THE ROLE AND IMPACT OF THE UNITED NATIONS IN CONFRONTING INTERNATIONAL TERRORISM IN THE AFTERMATH OF SEPTEMBER 11: PROSPECTS AND CHALLENGES IN THE FIGHT AGAINST GLOBAL JIHADISM

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ABSTRACT

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The thesis reviews and assesses the role and impact of the United Nations (UN) in the fight against the recent wave of international terrorism, understood as global jihadism, with a view to developing an understanding and awareness of the Organizations' relevance and distinct position in the global counter-terrorism campaign, while at the same time, providing insight as to how to best combat the phenomenon, through an analysis of the threat posed by al-Qaida and weighing the threat against the real and potential capabilities available at the disposal of the world body. The analysis reveals that while considerable progress has been made with respect to diminishing the organizational and operational capabilities of al-Qaida through the collective mobilization of hard or 'protective' policy instruments in the wake of 9/11, progress has been fairly unsatisfactory in addressing the softer or 'preventive' aspects of counter-terrorism aimed at reducing the conditions conducive to terrorism. Furthermore, while the UN offers unique capabilities in the fields of technical assistance provision and cooperation and coherence building, its efforts are severely undermined by the lack of consensus and commitment on the part of the UN member states, and to a lesser extent, by its own organizational shortcomings. Overall, the analysis of policy responses of the UN and the international community in the context of terrorism is expected to bring perspective to the future of the world organization and its evolution to assume a potentially more proactive and preventive role in dealing with the most pressing and interconnected threats to international peace and security in the early 21st century, one of which is the global jihadist movement.

Key Words: International Terrorism, United Nations, Al-Qaida, Global Jihadism, Counter-Terrorism

ÖZ

BİRLEŞMİŞ MİLLETLER'İN 11 EYLÜL SALDIRILARI SONRASINDA ULUSLARARASI TERÖRİZM İLE MÜCADELESİNDEKİ ROLÜ VE ETKİSİ: KÜRESEL JİHAD AKIMINA KARŞI MÜCADELEDE FIRSATLAR VE ZORLUKLAR

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Bu çalışma, uluslararası terörün en son dalgası olarak bilinen küresel jihad'a karşı mücadelede Birleşmiş Milletler (BM)'in rol ve etkisini, Kurum'un küresel terörle mücadele kampanyasındaki ilgisi ve kendine has konumu konusundaki anlayış ve farkınlığı artırmak ve aynı zamanda, El Kaide'nin oluşturduğu tehditin analizini yaparak ve bu tehditi dünya kuruluşunun elindeki mevcut gerçek ve potansiyel yeterliliklere karşı tartarak, söz konusu olgunun en iyi nasıl önlenebileceği konusunda bir bakış açısı geliştirmek amacıyla incelemekte ve değerlendirmektedir. Analiz, 9/11 sonrasında sert veya 'koruyucu' politika araçlarının toplu bir şekilde mobilizasyonu ile El Kaide'nin örgütsel ve operasyonel yeterliliklerinin azaltılmasına yönelik önemli ilerlemenin kaydedilmesine rağmen, terörizme elverişli şartları azaltmayı hedefleyen terörle mücadelenin daha yumuşak veya 'önleyici' yönlerinin ele alınmasında ilerlemenin oldukça yetersiz olduğunu ortaya koymaktadır. Ayrıca BM, teknik destek verme ve işbirliği ve uyum geliştirme konularında benzersiz yeterlilikler sunarken, kurumun çabaları, BM üye ülkelerinin uzlaşma ve sürece bağlılık konularındaki yetersizlikleri ve daha az ölçüde, kendi örgütsel eksiklikleri dolayısıyla önemli derecede zarar görmektedir. Sonuç olarak, BM ve uluslararası topluluğun terörizm bağlamındaki politikalarının analizinin, bir boyutu küresel jihad akımı olan, 21nci yüzyılın başlarındaki uluslararasarası barış ve güvenliğe karşı en acil ve birbirine bağlı tehditler ile başederken daha proaktif ve önleyici potansiyel bir rol üstlenmesi yönünde dünya kurumunun geleceği ve evrimiyle ilgili bir bakış açısı getirmesi beklenmektedir.

Anahtar Kelimeler: Uluslararası Terörizm, Birleşmiş Milletler, El Kaide, Küresel Jihad, Terörle Mücadele

To My Parents

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CHAPTER I

INTRODUCTION

1.1. Introduction

The legitimacy and capabilities of the United Nations (UN) hence its relevance to effectively address and respond to threats of international peace and security has come into question on several occasions since its foundation in 1945, and its mixed record of successes and failures in dealing with a myriad of inter and intrastate conflicts as well as global socio-economic issues over the years has had its toll on individual and collective perceptions in respect of the wherewithal of the world organization to fulfill its entrusted mandate. These perceptions found expression in what became a continued intellectual debate between 'cynics' and 'optimists' over the performance of the world body frequently framed in and around the polarizing themes of 'expectations-capabilities gap', 'promise and performance', 'rhetoric vs. action', and/or 'proclamation vs. achievement'.

Divergence of opinion as regards the UN's credibility to maintain international peace and security has been most profound in the field of peacekeeping perceived by some as a poor if not shameful record of under-achievements or outright failures, and conversely, by others as noteworthy accomplishments. A rallying call for critics has been UN's perceived inability to confront the sheer explosion of civil wars, ethnic and religious violence, humanitarian catastrophes and government breakdowns in the 1990s covering a wide geographical range including Cambodia, East Timor, El Salvador, Haiti, Angola, Mozambique, Somalia, Rwanda, and former Yugoslavia, to mention a few, marked by failure of timely response given the lack of early warning and pre-planning capabilities, lack of consensus for Security Council (SC) authorization for intervention due to questions of state sovereignty, delays in troop deployment owing to lack of standing forces, inadequate resources to fund peace operations, and by lack of clear mandate, command and control as well as accountability in the conduct of operations. What is more, the outsourcing of peace enforcement missions to regional organizations in Bosnia and Kosovo to the North Atlantic Treaty Organization (NATO) without a clear SC mandate, and to lead nations, recalling the intervention of American troops into Mogadishu, of British troops into Sierra Leone, of Australian forces

into East Timor and of the French contingency into Cote d'Ivoire and presently, UN's mere supportive role in post-combat operations in Afghanistan given the overriding operational presence of NATO's International Security Assistance Force (ISAF) and US's Operation Enduring Freedom (OEF), in addition to raising concerns about legitimacy, cast "judgment on the world organization's own military weaknesses"[1]. On the other hand, the sight of blue-helmeted, light-armed troops in observation posts or on border patrol, providing humanitarian relief, establishing buffer between warring parties to maintain cease-fire, keeping supply routes open and/or protecting refugees, and more recently, deployment of UN military and civilian capabilities for assisting transition efforts via electoral monitoring, supervising independence, and observing democratic processes as evidenced in South Africa, Namibia, Mozambique, Afghanistan and now-a-day Iraq provide a moral high ground for optimists and a solid reason to continue the faith in UN's efforts to uphold the human enterprise.

More broadly, among other issues that govern the cross deliberations between the two poles of cynics and optimists concern the legitimacy of the UN. As such, the former group underscores issues inherent in any collective security system, most notably, the problem of weak enforcement particularly in relation to the consistent and complete application of the sanctions regime challenged by the economic, political and strategic interests, capabilities and preferences of UN member states, the problem of selective intervention to suggest that some countries are worth defending more than others, the lack of concern over humanitarian impact of sanctions, the inability to constrain an obdurate major power from resorting to the unilateral use of force in cases where the action constitutes breach of legality and legitimacy, and lack of fair and equitable quantitative and qualitative representation in UN's organs and bodies. In defense of UN's legitimacy, the latter group would point to the ability of the UN to adjust and respond to new security challenges in respect of its shift from traditional peacekeeping to complex peacekeeping involving conflict prevention and resolution, peace enforcement and stabilization, post-combat nation building, the increasing normative and operational orientation to the protection and promotion of human security as opposed to traditional interstate military security, UN's softer agenda to account for the development and structural priorities of both developing and least developed countries and to support the social, economic and cultural advancement of disadvantaged communities, and its universal representation based on the principle of equality.

[1] Paul Kennedy, *The Parliament of Man: The Past, Present, and Future of the United Nations,* Random House: New York, 2006, p. 99.

UN's relevance in the fight against terrorism was questioned rather abruptly following the September 11 terrorist attacks against the United States when after one year of the attacks, former U.S. President Bush challenged the UN Security Council with the words, "will the UN serve the purpose of its founding or will it be irrelevant?"[2] While the question addressed the particular strategic and security considerations and sensitivities of the US at a time in which the country sought to rally international support to a maturing pre-emptive, or more accurately, to what later became largely contemplated as a preventive military operation against Iraq, the very nature of the question itself and that it being outspokenly pronounced, the response given by the Council in the form of refusal to mobilize Chapter 7 of the UN Charter which allows for collective use of force against a jointly recognized threat to international peace and security, and subsequent developments with US 'going it alone' without seeking the Council's green light, spark a broader debate as to the role and impact of the UN within the specific context of countering international terrorism, and provide insight into some of the prospects and challenges that will inform its future position and effectiveness in the global counter terrorism campaign.

On answering UN's relevance to counter terrorism, at first reading, cynics would discredit what little regard there is to the utility of the UN in this field by pointing to the failure of the UN to enforce its past resolutions on Iraq since the Gulf War calling for compliance with IAEA inspections over its alleged weapons of mass destruction and subsequently, to the failure of the collective security system in its inability to prevent U.S. and its allies from preventively taking military action against a non-imminent threat, the implications of which has been to aid the global terrorist recruitment efforts of Al Qaida and Taliban elements and create an insurgency comprising Ba'athists, salafi jihadists, nationalists, sectarians, criminals and foreign militias, which while losing significant field presence through coalition offensive against sanctuaries as well as contingency through demobilization and reintegration of local sheikhs and tribesmen, continues to exert its violent presence through bombings and suicide missions in an attempt to reignite ethno-sectarian violence. Alternatively, those optimists with a higher regard for the principles of multilateralism would advocate UN's continued relevance despite the severe damage to its credibility of the Iraqi intervention by claiming that the UNSC has nevertheless "served its founding by its refusal to endorse recourse to a war that could not be persuasively reconciled with the UN Charter and international law"[3]

[2] Richard A. Falk, "What Future for the UN Charter System of War Prevention?", *The American Journal of International Law*, July 2003, p. 590.

[3] Ibid.

and stood firmly against what it believed was an unnecessary war. The SC's united stance against the war in Iraq and lessons learned from the counter insurgency might in turn enable the UN to better perform its role of 'overseer' of use of force through the adoption and enforcement in the future of a set of formally endorsed criteria governing the Council's decision making on use of force, as proposed by the 2004 Report of the UN High Level Panel of Experts on Threats, Challenges and Change coupled with enhanced deliberative processes involving reasoned argumentation aimed at dissuading major powers from using force unless the situation dictates otherwise. That the debate is made on how UN dealt with the Iraq war, albeit its resulting in declining public confidence in the organization for varying reasons, is viewed as a positive sign in that "most people who criticize the United Nations do so precisely because they think the Organization is vitally important to our world… declining confidence in the institution is matched by a growing belief in the importance of effective multilateralism"[4].

Putting aside the implications of the Iraq war on the relevance and legitimacy of the UN, the role and impact of the world organization in the fight against international terrorism extends beyond the context of 9/11 to account for what the UN has achieved or under-achieved until today in the field. Here again, UN's track record in dealing with terrorism is marked by both failures and successes, and fragmented opinions are likely to prevail depending on whether to look at the glass half empty or full. An assessment of UN's performance in countering terrorism which merely reflects on the point that it has taken five years since the September 11 attacks for the organization to craft and adopt a global counter terrorism strategy which offers a common strategic and operational framework to guide the counter terrorism efforts of the UN and its member states would fail to capture and greatly underestimate the quasi-legislative, quasi-judicial and capacity building work carried out by the Security Council since 2001 and technical backstopping provided by other UN organs, specialized agencies and bodies to complement the Council's efforts. Furthermore, that UN has not yet been able to endorse a standard definition of terrorism due to lack of agreement on politically charged issues including demands on the part of some countries for exemption from the definition of terrorism of the legitimate nongovernmental struggle for national liberation and/or against foreign occupation and colonial rule, and others to include in the definition the acts of state and state sponsored terrorism, albeit the growing need to reach consensus on the issue for member states to take consistent counter-terrorism measures and as an indication of political

[4] Report of the Secretary General, *In larger freedom: towards development, security and human rights for all*, General Assembly, UN: New York, March 2005, p. 4, para. 10.

resolve, should not lead one to overlook the progress made by the Assembly in the drafting of a number of sectoral conventions defining particular terrorist acts as criminal offenses against which party states are to transpose their national legislation and to put in place the requisite judicial processes and executive procedures.

Another issue that usually factors in when assessing UN's credibility and performance to fulfill its broad-based mandate pertains to institutional problems arising from an expanding agenda of economic, social and political issues combined with increasing appeals for technical assistance, on the one hand, and overlaps and confusion of mandates and working procedures among the many UN bodies, on the other. The dichotomy between theory and practice is manifest when one considers that

> "organizationally, the UN is highly complex; within the system, there are commissions, agencies, funds, centers, unions, conferences, councils, institutes, offices, departments, programs, boards and other bodies, all set, according to official organizational charts, in a neat structure centered around the General Assembly; in practice [however]…"[5]

While organizational compartmentalization and bureaucratic red tape is indeed a major problem requiring 'non proliferation' within the UN system, a more accurate analysis would necessarily call into view the countless initiatives and organizational arrangements made in the context of UN institutional reform particularly under the direction and guidance of the former UN Secretary-General Kofi Annan, not least by establishing a cabinet structure comprising a senior management group of various under-secretaries-general, the heads of UN funds and programs, and the deputy-secretary general- a newly created post responsible for overseeing the reform process and the coordination of development activities, creating four thematic executive committees working in the fields of peace and security, humanitarian affairs, economic and social affairs and development group, respectively, and founding the Counter Terrorism Implementation Task Force (CTITF) in 2005 tasked to ensure UN system-wide coherence and coordination of counter terrorism policies. The decision taken at the 2005 World Summit to review mandates older than five years and to overhaul the budget and human resources might be viewed as a promising development at furthering UN reform efforts.

Against this backdrop of the many issues informing the debate between cynics and optimists such as peacekeeping, collective security, counter terrorism and organizational reform, the general perception seems to be that

[5] Kennedy, ibid., p. 115.

> "the UN system is plagued by a lack of coordination and purpose especially when required to act in a particular situation, in a particular time and place… UN is restricted in its actions by its members' interests, its resources and its institutional cohesion (or lack thereof)… debates over the reform of a number of UN organs, including the Security Council and the General Assembly, are testimony to the constant struggles between efficiency, representation, politics, universalism, and justice. Without a clear mandate and sense of purpose, little leadership can be expected… UN is a relatively weak and internally unstable organization with financial troubles and political instability"[6].

What is more, "many people believe that what passes for collective security today is simply a system for protecting the rich and powerful"[7].

Indeed, there is a great element of truth in most of these claims, if not all, and while their very existence should inform what can reasonably be expected from the UN, these should not thwart the multilateral processes by which mutual gains could be achieved through collective responses to key policy areas nor should they overshadow the existing potential of the world body to address the many interconnected security threats and challenges of the day, one of which is terrorism. As in other policy areas, UN's counter terrorism efforts are to a large extent shaped by the political will of its member states in that "at the end of the day, the UN is only as good as its members make it or want it to be"[8]. Moreover, its policies and processes in the field are governed by the particular considerations and capabilities of and the quality of interaction between the two United Nations, one of member states and the other of the organization itself, and foundational documents produced by the Office of the Secretary General[9] that have important policy implications on UN's global counter terrorism campaign arguably reflect "the difference between the two United Nations concerning what knowledgeable and UN officials deem necessary and what is politically possible among the 192 member states"[10]. This is not to say that the principal UN organs to include the General Assembly, the Security Council and the Secretariat with their own subsidiary bodies as well as the complex network of UN agencies, funds, offices, organizations and programs work in perfect harmony, which is not the case, despite the enabling environment created by the CTITF and its Secretariat to mobilize system-wide synergies and resources for the effective

[6] Ibid, p. 127.

[7] Report of the High-level Panel on Threats, Challenges and Change, *A more secure world: Our shared responsibility*, UN: New York, 2004, p. 2.

[8] Michael Chander and Rohan Gunaratna, *Countering Terrorism*, Reaktion Book: London, 2007, p. 119.

[9] These are respectively; the Report of the High-level Panel on Threats, Challenges and Change (2004), Report of the Secretary General entitled "In larger freedom: towards, development, security and human rights for all" (2005), Report of the Secretary General entitled "Uniting against terrorism: recommendations for a global counter-terrorism strategy" (2006), and the 2005 World Summit Outcome Document.

[10] Thomas G. Weiss, David P. Forsythe, Roger A. Coate, and Kelly-Kate Pease, *The United Nations and Changing World Politics*, Westview Press: Colorado, 2007, p. 106.

implementation of the global counter terrorism program. This is only to say that an objective assessment of the role and impact of the UN in fighting international terrorism would need to account for three key variables, which are "consensus, commitment and organization"[11].

As regards the first variable of the counter terrorism equation, an international consensus has gradually formed around the degree of which global jihadist terrorism constitutes one of the most significant threats to international peace and security, which is a direct and natural manifestation of a series of unfortunate terrorist bombings committed in various parts of the world, most prominently, New York and Washington, Bali, Mombasa, Moscow, Casablanca, Bogota, Istanbul, Madrid, London and others. The mutual recognition of religiously inspired global radical Islamist terrorism as an international threat has important implications on forging and implementing collective and committed policy responses. While UN member states agreed at the 2005 World Summit Outcome to "condemn terrorism in all its forms and manifestations, committed by whomever, wherever, and for whatever purposes, as it constitutes one of the most serious threats to international peace and security"[12], there is lack of consensus on a formal definition of terrorism, bringing into question as to whether certain terrorist acts can be justified and/or excused in view of the special circumstances under which they are committed, which leads to inconsistent and incomplete implementation of counter terrorism obligations by member states. Furthermore, there is lack of consensus on the approach to be pursued for countering terrorism involving whether to extend priority in policymaking and resources to protective operational measures such as military, intelligence and law enforcement or to preventive strategic instruments addressing conditions conducive to enabling, prompting, spreading and sustaining terrorism, namely, prolonged unresolved conflicts, lack of good governance and rule of law, human rights violations, ethnic, national and religious discrimination, political exclusion, and social and economic deprivation and marginalization. The protective vs. preventive debate remains to be an essential element that will steer the course of the future success or failure of the global counter-terrorism campaign spearheaded by the UN.

If Al Qaida's lifeblood is a religiously inspired politically driven ideology, for the UN, this is the commitment of its member states, without which UN would be constrained in its policy

[11] Weiss G., ibid, p. 7.

[12] UN General Assembly A/60/L.1, *Draft Resolution referred to the High-Level Plenary Meeting of the General Assembly by the General Assembly at its 59th Session: 2005 World Summit Outcome*, UN: New York, September 2005, para 81.

options and financial resources and its performance in fighting terrorism would fair low. Of importance to note is that member states' commitment level depends on their perceptions of the seriousness of the threat, which might diminish over time with the fading of memories of terrorist attacks, a factor which is in large part exogenous to the UN, and on the perceived and calculated benefit of collective engagement on the part of rational member states, which in turn is largely conditioned by the capabilities of the organization to address and respond to the needs of its member states in addition to the collective behavior of other states in the international system. The failure of the international community to adopt a comprehensive convention on international terrorism to fill in the gaps of existing sectoral conventions due to the highly politicized and therefore, contentious issue of the definition of terrorism or to give greater priority and devote more resources to analyzing and tackling the 'root causes' of transnational terrorism as opposed to investing primarily on responsive measures to destroy the manifestations of terrorism or reducing the vulnerability to attacks through protection of physical and strategic infrastructure give an indication that the issue of commitment varies from one member state to another and is largely divided between issues depending on the political, strategic and economic interests at stake. Therefore, while a member state may fully comply with its legislative and executive obligations under all of the SC regimes on counter terrorism, it might refuse to agree on a proposed definition of terrorism or consider the issue as non-priority, or alternatively, it might be reluctant to allocate a larger share of its gross national product for official development assistance to assist developing or least developed countries.

An analysis of UN's role and impact in tackling terrorism will be incomplete without putting into perspective the counter terrorism capabilities at the disposal of the organization, and the inter-linkages between consensus, commitment and organization. There are more than twenty-four UN entities engaged in the global counter terrorism campaign, which function in a diverse set of areas ranging from the different phases of the conflict cycle including political analysis, early warning, conflict prevention, peacekeeping and peacebuilding to transport security and nonproliferation of weapons of mass destruction, and from legislative drafting, legal advice and crime prevention to poverty reduction, sustainable development, democratic governance, environmental degradation, and inter-cultural and inter-religious dialogue and tolerance. All of these bodies have their own institutional cultures, working procedures and global networks, which create a rich inventory of technical and on-the-field expertise unparalleled when benchmarked against other intergovernmental organizations at

global, regional and subregional level. Therefore, enhanced organizational effectiveness in antiterrorism requires that coordination arrangements are in place to catalyze the counter terrorism efforts of all UN entities into a common platform where joint expertise and experience could be utilized. As such, the establishment of the counter terrorism Task Force assembling UN entities under various thematic working groups and its institutionalization in June 2009 through the creation of a Secretariat under the Department of Political Affairs (DPA) is expected to serve as a viable forum for discussion of strategic issues, information exchange about activities undertaken and planned within respective mandates, and coordination of policies and action.

In addition to supporting the global counter terrorism campaign through individual and collective work plans, UN entities administered by an independent international civil service contribute to building consensus at international level on the main security threats and challenges linked to terrorism and on alternative policy responses with a view to developing a comprehensive and preventive approach to security through agenda-setting, issuing political statements and declarations, ad hoc committees and working groups on terrorism, convening high level conferences at regional and global level, and providing a normative foundation upon which to arrive at shared understandings of the global security environment. As to the linkage with commitment, the ability of the organization to provide timely and tailored capacity building assistance for developing the legislative and executive counter terrorism capabilities of its member states and to provide policy guidance and resources for supporting the implementation of the global counter terrorism strategy is crucial to enhancing member states' ownership of the process. The widely perceived anachronistic composition of the permanent seats in the Security Council that fails to take into account the present day power realities given the increasing economic and political weight and peacekeeping contributions of some non-Council members, and more recently, the lack of sufficient transparency and accountability of the working methods of the various SC's subsidiary bodies dealing with counter terrorism issues diminish the commitment of member states to take a more active position in the global campaign against terrorism.

In view that UN's role and impact in fighting international terrorism depend on consensus, commitment and organization, perceptions that put a cross over the world organization as an ineffective instrument and condemn it to irrelevance or conversely, those idealistically elevating the UN to a lofty status as the ultimate antidote for all global social, economic, and

political ills while losing sight of reality will only be counter productive to arriving at an objective and accurate analysis as to what the world body has to offer within the context of counter terrorism. Important is to take a moderate, realistic and inquisitive position, one which takes into account UN's comparative advantages by identifying and strengthening those areas in which the UN is most relevant and distinct. Equally important is to know that the threat of terrorism recognizes no national borders, and therefore, cannot be fought single-handedly, and while the primary responsibility to deal with transnational terrorism belongs to the member state as the main political unit in the international system, counter terrorism requires collective and collaborative efforts on international, regional, subregional, national and local levels. What is crucial for developing an effective response against Al Qaida and its affiliates is to know and understand the threat at hand [threat assessment] and to answer the questions 'by whom' for a workable division of labor, 'by which means' for developing the most appropriate approach and instruments, 'when' for determining the right time to mobilize and employ identified means, and 'how' to refer to optimizing the utility of existing counter terrorism measures involving performance assessment through benchmarking against the ideological and organizational evolution of the threat and the capabilities at its disposal [threat-capabilities gap] and the development of innovative and focused solutions to address the key challenges that stand in the way of an effective response to the threat.

1.2 UN as a Relevant and Distinct Actor

UN's relevance in the global fight against terrorism emanates first and foremost from the legitimacy accorded the world organization in its foundational Charter, which provides a viable legal, normative and political foundation upon which to address and respond to a wide array of threats and challenges to international peace and security. A careful read of the UN Charter calls to attention the opening line "we the peoples of the United Nations" and its follow up statement "our respective Governments… have agreed to the presented Charter… and do hereby establish the United Nations", suggesting an affirmation of the human enterprise and by extension, non governmental actors, on the one hand, and the primacy of member states as the fundamental political actors on the international scene, reflecting the postwar intergovernmental settlement, on the other. Although the Charter was originally developed to govern relations between its member states, the concept of collective security has been adapted to include collective action against threats posed by non state

actors operating both within and across state boundaries in recognition that human security may be as important as traditional notions of state security.

The Charter calls for "effective collective measures for the prevention and removal of threats to peace… international cooperation in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights" and provides its intention of becoming "a center for harmonizing the actions of nations"[13]. This confirms the present role of the world body in seeking a comprehensive approach to fighting terrorism, one which takes into account both preventive and protective measures, in coordinating antiterrorist policies at national, regional and international levels, and in ensuring uniform counter terrorism measures among its member states that conform to international law and obligations. It further draws on the broad based mandate of the UN to account for the various interconnected dimensions of security, recognizing that economic, social, cultural and humanitarian advancement including the observance of human rights have an instrumental logic of promoting peace and stability. Along similar lines, Article 55 of the Charter calls for the promotion of "higher standards of living, full employment, and conditions of economic and social progress and development, solutions of international economic, social, health, and related problems and international cultural and educational cooperation, and universal respect for human rights", which provide a robust framework to member states' efforts to counter terrorism by touching upon "conditions of stability and well-being" essential for the prevention of violent radicalization and terrorist recruitment over the long term.

Given the impact of the use of force to trigger violent radical opposition and terrorist attacks in view of its humanitarian impact and/or political implications, it is important to recall the constraints set by the Charter to preclude the arbitrary use of force under its Article 2 which states that "all Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state", a provision that ironically "was written initially by the United States"[14]. In any case, the use of force is ruled out except in two circumstances under Chapter 7; first, "the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations,

[13] Charter of the United Nations, Article 1.

[14] Weiss G., ibid., p. 12.

until the Security Council has taken measures necessary to maintain peace and security"[15], and second, collective response by the Security Council when it determines "the existence of any threat to the peace, breach of the peace, or act of aggression"[16] and in the event that non-military measures including economic sanctions, interruption of transportation and communication, and diplomatic sanctions "would be inadequate or have proved to be inadequate"[17].

Accordingly, while preemptive self-defense against an imminent armed attack is not completely ruled out, it is not explicitly endorsed either. This may be interpreted by some as a hole in the normative fabric of the Charter by creating opportunities for overstretching the Charter to allow anticipatory or even preventive use of force against non-imminent threats. For others, however,

> "Article 51 needs neither extension nor restriction of its long-understood scope, and Chapter 7 fully empowers the Security Council to deal with every kind of threat that states may confront. The task is not to find alternatives to the Security Council as a source of authority but to make it work better than it has"[18].

What this means is that even if force can be used, this does not necessarily mean that it should be, and this is where the normative and interpretive role of the UN steps in. The High Level Panel on threats and challenges sought to guide the process of decision making in relation to authorizing or applying legitimate use of force by introducing five criteria, "seriousness of threat, proper purpose, last resort, proportional means, and balance of consequences"[19]. However, it is still to be seen whether this proposal is to be considered, let alone adopted, as it seems rather unlikely for the criteria to have much validity given the reluctance of any major power to be constrained in its decisions to resort to the military option when it deems necessary. Suffice is to say, UN's relevance in counter terrorism is severely downsized and its credibility discredited when a member state acts in breach of its Charter.

UN's relevance in the global campaign against international terrorism depends on the extent to which it establishes, promotes and coordinates regular cooperative relationships with and among regional and subregional organizations in view that regional arrangements possess

[15] Charter of the United Nations, Article 51.

[16] Charter of the United Nations, Article 39.

[17] Charter of the United Nations, Article 42.

[18] High-level Panel, ibid., p. 3.

[19] Ibid.

important expertise and experience in conflict prevention and other terrorism related areas, which need to be assessed, catalyzed and shared, if their full potential and added value is to be effectively leveraged and utilized in this campaign. Another factor that has an impact on UN's relevance is its ability to fulfill its supervisory functions to ensure that the actions and activities of regional organizations comply with international law and their obligations under the Charter. Arguably, UN enjoys a distinct position vis a vis regional organizations in view that the organization is accorded special authority and responsibilities over regional bodies under the Charter in that Article 52 provides that

> "nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action provided that such arrangements or agencies and their activities are consistent with the Purposes and Principles of the United Nations",

implicitly suggesting a relationship of hierarchy or subordination. Furthermore, Articles 53 and 54 establish the relationship between the UN and regional organizations by confining the latter's mode of operation in that "no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council" and that the "Security Council shall at all times be kept fully informed of activities undertaken or in contemplation under regional arrangements or by regional agencies for the maintenance of peace and security".

As such, the Charter lays down the legal foundation that enables the UN to perform its roles of liaison and oversight in security matters and suggests a division of labor between UN and regional organizations with the understanding that "efforts should be made to settle local disputes regionally before referring them to the United Nations, and the Security Council should remain an option if regional efforts fall short [in view that Chapter 8] was designed to limit Security Council deliberations to the most severe and intractable disputes"[20], which is crucial for a coordinated counter terrorism response. In line with the working relationship foreseen in the Charter, in the context of its counter terrorism program, UN has developed cooperative relationships with over 60 international, regional and subregional organizations largely through the work of the SC's subsidiary bodies dealing with terrorism. However, the level of coordination and cooperation between UN and regional bodies is not at its desired level in that there are no mechanisms in place for a more formalized relationship and UN is far from being a central body for maintaining interinstitutional coordination. Moreover, regional organizations enjoy much more autonomy in their workings and operations than

[20] Weiss G., ibid., p. 18.

that might have been foreseen in the Charter, and that there is increasing inclination and ability on the part of some regional organizations to use force against a threat without SC authorization, whether by declarations or deed, constitutes a risk to UN's relevance in the management of security affairs.

