building state institutions.

In relation to international terrorism, the increased incidents of large-scale terrorism, especially during the late 1980s, gave rise to the notion of a new kind of more destructive, transnational and religiously motivated terrorism and this guided the UN to consider the phenomenon as a serious threat to international peace and security. As a result, the interest of the UN in countering terrorism as a transnational security issue increased during the 1990s as the characteristics of this “new” terrorism began to manifest more visibly. (Thakur, 2006: 181) After the 9/11 attacks, the UN overcame its historical near-reluctance to address the issue of international terrorism by working on the drafting of a global counter-terrorism strategy and by actively creating a new counter-terrorism institutional architecture. The UN also incorporated developments in terrorism, which were aided by the process of globalisation; new technologies; communication media; and global economic integration, into its policy documents and counter-terrorism program and activities.

The above developments contributed towards the changing UN perspective on terrorism and culminated after the 9/11 incident towards the development of a holistic, all-inclusive perspective on terrorism. The UN thus succeeded in reaching a near consensus on the causes of terrorism and the manner in which it should be countered, even if member states were still unable to reach consensus on a definition of the term terrorism. As such, the UN Global Counter-Terrorism Strategy was able to combine the *ad hoc* security-related approach previously followed by the UNSC, with the traditional approach of the UNGA towards terrorism which gave priority to understanding and addressing its underlying causes. The assumption regarding the change in the UN perspective on terrorism as formulated above can therefore be confirmed.

3. Conclusion

The UN perspective on terrorism and counter-terrorism has been constantly evolving as the organisation responded to developments in the international environment. As such, until the 1980s, the UN viewed terrorism largely as a domestic issue linked to the numerous national liberation struggles against colonialism. However, as attacks became more frequent and terrorism became a transnational security issue, the UNGA attempted both to understand the causes of terrorism and ways to counter it. In contrast, the UNSC was principally occupied with devising appropriate reactions to important incidents of terrorism, rather than rationalising these acts or analysing the possible causes thereof. This counter-terrorism approach by the UNSC made the UN prone to an *ad hoc* counter- terrorism policy.

Only with the adoption of the UN Global Counter-Terrorism Strategy in 2006 did the UN succeed in providing an all-inclusive framework in order to approach counter-terrorism by bringing together security, economic and socio-cultural factors. This represented the first time that all UN member states agreed to a common strategic and operational approach to counter-terrorism. The strategy offered a more balanced response to terrorism by the world body in which preventative measures were combined with efforts aimed at addressing real and perceived grievances, including the underlying social, economic and political conditions conducive to terrorism. It furthermore reinforced the condemnation of terrorism in all its forms and manifestations while ensuring the protection of human rights and upholding the rule of law. The strategy therefore served as evidence of a more holistic perspective on terrorism by providing an all-inclusive framework for a comprehensive and sustainable UN counter-terrorism approach.

In its efforts to devise an effective counter-terrorism strategy, the UN has constantly been constrained by the absence of a legal definition of the term which could serve as basis for counter-terrorism measures. This failure of the UN to reach agreement on a definition of terrorism stemmed primarily from its protection of the right of national self-

determination and the earlier encouragement provided by the UN to national liberation movements. Consequently, some Third World countries continue to consider terrorism as a necessary instrument to be used by political groups in their struggle against opponents towards what is perceived to be a justifiable political end. The continuation of these fundamental differences within the world body makes the adoption of the UN Global Counter-Terrorism Strategy even more remarkable.

In view of the continuous global political differences, the UN has to take care not to be seen as serving the counter-terrorism interests of the permanent UNSC members and thereby harming its legitimacy among developing countries. In this respect, especially the US needs to utilise the UN to achieve global security goals without provoking resentment within the world body. As such, it remains a challenge for the UN to ensure that the policies of individual member states reflect the norms and values of the UN's counter-terrorism policies. In implementing its counter-terrorism strategy, the UN should also strive to maximise its advantages, such as providing collective legitimacy to actions.