It follows then that the UN Charter which is comparable to a global constitution provides the main purposes, principles and structures that not only provide an administrative framework for the organization, but also guide and inform the global counter terrorism efforts, not least by; its emphasis on 'prevention' alongside the 'elimination' of threats by means of social, economic, cultural and humanitarian means, at a time when nonmilitary mechanisms for countering terrorism are seriously undervalued due to a lack of strategic vision about the role and importance of and need for multiple policy responses for reducing the underlying conditions of terrorism, its reservations on illegitimate use of force both by member states and regional organizations, and its administration of relations between the UN and regional bodies that enable the former, albeit in varying degrees, to build sustainable relations with the latter, and the latter to claim a sense of responsibility and demonstrate accountability to the world body as regards its counter terrorism efforts. That said, UN's relevance depends very much on the way in which its member states and regional organizations interpret and comply with the provisions and norms of the Charter, with the hope that they do so in good faith and without overstretching its competences that would otherwise disrupt peace and stability.

To further assess the relevance of the world body in suppressing international terrorism, one needs only to refer to its proactive role in developing a comprehensive legal and normative framework on the basis of which UN member states are able to formulate and shape their counter terrorism policies, strategies and actions. To explain, since 1972 when UN first took up the issue of terrorism, the organization has established an international counter terrorism regime of treaties, protocols and resolutions, which provide a general legal, administrative and procedural framework for multilateral actions against terrorism, including criminalizing specific acts of terrorism such as hijacking, skyjacking, hostage-taking, terrorist bombings, terrorist financing and nuclear terrorism, and pursuing perpetrators through limiting terrorist access to territory, travel, weapons and finances and introducing standard judicial processes involving prosecution and extradition.

UN's normative significance in the context of terrorism is its particular role in

> "setting or strengthening standards based on the values of maintaining the system (international security), survival of the units of the system (sovereignty, territorial integrity and nonintervention), peace, and justice (decolonization, human rights, and a more equitable redistribution of resources within the system"[21],

and in helping to preserve the nation-state system, it has become a regular target of Al Qaida and its networks, as evidenced in Iraq, Afghanistan and other locations. What is often overlooked, however, is that the UN Charter protects all member states "not because they are intrinsically good but because they are necessary to achieve the dignity, justice, worth and safety of their citizens"[22]. In this respect, UN's normative function has been to inject more responsibility to the wider international community by upholding the norm of 'human security' and introducing the principle of 'the right to protect', which requires the international community to ensure that member states have both the capabilities and willingness to exercise their sovereign functions responsibly, and upon their failure to protect their people against threats and avoid harming neighbors, to employ the principle of collective security "by taking up some portion of [sovereign] responsibilities to help build necessary capacity or supply the necessary protection"[23]. UN assumes the role of norm-setting by serving as a forum for discussion and persuasion to embed certain values in world politics and through its specialized agencies that clarify the relationship between security, development and human rights, and the advocacy function of the Secretary-General and other UN bodies that have contributed to the transformation from the traditional understanding of state security to human security in public administration as well as international relations and to the re-interpretation of the notion of state sovereignty to account for the sovereignty of the peoples. It is this normative role of the UN which makes it more able to address and tackle the wide range of conditions that give rise to, sustain and spread terrorism.

Given the power invested in the UN by the Charter and its primary mandate to prevent and eliminate threats to international peace and security, the increasingly active role which the Security Council has come to play through its administration of several counter terrorism regimes in the field of legislative and executive capacity building, sanctions imposition, non proliferation, and terrorist incitement, and the collective work of the principal UN organs

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[21] Jane Boulden, and Thomas G. Weiss, *Terrorism and the UN Before and After September 11,* Indiana University Press: Bloomington, 2004, p. 29.

[22] High-level Panel, ibid., p. 17.

[23] Ibid.

and entities in the implementation of the global counter terrorism strategy in cooperation with regional bodies and civil society organizations, UN has come to be recognized as the main international coordinating body and a driving force in the field of multilateral counter terrorism. This is a role that member states entrusted upon the UN, which the organization enthusiastically took upon itself, and which was made necessary by the transnational nature of the threat which no country could address unilaterally. In posing a challenge to the state based nature of the system, international terrorism which found its most virulent form of expression by September 11 attacks, brought about a "reaffirmation of the centrality of the state"[24] and of the need for a powerful state apparatus to effectively respond to the threat. UN is in a unique position and since 9/11 has taken on the responsibility to formulate, shape and coordinate effective responses at national and international levels and to build regional, national and local capacities. UN's relevance as such is articulated in the words of the former chairman of the Security Council's Counter Terrorism Committee (CTC) in which he stated that "counter-terrorism has gone global, with the United Nations at the center"[25].

In fulfilling its legal, normative and wide-ranging executive roles, UN is distinct since universality of membership conveys a degree of political legitimacy and legal authority that is not enjoyed by regional institutions or coalitions of like-minded states. This means that when member states act through UN procedures and processes, and in compliance with the purposes and principles of the Charter, their policies acquire the legitimacy that stems from international law and collective political approval and policies that are viewed as legal and collectively approved are more likely to gain support, ground and to succeed. Moreover, UN serves as a unique global forum for all member states to arrive at political consensus for the international cooperation required to counter the terrorist threat, to send a unified, clear and immutable message that terrorism as a tactic is unacceptable and ineffective to address real or perceived grievances to reduce the appeal that terrorism may have to terrorists or would-be terrorists, and to stimulate discussion among member states and mobilize world public opinion on security and development issues in its interest to serve and reflect the interests of all member states, developed and developing alike and the humanity at large. Although its universal legitimacy and authority is important enough to draw in even the most powerful state to the international system, it remains to be seen to what extent the evolution of UN's

[24] Boulden, ibid., p. 16.

[25] Giuseppe Nesi, *International Cooperation in Counter-Terrorism: the United Nations and Regional Organizations in the Fight Against Terrorism*, Ashgate: Hampshire, 2006, p. 69.

normative and policy framework will pose a meaningful constraint on the unilateral and regional application of power and influence state behavior in general, necessary to adopt consistent, coherent and balanced policy responses for fighting international terrorism and securing the universal legitimacy of the world body.

As the only body with a mandate to address security, development and human rights issues together at a global level, UN bears a special burden, and given the interconnected nature of these issues, UN's comparative advantages become more evident, but so do its weaknesses. UN functions as a 'global barometer' and has unprecedented 'convening power' through its major conferences and summits, which provide an enabling platform to address complex, interlinked and long-term aspects of terrorism, to generate consensus around internationally accepted goals especially in the social field, and to obtain strong grassroots support in the attainment of these goals. Furthermore, through its multiple offices, programs and agencies, UN is in a unique position to set a broader agenda and provide a wider perspective to tackle today's many threats listed in the Report of the High Level Panel on threats and challenges as

> "economic and social threats, including poverty, infectious disease and environmental degradation; inter-state conflict; internal conflict, including civil war, genocide and other large-scale atrocities; nuclear, radiological, chemical and biological weapons; terrorism; and transnational organized crime"[26].

The primary challenge for the UN and its member states is to take collective preventive action to ensure that, among the threats listed, "those that are distant do not become imminent and those that are imminent do not actually become destructive"[27].

Despite the notable achievements of able and willing individual and coalition of like-minded states in suppressing international terrorism, dealing with the terrorist networks require concerted effort to be orchestrated on a global level through the offices of an internationally legitimate organization. In fact, no member state has been entirely successful on its own nor should there be such expectation. Regional and subregional organizations can, do and must play a significant part in the overall effort to combat international terrorism since they are essential for burden-sharing, information and intelligence exchange, capacity and consensus building; however, they are often limited in capacity and mandate, and do not enjoy the same legitimacy as the UN. And although civil society organizations have the potential to

[26] High-level Panel, ibid., p. 2.

[27] Ibid, pp: 2-3.

support global counter terrorism efforts in view of their accumulated experience in related areas such as human rights, conflict prevention, sustainable development, and humanitarian relief and their involvement in the campaign is strongly encouraged especially in the area of promoting inter-cultural and inter-religious diversity and tolerance, civil society is a diverse and dispersed community of actors varying in size, wealth, interest, influence, structure, organization and performance, and lack a common structure, purpose and voice. Therefore, the necessary leadership needs to come from the top "to act early, decisively and collectively against all threats"[28], and "playing a more operational role by taking a lead in countering transnational terrorism is a responsibility that the United Nations, and only the United Nations, is legitimately placed to assume"[29].

In conclusion, an assessment of the impact of the UN in confronting international terrorism must be made in view of its much relevant and distinct role and mandate entrusted upon the organization by the Charter, consensus and commitment demonstrated by its member states, its own organizational capabilities and performance, and expectations that are placed on the organization.

1.3 Structure of Thesis

The Policy Working Group on the United Nations and Terrorism convened by the Secretary-General in 2001 to "identify the longer-term implications and broad policy dimensions of terrorism for the United Nations"[30] concluded in its report that "the United Nations should concentrate in its direct role in counter-terrorism on the areas in which the Organization has a comparative advantage… should bolster and reassert the leading principles and purposes of the Charter, the core of which are undermined and threatened by terrorism"[31] and base its efforts on three pillars, which are to "dissuade disaffected groups from embracing terrorism; deny groups or individuals the means to carry out acts of terrorism; [and] sustain broad-based international cooperation in the struggle against terrorism"[32].

[28] Ibid., p. 3.

[29] Chandler, ibid., p. 195.

[30] Ibid, p. 194.

[31] Ibid.

[32] Boulden, ibid., p. 14.

In this context, the thesis will endeavor to find out whether UN has managed to live up to the initial expectations and responsibilities placed on the world body in terms of dissuasion, denial and cooperation, and to critically assess the extent to which the organization has been an effective player in the global counter terrorism campaign and its future potential to fulfill its role to maintain its relevance and distinct position in countering terrorism. In doing so, the study will first analyze the nature, evolution and future of the al Qaida threat to lay the foundation of an assessment of the threat-capability gap. It will then review and assess the capabilities at the disposal of the organization to tackle international terrorism including its policies, processes and instruments. In the process, the thesis will explore the relevance of and key issues addressed by the UN principal organs in the context of terrorism, highlight the strong and weak points of the Security Council's counter terrorism regimes, provide an analysis of the UN's global counter terrorism strategy and its implementation, and initiate a debate on the alternative approaches to dealing with jihadist terrorism to underscore the relative under-emphasis placed by the international community on the 'strategic approach' to counter terrorism involving diverse set of measures to prevent the underlying conditions enabling terrorism as opposed to the more preferred 'operational approach' focusing on protective measures employed by the military, intelligence and internal security agencies to pursue, destroy and defeat hard core operatives. The thesis will conclude by conducting a threat-capability gap assessment and outlining the prospects and challenges ahead that will potentially impact the success of the UN-led global counter terrorism campaign, including a list of concrete recommendations aimed at improving the present collective efforts to fight international terrorism.

CHAPTER II

KNOW AND UNDERSTAND YOUR ENEMY

In responding to the unconventional threat of messianic-religious international terrorism, which is the defining security challenge of the early 21st century, "understanding the enemy is probably more important than knowing it"[33]. An understanding of the ideological dimension of Islamic extremist terrorism is the key to any strategy that seeks to contain and defeat it. Therefore, an effective response to al Qaida and its affiliated terrorist groups goes though understanding its ideology and intentions, on the one hand, and knowing its transformative capacity and operational capabilities, on the other. A threat assessment made on these grounds will be used to match and counterweigh the existing threat against the capabilities of the UN and its participating member states to identify prevailing gaps and shortcomings and to propose solutions that might aid the global counter terrorism efforts.

2.1 War of Ideas

Al Qaida, by its name, refers to a 'base of operation, foundation or alternatively a precept or method' that offers its adherents an alternative radical ideology grounded on anti-Western and anti-Zionist discourse by which to escape and replace the present political, economic and social realities that are believed to have alienated and impoverished Muslims. It is a form of militant Islamism spearheaded by a core group of religious extremists who position themselves as the vanguard of true believers with a pre-ordained responsibility on behalf of Islam to free the umma [global community of believers] from the forces of oppression with the purpose of establishing a tribal form of rustic purification. It represents a non-negotiable worldview based on perverted religious contemplations and a selective interpretation of history, whose success rests on achieving an implausible political agenda predicated upon the elimination of existing corrupt regimes in the Middle East and the Gulf region to be replaced by an Islamic caliphate ruled under the Wahhabi tradition based on the stringent application of Sharia law, discipline, piety and sacrifice, which in the face of existing power disparities requires recourse to indiscriminate and destructive mass violence against an open ended set of human targets, including the use of guerilla warfare, suicide bombings, and if

[33] Chandler, ibid., p. 36.

possible, weapons of mass destruction. The terrorist movement corresponds to a complex global network of like-minded militant Islamists and affiliated groups with a religious and political disposition to the materialization of this exclusivist worldview, factions of the less developed societies primarily situated in Africa, Central and Southeast Asia with profound national or local grievances who share broadly with al Qaida in what concerns its anti-Western rhetoric, and individual by-standers who sympathize with and support aspects of the al Qaida ideology thereby exhibiting the potential to become future militants, activists or financers.

Al Qaida is the latest and most advanced manifestation of terrorism, which draws upon and evolves from previous strands of terrorism emanating from failed political reform, separatist nationalism and leftist revolutionary ethos, all of which have provided nesting ground for the contemporary terrorist movement. The rise of Islamist activism has surfaced in parallel with political transition processes aimed at democratization and liberalization primarily in African countries with predominantly Islamic traditions such as Egypt and Algeria, where reform efforts, by distorting sensitive power balances, their very nature to uphold Western values, and failure to respond to domestic demands, adapt to internal dynamics and be properly managed, led to resentment in the conservative Islamist factions of the society and the political empowerment of Islamist groups, creating an enabling environment for militant Islamists such as al Qaida to flourish. Another dimension of violent religious radicalization pertains to the concept of national self-determination experienced in the Middle East and Africa in the period of decolonization during the mid-20th century, and which continues to this day in Palestine, East Timor, Sri Lanka, Sudan and much of Africa due to internal and external threats to sovereignty, as more recently evidenced in Somalia where an alliance has formed among Somali nationalist rebels, remnants of the overthrown Islamic government and rebels from the Ethiopian border region in response to US-backed Ethiopian attacks in 2006. In fact, religious extremism emerged following the 1967 defeat of the Arab regimes by the Israelis and the subsequent occupation of Arab territories, resulting in the destruction of the Arab dream of pan-nationalism and signaling the defeat of secular nationalism, which in turn boosted the credibility of Islamic groups with the public through their successful armed confrontation against Soviet Union in Afghanistan and the Israeli forces in South Lebanon.

Another strand of terrorism that enjoys an intricate relationship with radical Islamism is the left wing revolutionary movement of the 1970s against the capitalist system spearheaded by

the US, and although leftist groups have lost momentum with the end of the Cold War, the frustrations of indigenous populations due to economic, political and cultural domination of the West and inequitable distribution of resources remain. Though no longer pronounced in leftist terms, militant Islamists aim to break away from the structural impasse created by the free market economy and promote the spread of clientalist economies, and what is more, those particularly in Central and Southeast Asia, where Western presence is visible in view of the region's vital energy resources and strategic breadth, are unified under the Islamic vision of Western exclusion that seeks to eliminate the Western-backed secular autocratic regimes governed by what are perceived as corrupt and negligent political elites. Ironically, given the historic resistance of al Qaida against the Soviet communist influences, its ideology shares some of the features of Marxist-Leninism, most notably, an emphasis on universal claims, focus on internationalism, desire for a revolutionary political, social and economic order, and belief that the world is sharply divided into two opposing camps. In any case, "Al Qaida's ability to link local [and national] groups with a broader, pan-Islamist campaign is arguably the organization's signal achievement."[34] Therefore, while the different strands of terrorism involve an ongoing political struggle between the weak and the powerful, all with the exception of al Qaida have either surrendered to or learned to co-exist with the existing system thereby losing fiber, and those obdurate resistant factions inevitably joined up with the final brand of terrorism of the jihad era, which actually sprung up with the 1979 Iranian Revolution marking Shiite activism concurrent with the Soviet occupation of Afghanistan and culminating in its defeat in 1989, and which spawned further with the Gulf War in 1991. Global salafi [return to the first generation of Muslims or pious ancestors] jihadism [religious armed struggle] and al Qaida as its central hub, "takes jihad beyond the local struggles of religious nationalists to the global war against the United States and its allies"[35] to overturn the modern secular state and Western oriented corrupt autocracies in the near East and Arabic lands to establish genuine Islamic governments therein.

To the dismay of those who concede that Islamist fundamentalism will inevitably collapse as it is devoid of intellectual substance, al Qaida actually offers a solid intellectual foundation, deeply rooted in the literary work of prominent individual thinkers, ideologues, strategists

[34] Angel Rabasa, Peter Chalk, Kim Cragin, Sara A. Daly, Heather S. Gregg, Theodore W. Karasik, Kevin A. O'Brien, and William Rosenau, *Beyond al-Qaeda: The Global Jihadist Movement*, RAND Corporation: Santa Monica, 2006, p. 162.

[35] *ITAC Bulletin*, "Militant Jihadism: Radicalization, Conversion, Recruitment", Vol. 4, Canadian Centre for Intelligence and Security Studies: the Norman Paterson School of International Affairs, Carleton University, 2006, p. 4.

and activists, which has proved effective in attracting followers to its cause of pursuing the true faith. Down the ladder of the Islamist extremist enlightenment is Ibn Taymiyya (1268-1328) who introduced fatwas [religious rulings] against unbelievers inspiring future Islamist militants to issue fatwas calling for jihad against all corrupt Islamic rulers and political elites and the West itself[36], and Muhammed Ibn Abd Al-Wahhab (1703-1792) who helped to unite the warring Arab tribes and established the Saudi state in an attempt to reverse the decline of Islam in Saudi Arabia, and pioneered the Wahhabi religious ideology, which shares the ultra-conservative and rigid worldview of the Salafiyya movement and has wide appeal in Islamic societies where there is low economic development, poverty and political repression, by promising a return to a basic form of life to restore the increasingly decaying moral and political order. Further up the ladder are Hasan al-Banna, founder of Muslim Brotherhood in Egypt in 1928 and Mawlana Mawdudi, founder of Jammat-i Islami in Pakistan in 1941, who share broadly with other Islamic scholars, theologists and activists that,

> "Islam is an all-encompassing way of life guiding individual and community actions; Islamic law provides the ideal model of governance for Muslim societies not dependent on Western models; Departure from Islam and reliance on the West are the causes of Muslim decline… return to Islam will restore the identity, pride, success, power and wealth of the Islamic community and merit eternal reward in the afterlife; Science and technology must be achieved within an Islamic context and not by dependence on the West to avoid westernization; Jihad, to strive and struggle both personally and in community, in ideas and action, to implement Islamic reform and revolution is the means to bring about Islamization of society and the world."[37]

While al-Banna left a negative mark for the contemporary religious extremists by upholding military jihad [war of the sword by the community referred to as lesser jihad] over the spiritual jihad [struggle of the soul by the individual equated with greater jihad], Mawdudi led to the present jihadist contempt against secularism by discarding autonomous political institutionalization devoid of divine legitimacy on grounds that only the observance of Islamic norms guarantee personal integrity required for proper governance.

A key radical thinker worth recalling to better understand the ideological foundation of al Qaida is the principal foundational thinker of the contemporary Islamist movement and the successive leader radicalizing the Muslim Brotherhood in Egypt, Sayyid Qutb (1906-1966), who drafted the main ideological tenets of al Qaidaism, which has had the most dangerous implications on the Islamic faith and destructive impact on the West. In brief, Qutb adapted the notion of jahiliyya, "a state of barbarism and ignorance about the Prophet Mohammed's

[36] Richard Whelan, *Al Quedaism*, Ashfield: Dublin, 2005, adapted from p. 45.

[37] Ibid., p. 49.

revelations"[38] to incorporate the pagan societies of India and parts of Asia and Africa, Jews and Christians who advanced the idea of the separation of religion from the state, and atheist communist societies. More striking is his rejection of spiritual jihad and justification of offensive military jihad to wipe out present-day jahiliyya and defend mankind against all forms of oppression including political tyranny of absolutist states, the existing socio-economic system based on races and classes backed by the military might of tyrannical governments, and the Western dominated economic, political and cultural order. While recognizing there is no compulsion in religion, the war of the sword must nevertheless be employed in the face of overwhelming material obstacles that blind and prevent mankind from acknowledging the true message of Islam; and only when the forces of jahiliyya and oppression are extinguished will mankind be free to accept or reject the Islamic faith. And finally, a modern-day jihadist mastermind is a Palestinian member of Muslim Brotherhood, founder of Hamas and teacher of bin Laden, Abdullah Azzam (1941-1989), who struggled from Pakistan to liberate Afghanistan from the Soviets, as part of an unfinished business involving the liberation of Muslim lands from infidels, including Bukhara, Lebanon, Chad, Eritrea, Somalia, southern Yemen, Philippines, Burma, Tashkent, and al-Andalus. Central to his political thought was the idea that a core group of young Muslims will rescue the nation of believers from perdition by calling them to the cause of jihad and to uphold the true path of Islam, risking their lives in the process if such re-awakening so requires.

It follows then that al Qaida's ideology not only leverages on the historically rooted political, nationalist and revolutionary goals, but is also characterized by an "absence of a plausible political agenda, which is correlated with the increased lethality of attacks due to the absence of constraints on violence"[39] in that it views all individuals other than true Sunni Muslims as outright evil and therefore, not deserving mercy, empathy, pity or even life, which makes global jihadism distinct and more malignant than its predecessors, which were more careful not to target civilians in view of their need to win constituencies to obtain their aims. Religious extremists are repulsed by the current system with its modernity, insincerity, immorality, individuality and homogeneity, and are conditioned by faith to replace it with rural simplicity based on purity, decency, austerity, collectivity and obedience, with an aim to fulfill their pious duty in this lifetime thereby setting an example for those left behind, and please the commands of the all mighty, which will warrant them paradise in the afterlife. It

[38] ITAC Bulletin, ibid., p. 3.

[39] Whelan, ibid., p. 26.

is this self-perpetuating reliance of passing over moral accountability for actions to the deity that removes distinction between reality and fiction or reason and revelation, which makes Al Qaida and its adherents particularly formidable.

Al Qaida's religious-messianic ideology adopts a militant character not only by the tenets of its intellectual foundation and value system, but also by a number of international political developments, one of which is the Soviet withdrawal from Afghanistan in 1989, whereby Afghan jihadists that previously received considerable support and training from the United States, Saudi Arabia, Pakistan and other Muslim nations in the context of the Cold War, with no state to return to or which they would be accepted, became available to serve radical Islamist causes elsewhere, namely, Algeria, Egypt, Kashmir, Bosnia-Herzegovina, Chechnya, and most of these jihadist veterans became professional Islamists based in Pakistan where they engaged in building military skills and ideological indoctrination for a new generation of young jihadists. On another front, the US-led Gulf War in 1991, initially supported by Muslim countries in its liberation of Kuwait from Iraq, fueled Islamist militant movements with Saudi permission to allow prolonged deployment of US bases, troops and armaments on its territory, which was yet another element to an already prevailing hostility against the Saudi regime in view of its perceived suppression of religious scholars, and plundering and mismanagement of the country's wealth and resources. Moreover, US political and military presence in predominantly Muslim states, its continued support to Israel, and more recently, its interventions into Afghanistan (2001) and Iraq (2003), cater for the political imaginations of militant Islamists who come to believe that the West is actively conspiring to destroy the land of Islam.

A final element with an international dimension that factors into al Qaida military activism is the long-standing struggle between the Sunni and Shiite religious sects in that the preservation and promotion of Sunni identity against Shiite activism is one of the main ideological components on which al Qaida, the Taliban and other jihadist groups are founded. In the face of Shiite political movements in Iraq, Pakistan, and Afghanistan, backed by the financial and political support of Iran in the aftermath of the 1979 Iranian Revolution, Sunni militancy, with Saudi financing and propaganda of the Wahhabi ulama through the issuing of fatwas, effectively fought against Shiite communities threatening Sunni regimes in Pakistan, Bahrain, Kuwait, Iraq and Saudi Arabia. However, US occupation of Iraq in 2003 once again altered the sensitive power balances in favor of Shiites, which gained the political

upper hand in the reconstituted Iraqi government in view of its majority in the country's overall population and increased opportunities for cultural revival, fueling radical activism on the side of Sunni Iraqis, former Ba'athist sympathizers, al Qaida and affiliated jihadist groups. Sunni political marginalization at the behest of Shiites and Kurds over the past years whereby

> "the Sunnis in the Parliament demanded that the excesses of de-Baathification be reversed [only to be] rebuffed… Sunnis rejected the formation of a Shiite super province in the south which has nevertheless been pushed in the Parliament… the Kurdish leadership has dismissed Sunni objections to their plans to annex the oil-rich province of Kirkuk, which has a significant Arab population"[40]

has created an environment of domestic instability that continue to breed jihadist elements in Iraq.

The international jihadist movement is therefore a reactionary impulse to economic, political and cultural encroachment of the West into Muslim lands, which is believed to have severely hampered the progress of the Islamic civilization and resulted in its failure in non-religious areas leading to the present-day impoverishment, contrary to its illustrious past captured by the Bedouin and Averroes that was based on the legitimate political and moral order of true Islam, and recognizing its abysmal future with potentially worse conditions. As such, the long-term objective of al Qaida is to reclaim the long-lost throne by establishing a Sunni Islamic caliphate operating under a Taliban-like structure with strict obedience to Wahhabi ideology and reigning over

> "the ruins of Turkey and all other Islamic states in the Middle East and the Gulf region including Iran, Iraq and Bahrain irrespective of their majority Shiite population, and extending to other lands [previously] occupied by Muslims such as most of Spain and Portugal, France to the south of Loire River, the southern portion of Italy including Sicily, Hungary, the Balkan states, Azerbaijan, Georgia, the Crimea, Anatolia, Kurdistan and parts of Asia (Indonesia, Malaysia and Philippines), and North Africa"[41].

This far-reaching political agenda would require the elimination of all international organizations and most notably, the United Nations, which is the primary overseer of national sovereignty, and the existing political mapping of the international system. This objective in turn would require the realization of the medium-term objective, which is the elimination of each Islamic government that can only be achieved by the removal of all forms of Western and primarily, US influence and support, following which these regimes will be overthrown. In view of the past successes of guerilla warfare against the two superpowers such as Vietnamese against the United States and religious extremists against

[40] The Nation, "How to Get Out of Iraq", 2007, p. 5.
[41] Whelan, ibid., p. 86.

the former Soviet Union, it is both feasible and desirable to declare military jihad against the United States, which suggests the strategic prowess of al Qaida in that "instead of disparate groups fighting disparate national enemies, by concentrating on just one, the various militant groups could enjoy a unity of focus, propaganda and eventually support"[42]. And finally, its short term objectives include the abolition of the separation of religion and the state, destruction of democracies, end to civil and human rights, and removal of Christians, Jews and other foreign elements from sacred Muslim lands through modalities and means of destruction.

At first reading, it might be difficult for some to contemplate how Islamic youth could be drawn in by the nostalgia of the past glory of the Islamic civilization extending back to 11th century, but the fact remains that "some Muslims are ready to approve, and a few of them to apply the Declaration's [1998 Declaration of the World Islamic Front Against the Jews and the Crusaders] extreme interpretation of their religion… terrorism requires only a few"[43]. In fact, the plausibility and influence of al Qaida's ideology from the perspective of the wider public opinion might be greater than that meets the eye in view of the findings of

> "a poll released in 2007 by the University of Maryland's Program on International Policy Attitudes, [whereby] 25% of Egyptians supported al Qaida's attacks on Americans and shared its attitudes toward the US, another 31% of Egyptians opposed al Qaida's attacks on Americans but shared many of its attitudes toward the US, and 40% of Egyptians, 27% of Moroccans, 27% of Pakistanis and 21% of Indonesians have positive feelings toward bin Laden."[44]

What these suggest is that the prejudiced interpretation of history and religion is perhaps not confined to the al Qaida core, but is widely shared among the Arab community as a product of cultural and religious heritage, the appalling privation, political repression, alienation and humiliation resulting from the prevailing economic and political system including foreign occupations and political interventions spelled out above, and moreover, the manipulative power of cultural or religious elites to inject social capital to existing grievances, to produce and reproduce ideology, and to transform religious conviction to political resources. In fact, al Qaida leaders, religious clerics and principal strategists cannot distort opinion, values and fears that do not exist or for which there is not at least some opening nor can they be isolated from the general perceptions and belief systems of their target audience.

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[42] Whelan, ibid., p. 96.

[43] Bernard Lewis, "License to Kill", *Foreign Affairs*, 1998, p. 19.

[44] Seth G. Jones, and Martin C. Libicki, *How Terrorist Groups End: Lessons for Countering al Qaida,* RAND Corporation: Santa Monica, 2008, p. 114.

In explaining the legitimacy for some of the violence perpetuated by the jihadist movement, al-Azm mentions that

> "as Arabs and Muslims, we continue deep down we continue deep down to image and imagine ourselves as conquerors, history makers, pace setters, pioneers and leaders of world-historic proportions… we find intolerable… a great umma like ourselves standing helplessly on the margins not only of modern history but even of our local and particular histories… [also intolerable is] the condition of being the object of a history made, led, manipulated and arbitrated by others, when we remember that these others were the objects of a history made, led, manipulated and arbitrated by ourselves"[45].

It follows that

> "when this unexamined, highly potent and deep seated self-image collides with everyday actualities of Arab-Muslim impotence, backwardness, frustration and insignificance especially at the level of international relations, then anything becomes possible on the Arab-Muslim side… grand illusions, massive inferiority complexes, huge compensatory delusions, wild adventurism, heedless political recklessness, desperate violence, and large scale terrorism of the kind we have become familiar with all over the world"[46].

Therefore, extremist Islamist reaction in proportions of September 11 is interpreted as a desperate attempt of hard core Islamists to break away from the structural and historical impasse and to restore the world-historic status of the Islamic community, having given up on contemporary Muslim society with its modernist Islamists, its socio-political movements, Muslim false consciousness, mainstream Islamic organizations, Islamic regimes pursued by autocratic regimes, and all others preaching their own brand of blind Islamism. It is also a product of the notion of and "desire for revenge, which is often under-estimated, as being emotional, primitive and unamenable to analysis"[47], but the radical motive dictates that even if revolutionary change cannot come about in the short term, extreme form of violence is an appropriate and justified act to make US and its allies pay a price for its past sins.

Al Qaida's ideology has meaning to the extent that it explains present-day failure of Muslim societies, and offers a better and promising alternative for the future. Muslim peoples of the Middle East and the Gulf region are engulfed in deploring living conditions where the rate of unemployment and labor productivity have declined, real wages have dropped, poverty has grown, and civil liberties and political rights are kept at a minimum, and where among the middle-class educated strata, not to mention the diaspora abroad, there is increasing awareness of the disparities between the better living standards and opportunities available in the West and the state of destitute weighing upon the Muslim community in general. The

[45] Sajik J. Al-Azm, "Islam, Terrorism and the West Today", *Welt des Islams,* 2004, p. 123.

[46] Ibid., p. 124.

[47] Robert Jervis, "An Interim Assessment of September 11: What Has Changed and What Has Not?", *Political Science Quarterly,* Spring 2002, adapted from p. 50.

resulting anger is initially directed against their governments, but to no avail, then against Western countries that support their rulers to remain in power for self-interested reasons, and finally, against the Western-dominated international system with its intolerable greed, consumerism, lavishness and arrogance. It is at this point that al Qaida enters the picture to remind the vulnerable Muslims the greatness of the past and how that was painfully carted off from them by Western predominance resulting in the present crisis, and to call upon young Muslims to assume responsibility of the present so that they can lead the way for a brighter future based on a return to the Islamic heritage left behind them.

The success of bin Laden, his deputy al-Zawahiri and other religious and political leaders is their ability to take advantage of the 'minds and hearts' of the socially, economically and politically alienated young Muslims by offering them "self-worth, the admiration of others, excitement, and a sense of purpose [living as 'kunyas' or Prophet's companions in partaking global salafi jihad] coupled with feelings of mutual solidarity and comradeship"[48]. Even more worrying is that there are ample opportunities for those seeking for identity or not familiar with the fundamental tenets of the Islamic religion to be steered into whichever direction religious extremists please, whether by accessing the Internet that is strategically used for ideological indoctrination or by regularly engaging in radical preaching that takes place in mosques, madrassas, charities, private homes, and even prisons. Through these propaganda mediums, Muslim youth is exposed to constant reminders of their obligations to fellow Muslims, most notably, "to provide alms to fellow Muslims in need, to receive training in the use of arms when Islam is under threat, to participate in combat in support of fellow Muslims when they are under attack, and to sacrifice one's life"[49].

In the final analysis, the fight against international terrorism is one of clashing worldviews or 'war of ideas' between global jihadists and the world at large, and signifies for both sides, a long-term "struggle for total victory in which all must take one side or another without possibility of neutrality, hesitation or middle ground"[50]. Moreover, it is crucial to understand and re-conceptualize the ongoing fight as one of 'radical ideology' and not of religion per se, and as fought against religious extremists and not against the Muslim world and fought by a global coalition or world civilization not confined to the 'West' but including the so-called

[48] ITAC Bulletin, ibid., p. 18.

[49] Chandler, ibid., p. 119.

[50] David Waines, "Manichean Madness: the West vs. the Rest", *Journal for Cultural Research,* 2006, p. 70.

'mainstream' Muslims and their governments participating actively in this campaign. This is in recognition that another source of violent radicalization is the joint contemplation, if not, projection of both extremists and some Western scholars, politicians and strategists, to contemplate and/or to project the Islamic religion as a real or potential source of danger and violence given that the latter group, either implicitly or explicitly, share certain assumptions such that

> "the essence of Islam as a religion is antipathetic to the fundamental core values of the West; Islam is inherently violent in nature; and that the current violent attacks against the West are inevitable and are provoked not by particular grievances [for what the West does in terms of actions and policies], but by the very existence and character of the Western civilization [for what the West is]"[51].

While such assumptions are championed by the Islamist militants who are content to see a convergence of understanding around the central features of Islam, these reinforce the exclusivist and divisive theory of clash of civilizations, pointing to the incompatibility of the Western and Islamic civilization and limiting the analysis to mere religion while failing to recognize its perversion as the main problem, and by targeting religion, infuriate the Muslim community, only to win enmity and strengthen the position of al Qaida.

2.2 Organizational Capacity and Operational Capabilities

The present-day global jihad movement originated in 1984 under the framework of Afghan Service Bureau (Maktab-il Khidmat) and was formally established under the name al-Qaida al-Sulbha (The Solid Base) in Pakistan in 1989, following its conceptualization by Abdullah Azzam in 1988, who was responsible for propagating the concept of jihad hence the ideology while bin Laden was the leader of operations and finances. Following the Soviet withdrawal from Afghanistan and disagreements with the Saudi government over US troop presence on Saudi soil and warning of arrest due to financing of subversive activities in Algeria, Egypt, and Yemen, bin Laden established headquarters in Sudan from 1991 to 1996 during which he engaged in commercial ventures that diversified al Qaida's finances from genetic research to civil engineering[52]. Due to international sanctions pressurizing the expulsion of bin Laden for plotting attacks and terrorist financing, al Qaida resumed its operations in Afghanistan from 1996 to 2001 through a mutually-reinforcing relationship with the Taliban whereby bin Laden would financially assist the regime against the Northern Alliance and in exchange, he would be provided sanctuary, weapons, equipment, and training facilities, which enabled al

[51] Ibid., p. 71.

[52] Chandler, ibid., adapted from p. 154.

Qaida to review, recoup and reorganize its operational infrastructure and train more than 20,000 foreign mujahidin prior to the US occupation of Afghanistan in 2001. As such, prior to 9/11, al Qaida became a truly coherent international terrorist organization operating under a hierarchical structure with

> "a dozen or so inner members surrounded by an outer circle of roughly 100 highly motivated loyalists, largely veterans from the Soviet-Afghan war who had sworn allegiance to bin Laden in 1989, comprising the consultative committee, and [supported by] four operational committees… military, finance and business, fatwas and Islamic study, and media and publicity"[53].

Furthermore, the organization was analogous to a bureaucratic enterprise

> "complete with employment contracts specifying vacation policies, explicitly documented roles and responsibilities for different jobs including detailed descriptions of the experiences required for senior leadership roles, security memos written by a specialized security committee, and standardized questionnaire for those arriving at training camps"[54].

In response to the US military occupation of Afghanistan following 9/11 terrorist attacks and counter terrorism measures involving intelligence, surveillance, and law enforcement, which have greatly damaged the operational infrastructure and organizational capacity of al Qaida, it has nevertheless made important organizational and operational modifications to retain its security, and to drive and sustain what became a global jihadist movement, at the expense of operational control and financial efficiencies that it previously enjoyed. Despite its setback in Afghanistan, the already decentralized terrorist organization has evolved into a more diffuse network, with several hubs working autonomously in a wide geographical area with little or no connection with former leadership in terms of operation and finance, but held together by a global salafi-jihadist ideology. The principal success of the al Qaida hard core has been its ability to transfer operational knowledge including tactics and ideological persuasion, and to work with, through and at times, to establish and promote inter-linkages among the many associated groups, networks, and cells in Africa, Asia, Caucasus, Middle East, and Europe, for achieving a common agenda that "collectively seeks to harm the United States, the West, and apostate governments in the Muslim world"[55]. These jihadist groups are preoccupied not only with local struggles but also with regional and global jihad thereby creating a threat beyond their immediate environment, and are based in South Asia (Kashmir, Pakistan and Bangladesh), the Caucasus and Central Asia (Chechnya and Uzbekistan), Southeast Asia (Indonesia, Philippines, and including trans-regional Jemaah Islamiyah network), North and

[53] Rabasa, ibid., p. 29.

[54] Jacob N. Shapiro, *The Terrorist's Challenge: Security, Efficiency, Control,* Center for International Security and Cooperation:, Stanford University, April 2007, p. 4.

[55] Rabasa, ibid., p. 77.

East Africa (Morocco, Egypt, Algeria, Libya, Tunisia, and Somalia), and the Middle East (Jordan, Saudi Arabia and Iraq)[56].

In particular, the "phenomenon of near-autonomous, home-grown terrorist cells carrying out attacks in Europe [and elsewhere] is a well-recognized model for contemporary al Qaida operations"[57], and moreover, there is an increasing self-perpetuating al Qaida 'network of terrorist networks' in view that "by 2004-2005, al Qaida related cells existed in some 60-70 countries around the globe"[58]. Among these countries, important is to note the Afghanistan-Pakistan border area, the present-day sanctuary for both old and new jihadi militants, also known as the 'Durand Line' and particularly, its Pakistan side referred to as 'Federally Administered Tribal Areas', which is inhabited by the largely independent feudal clans of the Pashtun tribe and where al Qaida has been involved in strategic planning, information operations, training and bomb-making for its global terrorist campaign and its more localized efforts in Afghanistan, Pakistan and Iraq. This area has seen the resurgence of the Taliban since late 2002 and the stationing of non-Afghan al Qaida affiliated fighters against which the Pakistan Government Forces have carried out and continue to undertake offensive operations, which create resentment on the part of tribal groups and the Pakistani people in general.

Although recent reports and sources[59] estimate that two-thirds of al Qaida leaders have been killed or captured and that around 4,000 al Qaida suspects have been arrested in more than 100 countries, "the key ideological and spiritual leaders are alive and at large"[60] and "using the sanctuary in the border area of Pakistan, al Qaida has been able to maintain a cadre of skilled lieutenants capable of directing the organization's operations around the world"[61]. Therefore, in addition to the general composition of al Qaida recruits consisting of young volunteers or mujahedeen, religious nationalists, homegrown terrorists, global salafi jihadists, reverts [young Muslims feeling the need to prove their new-found commitment by adopting the most extreme form of religion], and converts of European and American origin,

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[56] For the list of affiliated terrorist groups within the al Qaida nebula, see Appendix A of the thesis.

[57] Chandler, ibid., p. 159.

[58] Chandler, ibid., p. 39.

[59] Walter Enders, and Todd Sandler, "After 9/11: Is it All Different Now?", *The Journal of Conflict Resolution,* Vol. 49, No: 2, April 2005, p, 262; Chandler, ibid., p. 138.

[60] Chandler, ibid., p. 17.

[61] Jones, ibid., p. 104.

post September 11 al Qaida signals an ability to rebound with a new generation of leaders who, according to officials and analysts,

> "have years of battlefield experience in places like Afghanistan and Chechnya… are more diverse than the earlier group of leaders, which was made up largely of battle-hardened Egyptian operatives… the new cadre includes several Pakistani and North African operatives… the fighting in Iraq is believed to produce future al Qaida leaders… the jihadis returning from Iraq are far more capable than the mujahedeen who fought the Soviets ever were… they have been fighting the best military in the world with the best technology and tactics"[62].

On the other hand, the continued release of public statements by al Qaida founders assessing and encouraging terrorist operations including the ongoing insurgency in Iraq suggest that the weakened operational capabilities of the post 9/11 security environment have led these individuals to

> "reaffirm their leadership roles and the role of al Qaida as the vanguard of an emerging, loosely organized international jihadist movement… to focus on ideological outreach activities and influence public opinion in the US and Europe… to reaffirm their presence, control and their undisrupted aim to inspire, plan and execute attacks against the US and its allies with particular emphasis on targeting economic and energy infrastructure and fomenting unrest in Iraq, Afghanistan, the Persian Gulf states, and countries neighboring Israel"[63].

Put differently, bin Laden and al Zawahiri no longer enjoy operational leadership after 9/11 in that they have "exerted only marginal direct influence in the actual mechanics of subsequent attacks… their role in planning, financing and supporting terrorist strikes has diminished"[64], but their strategic leadership in the form of political statements and propaganda over the Internet continues to serve the al Qaida ideology and provide motivation for global jihadist terrorism.

The post 9/11 enhanced security environment has led to significant changes to the way al Qaida network conducts its operations, including discrete and innovative financing, switch from mass casualty attacks on hard targets to small and frequent attacks on soft targets, creation of new sanctuaries in the form of urban training grounds to maintain critical skills, increased demand to acquire and use weapons of mass destruction and other innovative devices i.e. airplanes, boats and MANPADs as operational delivery mechanisms, in addition to an overall focus on greater scrutiny in hiding operational and contact information which in the past have unraveled several plots and efficiency in the utilization of loose networks.

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[62] Mark Mazzetti, "Al Qaeda Is Seen as Restoring Leadership", The New York Times, April 2007.

[63] Christopher M. Blanchard, *Al Qaeda: Statements and Evolving Ideology,* Congressional Research Service Report for Congress, July 2007, p. 4.

[64] Rabasa, ibid., p. 32.

Terrorist groups operating through decentralized networks such as Al Qaida and affiliated networks, while continuing to raise money from legitimate sources such as private business, fundraising and non-profit sector, contributions from domestic constituents, diaspora and wealthy financiers, due to enhanced counter terrorist financing measures, no longer benefit extensively from individual and/or state sponsorship, and have shifted its methods to illegitimate means of acquiring finances, especially on the part of its self-financing home-grown groups in Europe where "funds are raised from petty and street crime: selling drugs, ATM (cash) theft, credit card and check fraud… [trafficking in cigarettes and alcohol] which in fact raise significant sums of money"[65]. Moreover, instead of moving money through formal channels, terrorist groups have turned to nontraditional means that are more difficult to monitor such as cash couriers and that enable them to conceal their assets through "nontransparent trade or financial transactions such as the use of charities, informal banking systems [hawala], bulk cash, and commodities, including precious stones and metals that serve functionally as forms of money"[66]. A pattern of al Qaida financial activities in the post 9/11 period is its "shift of much of its financial activities in Africa, the Middle East, and Southeast Asia that lack the financial resources, resolve, and/or capacity to regulate such activity closely"[67]. Therefore, although al Qaida funding diminished due to greater control of financial flows and asset freeze measures, the network continues to develop new techniques to acquire, use and distribute funds and resources, and "it remains relatively easy for al Qaida to find the relatively small sums required to fund terrorist operations"[68], most of which require minor funding[69].

After September 11, there has been a visible increase in terrorist attacks and a systematic use of suicide bombings, spanning a wider geographical area across Europe, Asia, the Middle East, and Africa to include Tunisia and Algeria in North Africa, Bangladesh, Indonesia and Pakistan in Asia, and Jordan, Turkey and Egypt in the Middle East, and Spain and UK in

[65] Chandler, ibid., p. 162.

[66] David Cortright, and George A. Lopez, *Uniting Against Terror: Cooperative Nonmilitary Responses to the Global Terrorist Threat*, The MIT Press: Cambridge, 2007, p. 159.

[67] Eric Rosand, "The Security Council's Efforts to Monitor the Implementation of Al Qaeda/ Taliban Sanctions", *The American Journal of International Law*, Vol. 98, No: 4, October 2004, p. 755.

[68] Cortright, ibid., p. 241.

[69] Perpetrators of Madrid atrocities, which cost around 10,000 USD, funded the attacks by selling stolen vehicles and hashish imported from North Africa and the explosives used were stolen from a quarry in northern Spain. One suspect had been running a small mobile telephone business, which apart from raising money legally, provided a useful cover. Also in 2005, the authorities in Germany arrested an Iraqi who had taken out a sizeable life insurance policy and was intending to fake a fatal car accident in Egypt, and using a fake death certificate to have a claim on the policy. For more information, see Chandler, ibid., pp: 163-164.

Europe, not to mention two major insurgencies in Afghanistan and Iraq. While "Al Qaida attacks averaged fewer than 2 attacks per year between 1995-2001… it averaged more than 10 attacks per year between 2002 and 2007 [excluding Iraq and Afghanistan]"[70], and "more than 400 suicide attacks occurred in Iraq in the first two years of the US occupation, and the number of attacks continued to rise since"[71]. Although al Qaida has as its main goal to inflict mass casualties per attack, the organization has had to alter its operational strategy after losing its operational base and logistics, its functional assets with the death and arrests of its senior and mid-level commanders, and its financial capabilities with the freezing and confiscation of assets, to conduct smaller but more frequent attacks on softer targets. As a result of these losses in manpower, leadership and finances, "logistically complex hostage-taking events have fallen as a proportion of all events, while logistically simple, but deadly bombings have increased as a proportion of deadly incidents"[72]. Contrary to the prior 9/11 situation whereby Al Qaida's energies and resources focused on attacking hard targets including embassies, financial centers, and military installations, which are difficult to infiltrate and represent political, economic and military power, and while there is still intention to attack such strategic targets, after 9/11, al Qaida and associates increasingly focused on attacking soft targets, most notably, nightclubs (Indonesia), synagogues (Tunisia, Turkey), banks (Turkey), bazaars (Pakistan), tourist sites (Egypt) and others, which provide a wider strike options and operational latitude. Furthermore, the use of suicide missions, as a product of tactical necessity due to operational and financial constraints, also has strategic significance in that it presents an omnipresent image that keeps the movement vibrant and relevant, underscores continued dynamism and resolve, and plays an important role in the indoctrination of new al Qaida recruits by demonstrating heroism. As in the words of an al Qaida propagandist, "we are really puzzled to see the Americans and their followers in the Western world think that they are able to confront people who wish to die more than they want to live"[73].

Although al Qaida will not be able to find the same enabling operational ground provided by the Taliban in Afghanistan and additional sanctuaries in what were previously suppliers of safe haven, namely, Libya and Sudan in view of the counter terrorism measures denying

[70] Jones, ibid., p. 110.

[71] Cortright, ibid., p. 247.

[72] Enders, ibid., p. 185.

[73] Hillel Fradkin, Husain Haqqani, and Eric Brown, *Current Trends in Islamist Ideology*, Center on Islam, Democracy, and the Future of the Muslim World, Hudson Institute: Washington D.C., 2005, p. 77.

territory, it follows then that the new trend is a growing number of urban training grounds, defined as, "operational spaces in urban areas such as private homes or warehouses, where new recruits can engage in the full spectrum of terrorist training, ranging from ideological indoctrination to target selection and how to conduct surveillance"[74]. In addition, to increase efficiency of loose networks and to avoid detection of core operatives, al Qaida changed its operational strategy to have "cells composed of newly recruited operatives who come together for a specific operation and then disperse after it is over"[75].

And finally, the destructive capacity of weapons of mass destruction, increased possibility to acquire nuclear weapon capability coupled with the intention of al Qaida and its affiliated networks to acquire and use nuclear, biological, chemical or radiological materials, makes these weapons, and particularly nuclear terrorism, a real threat to security. There are three main avenues by which al Qaida can acquire nuclear weapon capability: first, processing sufficient amount of plutonium or uranium into weapons-grand material and then designing and constructing a bomb; second, illegally acquiring enough fissile material from the black market and/or stealing from vulnerable locations, and then assembling a nuclear bomb, and third, obtaining an intact nuclear weapon.

The first option would only be feasible with state sponsorship to acquire the immense assets and resources required for enrichment and given the intensification of non-proliferation regimes in the aftermath of 9/11 closely monitored at the international level [UN monitoring group under resolution 1540 on the prevention of acquisition and use of WMD by non state actors and the IAEA inspections and verification schemes, to name a few], this option is not likely to materialize, despite the potential for rogue states i.e. Iran, North Korea to deviate from the established path. The second option investigates the potential for al Qaida to acquire highly enriched uranium or plutonium, and given the poorly guarded and widely dispersed stocks of fissile material with the breakup of the former Soviet Union, on the one hand, and in view of Pakistan's possession of nuclear weapons, materials and expertise, the political instability and al Qaida's presence in Pakistan and indications of sympathy of the country's nuclear scientists for and their direct affiliation with al Qaida, on the other hand, opportunities involving direct theft, smuggling or bribing nuclear custodians abound. Moreover, "almost 60 states currently operate or are constructing nuclear power or research

[74] Rabasa, ibid., p. 42.

[75] Ibid., p. 40.

reactors"[76] and "1,300 kilograms of highly-enriched uranium (HEU) exist in research reactors in 27 countries… total volume of HEU stockpiles is far greater, and many HEU storage sites in the world are inadequately secured"[77]. Although assembling nuclear weapons have its obstacles including knowledge about design and physics [which are readily available even online] and technical and practical difficulties requiring trained and skilled nuclear scientists, this option nevertheless remains open considering the expertise required to build and detonate a nuclear bomb comprise

> "a physics team capable of rendering the design of a nuclear bomb in three to six months… a few small engineering teams to address casting the uranium for the device, constructing the proper gun, assembling the supercritical mass of uranium, overseeing the electronics, and finally the actual detonation… the testing of the nuclear device in a remote area… and the transportation of the device to the place of detonation in a van on busy roads to go about undetected to conclude that a group of less than 20 people [including the person responsible for clandestine procurement] could construct a lethal nuclear weapon since they are conceptually simple devices"[78].

As to its destructive impact, "experts estimate that terrorists with 50 kilograms of highly enriched uranium (HEU), an amount that would fit into six one-liter milk cartons, need only smuggle it across borders in order to create an improvised nuclear device that could level a medium-sized city"[79]. Realistically speaking, complications of procuring adequate fissile material and constructing a nuclear weapon make the third option of direct acquisition of a nuclear weapon the most feasible.

What are perhaps the most attractive types of nuclear weapons to terrorists like al Qaida are tactical nuclear weapons (TNWs) in the form of artillery shells, land mines, and rockets, which are small and portable with great yield capacity and which can be used in the field without the authority of centralized command and control oversight mechanisms and fired by an individual combatant on the frontline without employing stringent safety precautions required for the launch of strategic nuclear weapons. As TNWs, numbering thousands only in the former Soviet Union,

> "are regularly overlooked in arms control negotiations and have never been the subject of a formal international treaty [despite the non-binding Presidential Nuclear Initiatives introduced by the United States and Russia to reduce and control TNWs, the implementation of which remain uncertain], they represent one of the most significant unaddressed challenges in the deadly nexus"[80].

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[76] High-level Panel, ibid., p. 39.
[77] Ibid, p. 40.
[78] Peter D. Zimmerman, and Jeffrey G. Lewis, "The Bomb in the Backyard", *Foreign Policy*, 2006, p. 36.
[79] High-level Panel, ibid., p. 16.
[80] Cortright, ibid., p. 133.

Against this background, what is alarming is that, as of January 2008, UN member states

> "reported or otherwise confirmed 1,340 trafficking incidents, of those, 303 incidents involved the seizure of nuclear material or radioactive sources from persons who possessed them illegally and, in some cases, attempted to sell them or smuggle them across borders… [some of which involve] unauthorized possession of highly enriched uranium and plutonium"[81],

testifying the already known intention of terrorists to acquire, produce and use nuclear weapons, and even more worrying is that this pattern might increase if ideological indoctrination steers the jihadist motive further into this direction. It must be noted that only rarely do Islamic clerics, scholars or intellectuals who supply doctrinal support for the cause of global jihad address the issue of weapons of mass destruction, and there is either rare or no reference to the use of WMD in the military manuals distributed over the Internet although there are Islamist websites providing instructions on homemade bombs or improvised explosive devices using chemical agents. The absence of discussion on the issue is because WMD and particularly, the use of nuclear weapons is viewed by some clerics with skepticism for reasons of fearing the destructive consequences of such use for the entire Muslim world, equating WMD with the broad array of social diseases associated with the West such as AIDs, smoking and drug use, and of finding suicide bombings, as a mode of operation, to be more appropriate in terms of both indoctrination [spread of the culture of jihad by portraying suicide missions as a heroic act of martyrdom] and operational convenience [that the West has no answer to the use of suicide missions which require no technical infrastructure and only little expertise and training].

On the other hand, "some recent Islamist pronouncements indicate that this past emphasis on personal sacrifice and martyrdom operations may be changing to include increased demand to acquire and use WMD"[82], and it is this new Islamist discourse that might inspire the new generation of radical Islamists combined with the groups of ruthless Algerians and Jordanian Tawhid groups to show less or no reservation to the acquisition and use of WMD. To illustrate, the militant books and articles of a leading cleric of Saudi Islamist opposition, Naser bin Hamad al-Fahd, work from the logic of reciprocity and retaliation inherent in the jihadi ideology, by providing that "those countries that lead the campaign against the use of WMD… have already used WMD in the past against their enemies, not to mention that they,

[81] This figure is based on the IAEA Illicit Trafficking Database; and for information, see the Report of the Secretary General entitled "United Nations Global Counter-Terrorism Strategy: activities of the United Nations system in implementing the Strategy" endorsed by the General Assembly on 7 July 2008, p. 8.

[82] Fradkin, ibid., p. 78.

plus the Jews, possess these weapons"[83], which make the acquisition and use of these weapons by Muslims justified. In line with the principle of proportionality, he claims that "since the average number of Muslims killed by US weapons amount to 10 million, it was [and is] permissible for Muslims to inflict an equivalent number of casualties in an attack on Americans"[84], and moreover, as an expression of rationality, he contends that if there is no other way to defeat the enemy and that "if the killing of Muslims is necessary, then they [Muslims] should kill them, all of them, by every means possible"[85]. In a similar tone, a leading trainer and scholar of al Qaida, Abu Mus'ab al–Suri, suggests a strategic partnership with North Korea and Iran due to the need to "cooperate with the devil to defeat the bigger devil"[86] in that "the ultimate choice is the destruction of the U.S. by operations of strategic symmetry through weapons of mass destruction… if the mujahedeen can achieve it with the help of those who possess them or through buying them"[87]. Overall, adherence to the theological justification provided by the writings of al Qaida strategists such as al-Fahd and al-Suri might accelerate attempts by Islamist groups to acquire and use WMD and insofar as retaliation and reciprocity remain the basic norms of global jihadism, there will always be an intention to acquire and use unconventional weapons, especially given the increasing losses from the insurgency in parts of Iraq and Pakistan and the organizational setbacks suffered by al Qaida that might call for more assertive modes of operation in the future.

And finally, among the capabilities at the disposal of al Qaida, which increase its destructive potential, include portable shoulder-fired or surface-to-air missiles (MANPADs), which are increasingly proliferating throughout the world, making it more likely for al Qaida terrorists and its groups to take possession of these weapons and to use them for perpetuating attacks. In fact, after 9/11, there have been two failed attempts to use such weapons, one directed at US military aircraft in Saudi Arabia and another, at an Israeli charter aircraft in Mombasa, Kenya. Moreover, there are reportedly 150,000 of these devices in circulation, and estimates indicate that at least 100 Stinger missiles are still circulating Afghanistan and thousands are

[83] Ibid, p. 79.

[84] Rabasa, ibid., p. 45.

[85] Fradkin, ibid., p. 80.

[86] Ibid., p. 82.

[87] Ibid, p. 83

missing in Iraq[88], which al Qaida and its affiliates could easily obtain and smuggle out of the country for use in a planned attack.

2.3 Assessing the Global Jihadist Threat

In the final analysis, al Qaida continues to inspire, radicalize, mobilize, and direct Islamist terrorists and potential recruits, acting as a central node among the global family of jihadist networks and loosely knit cells in the post 9/11 security climate by effectively performing its role as ideological vanguard and providing operational guidance. At the same time, there are reasons to believe that the global jihadist threat may over time reduce, even if it might not disappear all together, taking into account the organizational realities that play against al Qaida's operational coherence and ideological consistency in the process of its development into a full-fledged pan-Islamic terrorist movement. An initial consideration is that al Qaida's transformation into a decentralized terrorist network does not necessarily mean that this was the preferred option for the organization, but more so, it was a rational decision to maintain organizational security and survival at the expense of operational control and financial efficiency following the loss of its operational grip with the ousting of the Taliban. In fact, "al Qaida is just one of many groups using terrorist tactics, the vast majority of which remain hierarchically organized… terrorists choose hierarchy whenever possible"[89] considering that hierarchy "makes them [terrorist groups] more effective by supporting resource sharing, specialization, economies of scale, and reduced contracting costs"[90]. What this means is that while confronting many al Qaidas in place of just one built and led by bin Laden is in itself a challenge, the degree of which the newly established movement is a more perilous form of terrorism is questionable.

One reason is that as the organization expands, contradictions may inevitably arise between the global vision espoused by al Qaida leaders and the pressing and more specific local, national and regional agendas and concerns that local cadres desire to pursue, preventing the applicability of al Qaida's vision to regional and local conditions and questioning its utility. Another reason is more related to the internal dynamics of the al Qaida organization

[88] Rabasa, ibid., adapted from p. 49.

[89] Shapiro, ibid., p. 4.