The globalisation of politically motivated violence in the post-Cold War era has forced the UN to change its assumptions on security threats, also regarding international terrorism. In this respect, the struggle against terrorism has securitised some issues that were previously considered as non-security areas, such as transnational finance and migration. However, as is the case with international organised crime, the UN can only play a supportive role in countering terrorism, including by coordinating international cooperation and in assisting member states in terms of legal and other preventative measures. In the final analysis, it can be stated that, despite the considerable shortcomings of the UN as an institution, there is no other global body which enjoys the international legitimacy of the UN, or with the ability to set forth a more effective system to counter international terrorism on a global scale.

SUMMARY

- TITLE:** The changing perspective of the United Nations on terrorism and its role in countering terrorism with specific reference to the post-9/11 period.
by
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- DEGREE:** Doctor Philosophiae (International Relations).

The study firstly focuses on identifying factors which caused the United Nations to change its perspective on terrorism. The study furthermore aims at determining the main characteristics of the United Nations' changed view by investigating the manner in which the United Nations treated the subject of terrorism since it first appeared on its agenda. Thirdly, the objective of the study is to explore the evolvement of the counter-terrorism policy of the United Nations, with specific reference to the post-9/11 period up to 2008. The study focuses on changes in the international security environment since the end of the Cold War and on changes in terrorism since the mid-1980s in terms of motivation, characteristics and application of terrorism as a strategy of political violence. In addition, the study describes the development and functioning of the institutions of the United Nations which are most relevant to its counter-terrorism program and the counter-terrorism actions taken by these institutions. This is done by analysing the resolutions adopted by the United Nations General Assembly and Security Council relevant to terrorism, the international conventions against terrorism, as well as other important policy documents. The study illustrates how the United Nations has changed its perspective on terrorism and identifies the most important factors leading to this changed perspective of the United Nations as a global organisation involved in peace and security issues.

Key terms: United Nations, international security, traditional terrorism, new terrorism, counter-terrorism, national liberation movement, Cold War, post-Cold War, sanctions regimes.

OPSOMMING

- TITEL:** Die veranderende perspektief van die Verenigde Nasies op terrorisme en sy rol in teen-terrorisme met spesifieke verwysing na die post-9/11 periode.
deur
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- GRAAD:** Doctor Philosophiae (Internasionale Verhoudinge).

Die studie fokus eerstens op die identifisering van faktore wat daartoe aanleiding gegee het dat die Verenigde Nasies sy perspektief op terrorisme verander het. Die studie is verder daarop gerig om die hoof-eienskappe van die Verenigde Nasies se veranderde perspektief te identifiseer by wyse van 'n ondersoek oor hoe die organisasie terrorisme hanteer het sedert die onderwerp op die agenda van die Verenigde Nasies geplaas is. Derdens is die doel van die studie om die ontwikkeling van die teen-terrorisme beleid van die Verenigde Nasies te ondersoek, met spesifieke verwysing na die tydperk sedert 9/11 tot 2008. Veranderings in die internasionale veiligheids-omgewing sedert die einde van die Koue Oorlog, sowel as veranderings in terrorisme as politieke strategie sedert die middel-tagtigerjare word ondersoek. Die ontwikkeling en funksionering van die strukture van die Verenigde Nasies wat betrokke is by die teen-terrorisme optrede van die organisasie, word bespreek. Dit word gedoen by wyse van 'n analise van die resolusies oor terrorisme wat deur die Algemene Vergadering en die Veiligheidsraad goedgekeur is, internasionale konvensies teen terrorisme, sowel as ander belangrike beleidsdokumente. Die studie illustreer hoe die Verenigde Nasies sy perspektief op terrorisme verander het en identifiseer die belangrikste faktore wat tot die Verenigde Nasies, as globale organisasie betrokke by internasionale vrede en veiligheid, se veranderde perspektief op terrorisme gelei het.

Sleuteltermes: Verenigde Nasies, internasionale sekuriteit, tradisionele terrorisme, nuwe terrorisme, teen-terrorisme, nasionale bevrydingsbeweging, Koue Oorlog, na-Koue Oorlog, sanksies regimes.

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