[90] Ibid, p. 5.

involving a "distribution of commitment to the cause"[91] among the new terrorist recruits in that while the more committed are given operational roles in the form of fatal assignments, the less committed are responsible for less risky financial and/or logistical tasks, and it is this different commitment levels that may lead to internal inefficiencies, splinters and surrender, suggesting that global counter terrorism efforts demanding national criminal justice systems to apply consistent and heavier punitive measures and/or offering exit strategies may create internal breakdowns within the organization. A tactical factor that has broader implications on the organizational future of al Qaida pertains to the use of ruthless and reckless violence in that "people, who are good at violence, who make ideal recruits as far as their ability to conduct operations, often seek more violence than is politically desirable"[92], which happens when terrorists operating within the dynamics of an underground organization lose touch with external reality or have their own interpretation of reality and caught in the heat of the moment, they seek more violence than what the situation would demand, with the result of turning the local population against the terrorist cause. In fact, in the words of al Zawahiri, "Al Qaida in Mesopotamia's campaign of beheadings in 2004 significantly damaged the foreign insurgents' reputation among Iraqi Sunnis"[93], and it is known that excessive violence employed by al Qaida Iraq under Zarqawi turned the local tribesmen against the insurgency, and moreover, "the tribal rejection that started in Anbar province helped produce such significant change there… [and] spread to a number of other locations"[94], leading to the eventual failure of the insurgency by US-led coalition forces.

More strikingly, however, is the "surprising level of infighting and conflict over strategic focus and arcane points of doctrine within al Qaida"[95], which may turn al Qaida's strongest strategic weapon that has hitherto injected life into the movement and kept it together, into a potential source of weakness, threatening its future survival. While al Qaida's strategic focus may alternate depending on impending developments i.e. Palestinian cause or US military action against Iraq, its activities and statements suggest that an overall consistent ideological framework exists and actions undertaken in its name or linked to the movement are driven by a coherent doctrinal foundation in its grievances against the US, Israel and Saudi Arabia, its mobilization of the Islamic world and the establishment of Islamic law within Muslim

[91] Ibid., p. 11.

[92] Ibid, p. 15.

[93] Ibid, p. 16.

[94] General David H. Petraeus, *Report to Congress on the Situation in Iraq*, September 2007, p. 1.

[95] Shapiro, ibid., p. 11.

nations. On the other hand, there are also some notable ideological inconsistencies and shortcomings emerging over the course of the organization's evolution into a movement, which have the potential to undermine its power and influence.

The first point of inconsistency has been the targeting of Shia Muslims in Iraq which runs contrary to bin Laden's attempts to maintain unity within Islam, as indicated in his 1996 fatwa which strongly discouraged war within Islam and his later messages calling for Islamic unity in the liberation of Iraq including establishing a common cause with socialist Baathists in opposing government and coalitions forces and preventing the creation of a democratic state in the country. In fact, there is a general disregard to ethno-national and linguistic differences in pursuit of the liberation of all Muslim lands and the establishment of a global salafi Islamic emirate. The message of unity is evident when on many occasions al Zawahiri is known to have "questioned the wisdom of pursuing a campaign against Shiite Iraqis on a sectarian basis when sectarian violence may reduce overall public support among the region's Sunni Muslim population for al Qaida's objectives"[96]. The second inconsistency arises from al Zawahiri's statement in 2005, which introduces the three pillars of al Qaida's political ideology as; creation of an Islamic state governed through Shariah law, liberation of the homelands from aggression without which reform and free elections cannot take place, and liberation of the human being governed under a social contract that specifies the power of the Shariah-based judiciary on the basis of which people are to exercise their rights. "Although the statement was probably made to appeal to more secular Muslims supporting representative government, that it acknowledges and gives credence to Islamic reform and democracy contradicts strongly with bin Laden's vision of Islamic caliphate and represents a shift in ideology and political philosophy"[97].

Another problem with al Qaida's ideology is that while it provides the priorities in the short to medium term for the liberation of Muslim lands[98], it avoids projecting a longer term vision and is rather ambiguous about what will happen once the movement seizes power, which is

[96] Blanchard, ibid., p. 9.

[97] Stuart Koschade, *The Developing Jihad: The Ideological Consistency of Jihadi Doctrine from Al Qaida to the Revolutionary Fundamentalist Movement*, Queensland University of Technology, and Australian Homeland Security Research Center, Paper presented to the Social Change in the 21st Century Conference, October 2006, adapted from p. 11

[98] Blanchard, ibid., adapted from p. 9. It must be noted that recent political pronouncements of al Qaida leaders point to an inclination of expanding the ongoing violence in Iraq to Syria and Lebanon which could give a wider area of action and maneuver, and later into occupied Palestine into direct confrontation with Israel, which would further legitimize the jihadist cause and strengthen its support base.

interpreted by some as a calculated and useful maneuver to avoid division and because "a vague vision of the future is likely to attract a broader audience, alienate fewer potential recruits, and mitigate the possibility of being proven wrong"[99]. However, the broad breadth of al Qaida's political goals makes it difficult for Muslims to envision a clear future as to what actually awaits this long-standing global jihad leading the movement to lose vitality. In the face of mass civilian casualties and increased suffering and deprivation, the ideology risks being considered as mere "political nullity with no prospects of offering real solutions to the urgent problems of the Muslim masses such as poor housing, unemployment, and lack of educational opportunities"[100]. It is such inconsistencies and shortcomings within the ideology and political doctrine of Al Qaida movement that "have the potential to facilitate factional splits between different sections of the organization, imitating the splintering phenomenon that was witnessed through many organizations throughout the period of international terrorism"[101].

Given the above analysis, there are solid grounds to remain hopeful that the overall counter terrorism efforts designed to restrict and obstruct the operational and financial capabilities of al Qaida might be aided by surprising organizational impediments (relevance of global jihad to local issues, maintaining situation awareness, control of violence and commitment level), and ideological inconsistencies and shortcomings, which would need to be further exploited hence would require an organizationally informed analysis of al Qaida, if the 'war of ideas' is to be effectively fought and eventually won. Putting aside these words of encouragement, the threat is nevertheless real and more visible than ever. Organizations in transition may be particularly dangerous in view that while "they can be especially vulnerable to disruption and destruction, they can be less predictable and prone to lash out in order to cause additional damage, rally flagging supporters, and/or prove their continuing viability"[102]. In respect of al Qaida, despite the damages to its organizational and operational infrastructure of post 9/11 US military occupation of Afghanistan, "concern is still high that the group is determined to attack globally… to rebuild a chain of command and an organizational structure… to carrying out major complex operations"[103], which is evidenced by increasing

[99] Rabasa, ibid., p. 12.

[100] Ibid, p. 14.

[101] Koschade, ibid., p. 13.

[102] Audrey Kurth Cronin, *Al Qaeda after the Iraq Conflict,* Congressional Research Service Report for Congress, May 2003, p. 6.

[103] Mazzetti, ibid.

number of al Qaida figures in Pakistan's tribal areas, failed terrorist plots involving airliners, increasing international ties and terrorist allegiances to al Qaida core, and semi-coordinated attacks all over the world. Al Qaida mutiny will remain the norm of the early 21st century as counter terrorism measures further narrow down its strategic and operational breadth and as more countries continue to engage in the global antiterrorist campaign, including those that previously occupied their places on the 'black list' for sponsoring terrorism, pursuing clandestine nuclear programs and/or poor human rights records i.e. Sudan, Libya, Pakistan and Uzbekistan, to name a few. While counter terrorism has offered a window of opportunity for many states to elevate their status and influence in international politics, it has made them more vulnerable to terrorist attacks, and created even greater instability and tension among local populations, which continue to play into the hands of al Qaida.

In conclusion, although the capabilities of al Qaida received a major blow, their commitment to their interpretation of jihad remains unchanged. At the heart of the matter is "the lack of understanding that terrorism is 90 percent intent and 10 percent capability"[104]. This suggests that actors in the international counter terrorism campaign must demonstrate the same, if not more, undivided and consistent 'political will' to address the issue of 'ideology' in view that counter terrorism efforts thus far have primarily focused on eliminating the operational capability of al Qaida and its affiliated networks, which in sustaining the jihadist movement comes only secondary to intent. An effective counter terrorism strategy is one that employs a broad set of tools that target both the demand and supply side of the terrorist threat, and past efforts evidence that greater attention has been given to the supply side of the equation i.e. elimination of operatives, weapons, sanctuaries, rather than the demand side such as the structural, motivational, and enabling factors that foster and spread terrorism, including socio-economic disparities, ideology, unresolved political conflicts, and weak states, among others. And finally, bin Laden has created a multilevel threat operating operationally and ideologically at local, national, regional and international levels. The current threat is one in which the mother group is relegated to the background and associate groups and affiliated cells carry out the bulk of the work in a several theatres of operation. It follows then that the global jihadist threat needs to be responded in kind, at several systemic levels at once, with the United Nations at its center and in the lead.

[104] Chandler, ibid., p. 182.

CHAPTER III

UN'S CAPABILITIES TO TACKLE THE GLOBAL JIHADIST THREAT

3.1 *Organizational Policies, Processes and Instruments*

3.1.1 *Principal Organs at Work*

General Assembly

General Assembly is the chief deliberative and policy-making organ of the United Nations in which all member states are represented and have equal votes and where decisions about the allocation of organizational resources are made thus giving the organ a direct impact in determining the administrative capability of the organization to deal with the main issues of the day, including terrorism. The Assembly serves as an inclusive forum in which the view of every government is presented to gauge the pulse of the international community, and a common understanding and/or consensus could be reached on key political issues, giving it a potential to overcome the inherent problems of lack of capacity to implement decisions or impose sanctions requiring the political will of member states, and of the recommendatory nature of Assembly resolutions. And finally, it is a developer of normative discourse and an encourager of cooperative action.

In the context of counter terrorism, the Assembly initially defined international terrorism as a general problem in 1972, returned to the issue only sporadically in mid-1980s, and fairly continuously since its adoption of the Declaration on measures to eliminate international terrorism in 1994, which in its supplement established an ad hoc committee on terrorism in 1996. In the course of three decades, the Assembly has been engulfed in the debate over the 'motives of what constitutes terrorism', which found its reflections on the language of its resolutions that evolved from the 'measures to prevent terrorism' to 'measures to eliminate terrorism', demonstrating the shift from 'motives of terrorism' to 'means of terrorism'. More specifically, resolutions in the 1970s affirmed persons resisting foreign occupation, colonial or racist rule exempt from being a terrorist [as a consequence of the period of decolonization and the special circumstances of the Cold War where major powers still had an interest on local and regional conflicts], those in the 1980s introduced the issue of state terrorism and

state sponsored terrorism based on increasing concerns over human rights issues, and those in the 1990s, constituted the 'measures to eliminate' stream that focused on particular 'acts' of terrorism as opposed to 'intention' [in recognition that terrorism could not be excused and urgent action should be taken, and due to the overall inclination of major powers to distance themselves from particular local and regional conflicts with the end of the Cold War]. This debate over terrorist motives continues to this day, and constitutes one of the long-standing impediments in reaching consensus on a standard definition of terrorism.

In an effort to avoid a standard definition of terrorism and instead of crafting one document to identify a single policy on terrorist activity of all types, the ad hoc committee on terrorism and the working group of the 6th committee on legal affairs, in cooperation with specialized agencies, have since 1963 produced a raft of sectoral international conventions and protocols that favored a law enforcement and judicial approach to oblige party states

> "to establish particular terrorist acts as offences in their national criminal legislation, to establish their jurisdiction over such offences in specified cases, to prosecute or extradite the alleged offender, and to engage in international cooperation in the investigation and prosecution of these offences"[105].

At present, there are 13 universal legal instruments and three amendments covering; unlawful acts aboard aircraft, unlawful seizure of aircraft, unlawful acts against the safety of civil aviation, crimes against internationally protected persons including diplomatic agents, taking of hostages, physical safety of nuclear materials, attacks against airports, attacks against the safety of maritime navigation, attacks against fixed platforms, marking of plastic explosives, terrorist bombings, financing of terrorism, and nuclear terrorism[106]. Although these treaties are crucial for responding to specific acts of terrorism, their effectiveness is questionable. For one, some believe that the conventions do not go far enough in identifying terrorist crimes i.e. terrorist incitement and preventing Internet use for the purposes of violent radicalization and appropriate means of legal punitive action. Second, these legal instruments function as framework laws which provide the overall normative and legal framework for dealing with terrorist offenses, and consequently, require member states to put in place the legislative and executive means to support their implementation, which

[105] Nesi, ibid., p. 8.

[106] In 2005, General Assembly introduced changes to the three of the thirteen legal instruments to account for the trends and features of the al Qaida threat, and adopted the Amendments to the Convention on Physical Protection of Nuclear Materials, the Protocol to the Convention for the Supression of Unlawful Acts against the Safety of Maritime Navigation and the Protocol to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf. For further information, see the list of international conventions and protocols adopted by the UN General Assembly with updated number of state parties in Appendix B of the thesis.

differ from one member state to another, depending on its ability and willingness. Furthermore, the actual impact of these conventions on state behavior is less clear. And third, the system of conventions is restricted by the fact that treaties and protocols bind only those states that accede to them, and not all countries are party to them or they have not yet fully endorsed them.

September 11 and follow-up terrorist attacks have revived the previous attempts to arrive at a consensus on a definition of terrorism due to an overall understanding and agreement on the need to conclude a comprehensive convention on international terrorism. It is when the sectoral approach is abandoned in favor of a comprehensive one that makes a definition of terrorism essential insofar as it is inevitable to include a specific terrorist intent as an element of the crime to distinguish terrorist acts from ordinary criminal offenses. It is here that the political and ideological differences come to resurface to include questions as to whether the comprehensive convention is to apply to acts committed in times of armed conflict, to acts committed by the military forces of a state in situations not governed by the laws of armed conflict including repressive acts against nongovernmental actors or its own citizens, to acts of armed non-state actors for national self-determination or against foreign occupation, to mention a few. Therefore, the main challenge to concluding the ongoing negotiations on the comprehensive convention is about "how wide or restrictive the definition of terrorist intent or purpose would need to be in order to reflect the political and ideological preferences of all member states"[107].

Furthermore, the comprehensive convention is expected to complement the existing sectoral conventions, as it will build on the guiding principles that already exist in the treaties, namely,

> "importance of criminalization of terrorist offenses, making them punishable by law, and calling for prosecution and extradition of perpetrators, need to eliminate legislation that established exemptions to such criminalization on political grounds or otherwise, a call for member states to take action to prevent terrorist acts, and emphasis on the need for member states to cooperate, exchange information and provide each other with assistance in connection with the prevention, investigation and prosecution of terrorist acts"[108].

While the draft comprehensive convention mentions that the provisions of a sectoral convention will apply in a situation where member states are party to both the comprehensive convention and the sectoral convention dealing with a particular terrorist

[107] Nesi, ibid., p. 16.
[108] The Website of the UN Action to Counter Terrorism, http://www.un.org/terrorism/instruments.shtml, October 2009.

act, hence giving the upper hand to sectoral conventions, this is considered unfortunate from a legal perspective in view that

> "the draft convention contains important provisions not found in sectoral treaties such as an obligation not to grant refugee status to persons accused of acts of terrorism, not to refuse a request for extradition or for mutual legal assistance on the sole ground that it concerns a political offence and a provision on the liability of legal entities"[109].

Overall, given the legal and political issues that inform the debate on the comprehensive convention, the difficulties in reaching an agreement on criminal law treaties that are binding on member states once they become party to them, and that sectoral conventions do cover a wide range of terrorist acts, it might be more practical and useful to focus on collective efforts to enhance compliance with existing treaties and the Security Council's counter terrorism regimes, and to invest in collective measures touching upon the root causes of terrorism.

Another impact of 9/11 has been to accelerate the pace of ratifications of most of the sectoral conventions, despite the fact that terrorism has been on the collective agenda since the 1970s, and to re-affirm and enhance the role of the General Assembly "as the competent organ with universal membership to address the issue of international terrorism"[110] in light of its newly entrusted responsibilities under UN's Global Counter Terrorism Strategy, which calls upon the Assembly "to review the implementation of and update the Strategy"[111], including through "regular interaction with the [Counter Terrorism Implementation] Task Force in order to receive briefings and reports on its current and future work, assess the work being undertaken on the Strategy implementation efforts [within the UN system in general], and to offer policy guidance"[112].

Security Council

The UN Security Council is accorded "primary responsibility for the maintenance of international peace and security to ensure prompt and effective action"[113] by the world body,

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[109] Ibid., p. 14.

[110] Resolution 62/272 adopted by the General Assembly on the United Nations Global Counter-Terrorism Strategy on 15 September 2008.

[111] Resolution 60/288 on the United Nations Global Counter-Terrorism Strategy adopted on 20 September 2006, paragraph 3/c.

[112] Resolution 62/272 of the General Assembly, adapted from paragraph 12.

[113] Charter of the United Nations, Article 24, para. 1.

and despite occasional disagreements and stalemates that blocked the Council's decision making during the Cold War, following its end, the Council stepped up to reassume its role as the provider and overseer of global peace and stability, illustrated by the reduction in the use of veto, increase in the number of Council resolutions on the main security threats and challenges of the day, enhanced UN peace operations authorized by the Council including an expansion in the concept and scope of peace operations to include conflict prevention and peacebuilding, and Council mandated war against Iraq. In the context of terrorism, it played a modest role prior to 9/11 including the adoption of multiple successive resolutions against the Taliban as a response to the civil war in the country caused by inter-factional fighting, atrocities committed by the regime, and its harboring of and refusal to extradite bin Laden, suspected of US embassy bombings in Kenya and Tanzania and in addition to the sanctions on Afghanistan in 1998 and 1999, the imposition of sanctions on Libya as of 1992 and Sudan in 1996 to dissuade their support to terrorist groups and for refusing to extradite suspects of a number of terrorist attacks and operations, and finally, its adoption of the Declaration on the Global Effort to Combat Terrorism on November 2001, annexed to resolution 1377. This document recognized international terrorism as one of the most serious threats to peace and security in the 21st century and a challenge to all states and humanity, and stressed that "continuing international efforts to broaden the understanding among civilizations and to address regional conflicts and the full range of global issues, including development issues"[114] will contribute to sustaining the global fight against international terrorism. It must be noted that the declaration is one of the rare manifestations of the Council's efforts to put terrorism in a wider context given that its actions in the post 9/11 period consist largely of reactive and punitive measures. In short, the Council's fight against international terrorism pre-dates 9/11, however modest in efforts, with the Assembly in a more proactive position and the Council on the back seat. This pattern, however, greatly changed with September 11 and consecutive terrorist attacks in Europe and elsewhere, when the Council took the front position in executing, coordinating and monitoring the multilateral response to international terrorism, as it was considered the quickest route to globalizing counter terrorism efforts.

To explain, the foundation of the Council's post-9/11 strategy on counter-terrorism rests on its multiple resolutions, which at a first glance, might appear as mere recurrence of its past record and not come as a particularly striking development. However, these resolutions that

[114] Boulden, ibid., p. 59.

currently amount to more than three dozen[115], contrary to the situation prior to 9/11 when the Council had adopted only a handful of resolutions on the issue, vary from their predecessors qualitatively, that is in their nature and scope, to include as its main themes, condemnation of discrete acts of terrorism, imposition of binding counter terrorism obligations on all states, capacity building, and imposition of sanctions on persons and entities on an open-ended list, respectively. Therefore, while some of the resolutions were adopted as immediate reactions to specific terrorist attacks and drafted in the form of political statements without legal effect, but nevertheless, urging member states to cooperate in bringing perpetrators to justice, sending out a consistent and determined message of condemnation as a show of international political resolve, and rallying support to the global counter terrorism program, other resolutions framed a coordinated response to international terrorism in a substantive manner. Among the former group of resolutions, one that stands out is resolution 1368, which adopted just one day after 9/ 11 terrorist attacks, recognized for the first time the inherent right of individual or collective self-defense as a legitimate response to terrorism and in doing so, it gave the 'go ahead' for US to launch its military campaign in Afghanistan, led the Council to refrain from taking any further action in what concerns the use of force hence implicitly leading the way for future coercive action. That said, it is the second group of 'substantive' resolutions that mark the beginning of concerted and collective counter terrorism measures by all UN member states.

In view of the Council's primary responsibility to maintain international peace and security, conferred on it by UN member states, which therefore "agree that in carrying out its duties under this responsibility the Security Council acts on their behalf"[116], and the Council's powers under Chapter 7 of the UN Charter to decide on and take all the necessary measures against threats to international peace and security, the Council adopted a number of resolutions that collectively placed uniform legal obligations on all member states to combat terrorism at an international level thus going beyond the existing international conventions and protocols binding only those states that are party to them. Moreover, these legally binding resolutions ranging from general counter terrorism measures involving an increase in member states' legislative and executive capabilities to specific issues such as countering terrorist acquisition and use of weapons of mass destruction and their delivery systems and incitement to terrorism have been drafted and consequently, the Council's and its subsidiary

[115] For a list of SC Resolutions on counter-terrorism, see Appendix C of the thesis.

[116] Charter of the United Nations, Article 24.

bodies' roles and responsibilities in the context of these resolutions such as monitoring, capacity building, and cooperation have been shaped based on the specific concerns calling for action and organizational needs encountered, demonstrating the commitment and ability of the Council to respond to impending threats and internal needs as they come. And finally, there is no indication of any particular state or region nor is there any definition of terrorism in these resolutions, which means that the Council's response is generically framed, that is, in terms of terrorism generally and not against specific terrorist attacks or motives for attack. The generic character of resolutions is an indication, on the one hand, of the recognition that UN efforts must extend beyond mere reactions to particular terrorist attacks to involve long term and comprehensive planning, and on the other, of the urgent need to uniformly tackle terrorism despite the lack of agreement on its definition, requiring states to define and adopt their own version of terrorism within their domestic criminal law system thereby creating the basis for concrete internal action against terrorism and for international cooperation in the prevention and suppression of terrorism.

Among the UN Security Council resolutions; resolution 1373 (2001) that calls upon states to adopt broad and detailed set of internal legislative and executive counterterrorism measures through close cooperation with international and regional organizations, and monitors their implementation of antiterrorist measures, resolution 1267 (1999) reinforced and reauthorized several times under various SC resolutions (2000-2008), which authorizes its sanctions committee to monitor states' efforts to implement Council-imposed sanctions on individuals and entities associated with the Taliban, al Qaida and bin Laden, resolution 1540 (2004) demanding states to take preventive measures against terrorist acquisition, manufacturing, possession, transport and use of nuclear, chemical or biological weapons, and resolution 1566 (2004), adopted in the wake of the massacre in Beslan (Russia), which authorizes its subsidiary committee to identify and recommend measures and take action against terrorist groups and organizations not subject to the 1267 committee's review and to explore the possibility of establishing a compensation fund for victims of terrorism, taken together, are collectively referred to as the Security Council's counter terrorism regimes.

3.1.2 1373 Counter Terrorism Regime

Resolution 1373 is the first legally binding resolution mandated under Chapter 7, whose purpose is neither to identify and sanction specific terrorists nor is it to define terrorism, it is

more ambitiously, "to raise the average level of government performance against terrorism across the globe"[117], which means enhancing member states' legal and institutional capacities to fight terrorism. In broad terms, the resolution requires all member states to criminalize in their domestic laws terrorism in all its forms and manifestations including active and passive assistance to terrorism, to prevent the provision or collection of funds for terrorism and to freeze funds belonging to alleged terrorists or their supporters, to deny safe haven, support to and sustenance for terrorists and prevent terrorist acts and recruitment, to install effective border controls and prevent weapons supply, to enact domestic counter terrorism legislation and bring to justice perpetrators of terrorist acts, to exchange information with other governments in the investigation, detection, arrest and prosecution of those involved in terrorist acts and cooperate to prevent the commission of such acts, and to become party to relevant international conventions and protocols related to terrorism. It further establishes the Counter Terrorism Committee (CTC) to monitor the implementation of the resolution and to which all member states are to report on their steps in respect of the implementation of the required antiterrorist measures. CTC has become UN's primary body for cooperative action against international terrorism, and a review of its working logic and methods will further elucidate this point.

In view that resolution 1373 did not specify how CTC would operate and what specific role it should play, its method of operation based on transparency, dialogue and consensus, its role to establish dialogue between the SC and member states on how to build global capacity against terrorism, the instruments at its disposal which include reports and on-site visits, and its emphasis on facilitating the delivery of technical assistance to member states and developing cooperative relations with international, regional and subregional organizations have been shaped over time by the joint work of the Council and the CTC[118]. In the process of its evolution, the Committee's main approach was to refrain from any action that would be perceived as threatening member states despite the obligations imposed upon them, and consequently, the resolution was able to garner support by "not targeting individual states, not condemning states, and focusing instead on technical capacity building"[119]. It mustered multilateral cooperation by avoiding politically charged issues of definition and root causes of terrorism, and channeling its efforts to enhancing states' counter terrorism infrastructure.

[117] Eric Rosand, "Security Council Resolution 1373, the Counter-Terrorism Committee, and the Fight against Terrorism", *The American Journal of International Law,* Vol. 97, No: 2, April 2003, p. 334.

[118] Nesi, ibid., and Rosand, "Security Council Resolution 1373...", ibid.

[119] Rosand, ibid., p. 335.

In fulfilling its designated responsibilities, the CTC is distinct in conducting the world's first audit of states' counter terrorism capacities so as to identify and fill in the gaps through the provision of technical backstopping, acting as a 'switchboard' between recipient states and donors and other providers, and in the process, minimizing duplication and overlap among potential assistance providers.

To conduct its audit of member states' capacities, the Committee decided to break down its work into three main stages: one, to ensure that member states have in place effective counterterrorism legislation addressing all aspects of the resolution with particular attention to countering terrorist financing and become party to the existing international conventions and protocols; second, to ensure that member states establish the necessary executive machinery to enforce the resolution and their newly adopted and/or improved legislation, including "having effective government-wide coordination mechanism for counterterrorism activity, and cooperating on bilateral, regional, and international levels"[120]; and finally, to ensure compliance to requirements and obligations of the resolution by monitoring the actual implementation of the legislative and executive machinery.

It must be noted that the CTC is greatly supported in its activities by the Counter Terrorism Executive Directorate (CTED), established in 2004 by resolution 1535, which is tasked to strengthen the Committee's ability to implement resolution 1373 by facilitating coordination of technical assistance delivery, acting as an intermediary for contacts between potential donors and recipients, by conducting consistent and thorough assessment of member states' counter terrorism reports and efforts, by providing advice and recommendations as regards measures requiring alteration and/or addition in the Council's counter terrorism focus areas and work program in view of terrorism-related trends and developments, and by enhancing cooperation with regional and international organizations and coordination with relevant UN system-wide agencies. In general terms, the CTED analyzes member states' assistance needs in the context of their implementation of the resolution, helps the CTC to prioritize states' requests for assistance, and recommends potential sources of assistance in the identified areas of need. It maintains a tailored matrix of assistance requests, which offers a centralized comprehensive overview of states' needs, identifies and promotes synergies between the existing technical, financial, regulatory and legislative assistance programs of international, regional and subregional organizations, provides information about ongoing assistance programs through its online directory of assistance providers, and finally,

[120] Ibid, p. 336.

disseminates best practices through but not confined to its online directory of best practices, standards and codes.

It follows then that the implementation of resolution 1373 involves the identification and assessment of the high priority needs of member states, on the one hand, and establishing and promoting cooperation among the UN system, its member states and intergovernmental bodies, on the other, with an overall aim to enhance the global counter terrorism capacities. In undertaking these functions, a primary tool at the disposal of the CTC and its CTED are reports received from member states on the measures taken and planned steps ahead, which so far number more than 600, "forming what many experts consider the world's largest body of information on the counter-terrorism capacity of each of the 192 Member States"[121], and which provide the basis for individual performance evaluations, referred to as 'preliminary implementation assessment' (PIA), "a snapshot of the counter-terrorism situation in each country based on information from the country itself, international organizations and other public sources"[122]. Based on the information contained in PIAs, which have been finalized for all member states, CTED prepared in 2008 the first 'global implementation survey' on the status of implementation of resolution 1373 in the world, including global assessments on the progress made and remaining gaps in certain thematic areas such as counter terrorism legislation, border control, law enforcement, terrorist financing, international cooperation and human rights protection, and suggesting those areas which might be more useful for the international community to focus and invest in for its counter terrorism efforts in the future. Accordingly, UN has the ability to collect and analyze information and data obtained from all its member states and to present a broader and exhaustive picture of counter terrorism efforts in subregions, regions and the world in general, including identifying gaps and developing proposals for improvement, which is not likely to be accomplished by any other actor.

Another instrument of dialogue building, needs assessment, monitoring and coordination are on-site visits to countries, upon their consent, that often yield a more accurate picture of implementation but take more time to prepare. As a follow-up to the field missions led by the CTED and include participation from International Police Organization (Interpol), World Customs Organization (WCO), International Civil Aviation Organization (ICAO), Financial

[121] The Website of the Counter Terrorism Committee (CTC), http:// www.un.org/sc/ctc/, October 2009.

[122] Ibid.

Action Task Force (FATF), World Bank (WB), International Monetary Fund (IMF) and regional organizations such as the African Union and the European Union, among others, and to support the PIAs, expert teams produce an assessment report of their observations including proposals for future action in areas that include "counter terrorism legislation, measures to prevent the use of assets for criminal purposes, effectiveness of law enforcement services, international cooperation, territorial control and technical assistance"[123]. As a result, the CTC [which includes its subsidiary body, the CTED] occupies a central position in the international counter terrorism campaign as the "principle coordinating body for global capacity building and regional coordination efforts"[124].

In the final analysis, resolution 1373 and the CTC, as its implementation body, has had a direct impact on the global fight against terrorism, but "not in ways that grab headlines or are readily noticeable"[125]. The 1373 regime has revitalized member states' efforts to combating international terrorism through the adoption of new or revision of existing legislation and improvement of enforcement capacities to prevent and suppress terrorism, and galvanized more than 60 international, regional and subregional organizations to pay more attention to counter terrorism through developing and enforcing regional conventions, plans of action, concept notes, legislative acts and practical measures of information exchange, cooperation, and assistance against international terrorism. It assumed a central role in counter terrorism needs identification and assessment, and the provision of technical assistance by serving as a go-between to match assistance requests with potential providers. And finally, it provided a multistage and systematic roadmap for the conduct of the global counter terrorism program. An indicator of success of the regime is the "pace at which states have become party to the international terrorism conventions and protocols [which] has significantly increased since the CTC's establishment, especially with respect to the Terrorist Bombings and Terrorism Financing Conventions"[126], in that "some two-thirds of UN Member States have either ratified or acceded to at least 10 of the 16 instruments, and there is no longer any country that has neither signed nor become a party to at least one of them"[127], widely recognized as a critical achievement given that without an efficient and

[123] Ibid.

[124] Cortright, ibid., p. 12.

[125] Rosand, "Security Council Resolution 1373…", ibid., p. 337.

[126] Ibid, p. 337.

[127] The CTC website, ibid., section 'laws', http://www.un.org/sc/ctc/laws/html.

adequate legal framework, member states cannot develop effective means to prevent terrorism or bring terrorists and their supporters to justice.

Despite its many successes, the 1373 regime with its broad-based mandate was a hard bite to swallow for both the UN member states and the CTC-CTED, and its complete and effective implementation was bogged down by a number of considerations, most notably: the lack of legislative and regulatory capacity of member states; lack of adequate and comprehensive technical assistance support by the Committee; lack of a clear understanding of key concepts i.e. terrorist financing and "confusion about the meaning of freezing, seizing, confiscating or suspending accounts"[128]; political disagreements on a definition of terrorism; lack of consistent political will of member states, demonstrated by the fact that while "states dealt with terrorist activities on their own territories, many were silent with respect to terrorist acts carried out by their nationals elsewhere"[129]; concerns over the regular abuse of the resolution in violation of political liberties such as asylum-seeking, refugee status, association, expression etc. and international human rights, refugee and humanitarian law in general and the need to strike a balance between counter-terrorism and protection of human rights; lack of formalized standards against which to measure states' performance for transparency; and disinclination to shift from a primarily capacity building role to one of active auditor of states' compliance in fear of losing support, to name a few.

Many member states especially of the developing world did not, and even some today, do not have the legal, administrative, monitoring, and enforcement capabilities required to effectively undertake the provisions of the resolution particularly those related to countering terrorist financing i.e. lack of control over formal and informal financial systems including regulation of non-profit organizations and evasive cash transfers via hawala networks requiring financial intelligence services and other supervisory measures, and preventing access to safe haven i.e. lack of adequate border security. In dealing with these gaps, states require both financial and technical resources, and as regards the former problem, the CTC is not able to provide direct financial assistance as it does not have an independent budget, and despite the High Level Panel's proposal to create an independent capacity trust-fund under CTED, "the US and other major donor nations have opposed the development of a multilateral capacity building trust fund… [in] claims that bilateral assistance programs are

[128] Boulden, ibid., p. 162.

[129] Ibid.

sufficient to meet the global need"[130], which is yet another reflection of the general inclination on the part of some member states to take a primarily bilateral approach on the conduct of the global counter terrorism regimes.

As regards the latter problem of technical assistance, CTC-CTED is not mandated nor equipped with needed human resources to perform the function of provider, and must rely on capable member states and the donor community to come forward to deliver the required technical aid. This suggests that the delivery of technical assistance depends not only on regional and bilateral providers thus making external aid ad hoc and selective, but also on the capabilities of CTC-CTED to mobilize and coordinate the available assistance. Despite efforts to respond to assistance requests of member states by facilitating information sharing on standards, best practices and sources of technical assistance, addressing sectoral and regional shortcomings, and encouraging capacity building by regional organizations and able and willing member states, CTC and its monitoring body "have not been able to [fully] keep up with the [excess] demand and have failed to perform adequately in facilitating the coordinated delivery of assistance by donor countries and agencies"[131].

Although there have been notable developments through the mobilization of UN Office on Drug and Crime (UNODC) and its Terrorism Prevention Branch (TPB), as the principal provider of legislative drafting assistance on counter terrorism including the production of model laws for different legal systems and of facilitating the implementation of international conventions and related UN resolutions, of IMF and the WB as the main source of assistance for the drafting and implementation of terrorist financing legislation, of the FATF as the leading body in the international community to establish, put in place, monitor and assess standards related to anti-money laundering and counter terrorist financing, and other specialized agencies and intergovernmental bodies on various terrorism related issues, it is widely recognized that primary focus has been placed on legislative and financial issues while other 1373-related areas have largely remained on the sidelines. Furthermore, despite CTC's outreach activities including the convening of special meetings with international, regional and subregional organizations to explore opportunities and areas for coordinated and cooperative action and technical assistance provision, "few concrete results have emerged from these sessions [and] coordination among regional organizations has been

[130] Cortright, ibid., p. 36.

[131] Ibid., p. 35.

limited"[132]. In addition, CTC's coordinating role is challenged by administrative and political limitations to the point that "even more uncontroversial issues such as provision of technical assistance bound up in red tape and sidetracked by seemingly endless political discussions"[133]. This is because the composition of the Committee is made up of all Security Council members and its mode of operation is based on consensus, which often runs the risk of paralyzing its work such that for instance, it has taken over two years for the Committee to reach consensus on best practices in the field of terrorist financing.

In addition to problems related to financial and technical resources required to implement the 1373 regime and internal administrative constraints, another challenge to CTC's work concerns the difficult task of assessing member states' performance with an overall aim to monitor progress made and ensure compliance to the provisions of resolution 1373. As noted previously, CTC has already developed a multi-stage process whereby member states' would be assessed in terms of their legislative, executive and implementation capabilities, respectively; however, this program of work was developed by CTC to track the sequence in which it will review the status of member states' implementation and therefore, cannot be considered as performance benchmarks. As such, there is a need to reach a set of common and formalized standards and practices

> "to monitor and identify gaps in implementation of states' counter-terrorism obligations, provide a basis for improving the coordination of assistance to states lacking the capacity to implement those obligations, strengthen the role of key functional and regional organizations in implementation efforts, and ensure transparency and objectivity of assessments"[134].

There are already best practices, standards, guidelines and compliance criteria developed by certain intergovernmental organizations, including the FATF's Forty Recommendations on Money Laundering and Nine Special Recommendations on Terrorist Financing, ICAO's airline and airport security guidelines, WCO's set of standards for port security, Interpol's best practices in the protection of vulnerable targets and others, which CTC takes into account when reviewing states' efforts to implement the resolution, but these do not serve as formal standards by which all states would be measured. In view of differences among CTC members on best practices in what concerns terrorist financing, it is questionable whether the Committee will be able to adopt standards and best practices developed by technical organizations or embark on the task of developing its own. In any case, the adoption of an

[132] Ibid., p. 45.

[133] Ibid., p. 41.

[134] Ibid., pp: 31-32.

officially endorsed performance criteria would greatly advance UN's efforts to measure member states' progress on specific counter terrorism areas thus facilitating the production of a single consolidated final assessment of member states' compliance as opposed to multiple preliminary implementation assessments, and to provide assistance for counter-terrorism implementation.

Another related challenge to assessing member states' performance on countering terrorism concerns the absence of an agreed definition of terrorism among UN member states. On the one hand, this creates practical problems in that the different interpretations of the scope and nature of terrorism has resulted in discrepancies in national legislations, regional treaties, and problems in international cooperation. On the other hand, the problem extends beyond practical difficulties to challenging the future position of CTC in that while the Committee has deliberately avoided dealing with the divisive issue of the definition of terrorism and in so doing, acquired unprecedented support from the UN member states, once it begins to deal with this issue, as it goes further into its monitoring role to check whether states are implementing their counter terrorism laws and executive machinery against those that commit terrorist acts, it will need to face the same definitional debate that the Assembly has been involved for years and hence will run the risk of losing its broad-based support and the cooperation that it has received since its foundation. Therefore, the challenge remains to be whether the CTC can effectively perform its monitoring function in a manner which allows it to consider the distinct national and regional positions of member states while at the same time remain unpoliticized and firmly committed to its mandate.

3.1.3 1267 Sanctions Regime

The existing sanctions regime originally created pursuant to resolution 1267 (1999) has been modified and strengthened by subsequent resolutions, most notably, resolutions 1333 (2000), 1390 (2002), 1455 (2003), 1526 (2004), 1617 (2005), 1735 (2006), and 1822 (2008), so that it now requires the imposition of sanctions by member states on 'individuals and entities associated with al Qaida, bin Laden and the Taliban' which are designated on a consolidated list by the 1267 Committee, referred to as the Al Qaida and Taliban Sanctions Committee, 'wherever' they may be located, including

> "freezing without delay the funds and other financial assets or economic resources of designated individuals and entities (assets freeze); preventing the entry into or transit through their territories by designated individuals (travel ban); and preventing the direct or indirect supply, sale and transfer from their territories or by their nationals outside their territories, or

> using their flag vessels or aircraft, of arms and related material of all types, spare parts, and technical advice, assistance, or training related to military activities, to designated individuals and entities (arms embargo)"[135].

An overview of the regime's evolution into its current form would provide a more clear understanding as to the operationalization of the regime, and lay the groundwork for an analysis of the myriad of problems associated with it that continue to have manifestations today, with the result of spurring much controversy about the workings and effectiveness of the regime and thereby paving the way for its erosion and debates over its potential demise.

In response to attacks on US embassies in Nairobi and Dar es Salaam, the Security Council adopted resolution 1267, which provided that the provision of safe haven by the Taliban to bin Laden and its failure to halt its provision of sanctuary and training to terrorist groups constituted a threat to international peace and security, demanding the extradition of bin Laden and imposing sanctions on the Taliban-controlled Afghanistan to include flight ban and freezing of financial assets. This was followed by resolution 1333 (2000) which expanded the sanctions to cover an arms embargo and broadened the asset freeze to include the financial assets of bin Laden, al Qaida and their supporters whose names were included on a list to be managed by the 1267 Committee. Resolution 1390 (2002) expanded the sanctions regime even further so that it was no longer confined to the territory of Afghanistan, and would be imposed on those associated with the Taliban, bin Laden or al Qaida and included on the Committee's list no matter where they be located in the world. Resolution 1526 (2004) is particularly important for specifying procedures in relation to the implementation of the sanctions regime, including by creating the Analytical Support and Sanctions Monitoring Team (ASSMT) tasked to assist the 1267 Committee in monitoring states' compliance to the sanctions, in reviewing their reports, and conducting on-site visits to member states, and by providing that; "the Committee updates the list of individuals or groups associated with bin Laden, the Taliban and Al Qaida on the basis of information provided by member states and organizations, removes these individuals and entities from the list if sufficient evidence is shown that these are not involved any longer with the targeted groups, monitors the exceptional cases to enable access to frozen funds necessary for basic and extraordinary expenses, seeks information from states on their efforts to implement sanctions, provides the Council with oral assessments of states' implementation efforts based on its analysis of the

[135] The Website of UN Security Council Committee established pursuant to Resolution 1267, The Al Qaida and Taliban Sanctions Committee, http://www.un.org/sc/committees/1267/, October 2009.

reports, recommends improvements to measures, and reports violations of the measures to the Council"[136].

In responding to uncertainties that had by 2005 reached to its peak on the administration of the sanctions regime and particularly, in what concerns listing and de-listing processes, the Council adopted yet another resolution 1617, which provides exemptions to the travel ban for listed individuals "where entry or transit is necessary for the fulfillment of a judicial process or the Committee established pursuant to resolution 1267 determines on a case-by-case basis only that entry or transit is justified"[137], clarifies what activities constitute association with bin Laden, al Qaida or the Taliban to include

> "participating in the financing, planning, facilitating, preparing or perpetrating of acts or activities by, in conjunction with, under the name of, on behalf of, or in support of; supplying, selling or transferring arms and related material to; recruiting for; or otherwise supporting acts or activities of Al-Qaida, Usama bin Laden or the Taliban, or any cell, affiliate, splinter group or derivative thereof"[138],

calls upon member states, upon proposing names for the consolidated list, to provide to the Committee a 'statement of case' describing the basis of the proposal and to identify any undertakings and entities owned or controlled by the designated individual or entity, demands that states "inform, 'to the extent possible and in writing where possible', individuals and entities included in the Consolidated List of the measures imposed on them, the Committee's guidelines, and in particular, the listing and delisting procedures"[139], and reminds that the statement of case submitted by the designated state may be used by the Committee to respond to inquiries from member states whose nationals and residents or entities have been included on the list and the Committee may decide to release the information to other third parties 'with the prior consent of the designating state' for operational reasons or to aid the implementation of measures.

Resolution 1617 (2005) also encourages member states to put forward additional names and identifying information for inclusion in the consolidated list, reminds the need for cooperation and coordination among the SC Committees dealing with counter terrorism and their respective monitoring expert groups through coordinated country visits and technical

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[136] Rosand, "The Security Council's Efforts…", ibid., adapted from p. 748.

[137] United Nations Security Council Resolution on Resolution 1617 (2005), S/ RES/1617 (2005), 29 July 2005, p.2, para. 1/b.

[138] Ibid, para. 2.

[139] Ibid, para. 5.

assistance provision, and specifies the responsibilities of the Monitoring Team (ASSMT) to include the following: "assess, monitor, report on and make recommendations regarding the implementation of the resolution(s); submit a program of work in cooperation with CTED [expert group of 1373 Resolution] to avoid duplication and reinforce synergies; share information with CTED and the group of experts established pursuant to resolution 1540 [dealing with weapons of mass destruction] to identify areas of convergence and establish coordination; develop a plan to assist the 1267 Committee in addressing non compliance with the sanctions' measures; encourage the submission of names to be included on the list; and study and report on the changing nature of the threat of al Qaida and the Taliban and the best measures to confront it"[140]. The regime has been further bolstered by resolution 1735 (2006), which provided that the 1267 Committee, when removing names from the consolidated list, would consider, among other things, whether the individual or entity was placed on the list due to a mistake of identity, or he/she no longer meets the criteria set out in relevant resolutions including the 'severance of all association with al Qaida, bin Laden, the Taliban and their supporters' as provided by resolution 1617, or whether the individual is deceased.

And finally, resolution 1822 (2008) requests a narrative summary of reasons for the listing of individuals and entities is made accessible online, including statement of case and date of listing. According to the official online sources, the consolidated list consists of the narrative summaries in respect of four groups, against which sanctions are being applied, which are individuals associated with the Taliban (142 individuals), entities and other groups and undertakings associated with the Taliban (none), individuals associated with al Qaida (255 individuals), and entities and other groups and undertakings associated with al Qaida (111 entities)[141]. In addition to the working processes and procedures spelled out above, what makes this regime distinct is that it imposes punitive measures against designated natural and legal persons in addition to monitoring the implementation of sanctions by member states, and in doing so, it is widely perceived as having and capable of showing 'teeth' as opposed to the benign nature of the 1373 regime based on capacity-building. In fact, that the regime has the power to enforce travel ban, arms embargo, and more importantly, freezing

[140] Ibid., adapted from Annex I to resolution 1617 (2005).

[141] UN 1267 Committee website, ibid., http://www.un.org/sc/committees/1267/consolist.shtml, last updated 23 September 2009.

of assets including resources and property, makes it more malleable to external oversight and criticism.

Against this background of successive measures to develop and reform the sanctions regime and bearing in mind its particular characteristic of being a sanctionary regime to involve judicial implications on designated persons and entities, the regime has been embroiled in its own set of problems ever since its initiation. A starting point is to note that the effectiveness of this particular sanctions regime depends on the detail and quality of the information on the list and how comprehensively it covers the al Qaida terrorist network, as the measures taken cover only those individuals and entities on the consolidated list. Accordingly, one problem has been the lack of adequate required identifiers i.e. full name, age, place of birth, nationality, addresses and others, upon proposing names for inclusion on the consolidated list, which creates confusion over individuals' identity thus increasing the risk of targeting innocent people and resulting in occasional misplacements in violation of individual rights. From an institutional viewpoint, "there are still significant number of individuals who do not have all the necessary identifiers recorded… which makes it difficult for banks and other financial institutions to identify assets associated with those on the List"[142]. Without sufficient identifiers to differentiate between persons, border, customs and consular officials cannot effectively perform the sanctions on travel and arms embargo, and most states are deterred from posting listed individuals on their watch lists. These problems are further compounded by "difficulties presented by the transliteration of characters from one alphabet to another, variations in the structure of names due to cultural origins, and variant spelling of names"[143]. Although requests to improve the quality and detail of information in the submission of names resulted in some countries to better identify their nationals, other countries ignored such requests, pointing to an "ambivalence that undermines the UN's realistic efforts in combating terrorism"[144]. A reason for some states to include minimum personal information was justified "to protect secret intelligence material and sources, from which the names are usually derived, and by the desire to include suspected bad actors on the list as soon as possible"[145].

[142] Chandler, ibid., p. 136.

[143] Rosand, "The Security Council's Efforts…", ibid., p. 751.

[144] Chandler, ibid., p. 138.

[145] Rosand, "The Security Council's Efforts…", ibid., p. 749.

As to the latter concern of comprehensiveness of the list, there are a little over 500 names designated as associated with the al Qaida network despite the fact that "according to the monitoring group, some four thousand individuals have been arrested or detained in over one hundred countries on the basis of links with al Qaida"[146]. Moreover, sources provide that thousands of young jihadists have undergone training in al Qaida camps in Afghanistan and Southeast Asia and the often quoted figure of terrorist trainees is around 15,000. This gap severely limits the application of sanctions measures and the impact they may otherwise have in combating and disrupting al Qaida terrorist network. Among the reasons provided for the missing names is that countries either cannot or will not list them. On the issue of inability, there are still some countries that require a crime to be committed before the suspect involved in the crime can be arrested, detained and prosecuted, and it might not be a criminal offense to be associated or have associated with terrorists, contrary to obligations under resolution 1373 which provides that countries must have requisite legislation in place to accommodate the 'association clause' that enables preemptive action against terrorists. Moreover, individuals and entities placed on the list are based on intelligence information, and some countries do not have the required legislation in place to prosecute cases on the basis of intelligence, which suggests that the sanctions regime can work better provided that good intelligence is converted into actionable evidence and that this is supported by member states' criminal justice systems.

On the issue of unwillingness to list individuals and entities on the list, some member states are reluctant to admit presence of terrorists on their territory to avoid intrusive sanctions that is perceived to jeopardize their sovereignty and create domestic instability, as in the case of Indonesia that for some time ignored the presence of Jemaah Islamiyah in the country. Furthermore, there is a belief that "by admitting the presence of al Qaida and/or those associated with the network, such states will give the impression of being incapable of dealing with terrorists and their potential supporters"[147]. And related to this, member states are disinclined to acknowledge terrorist presence due to the fear of discouraging foreign investment and driving away potential tourists, as was also the case in Southeast Asian countries following the Bali bombing in 2002. Another concern of predominantly Muslim states is the fear of alienating certain factions of the local population and of being perceived as anti-Islamic or of allowing the publicity resulting from placement on the list hamper

[146] Ibid., p. 751.

[147] Chandler, ibid., p. 144.

domestic judicial processes of apprehending designated individuals and entities. On another level, member states refuse to list suspected individuals or entities until arrest or conviction to better disrupt and interdict terrorist operations and therefore, to take effective preemptive action and gather needed evidence for prosecution. Moreover, some states question the legality of a Council committee to take punitive action against individuals and entities given that the Council's authority is confined to states and is not directed at individuals. Among other reasons for member states' general lack of will to place names is the lack of seriousness given to a suspected individual if there is no crime which has been committed, the question of validity of listing without judicial processes and findings, and the fact that perpetrators are already brought to justice by measures taken under resolution 1373.

Other set of factors that play down the effectiveness of the sanctions regime concern the problems inherent in the procedures of listing and de-listing of names, which have sparked great controversy over human rights violations under the regime. In comparison to other sanctions committees that imposed travel ban and arms embargo in a particular territory to listed individuals in the context of civil wars and other armed conflicts, "prohibiting individuals from entering a country or from gaining access to weapons and other military equipment did not raise the same due process and other human rights concerns as freezing their assets"[148], which was the case in this particular sanctions regime. As governments got more and more involved in the actual implementation of the measures against designated individuals, they were forced to grapple with domestic political pressure to ensure adequate safeguards to protect the rights of the individuals on the consolidated list. This reaction is due to the fact that there are concerns about the lack of due process "with procedures for listing and delisting providing to be contentious"[149].

For one, there is lack of clear and well publicized criteria for listing and delisting, and information is based largely on intelligence that calls into question adequate evidentiary standards. Although resolutions call upon states to provide information about individuals' connection with terrorists and their groups and describe what activities constitute association with al Qaida and the Taliban, there are no detailed criteria for adding names on the list. Furthermore, the designated individual is not notified of the decision unless informed by the state of residence or nationality, but the notification requirement is

[148] Rosand, "The Security Council's Efforts…", ibid., p. 749.

[149] Cortright, ibid., pp: 57-58.

restricted by the words 'to the extent possible', which leaves room for the decision to go unnoticed, not to mention that the individual is only notified of the portion of the statement of case that the designating country chooses to disclose. Although states are requested to provide a detailed statement of case as regards the basis of their proposal, "targeted individuals have no right to make their case to the committee before being placed on the list"[150]. And once the individual is on the list, it is difficult for the person to get off of it and despite the creation of a focal point to which individuals can petition directly to demand delisting, "their request for delisting will not be put on the committee's agenda unless some government [designating government or government of residence or citizenship] takes up their cause"[151], and it may well happen that an individuals' case may never be taken up. Even when the case is taken up, it is up to the discretion of the 1267 Committee, comprising all 15 Council members and taking decisions by consensus, to grant delisting, which is a difficult process on its own. Furthermore, the Committee is not required to give reasons for its decisions. This is worrying in that "the Committee in the interest of satisfying the domestic political concerns of certain members has added persons or entities to the list whose links to al Qaida are questionable"[152]. Put differently, some member states "may even welcome the possibility of implementing sanctions against dissidents or members of the political opposition"[153]. For all these reasons and more, the Council of Europe in 2006 stated that the sanctions regime violates the European Convention on Human Rights because "it provides no protection against arbitrary decisions and no mechanism for reviewing the accuracy of the allegations made"[154].

In addition to concerns over the lack of transparency and accountability in decision making, failure to safeguard the right to appeal prior to inclusion, failure to inform in advance, and the restricted scope and dissemination of information to the designated individual, there are other issues that are considered in violation of human rights. Most prominently, although there are limited exemptions to travel ban for the purpose of judicial hearings and decided on case by case basis, and some regional organizations such as the EU apply humanitarian exemptions to asset freeze, the unspecified duty to freeze all financial assets of individuals

[150] Johnstone, ibid., p. 298.

[151] Ian Johnstone, "Legislation and Adjudication in the UN Security Council: Bringing Down the Deliberative Deficit", *The American Journal of International Law,* Vol. 102, No: 2, April 2008, p. 298.

[152] Rosand, "The Security Council's Efforts...", p. 752.

[153] Nesi, ibid., p. 72.

[154] Johnstone, ibid., p. 297.

on the list create vulnerabilities to individuals and dependent family members who would be unable to meet their basic human needs. Therefore, states and organizations that grant financial and other forms of material aid for persons in this situation under their internal law find themselves in violation of the regime. Moreover, seizing economic assets particularly property has particular legal complications and practical implications on the rights of the individual. This is because property can be owned by a number of individuals, not all of whom may be linked or associated with terrorism. If the property is subject to seizure, then all will be affected. Once a property is seized, it brings into question the authority that will be in charge of managing the property. The question becomes even more complicated when it is a commercial enterprise concerning the livelihood of innocent peoples. For this reason, many states have confined their asset freeze responsibilities to bank accounts and have not imposed sanctions on property and businesses. Accordingly, the European Court of First Instance questioned SC resolutions' conformity with a number of non-derogable rights including "the right to property, a fair trial, and an effective remedy"[155] and "while the threat of action in national or regional courts may be having an effect on the Council, its inefficiency and uncertainty as an accountability mechanism has prompted calls for an independent review mechanism within the United Nations itself"[156].

3.1.4 1540, 1566, 1624 Security Council Regimes

In response to heightened concerns regarding possible acquisition and use of weapons of mass destruction (WMD) by non-state actors, resolution 1540 (2004) was adopted to address the threat of proliferation and nuclear security. The resolution prohibits the provision of any form of support i.e. engagement, participation, assistance, financing and others, to non-state actors attempting to develop, acquire, manufacture, possess, transport, transfer or use WMD and requires the adoption and enforcement of effective laws in this regard. Moreover, states would need to take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical or biological weapons and their means of delivery, including developing measures to account for and secure items in production, use, storage or transport, developing effective physical protection measures, developing effective border controls and law enforcement efforts to detect, deter, prevent and combat illicit trafficking and brokering in such items, establishing national export and trans-shipment controls

[155] Ibid.

[156] Ibid., p. 298.

including laws and regulations, end-user controls, enforcing criminal and/or civil penalties for violations of such export control laws and regulations, and finally, developing effective national control lists. Furthermore, the resolution invites states to offer support in response to assistance requests by states lacking legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the provisions. In terms of external obligations, member states are requested to promote the universal adoption and full implementation and strengthening of multilateral treaties related to WMD proliferation, adopt national rules and regulations to ensure compliance with their commitments under the nonproliferation treaties, and fulfill their commitment to multilateral cooperation within the framework of IAEA, OPCW and the Biological and Toxin Weapons Convention[157]. Similar to other counter terrorism regimes, a Committee has been established to monitor the implementation of the resolution and facilitate the delivery of technical assistance, including by matching offers and requests for assistance hence undertaking a clearinghouse function.

Adopted under Chapter 7 of the UN Charter, the Resolution is mandatory upon all UN member states, which provides a unique opportunity to institutionalize and operationalize universal cooperation against nonproliferation, and its importance is manifest in view of the increasing unilaterally sponsored and/or ad hoc multilateral initiatives in the field. The regime does not replace the existing nonproliferation arrangements, but is complementary to them in that, for instance, the regime is able to engage the Non-Proliferation Treaty holdouts such as Pakistan, India, North Korea, and Israel in collective, concerted and formalized non-proliferation activities, including more stringent national export controls. The prevention of nonconventional attacks by terrorists and their groups will require national systems of protection, control, and accounting, on the one hand, and adherence to international non-proliferation norms and implementation of and compliance with international treaties and agreements in the field, on the other. As such, the regime will support both domestic efforts through legal and administrative capacity building as well as international efforts through promoting compliance to existing multilateral commitments and facilitating cooperation in their implementation. This also suggests that, in addition to the measures called for in the resolution, the regime's success depends on the successful and continued implementation of other non-proliferation instruments, initiatives and regimes, namely, the Non-Proliferation Treaty, the IAEA and its Code of Conduct on Safety and Security of Radioactive Sources, the Convention on the Physical Protection of Nuclear Materials, Cooperative Threat Reduction

[157] Adapted from United Nations Security Council Resolution 1540 (2004), S/RES/1540 (2004), April 2004.

(Nunn-Lugar), Proliferation Security Initiative, Group of Eight Global Partnership against the Spread of Weapons and Materials of Mass Destruction, the International Convention for the Suppression of Acts of Nuclear Terrorism, and the Global Initiative to Combat Nuclear Terrorism, among others. This is because no single nonproliferation scheme is unilaterally sufficient, and all are mutually-reinforcing in their capacity to reduce, control and secure the supply of nuclear weapons and components and materials, particularly fissile material.

In order to diminish the availability of nuclear weapons, nuclear explosive devices or their technology to non-nuclear weapon states and non-state actors which requires the reduction of the supply of hazardous weapons, materials and expertise, nuclear weapon states must demonstrate commitment to take practical steps towards complete nuclear disarmament in honor of Article 6 of NPT, to reduce and eliminate non-strategic nuclear weapons in their arsenals, and to pursue arms control agreements that entail not just dismantlement but irreversibility, and on the other side, non-nuclear weapon states must refrain from acquiring nuclear weapon capability, which goes through addressing the demand side of the equation. This latter point requires negative security assurances by nuclear weapon states, and as is well known, "nuclear weapon states are increasingly reluctant to pledge assurances of non-use and maintain the right to retaliate with nuclear weapons against chemical or biological attack"[158], incentives for non-nuclear weapon states to voluntarily forgo domestic uranium enrichment and plutonium separation capacities while guaranteeing sufficient supply of fuel for peaceful use, and resolution of long-standing political disputes and confidence building, including, for instance, the Arab-Israeli dispute that would facilitate the creation of nuclear-weapon free zone in the Middle East, as an effective regional nonproliferation measure.

In addition to 1540 nonproliferation regime, the Security Council adopted Resolution 1566 (2004), following the hostage-taking massacre at a school in Beslan and with Russia's push, which created the 1566 Committee mandated to determine whether and which additional names should be added on an expanded terrorist list, to consider, identify and recommend practical measures and procedures to be imposed on individuals, groups and entities involved in or associated with terrorist activities other than those on the al Qaida-Taliban consolidated list, and to explore the possibilities of creating an international compensation fund for victims of terrorism. Although the expert group created pursuant to the resolution to support the work of the Committee is charged with a highly political and potentially

[158] High-level Panel, ibid., p. 42.

significant mandate, which is inextricably linked with the work of the 1267 sanction regime and the 1373 counter terrorism regime, the group has few resources and little political momentum. In view of the problems experienced on the 1267 listing and delisting processes and procedures and given the political nature of the issue, there is little enthusiasm, if not absolute reluctance, to create a larger terrorism list with additional names, let alone thinking about possible measures to be imposed. Moreover, there are already problems regarding the consolidation of the existing 1267 list that makes an expanded list with new terrorists and groups to be arguably out of focus and consuming time and resources that might otherwise be allocated for more urgent priorities and needs. These concerns have reflected in working group meetings, which is reported to have rarely met and not been able to reach consensus on proposals hence no substantive progress has been made to date on an expanded list.

And finally, the Security Council adopted resolution 1624 (2005) under Chapter 7 in the field of incitement to commit acts of terrorism, requesting member states to criminalize and prohibit terrorist incitement by law, prevent such conduct, and deny safe haven to anyone with respect to whom there is credible and relevant information giving serious reasons for considering that they have engaged and have been guilty of such conduct. The resolution calls on states to enhance dialogue and broaden understanding among civilizations and to ensure that any counter-incitement measures taken to implement the resolution comply with their obligations under international law, including the right to freedom of expression and the right to seek asylum, recognizing that incitement poses a serious and growing danger to the exercise of human rights. The resolution further directed the CTC of the 1373 regime to include in its dialogue with member states the implementation of this particular resolution and a working group has been created under CTED to deal with the issue of incitement. It must be noted that progress on the incitement regime has also been slow in that the CTC and its CTED is still working on maintaining dialogue with member states to implement their obligations, encouraging states that have not yet done so to submit their reports to identify gaps and needs to be addressed and for which assistance will be provided, and to lay the groundwork for technical assistance provision. An important component of the resolution concerns the reference in its preamble to cooperative action by member states to prevent terrorists exploiting sophisticated technology in the furtherance of their aims and its creating a basis for the criminalization of incitement to terrorist acts and terrorist recruitment through the Internet and other means. However, the provisions of the resolution will have little or no effect unless these are supported by accountability mechanisms directed at internet service

providers and governments in whose territory they are based and from where they operate, and a specific

> "international convention countering the use, abuse or misuse of the internet and media by terrorists and terrorist groups… which would combine protective and reactive measures and provide a framework on which member states can base their national legislation to tackle cyber crime and terrorism"[159].

3.1.5 Screening the Security Council's Counter Terrorism Regimes: Key Issues at Stake

Putting aside the focus areas, working processes and procedures, and certain technical and practical issues particular to individual counter terrorism regimes of the Security Council, there are a number of broader problems and challenges that are common to or otherwise linked with all the regimes, which have an adverse impact on the long-term effectiveness of the Council's counter terrorism program, some of which have implications beyond the Council itself, most notably, lack of enforcement, the problem of duplication, cooperation and excessive bureaucracy, the recently assumed quasi-legislative and quasi-judicial role of the Council and its wider reflection to the UN system, and the inherent problem of lack of consensus and commitment on the part of some member states, among others.

First of all, neither of the Council's counter terrorism committees has reached an agreement on formal implementation standards against which to measure member states' performance with respect to the implementation of the respective counter-terrorist resolutions, on the list of nonperformers, and on whether to submit the list to the Council for its perusal, which in part, stems from difficulties inherent in the consensus-based approach to decision-making that can hamper collective action even on less politicized technical issues. If the committees and particularly the CTC manage to adopt formalized performance standards for all issue specific areas, and complete their assessment of member states' performance, they will then be faced with the challenge of responding to instances where states are able but unwilling to comply, which brings into question the problem of enforcement. It must be noted that the Council has not yet reached this stage, which depends on the completion of consolidated performance assessments for each member state thereby involving the evaluation of revised preliminary implementation assessments, receipt and evaluation of requisite reports that are far from being delivered on time and in the expected quality, further on-site visits which are currently lagging behind and the near completion of technical assistance provision, and which therefore, would have to wait for the termination of the respective mandates of each

[159] Chandler, ibid., p. 191.

committee, some of which extend to 2011. However, the Council will eventually need to deal with the issue of enforcement against noncompliant states once ongoing work is finished, and it does not seem either feasible or desirable for the world body to adopt enforcement measures of a coercive nature against potential and persistent non-compliers. This is because in addition to traditional concerns of lack of member state commitment to take concerted and decisive action against potential target countries due to national strategic, political and economic interests or geopolitical and historical alliances, the environment of cooperation and increased momentum in the field of counter terrorism after 9/11, perceived reluctance to employ hard sanctions following divisions over the occupation in Iraq, and determination to preserve the existing harmony of collective security in the international system, particularly considering today's precarious and perilous security environment requiring an ever closer cooperation among member states, make coercive enforcement counterproductive.

As a preparatory measure, however, and in order to overcome the problem of enforcement, there are certain instruments at the disposal of the international community, namely, taking actions short of hard sanctions such as showing the carrot rather than the stick by extending substantial development assistance and technical assistance programs for states needing help in implementing counter terrorism measures as part of an overall effort to improve governance, 'naming and shaming' recalcitrant states (as is applied by FATF), and adopting, in line with the High Level Panel's proposal, "clearly defined [predetermined] sanctions that would automatically be triggered if a state's non-compliance is verified… to avoid criticism of bias and favoritism"[160]. As such, apart from the regular tasks of requesting and reviewing reports, coordinating regional cooperation, providing technical assistance and conducting on-site visits, which are far from being complete and whose use is limited without formal standards, thought would need to be given to coercive measures that might be necessary for the Council to enforce its counter terrorism mandates with a view to reinforcing the regime.

On a different level, the creation of several separate albeit under-resourced mechanisms was a policy response of the Security Council to respond to terrorist attacks and address particular dimensions of the terrorist threat i.e. terrorist financing, weapons of mass destruction, radicalization and incitement, victimization, and demonstrates the importance given to and the political resolve in dealing with a particular theme at a given time. Although regimes have distinct mandates, they also have overlapping purposes,

[160] Nesi, ibid., p. 79.

responsibilities and procedures[161], which have created problems of duplication, cooperation and coordination, and bureaucratic inefficiency and reporting fatigue. An area of duplication involves the work of both the CTED (1373 regime) and the Monitoring Group (1267 regime) in the fields of terrorist financing, arms embargoes, and travel bans in that any analysis related to the failure of states to implement the sanctions regime is relevant and duplicative of the assessments undertaken under resolution 1373 on member states' counter terrorism capacities. Alternatively, the ability of the CTC (1373 regime) to enhance states' capacity on counter terrorism will have a direct impact on their implementation of the sanctions regime as monitored by the 1267 Committee. In fact, both committees are charged with monitoring the implementation of similar obligations imposed by the Council under Chapter 7 despite the fact that CTC is engaged in capacity building through technical assistance provision and 1267 Committee is focused on monitoring the implementation of counter terrorism sanctions. Moreover,

> "the monitoring team and the CTED have reached many of the same conclusions, not only as to the nature of the gaps in states' capacity to implement the relevant obligations but also what is needed to fill them… [and] both have tended to focus their efforts on the terrorist financing portion of their respective mandates"[162].

This suggests that there is unnecessary duplication in assessments and lack of sufficient focus on fields other than terrorist financing. In addition, despite the parallelisms in their work and the supportive nature of their analyses, "the two committees have engaged in no formal or little informal cooperation"[163] although they report to the same Council, as there are no specific mechanisms for regular cooperation. However, given the link between capacity building and sanctions implementation, information sharing is an important element of avoiding excessive and wasteful duplication, and enhancing efficiency such that, for instance, the 1267 Committee would need to be given access to assessment reports per country (PIAs) now completed for all member states so that it can use existing information to understand, analyze and oversee the implementation of sanctions by states and to identify whether noncompliance is due to lack of capacity or willingness.

The creation of a separate Council committee and support body under resolution 1540 on unconventional weapons is a product of increasing demands of some member states to place greater emphasis on the nonproliferation aspect of counter-terrorism given the lack of focus previously accorded the area by the 1373 regime and of the growing threat of biological and

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[161] For a comparison of the mandates of the main SC counter-terrorism regimes, see Appendix D of the thesis.

[162] Cortright, ibid., p. 61.

[163] Rosand, "The Security Council's Efforts...", ibid., p. 762.

chemical attacks that need to be countered with its own specialized expertise and resources. However, the CTC's mandate also includes the prevention of acquisition and use of WMD by non-state actors, which is specifically the mandate for the 1540 Committee. Despite this overlap, the respective committees and expert staff of both regimes "have yet to agree on a common approach to handling these issues with states"[164]. Another area of overlap pertains to outreach activities of each of the Council's counter terrorism bodies to international, regional and subregional organizations, each developing their own set of contacts, networks, working methods, which runs the risk of impeding the delivery of a consistent message, on the one hand, and creates additional burden on organizations with often limited secretariat support thus lack of capacity to deal with multiple UN bodies and which may be reluctant to engage with multiple points of contact. Another implication of duplication is that since each body has its own working procedures for dealing with member states and organizations, this leads to increased reporting requirements with overlapping areas hence 'reporting fatigue', and confusion on the part of non-Council member states, other parts of the UN system and multilateral bodies when seeking to cooperate with the different branches of the Council's counterterrorism program. Overall, the proliferation of counter terrorism bodies

> "has led to duplication in analytical and assessment functions at the UN and has imposed excessive reporting obligations… which can be especially burdensome on smaller, less developed countries… the existence of separate bodies has impeded the development of more coherent, integrated strategies and programs for combating the terrorist threat"[165].

In view of the overlap of duties, the perceived ineffectiveness of the sanctions regime and the important role capacity building plays in its work, reporting fatigue, limited resources, and an overstretched counter terrorism agenda, there have been proposals to consolidate the counter terrorism committees and their subsidiary bodies into a single body, which can mobilize collective capacities to review member states' progress and compliance, coordinate technical expertise, and provide a joint platform in which the different problems of counter terrorism regimes could be discussed and potentially resolved. Given the importance of the international counter terrorism campaign which requires long-term efforts and commitment, others propose to establish a permanent international counter terrorism organization along the lines of IAEA. In fact, the UN has undertaken studies for reforming the Council's counter terrorism bodies whereby the Gingrich/Mitchell Task Force on UN Reform provided similar consolidation options which is

[164] Cortright, ibid., p. 62.

[165] Ibid., pp: 13-14.

> "to integrate the separate Security Council staff bodies… to consolidate the staff bodies more broadly by integrating experts in the UNODC/TPB and GPML (Global Program Against Money Laundering) with those of the SC bodies… [and] to combine either of the first two options with a consolidation of the separate SC committees into a single committee"[166].

The first option involving staff integration under one leadership would make sense in that it would facilitate cooperation and coordination among groups and reduce duplication of effort and mandates while preserving the integrity of the separate committees. The third option involving the creation of a single counter terrorism committee would be useful to achieve a single counter terrorism program of work and mandate, and might preserve the distinct sub-mandates by establishing sub-groups for each thematic area. And another option of the Task Force involves the creation of a separate counter terrorism organization or center, reporting to the Council but operating outside the UN system and with an independent budget, which could be established by "a treaty, a political declaration, or a UN General Assembly resolution"[167], and mandated to build further on the work of the Council committees on counter terrorism, monitor implementation of international legal instruments, and provide technical assistance to member states in addition to catalyzing expertise and synergies and maintaining overall coordination within the UN system in the field. A new stand-alone body would give greater priority and more permanence to the global fight against terrorism, and free the organization from the constraints of political bodies while retaining its linkages with the Council to exercise sufficient authority to refer states to the SC for remedial action. These alternatives and others could be considered once the performance of the existing counter terrorism program is reviewed, and such an assessment could be made upon the fulfillment of the regimes' mandates.

A final point here is that if the present system continues to create problems to the extent that participating member states are not able to differentiate between mandates, to reach timely and tailored technical assistance, and to respond to the technical requirements, and if consolidation alternatives, as only one element of reform, are not considered and pursued, member states especially those that are less developed and more exposed to international terrorism will lose faith in the UN system and will be forced to combat the phenomenon in their own way involving unilateral, bilateral and regional efforts. This would not only lessen the credibility of the world body, but also reduce multilateral cooperation, coordination and collaboration required to defeat terrorism in the long term, and while coalitions of the

[166] Ibid., p. 66.

[167] Ibid., p. 74.

willing would be an attractive option in the short run to bring quick wins, this would run the risk of establishing a new form of leadership and creating fragmentation hence resulting in further uncertainties and instability within the international system.

In addition to difficulties related to overlapping mandates and procedural requirements and to inter-agency cooperation and coordination, the Security Council and its counter terrorism regimes have been subject to a deeper scrutiny by the international community involving both the legality and legitimacy of its policies and conduct, which have been questioned by the leadership of the Council to legislate and adjudicate on behalf of the UN membership on important counter terrorism issues, on the one hand, and the working procedures of the Council and its subsidiary bodies to bring into question concerns of accountability and transparency, on the other. It must be noted that the Council has played a more proactive role since the end of the Cold War, whereby it began "to assume new interpretive, enforcement, and declarative functions that directly affected international law"[168], including defining threat to international peace and security by authorizing intervention on humanitarian grounds, imposing obligations on Iraq, Libya, Sudan and Afghanistan and establishing international criminal tribunals in the former Yugoslavia and Rwanda, and issuing declarations on general themes of nonproliferation of weapons of mass destruction, terrorism and other issues, respectively. However, these acts that in the literature have been referred to as 'legislative' by their nature of producing, making additions or changes to, or impacting international law or law of member states, were not interpreted as such by states, which only applied the term for resolutions 1373 and 1540. To explain, both resolutions were considered a defining step for 'abstract' lawmaking in that they created law for all member states on a general issue area without being restricted to a particular situation, conflict or event, without mentioning a single country or group and setting any time limit or conditions for terminating the obligations that are phrased in neutral and generalized language, making these different from past individualized resolutions. Moreover, resolution 1267 established a sanctions committee with court like powers to identify and freeze the assets of individuals, groups and corporations. The nature and frequency of these regimes and by extension, the ability and inclination of the Council to impose obligations on all member states and to play a lawmaker and judicial role instead of performing its traditional policing functions created skepticism and concern, which further increased with the diplomatic debacle surrounding the occupation of Iraq, reflecting yet another form of assertiveness on the part of a major

[168] Johnstone, ibid., p. 283.

power, to lead some critics and member states to question "whether an imperial Security Council had become an instrument for the imposition of hegemonic international law"[169].

An analysis of member states' reactions to resolutions 1373 and 1540 and their basis will help to elucidate the benefits of and concerns associated with the Council's quasi-legislative and judicial role, thereby shedding light on the future of the Council's counter terrorism regimes. In general, member states fully welcomed and cooperated with resolution 1373 although some raised doubts on the legislative competence of the Council, which intensified particularly with the adoption of resolution 1540 due to concerns about

> "the increasing tendency of the Council in recent years to assume new and wider powers of legislation on behalf of the international community, with its resolutions binding on all States [and claiming that] the enactment of global legislation is not consistent with the provisions of the United Nations Charter"[170].

Among the reasons underlying the speculation and disagreements over resolution 1540 include the contention that "while resolution 1373 takes elements of international law and extends them to all UN members, resolution 1540 fills gaps in existing law… [making] its legislative character more unsettling"[171] and that the resolution encroaches more deeply on existing nonproliferation treaties and the institutions monitoring them than resolution 1373. Furthermore, while the threat that terrorists might acquire weapons of mass destruction was real, it was nevertheless imminent in that there had not been a concrete manifestation of the threat unlike the subject matter of resolution 1373. Moreover, the changing political climate, concerns as to whether the adoption of resolution 1540 might trigger military enforcement action and whether it was the right platform to discuss nonproliferation issues in view of the failed progress in disarmament by nuclear powers increased controversy over the regime. However, the resolution was eventually adopted in that its counter terrorism dimension was underlined while its being taken up as a nonproliferation measure was down toned, and it was made acceptable because it was perceived as filling a gap in the law that addressed an urgent threat and contained sufficient assurances that it would contradict with previous rights and obligations under existing nonproliferation regimes and treaties.

Therefore, counter-terrorism resolutions were made possible by the shock and momentum created by 9/11 which called upon immediate action, and member states responded in kind,

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[169] Ibid., p. 275.

[170] Stefan Talmon, "The Security Council as World Legislature", *The American Journal of International Law,* Vol. 99, No: 1, January 2005, p. 178.

[171] Johnstone, ibid., p. 290.

demonstrating the commitment to proceed with counter-terrorism measures despite the lack of definition of terrorism, which also "engendered a widespread sense that traditional ways of making international law were not up to the challenge of countering terrorism"[172]. In particular, resolution 1373 was a pragmatic response and a logical next step that reasonably followed the imposition of sanctions on Libya, Sudan and Afghanistan, and was generally interpreted as an extension of the crisis management role of the Council. At the same time, much effort was placed on improving the working procedures of the CTC by adopting an approach of public justification and consultation in recognition that "the resolution [1373] would achieve its objectives only if implemented by a more transparent and deliberative process than the Security Council normally employs"[173]. The endorsement of resolutions and a general support for the Council's proactiveness is explained by some as, "a way of keeping the United States engaged in the Security Council rather than acting unilaterally or through ad hoc coalition"[174] and a general contention that "global collaborative law enforcement is at least as important in the struggle against terrorism as military action"[175]. Furthermore, these are perceived as powerful instruments that enable the Council to take preemptive approach to undertaking its primary responsibility to maintain peace and security hence supporting the culture of prevention.

On the other hand, the same instruments are subject to a number of criticisms which directly question the legitimacy of the Council, and by doing so, risking a situation in which member states are less predisposed to implementing their counter terrorism obligations. Among the many criticisms, the ones that most stand out are that the Council, by its very composition, competences of its permanent members and working procedures is unrepresentative and undemocratic and therefore, unsuited for making international law which is a consent-based process, and that the organ exceeds its traditional executive role as 'policeman' rather than legislature or jury. Other considerations pertain to whether general phenomena falls into the category of threat and whether obligations of criminalization of terrorist acts and adoption of national laws against an abstract threat can be subsumed as counter measures under the UN Charter. However, that the Council is not legally prohibited under the Charter to take on a legislative or quasi-judicial role does not mean that it should unless the situation is one of

[172] Ibid., p. 283.

[173] Ibid., p. 287.

[174] Ibid., p. 308.

[175] Ibid.

crisis management in that "it will be seen as serving the interests of a small group of major powers; it bypasses the normal treaty-making process based on the principle that states can only be bound by the law they have given consent to and it encroaches on parliamentary authority within states; multilateral treaty negotiations tend to balance global concerns, leading to tradeoffs and bargains that account for a wider range of interests than those that come out of Security Council resolutions; and the General Assembly is a more legitimate venue for norm-setting"[176]. On the other side, the Council is not the appropriate organ to take on quasi-judicial functions in that "it is not well suited to hear pleadings, assess evidence, and weigh legal claims"[177] that courts are better placed to perform. Furthermore, there is no oversight mechanism by which the Council's decisions can be subject to judicial review and no definition of terrorism on which to base decisions, coupled with the concern that "the five permanent members may be too quick to agree on (or tolerate) measures that impinge on civil liberties"[178] in an effort to implement the sanctions regime targeting individuals. In terms of technical problems, Council's counter terrorism resolutions are not sufficiently detailed to take into account differences in national legal systems and the independence of national parliaments, resulting in misinterpretations and lack of complete implementation of duties, and "the unclear language, vague definitions, and lack of specific standards may result in time-consuming and painstaking legislative processes at the national level, which may prolong the implementation of the resolutions"[179]. Furthermore, concerns over civil liberties and/or consistency with national constitutions may prevent or delay the implementation process, and the comprehensiveness of resolutions make it hard to monitor compliance to obligations that depend on the political will of member states, in addition to the technical expertise and financial resources at their disposal.

In view of the above problems and concerns over the legislative and quasi-judicial authority of the Council, some member states might raise objections against the intrusive obligations being imposed upon them and demonstrate reluctance to implement their responsibilities under the counter terrorism regimes, a case which will gain further ground in the event that the Council decides to use this authority in the future. Given that counter terrorism is part of a broader security agenda to include transnational organized crime, illegal arms trade, drug

[176] Ibid., adapted from p. 299.

[177] Ibid., p. 300.

[178] Ibid.

[179] Talmon, ibid., p. 190.

trafficking, which are linked to the maintenance of peace and security, these may trigger the proactive and preventive functions of the Council, giving an indication of an increased role of the Council in the future. In fact, the Council's president, during the consultation process of resolution 1540, in supporting the Council's legislating for the rest of the UN membership, explained that "the Council would be needed more and more to do that kind of legislative work"[180]. What this suggests is that the Council would need to maintain its legitimacy within the wider international community if it intends to play a more active legislative and judicial role in the future, and it would be well placed to legislate only when there is sufficient level of political will to proceed on a given issue. In addition to its adjudicating and legislating on behalf of the international community, its legitimacy entails the question of how it performs these roles, and while it is always possible to act coercively as opposed to persuasion, this will further bring into question its legitimacy. Despite the traditional proposals of enhancing the Council's legitimacy by means of daring reforms involving the alteration of membership and of the voting and veto procedures of the Council, which are highly politicized issues, the solution of which may not be found in the short term, the Council is faced with the challenge of finding alternative ways to strengthen its legitimacy for ensuring the implementation of its decisions and resolutions, suggesting an increase in the quality of its working processes through inclusive consultations to accommodate the views of non-Council members and the wider international community, public justification to include methods such as indicative voting whereby states declare their positions publicly prior to actual vote, and independent review to introduce an ombudsman like external oversight mechanism.

A final and related point of concern is the perceived disruption of balance of power between the Security Council and the General Assembly, emanating from the Council's enhanced role as global legislator, and more generally, in the context of the international counter terrorism campaign. The Council's resolutions circumvented the customary international law-making process based on universal participation and consent, and overstepped the Assembly's role as lawmaker. Furthermore, these resolutions, the provisions of which are largely taken from the international conventions on terrorist bombings and conventions and to which some member states were not party to, were imposed on member states, thereby forcing states to abide to provisions which they may not otherwise have agreed. In addition to implications of the Council's new powers of lawmaking as overshadowing the Assembly's traditional function as norm-setting and legislative drafting, a related impediment to the Council's new

[180] Ibid., p. 175.

legislative function pertains to the legal consequences of its newly assumed role. The main source of international law is treaties where states decide freely to become parties and have a possibility to opt out. In addition to the freedom to be bound by its provisions and norms, states enjoy equality in the process of norm creation, both of which are seriously hampered when the function of codification is assumed by the Security Council whose composition is limited to fifteen member states. From the point of upholding the norms of freedom and equality, the Assembly has greater legitimacy in the eyes of the international community and particularly of the member states in the global 'south', and is largely accepted as being more suited to take on the function of lawmaking. In general terms, the transformation of the center of activity and authority from the Assembly to the Council meant that the remaining non-Council members have less saying on policy initiatives. Given the nature of the terrorist threat to demand a broader response to include what are often politically charged issues of 'human security' such as conflict prevention, equitable social and economic development and distribution of resources, promotion of cultural and religious diversity and tolerance, and to involve the participation of a more and diverse set of actors at international, national, regional and local level, the Assembly may be better positioned to provide a comprehensive, politically informed and longer term approach upon undertaking its traditional codification and policymaking functions.

Despite these problems related to the administration of the Council-driven counter terrorism regimes and their wider implications within the UN system, the regimes have nevertheless raised awareness among UN member states about the requirements of an effective counter terrorism campaign and have demonstrated the impact of the world body to mobilize a multilateral and multifaceted approach to the fight against terrorism, which is something that no powerful state could have accomplished on its own devices. With these regimes in place, the world organization has revitalized and orchestrated the counter-terrorism efforts of other bodies and entities in the UN system and beyond to enable them to develop their own counter terrorism strategies, activities and work plans, and in doing so, they have given shape and substantively contributed to the construction and subsequent implementation of the global counter-terrorism strategy.

3.1.6 The Global Counter-Terrorism Strategy

The Global Counter-Terrorism Strategy adopted by the UN General Assembly on September 2006 marks the first time that all UN member states have agreed to a common strategic and operational framework to fight terrorism, and serves as a joint platform to bring the efforts of the UN system-wide entities dealing with counter terrorism related issues into a common, coherent and more focused structure[181]. Furthermore, it functions as a bridge between the two arms of the United Nations, bringing closer together its member states with the international civil service of the organization on a common ground hence creating a unique and much desired and welcomed opportunity for greater cooperation and coordination within the UN system as a whole. This unity of action, cohesiveness and interaction is made possible in view that while the primary responsibility for implementing the strategy belongs to member states, some of its provisions call on the world organization to provide capacity building and other forms of technical assistance to its member states, including facilitation of international cooperation. The strategy lays down more than fifty recommendations and provisions that outline an ambitious counter terrorism agenda that will guide the counter terrorism efforts of the UN and its member states for more than a decade. UN member states recognize that the implementation of the strategy is a multistage process in that while "many measures contained in the strategy can be achieved immediately, some will require sustained work through the coming few years and some should be treated as long-term objectives"[182]. Also recognized is that the process is a multi-actor one, the implementation of which involves "Member States, the United Nations and other appropriate international, regional and subregional organizations… including through mobilizing resources and expertise"[183]. As such, the success of the global counter terrorism program requires the commitment of all related actors in the international system over an open-ended period of time, which suggests the difficulty of the task at hand and which should guide the framing of expectations in what concerns the role and impact of the UN in confronting the threat of international terrorism.

[181] For a visual display of the main actors of the UN system in global counter-terrorism efforts, see Appendix E of the thesis.

[182] The United Nations Resolution adopted by the General Assembly, A/RES/60/288, The United Nations Global Counter-Terrorism Strategy, 20 September 2006, p. 3.

[183] Ibid.

The strategy groups the counter terrorism measures under four main themes, which are: 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 to strengthen the role of the UN system in this regard; and measures to ensure respect for 'human rights' for all and the rule of law as the fundamental basis of the fight against terrorism. Among the particular features of the strategy, one which is worth noting is that the resolution deliberately declines from referring to the factors that inspire and breed terrorism as 'root causes' or in any alternative form that provides a similar connotation, and instead approaches the issue as conditions enabling the 'spread' of terrorism, which focuses on the prevention of terrorism but once the phenomenon has already taken root for some reason or circumstance. Once again, drafters refrain from using any politically charged term that would insinuate responsibility to any one party for acts of terrorism or give any pretext for excusing and/or justifying terrorism as a legitimate action. Another feature is that the strategy aims to address and respond to identified gaps and related developments since the beginning of a more systematized international counter terrorism program spearheaded by the SC as of 2001, which partly explains the late delivery of the strategy. It further builds on the counter terrorism work already undertaken within the UN system including that of SC committees and expert groups, the legislative and normative framework formulated by the Assembly, and the individual and collective work of various UN specialized agencies, funds, programs, and other international bodies with which UN has a special working relationship, thereby presenting a snapshot of system-wide strengths and weaknesses. Furthermore, the strategy underpins the need to work with as well as within the UN system to implement a coherent counter terrorism strategy, and presents a plan of action broadly reflecting on the comparative advantages of system-wide agencies and bodies that can play a proactive, if not, leading role in particular aspects of the global counter terrorism program of work. Another point concerns the dimension of human rights and rule of law which has been reserved its own special place among the other main pillars of the strategy as constituting the 'fundamental basis' of the fight against terrorism, which is not only a recognition of its importance within the system of values promoted by the world body and particularly in the context of terrorism and counter terrorism, but also gives voice to the many criticisms which have been made on the issue of human rights violations since the beginning of UN's counter terrorism policies and measures. And finally, the strategy provides a guiding and practical framework by defining the requirements to tackle international terrorism, but it does not adequately specify the means by which these will be done. In other words, while the present

strategy addresses the main issues to fight terrorism, the ongoing debate is more about, in what order and priority, and how these are to be addressed.

To illustrate the main focus areas of the United Nations and its member states with regard to the implementation of the global strategy against international terrorism, and in responding to the question of 'how' the world body organizes itself and the very issues it seeks to tackle, it is important to further highlight the specific measures called for in the strategy under the four pillars identified and benchmarking these against ongoing implementation efforts with a view to depict the gap between the ambitious program of work proposed by the strategy and the actual implementation on the ground; recognizing however, that the resulting gap is a natural consequence of the comprehensiveness and demanding nature of the program as much as organizational and administrative discrepancies, and moreover, that a full-fledged assessment as regards the implementation of the strategy cannot be made without complete, accurate and impartial information about the counter terrorism activities of UN member states which are not readily available and at reach. Therefore, it is important to note that the descriptive analysis is confined to the progress made within the 'organization' towards the implementation of the strategy, and does not nor could it provide an overall assessment of the status of implementation of the strategy encompassing the performance of individual member states. Equally important is to acknowledge the significant progress made in respect of the implementation of certain aspects of the strategy, namely, the second and third pillars, on measures to combat and prevent terrorism, and states' capacity building, respectively, while work related to the first pillar on addressing the conditions conducive to the spread of terrorism has arguably been marginal, lagging and divided, and that on human rights has continued unabated. A final point that is relevant to an assessment of UN's efforts to fight terrorism entails further exploration into the 'organization' in view that the world body's contributions to the strategy's implementation is mainly in two ways:

> "first, departments, specialized agencies, funds and programs have taken action within the rubric of their own work plans, both individually and in partnerships; and second, 24 entities of the UN system and Interpol have collaborated through the Counter-Terrorism Implementation Task Force"[184].

In short, in view of the overall dissatisfaction with the UN's Council-driven global counter terrorism program since its inception in 2001, including its perceived exclusivist stance vis a vis other organs and entities within and beyond the UN system, the security oriented and

[184] Report of the Secretary-General, *United Nations Global Counter-Terrorism Strategy: activities of the United Nations system in implementing the Strategy*, General Assembly, UN: New York, July 2008, p. 2, para. 4.

diffused nature of the Council's regimes, and the lack of efficiency and effectiveness due to the inability of the Council's subsidiary bodies to deliver focused technical assistance to UN member states, the former UN Secretary-General, Kofi Annan, called for a holistic approach that would focus on the individual and collective contributions of UN system-wide agencies to counter terrorism efforts, and would ensure enhanced ability to work with member states and increased coordination among the different bodies and agencies within the world body, which paved the way for the establishment of the Counter Terrorism Implementation Task Force (CTITF) in 2005, mandated to ensure overall coordination and coherence in the counter terrorism efforts of the UN system. The adoption of the global counter terrorism strategy with its broad-based agenda involving both the security and development dimension of the fight against terrorism made the participation, contribution and involvement of the UN's principal organs, UN system wide agencies, member states and regional and international organizations imperative, and required the enhancement of the institutional capacities not only within the Council's counter terrorism committees, but also within the UN system, in general. As such, the Task Force was tasked to contribute fully to counter terrorism efforts in the context of the strategy, and therefore, to mobilize, process and use the counter terrorism resources of key actors in the UN system and its partners while maximizing synergies and avoiding duplication of work with an aim to assist member states in the implementation of the strategy.

To effectively perform its mandate, the Task Force established working groups that would undertake programs of work in specific aspects identified in the strategy where cooperation among the UN system actors would have added-value. These nine working groups[185] design and implement counter terrorism initiatives in a broad range of strategy-related areas which can be enumerated as follows:

> "assisting member states in implementing the strategy in an integrated manner and enhancing technical assessment, delivery and follow-up; factoring counter-terrorism into conflict prevention; providing a forum for addressing political and economic exclusion, in particular among youth; improving UN coordination in planning a response to a terrorist attack that uses nuclear, chemical, biological or radiological materials; bringing together stakeholders and partners to discuss the abuse of the internet for terrorist purposes and identifying innovative means to counter it; finding ways to meet international standards for countering the financing of terrorism; establishing best practices on protecting vulnerable targets including UN field staff and creating a mechanism to share experience in this regard; assisting countries in strengthening domestic legislation to protect human rights in order to

[185] For a list of CTITF entities and nine working groups, see Appendix F of the thesis.

comply with international standards; and bringing together victims from around the world to identify their needs and possible government responses"[186].

Taken together, these working groups have come to serve as compiler and analyzer of information and best practices within and outside the UN system for making these available to member states, to create new approaches and provide guidance in dealing with issues under their respective themes, contributing to trends, policies and methods, and to promote cooperation and create synergies within the UN system in the context of counter terrorism. To further support the work of the Task Force in the implementation of the strategy, particularly, in response to increasing requests of some member states for direct and tailored technical assistance, the Secretary-General, Ban Ki-moon, made arrangements to institutionalize the Task Force in June 2009 by establishing a CTITF-Secretariat in the Department of Political Affairs (DPA).

Against this background and turning back to the initial analysis on UN's counter terrorism measures and their implementation, the strategy outlines the measures under the first pillar of 'conditions conducive to the spread of terrorism'[187], which can be summarized as follows: strengthen and use UN capacities in the fields of conflict prevention, negotiation, mediation, conciliation, judicial settlement, rule of law, peacekeeping, and peacebuilding to contribute to the prevention and peaceful resolution of prolonged conflicts; promote ethnic, national and religious dialogue, tolerance, understanding and respect, particularly through education and public awareness programs with UNESCO in the key role; prohibit by law incitement to commit terrorist acts; ensure the realization of the development goals agreed by major UN conferences and summits such as the Millennium Development Goals, including poverty eradication, sustained economic growth, sustainable development and global prosperity; strengthen and implement development and social inclusion agendas such as "youth employment [which] could reduce marginalization and subsequent sense of victimization that propels extremism and the recruitment of terrorists"[188]; enhance cooperation and assistance in the fields of rule of law, human rights and good governance to support sustained economic and social development; and establish national systems of assistance to

[186] UN Factsheet on UN Action to Counter Terrorism, Peace and Security Section of the Department of Public Information, May 2007.

[187] The Global Counter-Terrorism Strategy lists the 'conditions conducive to the spread of terrorism' as "prolonged unresolved conflict, dehumanization of victims of terrorism, lack of the rule of law and violations of human rights, ethnic, national and religious discrimination, political exclusion, socio-economic marginalization and lack of good governance". For further reference to this section, see GA Resolution 60/288 on Strategy, p. 4.

[188] GA Resolution 60/288 on the United Nations Global Counter-Terrorism Strategy, ibid., p. 4.

promote the needs of victims of terrorism and their families and to facilitate normalization of their lives, including through the involvement of civil society.

In terms of implementation of activities under the first theme, the Department of Political Affairs (DPA), the United Nations Development Programme (UNDP), the United Nations Educational, Scientific and Cultural Organization (UNESCO), and the Department of Peacekeeping Operations (DPKO), as well as three thematic working groups on preventing and resolving conflicts, supporting and highlighting victims of terrorism, and addressing radicalization and extremism that lead to terrorism, respectively, are the main contributing bodies. As the leading organ for peacemaking and preventive diplomacy, DPA established in 2008 the 'United Nations Regional Center for Preventive Diplomacy for Central Asia' to respond to cross-border threats and challenges including terrorism, drug trafficking, and organized crime in the region, and to build national capacities for prevention and dialogue. It mobilized its newly established mediation support unit and peacebuilding support office to provide operational support to ongoing peace processes and perform as a repository of knowledge for mediators. As the organ to advance human rights and cultural diversity, tolerance, and dialogue by fostering quality education, cross-cultural network building, and training in intercultural mediation, UNESCO is implementing the Program of Action on a 'Culture of Peace' and its actions include international conferences on violent radicalization and education for intercultural understanding and dialogue. The organization and the Alliance of Civilizations signed a Memorandum of Understanding to promote joint programming and cooperation. On the other side, UNDP has provided support to more than 90 countries in the field of rule of law, access to justice and human rights, and has developed national programs on institution and capacity building, focusing on both conflict and post conflict situations and transition to long term development, within its broader mandate of 'democratic governance', which aims to promote responsive and accountable administrative and parliamentary bodies and local development, to strengthen media and civil society, in addition to providing electoral support and building inclusive and participatory approach in public management. DPKO has pursued programs to ensure the adoption of effective, fair and accountable criminal justice systems, and the promotion of public safety and rule of law. Furthermore, the Department of Public Information has pursued its program on 'unlearning tolerance' through convening of seminars and is currently working in the area of 'cyber hate' while the United Nations Interregional Crime and Justice Research Institute (UNICRI) has designed a project to promote inter-religious and cultural dialogue in the Mediterranean.

And finally, the three working groups, respectively, have worked to provide guidance to UN peace mediators and negotiators on terrorism and counter terrorism, to undertake a comprehensive mapping of policies implemented and actions taken by member states, regional organizations and civil society to counter violent extremism, and to organize a global symposium on victims' support[189].

The measures called for in the strategy to 'prevent and combat' terrorism refer to denying terrorists access to the means to carry out their attacks and to their targets, and to prevent the desired impact of their attacks, and these can be summarized as follows: to refrain from supporting, participating and tolerating terrorist activities and take practical measures to ensure that respective territories are not used as safe haven and for terrorist installations, training camps and organizing terrorist attacks; to find and bring to justice any person who supports, facilitates, participates or attempts to participate in terrorist acts, to apprehend, prosecute and extradite perpetrators, through mutual judicial assistance, cooperation among law enforcement agencies and timely and accurate information exchange, and to ensure that asylum and refugee status is not granted to persons engaged in terrorist acts; to strengthen cooperation and coordination among member states to combat terrorism-related crimes such as drug trafficking, illicit arms trade and in particular, small arms and light weapons, money laundering, and smuggling of nuclear, chemical, biological, radiological and other deadly materials; encourage regional and subregional organizations to create or strengthen counter terrorism mechanisms or centers with the assistance of CTC-CTED, UNODC, and Interpol; to consider the possibility of establishing an international center to fight terrorism; to implement the comprehensive international standards embodied in Forty Recommendations on Money-Laundering and Nine Special Recommendations on terrorist financing of FATF[190]; to develop a comprehensive database on biological incidents, update the roster of experts and laboratories, elaborate technical guidelines and procedures for the Secretary-General to initiate the timely and efficient investigation of alleged use, and to bring together major

[189] Report of the Secretary-General entitled "United Nations Global Counter-Terrorism Strategy…", ibid., and UN Factsheets on UN Action to Counter Terrorism, dated May 2007, and March 2009.

[190] The Financial Action Task Force (FATF) is an intergovernmental body established in 1989 under the Organization for Economic Cooperation and Development (OECD) by the Heads of G-7 and subsequently to include the European Commission and selective group of member states to combat money laundering and proceeds of organized crime. Its mandate expanded to countering terrorist financing in the wake of 9/11, whereby it produced its 'special recommendations' to include: ratification and implementation of UN counter terrorism conventions; criminalizing the financing of terrorism and associated money laundering; freezing and confiscating terrorist assets; reporting suspicious transactions related to terrorism; international cooperation; alternative remittance systems; wire transfers; non-profit organizations including humanitarian and charitable organizations; and cash couriers.

biotechnology stakeholders into a common program to ensure that advances in the field are not used for criminal purposes, but for the public good; to counter terrorism on the Internet and use the Internet as a tool for countering the spread of terrorism; to improve border and customs controls to detect and prevent the movement of terrorists, trafficking in small arms and light weapons, conventional ammunition and explosives, and WMD; to adopt and implement legislation and administrative measures related to travel-related obligations and identify and use the best practices developed by the ICAO, WCO and Interpol; to strengthen the travel ban under the 1267 sanctions regime, and ensure that "fair and transparent procedures exist for placing individuals and entities on its lists, for removing them and for granting humanitarian exemptions"[191] and that member states widely distribute UN-Interpol special notices on individuals and entities subject to the sanctions regime; to improve the security of production and issuing of identity and travel documents, and detect and prevent their alteration and fraudulent use, and in this respect, for Interpol to update its database on stolen and lost travel documents; to review and improve inter-agency coordination in responding to terrorist attacks, in particular, those involving the use of WMD, and other disasters in the field of civil protection; and finally, to improve the security and protection of vulnerable targets such as critical infrastructure and public places.

In terms of the progress made in the implementation of measures under this second pillar on denial, and mitigation and response, UN has supported the work of its member states in three main ways, which are respectively, assisting in the drafting and implementation of international legal instruments and guidelines that establish standards for preventive action, compiling rosters and databases to centralize information about resources available to prevent and respond to terrorist attacks, and upon request, providing assessments on the existing counter-terrorism capacities of member states. The activities under this pillar have been supported by three working groups of the CTITF on preventing and responding to WMD terrorist attacks, tackling the financing of terrorism, and countering the use of the Internet for terrorist purposes, respectively. As such, the first group on WMD has facilitated the mapping and assessment of all programs and activities currently being implemented by the Task Force entities on the subject to assist member states to prevent and respond to WMD-related terrorist attacks. The second group on terrorist financing analyzes the effectiveness of existing measures in countries to combat the financing of terrorism to identify new approaches to deal with the issue on the basis of reports of IMF, WB and CTED.

[191] GA Resolution 60/288 on Global Counter-Terrorism Strategy, p. 6.

And finally, the third group on the Internet aims to convene relevant stakeholders to discuss the abuse and misuse of the Internet for terrorist purposes and to compile best practices to prevent the Internet from being used for promoting violent radicalization, by conducting a mapping exercise of existing legal and technical measures in the field.

As regards the first area of support involving the development of global legislation, instruments, standards, recommendations and guidance, the principal UN and affiliated bodies that provide technical support are the Office of Legal Affairs under the Secretariat and the GA Ad hoc Committee on Terrorism, UNODC, IAEA, ICAO, and IMO. An overview of the most important activities undertaken by these bodies would commence by the ongoing work of the Office of Legal Affairs and the Ad Hoc Committee to draft the comprehensive convention on international terrorism and "while significant progress has been made, there is still disagreement among member states regarding the scope of the convention"[192]. As drafter of the International Convention against Transnational Organized Crime and its three protocols, UNODC has assisted member states with the ratification and implementation of international legal instruments, in particular, through supporting domestic criminal justice systems, facilitating mutual legal assistance including extradition and law enforcement cooperation, and other forms of technical assistance and training. IAEA has supported member states' adherence to the International Convention for the Suppression of Acts of Nuclear Terrorism and the Convention on Physical Protection of Nuclear Material through nuclear security missions, trainings, conferences and workshops, also covering aspects of resolution 1540.

ICAO has developed 'international standards and recommended practices' (SARPs) and supplementary guidelines for protection of aircraft, airports and air navigation facilities against terrorist attacks, including measures for the prevention of unlawful interference and procedures regulating border-crossings. It has further contributed to the international legal regime regarding travel safety and practices, by producing draft conventions related to compensation for damage caused by aircraft to third parties and treaties to update existing aviation security conventions by addressing emerging threats such as use of civil aircraft as a terrorist weapon and use of WMD for the purposes of terrorist attacks. Following the airline plot in 2006 over the North Atlantic, it has approved additional security control guidelines for the screening of baggage and to enhance border control security, and conducted

[192] Report of the Secretary-General entitled "United Nations Global Counter-Terrorism Strategy…", ibid., p. 6.

additional work on machine readable passports. It continues to conduct its aviation security audits to determine the implementation of international aviation security standards by member states to resolve security and safety deficiencies. IMO has developed the International Ship and Port Facility Security Code (ISPS) implemented by "158 member states representing 99% of the global merchant fleet including 40,000 ships, and facilitated the development and approved port facility security plans for about 10,000 port facilities"[193].

As regards the second area of support involving the compilation, analysis and dissemination of terrorism-related information and data, the principal UN bodies at work are the Office for Disarmament Affairs (ODA), Interpol, WHO, IAEA, and UNICRI. In 2008, ODA developed a software platform to provide a secure web-based entry tool for reporting biological incidents by member states and organizations so as to establish a single comprehensive bio-incident database, which is currently available for pilot use. In addition, the Office has updated the roster of experts and laboratories in the bio-industry, focusing on technical capabilities that allowed for identifying respective gaps in certain areas of expertise, and produced technical procedures, which have been made available to the Secretary-General to guide investigation in cases of alleged use of biological agents. Interpol maintains a set of global databases that contain information on wanted persons, fingerprints, photos, DNA profiles, stolen and lost travel documents, and has developed technology to make such data available at border security points. It coordinates circulation of alerts and warnings on suspected individuals and groups and their activities, and assists the 1267 sanctions regime by making available to law enforcement authorities critical information on individuals and entities subject to UN sanctions. Other counter terrorism related functions of Interpol is related to civil protection and consequence management, whereby the organization mobilizes its readily deployable incident response teams to facilitate investigation after a terrorist attack, and assists states through its major event support team in the preparation, coordination and implementation of security arrangements. WHO has enhanced its capabilities, through its global alert and response systems, to detect international public health events, to conduct risk assessment, and to develop its international network of public health partners to assist the response capacities of UN member states. It has prepared a guidance to enable countries to assess and improve their readiness for managing public health consequences of a biological, chemical, radiological and nuclear terrorist incident, and has provided training for encouraging safe use and safekeeping of biological materials. In addition to the Illicit Trafficking Database on

[193] Ibid, and UN Factsheet on UN Action to Counter Terrorism dated March 2009.

WMD, which is complemented by Interpol's database known as 'Project Geiger' designed to identify methods, trends and vulnerability of radiological materials to theft by terrorists for use in the construction of 'dirty bombs', UNICRI has launched a 'knowledge management system' to prevent illicit trafficking and terrorist use of WMD in South-East Europe and the Caucasus.

As regards the third area of support involving member states' capacity assessment in the context of terrorism, the principal bodies that have leading responsibilities are CTC-CTED, 1267 Committee and its Monitoring Team, 1540 Committee and its expert group, IMF, and WB. The Counter Terrorism Committee and its Executive Directorate have completed the preliminary assessments of implementation of resolution 1373 for all UN member states, has engaged in dialogue with member states to ensure that assessments are comprehensive and accurate, and continue to undertake on-site visits with the participation of CTITF members to identify states' capacity-building needs and to monitor progress states are making with respect to their obligations under resolution 1373 on counter terrorism and resolution 1624 on terrorist incitement. The 1267 Monitoring Team has produced analytical reports, which assess the implementation of sanctions by member states and provide recommendations to help states deal with terrorism-related crimes such as illicit arms trade, drug trafficking and money-laundering and to improve the travel ban, and which also assess the changing nature of the threat posed by al Qaida and the Taliban, including best measures to confront the threat. The 1540 Committee and its experts continue to compile and review reports from member states and organizations to assess their efforts to meet their obligations under the nonproliferation regime. On the other side, IMF has since 2002 conducted around 61 country needs assessments on anti-money laundering and combating the financing of terrorism (AML/CFT), and has provided technical assistance to approximately 192 member states in the fields of legislative drafting and strengthening financial sector supervision[194]. WB has conducted around 400 technical assistance missions on country and regional basis to strengthen the AML/CFT regime, to include the enhancing of financial unit capacities and improving oversight of the financial sector and its multiple actors[195].

[194] Figures are taken from UN Factsheet on UN Action to Counter Terrorism dated March 2009.

[195] Adapted from Report of the Secretary-General entitled "United Nations Global Counter-Terrorism Strategy…", ibid.

The third pillar of the strategy specifically addresses the need to build UN member states' capacities to prevent and combat terrorism and provides measures designed to strengthen the role and capabilities of the UN in this respect. Therefore, the proposed measures serve more as an operational methodology and organizational guidance for the implementation of the strategy than as substantive issues that need to be tackled, which are already outlined in the first, second and fourth pillars as conditions conducive to spreading terrorism, legislative and administrative requirements for preventing and combating terrorism, and promotion of human rights, respectively. As such, this part of the strategy focuses on leveraging on the framework provided by international, regional and subregional organizations to share best practices for capacity building in counter terrorism, establishing appropriate mechanisms to rationalize reporting requirements of member states by eliminating duplication of reporting requests while respecting the different mandates of the Assembly, the Council and its bodies dealing with counter terrorism, and encouraging information exchange and coordination among member states, UN bodies and entities dealing with counter terrorism, affiliated specialized organizations, as well as international, regional and subregional organizations on areas of cooperation and technical assistance in the field. It further calls on member states to make voluntary contributions to UN counter terrorism technical assistance projects and the UN to reach out to the private sector to enhance their contribution to capacity building programs, including port, maritime and civil aviation security. In view that the focus is on the provision of technical assistance to member states, the strategy encourages a number of UN bodies and affiliated entities to continue their efforts to extend technical backstopping to member states in areas where they have comparative advantage. Accordingly, all Task Force members and working groups contribute to this particular pillar.

In terms of assessing the progress in the provision of technical assistance, which includes the work undertaken under the first two pillars, it is important to note other capacity building activities undertaken by UN bodies to build member states' capacities in counter terrorism. Accordingly, UNODC has provided technical assistance to states by elaborating model legislation on counter terrorism, delivering training towards criminal justice officials, and promoting institutional capacity building through the creation of financial intelligence units, within the context of its global project on strengthening the legal regime against terrorism and its global program on anti-money laundering. IAEA and the Organization for the Prohibition of Chemical Weapons (OPCW) has enhanced member states' capacities to prevent terrorist access to WMD with the support of the 1540 Committee, and particularly to

fully implement the Chemical Weapons Convention (CWC), through destruction of chemical agents, on-site visits, legislative and administrative measures, awareness raising about the requirements of CWC, and training of government personnel. Furthermore, IAEA has conducted nuclear accountancy and control, and radiation safety and security missions, provided nuclear security training, engaged in conditioning and storage operations for nuclear materials in African and Latin American states, and assisted in ensuring nuclear security in major public events. UNICRI provides security planning for major sporting events, high level summits and mass events, and collects and transfers expertise in the area through its network of countries in Europe and Latin America. Interpol builds law enforcement capacity to prevent and respond to terrorist attacks involving biological weapons. ICAO provides technical assistance to participating states in developing and maintaining aviation security systems. In addition to advisory missions, seminars and trainings on maritime security, IMO has engaged in regional initiatives on maritime terrorism, suppressing maritime crime and developing maritime situational awareness, which has gained greater importance in view of recent terrorist acts involving piracy and kidnappings on open seas. In addition to this broad agenda, the working group on the protection of vulnerable targets created a 'referral center' at the premises of Interpol to facilitate exchange of technical assistance, resources, experts, knowledge and best practices in the field, which will enable related UN bodies to identify gaps, share best practices, and monitor emerging trends. And finally, the working group on 'integrated assistance' is working on a methodology whereby "member states will be able to submit their requests directly to the UN through one entry point and receive tailored assistance"[196] to avoid duplication of work within the UN system and maximize the impact of assistance delivery.

As regards the final pillar of the strategy designed to ensure respect for human rights and rule of law, by developing effective national criminal justice systems and supporting the work and operational capacity of related UN bodies i.e. Human Rights Council, Office of the UN High Commissioner for Human Rights (OHCHR), and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms, to examine the balance between human rights protection and counter terrorism, OHCHR has produced a comprehensive report for the Human Rights Council that highlights the key issues in the field. This report includes the following points: "the need to establish specific and effective legislation designed to avoid vague or overly broad definitions of terrorism that have led to

[196] Ibid., p. 14.

inappropriate restrictions of the legitimate exercise of rights such as the rights of association, expression and assembly; methods of intelligence and information gathering that should be regulated by law and monitored by independent agencies, and undergo appropriate judicial review; the unacceptable practices of the transfer of suspects without due process and the use of torture, cruel, inhuman and degrading treatment or punishment; the continuing erosion of the right of fair trial; and the absence of human rights guarantees in the current international regime of targeted sanctions against individuals"[197]. It has developed human rights compatible policies and legislation aimed at assisting practitioners, and worked with UNODC on developing counter terrorism tools for the criminal justice system complying with international laws on human rights. On the other hand, the Special Rapporteur has provided regular analysis and recommendations on thematic issues including

> "definitions of terrorist crimes in domestic law; current challenges in refugee law posed by counter-terrorism measures; improvement of international and national procedures for listing and delisting terrorist individuals and entities; the role of economic, social and cultural rights in countering terrorism; and the question of how to uphold the right to fair trial while countering terrorism"[198].

And finally, the working group on human rights supports member states through the development and implementation of human rights compliant legislation, and policies, and facilitating information exchange between member states, civil society, human rights groups on priority human rights concerns and good practices.

Overall, the above description of UN's activities to fight terrorism in the context of the global counter terrorism strategy demonstrates that the world body is actively pursuing work on the different dimensions of international terrorism both at national and international level. In view of the ongoing efforts of the world organization to institutionalize and systematize its organizational structure and program of work in counter terrorism, and given the short time frame that has passed since the adoption of the strategy in 2006, it is too early to make a complete and accurate assessment of UN's performance towards the implementation of the strategy. That said, an initial analysis of UN's work along the four themes of its strategy points to the fact that the majority of its technical assistance and institutional resources has largely been channeled to denying terrorists territory, movement, arms and financing, and to reducing vulnerability to and the impact of terrorist attacks, as opposed to softer issues targeting structural and motivational factors resulting in terrorism i.e. socio-economic

[197] Adapted from Report of the Secretary-General entitled "United Nations Global Counter-Terrorism Strategy…", ibid., pp: 15-16.

[198] Ibid., p. 17.

development, long-standing conflicts, political repression, youth employment. This coercive, reactive and punitive approach to suppress terrorism is also a feature of the SC regimes to fight terrorism, which touch upon the issues of terrorist financing, nonproliferation of weapons of mass destruction, and sanctions imposition covering the travel ban, asset freeze and arms embargo. Therefore, instead of developing a robust 'ideological' response to terrorism, member states, either on their own capacity, or in concert with international organizations, have targeted the physical and financial infrastructure of terrorists. However, hard-line and security-driven 'protective' measures designed to reduce the operational and financial breadth of terrorists and their groups and to protect citizens and critical infrastructure from potential terrorist attacks, albeit their importance in crushing terrorists and ridding them of their livelihood, may not be sufficient to deal with the threat at hand. It must be noted that insofar as the conceptual infrastructure is in tact, the terrorists will continue to develop their physical infrastructure and fight back. Therefore, instead of a mere 'decapitation' strategy, it is important to strike the right balance between 'protective' operational measures, involving military, law enforcement, and intelligence and 'preventive' strategic measures, addressing conditions prompting terrorism or the so-called root causes.

3.2 Protective vs. Preventive Approach to Countering Terrorism

3.2.1 Weighing the Two Sides of the Debate

Fighting international terrorism requires a range of policy instruments, including military force, police and intelligence work, enforcement of sanctions especially of economic nature, political negotiations and diplomacy, external aid and others, and among the various policy options available, policymakers are confronted with the task of prioritizing their efforts given the limited resources and time. In defeating al Qaida, one policy instrument which has been favored by major powers and exhaustively used and in a way, contentiously applied, is the military. This option involves use of air strikes, advanced precision standoff weapons and imagery to detect terrorist movement, and deploying military and special operations forces to capture and kill al Qaida operatives and 'finish off' the enemy. The role of the U.S. military to strike at terrorist posts, sanctuaries and training sites in Afghanistan was crucial, and the intervention necessary to reduce the command and control structure and operational capacity of al Qaida. Furthermore, US-Pakistan cooperation on rooting out terrorists such as the 9/11 mastermind, logistician, accountant, strategist, and other detainees incarcerated in Guantanamo, Delta and other camps, all of which were captured in Pakistan, is a product of

careful intelligence and special operation forces, and the role of Pakistani government forces to carve out Taliban, al Qaida and its affiliates in and around its border with Afghanistan is yet another demonstration of the importance of states' operational capabilities. Applied to Iraq, counter-insurgency and stabilization operations of coalition forces, though dramatically reduced, continue to prevent recurrence of ethno-sectarian violence arising from competition of ethnic and sectarian communities over local power and resources. According to a report presented to the U.S. Congress on the situation in Iraq in late 2007, it was mentioned that reducing coalition forces into mere combat support role for local law enforcement forces or the complete withdrawal of these forces, however necessary over the long term for granting complete sovereignty to the Iraqi leaders, would be a mistake in that it would lead to the

> "release of strong centrifugal forces in Iraq, including a high risk of disintegration of the Iraqi Security Forces; rapid deterioration of local security initiatives; Al Qaida-Iraq gaining lost ground and freedom of maneuver; a marked increase in violence and further ethno-sectarian displacement and refugee flows; alliances of convenience by Iraqi groups with internal and external forces to gain advantages over rivals; and exacerbation of already challenging regional dynamics, especially with respect to Iran"[199].

In short, in certain security situations, states' military presence and activities is useful and required.

In responding to the question of 'how terrorist groups end', a quantitative study undertaken by the Rand Corporation based on evidence gathered since 1968, reveals that most terrorist groups end primarily for two reasons: "members decide to adopt nonviolent tactics and join the political process, referred to as politicization (43%); or local law enforcement agencies arrest or kill key members of the group (40%)… other ratings are 7% for the use of military force and 10% for achieving victory"[200]. Applied to al Qaida, the authors provide that political compromise and settlement is not feasible given the broad breadth of the political goals of al Qaida, to include, in the order from narrow goals to broader ones, policy change i.e. removal of U.S. troops from Middle East; territorial change i.e. objection to existing political mapping; regime change i.e. determination to oust prevailing corrupt governments in the Middle East; empire i.e. desire to overthrow more than one regime to establish an Islamic caliphate; and social revolution to alter individuals' social or cultural norms i.e. transformation into a movement that aspires to change the value system of the West. Once politicization is crossed out, policy options against terrorism are narrowed down to military and law enforcement.

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[199] Petraeus, ibid.

[200] Jones, ibid., pp: 18-19.

In broad terms, the nature and use of the military has its own set of limitations. First, it has a counterproductive impact when it is overused, as it alienates the local population and turns it against the occupiers/interveners and provides motives for further terrorist recruitment. Second, although military forces are able to enter and patrol an area that is frequented by terrorist groups, which may reduce terrorist activity, once the security environment becomes intractable for terrorists, they will simply transfer their activity to another area, leaving the problem unresolved and further diffused, as has happened when al Qaida leaders including bin Laden fled to Pakistan following the US-led occupation in Afghanistan, which has sparked controversy over how the campaign was handled. Third, the use of even precision weapons are perceived to have been, in certain instances, marginal in that US missile strikes against Sudan and Afghanistan in 1998 had no discernable impact on al Qaida. Fourth, military forces may not be suited to respond to terrorists' operational capabilities and tactics in view that terrorists do not deploy large and organized forces on the field except in a situation of insurgency. Fifth, in terms of strategic mistakes on the part of the US, by waging an irrelevant war on Iraq, it lacked the resources and attention to carry forward its campaign in Afghanistan and to effectively counter al Qaida in other parts of the world, most notably, Pakistan and Southeast Asia. Sixth, in terms of operational capabilities of military forces against foreign insurgency operations, US military campaign in Iraq and even in Afghanistan was of limited value in comparison to the added value of the local forces, including tribesman, mobilized. And finally, foreign military forces are not likely to remain for the duration of any counter-insurgency movement as a major combatant force, in that insurgencies usually last for a long period of time, sometimes extending to and over a decade. On a different level, despite the existing US-Pakistan cooperation to include military operations, capacity building of law enforcement, and intelligence, the "estimated twenty-six missile attacks on targets in Pakistan during 2008"[201] which killed dozens of people including local Taliban commanders had created political turbulence at government level while giving rise to popular opposition against US and the Pakistani government and domestic instability that continues today due to renewed chain of al Qaida attacks in the country. Similar attacks utilizing unmanned vehicles carrying air-to-surface missiles to Syria, Sudan, Somalia and elsewhere violate states' sovereignty and create political and diplomatic turmoil, risking the support extended to the global counter terrorism efforts.

[201] "Reported U.S. Directive Authorizing Clandestine Attacks on Al Qaeda in Numerous Countries: U.S. Strikes in Syria and Pakistan Draw Protests", *The American Journal of International Law*, Vol. 103, No: 1, January 2009, p. 162.

Therefore, since the political option is out of reach due to the broad-based political goals of al Qaida that are irreconcilable and non-negotiable, and role of the military may be limited and even counterproductive to the fight against terrorism, the Rand study concludes that local law enforcement and intelligence is the most viable policy option to counter terrorists. This is because local police and intelligence services are equipped with better information and training to penetrate and disrupt terrorist hubs and cells than the military, as the former has permanent presence in cities, towns and villages and a better understanding of local dynamics and the threat environment in general. This is made further possible through community supported policing, if this capacity is further developed in transition countries, which involve "building strong ties with community leaders, including elected officials, civil servants, clerics, businessmen and teachers, among others, and thereby enlist their assistance and support"[202] and given that "the most effective intelligence comes from places where terrorists conceal themselves and seek to establish and hide their infrastructure"[203]. The logic is that since terrorists fight people oriented wars, either as a tactic or target, concepts such as citizen focused policing, civilian oversight, and community building gain ground, making law enforcement and human intelligence all the more important in countering terrorism.

In light of the above analysis, 'operational' counter terrorism instruments involving military, local security agents, and intelligence is vital to fight al Qaida, but is not sufficient, no matter how advanced and effective these may be. This is because by using the operational response capabilities, terrorists and their leaders can be removed, but these will be replaced sooner or later, suggesting the need to invest in 'strategic' counter terrorism instruments. In other words, Al Qaida remains a threat despite the overriding operational measures in view of its ability to use its perverted interpretation of religion and politically driven ideology to distort the 'minds and hearts' of people especially those with vulnerabilities and social, economic and political grievances, which necessitates the crafting of a long-term strategic response addressing particular issues and circumstances that lead to an inclination to terrorism and/or the conduct of terrorist acts. The logic underpinning strategic counter terrorism is simply "if specific parts of the world were better places, then terrorism would not take root"[204], and some key aspects of this worldview include formulating and fostering an "ideological response, educational response, media response, financial response, legislative response, and

[202] Jones, ibid., p. 27.

[203] Ibid., p. 125.

[204] Boulden, ibid., p. 13.

developmental response"[205] to fighting terrorism. What makes this approach alluring is that it offers some prospect of an effective and permanent response that might be preventive in ways other than the strict and sole application of coercive, reactive and protective measures largely grounded on military and law enforcement action.

A culture of prevention refers to dealing with a security threat or challenge before it occurs or develops, and avoiding its recurrence or escalation. In the context of counter terrorism, it requires the need to explore "why and how terrorist groups are formed, led and organized, the nature of their grievances, motivations, strategies and demands against their adversaries, and the linkages that terrorist groups form with their supporting constituency"[206]. Therefore, a first line of analysis to preemptively contain and defeat al Qaida involves an understanding of the 'root causes' of terrorism. By extension, the transition from a culture of reaction to one of prevention will require the international community to distinguish between 'preventive operational measures' aimed at eliminating, pursuing, cutting the supply of and mitigating the vulnerability to the consequences of the threat i.e. military, law enforcement, intelligence and judicial action, and border, customs and financial controls and others from 'preventive strategic measures' aimed at identifying and resolving the underlying motives of political and religious extremism including the social and political conditions that sustain al Qaida and inspired groups i.e. structural adjustment, development and humanitarian assistance, democratic institution building, information and psychological operations, mediation, and preventive development referring to "long-term projects aimed at helping communities achieve sustainable social, economic and political structures and which provide assistance on the development of vital components of society, including agriculture, education, infrastructure, and employment"[207].

It follows then that an effective and enduring counter terrorism 'policy response' is one with a primarily 'preventive' outlook 'able and willing' to tackle 'root causes', and design and implement 'conciliatory and strategic' strategies, which are consolidated by 'coercive and operational' measures, with an overall objective to address both the 'demand' and 'supply' side of international terrorism. Put differently, fighting terrorism requires a

[205] *Countering Al Qaeda: An Interview with Dr. Rohan Gunaratna*, IO Sphere Joint Information Operations Center, 2006, pp: 4-5.

[206] Tore Bjorgo, *Root Causes of Terrorism: Myths, reality and ways forward,* Routledge: New York, 2005, p. 215.

[207] David Carment, and Albrecht Schnabel, *Conflict Prevention from Rhetoric to Reality,* Lexington Books: Maryland, 2004, p. 180.

multidimensional strategy which involves as its one arm protective measures that are meant to drive al Qaida and associates out of business, deprive them of their money, movement and weapons, and bring them to justice, hence targeting the supply side of terrorism, and as its other arm, preventive measures that recognize the issues and injustices that al Qaida exploits and engages with affected parties to resolve grievances through political and social rather than military means, hence targeting the demand side of terrorism. This clear-cut distinction between protective and preventive or alternatively, supply and demand, is important to recognize that dealing with root causes does not apply to or cannot appease hard core Islamists or spoilers, but applies to and could only appeal to a certain audience of sympathizers to reduce their motive to resort to extremist methods. Therefore, the existing challenge is to "employ methods that diminish the inner circle without motivating those on the outside to join the inner core, to separate hard-core militants from their support base, and to render the use of terrorist methods illegitimate"[208]. And such distinction also serves as a reminder that addressing perceived grievances may weaken the appeal for global jihadist terrorism but does not warrant an end to terrorism in the short to medium term so long as the supply side remains in tact and the demand side is inadequately addressed.

3.2.2 Analysis of and Ability to Tackle Root Causes

There are different levels of causation when analyzing the issue of 'root causes', requiring a distinction to be made between, what is referred to in the literature, as 'preconditions' and 'precipitators' of terrorism in that the former refers to factors that set the stage for terrorism over the long term i.e. structural and motivational factors while the latter relates to specific events or developments that immediately precede or prompt terrorism i.e. accelerating and triggering factors. To further differentiate between the different categories of causation, there are 'structural causes' which affect peoples' lives at an abstract or macro level and in ways that they may or may not comprehend such as demographic imbalances, globalization, rapid modernization, transitional societies and individualism, relative deprivations, and class structures. At another level, there are 'motivational causes' that refer to actual grievances that individuals experience at a personal level, motivating them to act, including ideological position and process of radicalization by ideologues and political leaders [who can even translate structural causes into a motivational factor], lack of education and employment for alienated youth, poverty and material deprivations coinciding with cultural, ethnic, religious

[208] Cortright, ibid., p. 262.

identities and subsequent feeling of injustice, humiliation and resentment, and lack of democracy, civil liberties and rule of law. The next level of causation is referred to as 'facilitators or accelerators', which make terrorism possible and/or attractive, but are not the prime movers such as weak state control over territory, mass transportation, the Internet, modern new media, and advanced weapons technology. The final level of causation involves 'triggering causes', which are direct precipitators including political conflicts and calamities, foreign occupation, extraordinary acts by the adversary, lost wars, massacres, contested elections, police brutality, peace talks, and other provocative events that call for revenge and retaliation[209]. As part of the preventive approach to fighting terrorism, it follows then that each level of causality is considered on its own right and reflected upon.

However, opponents adopt an escapist approach by contending that embracing the concept of root causes would only lead global efforts astray as that would require affected parties to look for general social and economic malaise that have little to do with terrorism, or they recognize the causal relationship, but fail to effectively respond due to an inherent conflict of interest (lack of desirability), or their belief that such response justifies or appeases, and therefore, further encourages terrorist acts (lack of legitimacy), or the ambitious nature of the pursuit (lack of feasibility). It is likely that the more general the problem of terrorism is made, the more difficult it becomes to address it through targeted interventions and preventive action, but it is often better to tackle the origins of a disease than having to wait for its symptoms or fight the symptoms as they occur. Therefore, the issue of root causes "has the double problem of being so broadly based as to be amorphous and so deeply connected to the political fault lines inherent in the concept of terrorism that it deters action"[210]. Despite the conflation of variables that have emerged in the quest to identify the root causes of terrorism that create conceptual confusion and handicap concerted preventive action, there are also differences among member states over prioritization and resources by which these causes should be dealt, which further unravel the problem of consensus and political commitment.

The structural causes including international distribution of resources, sustained economic growth and structural development, universal promotion of human rights and social justice, population movements and other systemic factors are hard to ignore even if the causal link

[209] Bjorgo, ibid., pp: 73-74.

[210] Boulden, ibid., p. 13.

with international terrorism is empirically hard to prove. However, these are relevant to the extent that they impact member states' performance in providing equitable and sustainable national development, including good governance and resource management, which impact individuals' daily sustenance and quality of life, and issues such as global inequalities are used as pretext by al Qaida political figures to pursue their radical cause. That said, UN does contribute to addressing multifaceted development challenges through its global ad hoc conferences, which have helped to build a comprehensive normative framework around cross-cutting issues, including poverty, education, health, environmental sustainability, equitable and efficient trade and financial systems, by mapping out a broad vision of shared development priorities, which paved the way for the development of time-bound targets across various development areas that was subsequently framed into the Millennium Development Goals (MDGs)[211]. MDG process represents a consensual strategic framework for mobilizing the international community around development priorities and policies, and assessing progress towards poverty reduction and sustainable human development.

The global partnership between rich and poor countries, which constitutes one of the MDGs, was reaffirmed at the International Conference on Financing for Development in Monterrey and World Summit on Sustainable Development held in Johannesburg in 2002, which addressed the structural causes of conflict. Accordingly, each developing country would have primary responsibility for its own development through good governance, combating corruption, and pursuing policies and investments to drive private sector led growth, and maximizing domestic resources available to finance national development strategies. In turn, developed countries, on their side, would ensure that developing countries adopting transparent, credible and properly financed development strategies receive full support in the form of increased development assistance, a more development-oriented trade system and wider and deeper debt relief[212]. And finally, the 2005 World Summit reaffirmed commitment to achieving MDGs by 2015 including the adoption by developing states national action plans, to provide quick impact initiatives to support health and education, to developing innovative sources and initiatives to finance development projects, and to ensure

[211] Millennium Development Goals include eradicating extreme poverty, achieving universal primary education, promoting gender equality and empower women, reducing child mortality, improving maternal health, combating HIV/AIDs, malaria and other diseases, ensuring environmental sustainability, and developing a global partnership for development.

[212] Report of the Secretary General, "In larger freedom…", ibid.

long-term debt sustainability to heavily indebted poor countries and debt relief and restructuring for developing states[213].

A central motivational cause for terrorism is ideology, which in the case of al Qaida, is historical, religious, political and imaginary, all of which are invoked by interpreting and working through current political realities. Another related element is the presence of charismatic ideological leaders and religious figures who translate widespread grievances and frustrations into a political agenda for violent struggle. The political discourse professed by al Qaida leadership coupled with intolerance and hatred preached by some mosques and taught in madrassas supported by charity money have destructive impact on an already receptive audience either battered by foreign occupation and constant state of displacement, or by economic deprivation and alienation, and social discrimination, marginalization and victimization on the basis of ethnic origin or religious belief, with increased propensity to seek socialization in extremist groups by pursuing radical ideology. This suggests that the fight against terrorism must be fought on ideological grounds, and points to the need to create an alternative ideology or counter narrative, so that al Qaida's biggest strength which is its ideology could be turned into its source of weakness. However, while al Qaida has at its disposal a number of highly proactive strategists such as al Zawahiri and al Suri, and fundamentalist ideologues, "in the western world, there is no principal strategist to counter the message of al Qaida statements or ideologues"[214]. This shortcoming calls for mobilizing mainstream Muslim clerics and public opinion to pass critical and negative judgment on jihadist actions and goals, including the sinful nature of suicide bombings, to delegitimize the ideology and its leaders, marginalize extremists and discourage the jihadist network, and to the extent possible, empowering them to assume control of the leadership of Islamist movements to promote modern, open and progressive Islamic societies. A viable strategy is to magnify ideological inconsistencies and organizational tensions and divergences, where possible, and create dissension within the organization by providing an exit strategy for potential opt outs to win back, demobilize and reintegrate extremist elements. It follows then if alternative views are expressed through outreach activities and a strategic communication program, and religious and educational establishments are effectively controlled, as has been the case in Afghanistan, al Qaida will have fewer terrorist recruits.

[213] UN Factsheet on 2005 World Summit, Department of Public Information, September 2005.

[214] IO Sphere Joint Information Operations Center, ibid., p. 4.

In response to the aforementioned measures to counter extremist ideological indoctrination, the performance of the UN and the international community has been unsatisfactory. The former UN Secretary-General, Kofi Annan, has brought into focus possible areas of work in this field, including countering messages that praise mass murder and martyrdom, by calling the international community to take on the "challenge to match their [al Qaida] narrative of hate with the narrative of victims; the narrative of communities divided and broken by terrorist acts; the narrative of courage of those who risk their lives going about their daily business; the narrative of the values for which the United Nations stands"[215] and to

> "arrange highly visible constructive dialogues between respective representatives from different religions to counter terrorist groups' portrayal of parts of the globe as being engaged in an epic struggle between good and evil, and to reinforce the fact that the killing of civilians is antithetical to all religions"[216].

Furthermore, he urged the UN to "promote religious and ethic tolerance through education, by helping States to provide all their citizens with education that encourages free thought, tolerance and moderation as an alternative to militancy and extremism"[217]. However, these proposals involving the need to develop a coherent counter-narrative, to promote quality education and religious and cultural tolerance, among others, which are introduced in the global counter terrorism strategy, have not been adequately met.

Among the facilitators or accelerators of terrorism that is worth noting are fragile states with weak territories and law enforcement as well as unregulated public institutions that have undergone conflicts or are conflict-prone, and which therefore provide potential breeding grounds for al Qaida and its network. It is here that UN has most to offer in respect of its capacities in the fields of conflict prevention and resolution that have hitherto prevented and responded to dozens of intrastate and interstate tensions, disputes, and conflicts, through peacekeeping, preventive diplomacy, dispute settlement, post-combat institution building, stabilization and transition, as evidenced in Afghanistan[218] and Iraq. Its capabilities in this field have been further strengthened by the 2005 World Summit decision to create a UN

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[215]Report of the Secretary-General, *Uniting against terrorism: recommendations for a global counter-terrorism strategy*, General Assembly, UN: New York, 27 April 2006, p. 5, para. 24.

[216] Ibid., p. 5, para. 26.

[217] Ibid., p. 6, para 27.

[218] UN presided over the Bonn Agreement which created an interim government to replace the deposed Taliban regime and supported the government in Afghanistan as custodian of the peace process and helped to draft the country's new constitution.

standing police force and moreover, the creation of the Peacebuilding Commission in 2005, mandated

> "to marshal resources and to advise on and propose integrated strategies for post-conflict peacebuilding and recovery; to focus attention on the reconstruction and institution-building efforts necessary for recovery from conflict and to support the development of integrated strategies in order to lay the foundation for sustainable development; to provide recommendations and information to improve the coordination of all relevant actors within and outside the United Nations, to develop best practices, to help to ensure predictable financing for early recovery activities, and to extend the period of attention given by the international community to post-conflict recovery"[219].

Another facilitator of terrorism is the Internet, which has become the ideal medium for the al Qaida network to advance global jihad in the post 9/11 constrained security environment, including through coordination and communication of activities, events and actions, dissemination of propaganda, educational and training materials, discussion of topics and news with movements' participants, identification of new recruits through socialization, information gathering on adversary, financial support, and psychological warfare by producing fear. Furthermore, it is viewed as a highly convenient tool by al Qaida due to its "easy access, little regulation or censorship, anonymity of communication, huge audience, fast flow of information, and inexpensive development…multimedia environment that combines text, graphics, audio and video…[use] by traditional mass media, creating wider propagation of material"[220]. Among the ways by which al Qaida programmers are able to use advanced technology include the "new standalone web browsing software… which searches only particular sites… restricting the freedom to navigate to other online destinations… [which] facilitate the intellectual separation of jihadi visitors from the chaos of cyberspace"[221]. Another unique feature is the jihadi video game industry, which appeals to young audience, shapes and constrains the reality of players in line with the selective interpretation of history and religion of its developers, and radicalizes youth by allowing "a two way engagement- both intellectual and physical… repeated play reinforces the connection between thought and action, between intent and implementation"[222]. Against this backdrop, the international community approaches the jihadi movement's use of technology with a primarily operational mindset involving the use of jihadi websites to obtain

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[219] GA Resolution 60/180 (2005) and SC Resolution 1645 (2005), p. 2, para. 2.

[220] Rogan, Hanna, *JIHADISM ONLINE- A study of how al-Qaida and radical Islamist groups use the Internet for terrorist purposes,* Norwegian Defence Research Establishment (FFI): Norway, 2006, p. 13.

[221] Jarret M. Brachman, "High-Tech Terror: Al Qaeda's Use of New Technology", *The Fletcher Forum of World Affairs*, Vol. 30, No: 2, Summer 2006, p. 152.

[222] Ibid., p. 158.

operational information and intelligence. However, counter terrorism work would need to invest on strategic uses of the Internet to involve obstructing ideological indoctrination through the dissemination of counter-narrative, and using available information to understand the religious and political ideology and its evolution, to track responses of public opinion, and to identify main triggers of radicalization among the young Muslim community.

In terms of triggering factors, the outstanding political conflicts that provoke al Qaida's militant response and fuel its recruitment are Palestine-Israel dispute over continued Israeli occupation of Arab lands in defiance of UN resolutions, and those in Kashmir, Chechnya, and the continued insurgency movements in Afghanistan and Iraq, for which the UN could play a more proactive role. In addition to successful dispute resolution in countries that are predominantly populated by Muslims, UN council, bodies and officials dealing with human rights play a crucial role in overseeing the observance by member states of international law, as excessive use of force in the form of torture, inhumane and degrading treatment and other human rights violations will be exploited by terrorists to mobilize recruits and justify their actions. This will also entail the improvement and oversight of policing and national prison systems through capacity building assistance and on-site visits.

In conclusion, since the fight against al Qaida is inherently one of ideas, counter terrorism efforts must seek a preventive approach aiming at rooting out terrorism through addressing, first and foremost, its strategic weapon of ideology and denying the moral high ground to the extremist Islamic political and religious discourse by developing counter messages. These efforts will need to be carried out in tandem with protective operational measures, which have succeeded in preventing al Qaida from accessing territory, targets, funds, and arms, pursuing terrorist suspects to bring them to justice, and uncovering several terrorist plots in Europe and elsewhere over the past few years. In the process, hard core terrorists committed to the jihadist cause will not change their ways with economic and political reforms, as they are in this war for better or worse and there is no turning back from it, but their social and political base is far more likely to dry up, provided that these reforms are properly targeted, managed and communicated. Therefore, preventive strategies aim to isolate extremists and win over moderate segments. Furthermore, the notion of 'root causes' may be a dead end if by root is meant globalization and modernization that are extremely difficult to change and are remotely related with individual acts of terrorism, which suggests

that attention would need to be given to immediate causes and conditions that directly motivate and facilitate terrorism. Overall, the analysis of root causes and solutions for their reduction or removal have to be placed within a comprehensive spectrum of activities and an effective counter terrorism strategy needs to be broad-based, holistic, and integrated with full coordination between its parts and affected parties.

This being so, the UN has fallen short of its potential to tackle ideology of al Qaida and processes of radicalization of would-be terrorists due to lack of adequate attention and resources to developing an effective counter narrative and a viable and long-term strategic approach and responses. UN must look beyond the operational response and do what states are either unable or unwilling to do. This requires increased technical and financial investment on addressing and resolving root causes of terrorism, recognizing that "while there is no single root cause of terrorism… alienation, perceived humiliation and lack of opportunity make young mean susceptible to extremism"[223]. Therefore, issues such as tackling political and economic grievances thereby poverty reduction, conflict prevention, reconstruction of weak states and rebuilding effective government through good governance and development assistance tailored to local needs and demands, information operations, public education, dialogue and tolerance building, and other soft policy responses, which directly contribute to improving the daily lives of the Muslim youth, particularly those in remote areas, should become priorities for the world organization.

[223] Uniting Against Terror, Cooperative Non-Military Responses to the Global Terrorist Threat, David Cortright and George A. Lopez, p. 255

CHAPTER IV

MAINSTREAMING UN'S PERFORMANCE IN THE CONTEXT OF COUNTER TERRORISM: KEY CHALLENGES, PROSPECTS AND RECOMMENDATIONS

4.1 Threat and Capabilities Gap

The coercive and reactive measures carried out at national, regional and international levels by military, law enforcement and legislative actions have severely restricted the operational capacity, maneuver capability and financial resources of al Qaida. However, al Qaida has reorganized itself as a rational response to maintain its organizational intactness and survival, at the expense of relative operational control and financial inefficiency, exchanging the quasi-centralized structure of the past for a global interconnected network of loosely affiliated cells and hubs among like-minded radical Islamists and terrorist groups whose main identifying feature is a common and extreme ideology. What has emerged following the global counter terrorism measures in the wake of 9/11 is a threat that is just as real, but possibly more difficult to track and confront, which means that more work needs to be done before al Qaida is no longer an influential and active player international peace and security. Indeed, "the al Qaida group led by bin Laden has become very weak; but al Qaida as a movement has become very strong"[224].

A starting point to confront al Qaida involves knowing, understanding, and learning from the movement so that the international community is able to align its policy responses and capabilities with those of al Qaida. A senior al Qaida thinker and strategist, al Suri described al Qaida's version of jihad as a "comprehensive war where its soldiers employ military, political, media, civil and ideological tools"[225], which suggests that UN-led global counter terrorism campaign needs to fight back with diverse and at times, creative and 'out of the box' capabilities and resources, employing concomitantly both hard and soft tools to fight the threat at hand. As the threat is multidimensional, the global response needs to be multifaceted, multiagency, multijurisdictional, and multinational. As the terrorists are tied to one another through friendship, kinship and personal networks, the world community, in

[224] IO Sphere Joint Information Operations Center, ibid., p. 5.

[225] Brachman, ibid., p. 159.

kind, needs to cooperate, collaborate and coordinate its efforts. The agility, diversity, flexibility, covertness, and endurance of al Qaida and affiliated terrorist and criminal groups would need to be countered by commensurate capabilities on the part of the UN and the international community in general, which currently have not been able to demonstrate the same level of vigilance, especially considering, among other issues, the lack of information and intelligence sharing and weak cooperation in criminal investigations and prosecutions among member states. Furthermore, al Qaida's coalition of the willing has been up and running in full swing since bin Laden's launching of the World Islamic Front against the Jews and the Crusaders in 1998, before the creation of any coalition of the willing on the part of the international community of the type that exists today in Iraq and Afghanistan, and presently includes within its portfolio around forty terrorist groups in some sixty countries. As of 2001, a counter terrorism coalition has emerged among member states, subregional, regional and international organizations in Europe, Asia, Africa and the Middle East, and civil society organizations, collectively brought together and mobilized under the UN. The success in the fight against terrorism in large part depends on the ability of the UN to sustain and mobilize this coalition to its full potential.

Counter terrorism is a multipronged effort involving a hybrid set of military, internal security, intelligence and financial instruments, but these measures need to be supplemented by a structured, sustained and concerted public diplomacy, information and psychological operations' campaign. Since the fight against al Qaida is one of ideology, it is high time that policymakers stepped up their efforts to attack the movement's ideological principles and premises through a strategic political warfare campaign. On the other hand, the individual and collective efforts of UN bodies and entities in combating and preventing international terrorism in the context of the global counter terrorism strategy through building technical capacities of its member states and facilitating multilevel cooperation and coordination in a wide array of areas ranging from legislative drafting advice, fighting terrorism-related crimes, ensuring transport and border security, countering terrorist financing and proliferation of weapons of mass destruction to protecting human rights, building accountable and responsive criminal justice systems, promoting rule of law and inter-religious and inter-cultural dialogue and tolerance cannot be underestimated. As to the work ahead, UN member states "will need to ensure that it [Global Counter-Terrorism Strategy] is a living strategy, one that is regularly updated to respond to evolving challenges… more

important… to ensure its full implementation"[226], which depends, on one side, on the ability of capable and willing states to fulfill their individual obligations and responsibilities, and on the other, the ability of the UN as an organization to effectively fulfill its role to substantively contribute to and oversee and coordinate the global counter terrorism efforts.

4.2 Assessment of Key Challenges and Prospects

A key challenge to UN's performance in the context of terrorism and in dealing with security issues in general stems from the very nature of the collective security system that it seeks to uphold, which is that of weak enforcement of decisions and particularly sanctions, due to power disparities impeding enforcement action against a major power, insufficient support from member states for reasons of national interest and given that 'alliances of coalition and convenience' among like-minded states are already defined and established, and insufficient state capacity to implement sanctions. Another challenge is related to the ability of UN to elevate human security concerns alongside national security interests involving the ability to mobilize member states to assume 'responsibility to protect' the integrity of individuals both within and outside national jurisdictions to ensure an equitable collective security system. This means that UN's credibility as a central actor to maintain peace and security depends on "how well it promotes security for all its members, without regard to the nature would-be beneficiaries, their location, resources or relationship to great powers"[227], which is a relevant issue in the context of terrorism due to the need to prevent any loopholes in the security of member states that may be exploited by terrorists.

A challenge more directly related to UN's global counter terrorism efforts pertains to the perceived democratic deficit by which these efforts are formulated and led, in view of the increased proactiveness of the Security Council to assume a legislative and judicial role and the lack of transparency and accountability of its working methods, which have resulted in a lack of commitment on the part of member states to fully implement its decisions and more broadly, brought into question the legitimacy of the world organization. In further detail, SC resolutions adopted under Chapter 7 impose binding obligations on all UN member states, which directly impact their domestic legislative and administrative processes and national interests, in general, and that these were adopted by an insufficiently representative body

[226] Report of the Secretary-General, "Uniting against terrorism…", ibid., p. 24, para. 120.

[227] High-level Panel, ibid., p. 19.

led to profound criticism by some member states especially in the latter stages of the global counter terrorism campaign, and revived the traditional debate on the means to improve the legitimacy of the Council, either by altering its composition and the impact and procedures of veto, or introducing measures to enhance the deliberative processes for making decisions. In view that decisions cannot be implemented by the members of the Council alone and require extensive military, political, and financial involvement by other member states, the key challenge is to "balance the need for efficient decision making within a small group with the power to make decisions stick against the value of more open, inclusive process that accounts for the interests of those most affected"[228].

A related yet broader challenge to UN's legitimacy in the eyes of its member states thereby also impacting its performance in dealing with security issues involves the transformation of the power balances among the principal organs of the world organization. With increasing SC assertiveness in the field of counter terrorism, UN member states are concerned about the decline of the GA's prestige, vitality and its diminishing contribution to the activities of the organization. Furthermore, the Economic and Social Council (ECOSOC) has often been relegated to the margins of global economic and social governance despite the fact that the UN Charter has given the council important functions involving policy review and dialogue, coordination of activities of specialized agencies, and consultation with non-governmental organizations. It would not be realistic to expect ECOSOC to become the center of the world's decision making on issues related to trade and finance or to manage the programs of the specialized agencies and international financial institutions; however, it does have an accumulated expertise and potential assets in the areas of social and economic development. On the other side, the Commission on Human Rights is now replaced with the Human Rights Council so that the issue of human rights can be taken up on equal terms as security and development. However, the division of influence and responsibilities between these organs have become less balanced, which impacts the global counter terrorism efforts and the implementation of the strategy involving security, economic, social and human rights issues hence requiring increased coordination and cooperation among the three councils and the Assembly.

Another challenge to UN's credibility concerns its ability to administer the use of force, which involves not only its timely mobilization of military and civilian capabilities to

[228] Johnstone, ibid., p. 282.

prevent large-scale human rights violations under the responsibility to protect, but also its ability to constrain, or if authorized, to oversee the use of force by member states. There is wide perception that the most powerful state can break the Charter's rules, and US decision to take on Iraq with or without SC approval is a case in this point. In fact, US intervention into Iraq was largely considered an 'illegal' act because it overstretched the right of self-defense to preventive actions, violated the collective procedures of the Charter system that would decide recourse to use of force against a threat to international peace and security, and was used before the sanctions leveled against Iraq under resolution 1441 had a chance to take full effect and regardless of the Council's refusal of a follow-up resolution calling for military action against Iraq. On the other side, it was considered an 'illegitimate' act given the "lack of factual plausibility or persuasive weigh of US arguments about the threats associated with Iraqi retention of weapons of mass destruction and the claims of linkage between Baghdad regime and the al Qaida network"[229]. Furthermore, public opinion viewed the military as occupiers and the post-combat environment saw continued violent resistance and instability, resulting in mass casualties from all parties involved. There was no quick military victory and its substantial benefit to the Iraqi people was questionable. The Iraq case was counter productive to the fight against terrorism and adherence to the Charter system would have avoided policy failures and unwanted consequences, demonstrating that deviations from the Charter system can be credited with no clear successes. Overall, the future of the UN including the success of its counter terrorism campaign will rely on its ability to put censure on the illegal and illegitimate actions of its member states that may have an adverse impact on international peace and security.

Further down the list of challenges is the reluctance of some member states to consider politically charged issues, most notably, the 'root causes' of terrorism, for reasons of national interest and/or lack of attention given to the subject due to other urgent priorities, which is a continuation of the long-standing debate between the two schools of thought in the UN: one, interested in addressing the underlying causes of terrorism; and the other, concerned with fighting the manifestations of terrorism. An analysis of UN's counter terrorism efforts over the past three decades reveals that the second school of thought has triumphed over the first. Another challenge is the ambiguity over and the failure to adopt a standard definition of terrorism in view of the politicized issues of legitimate armed resistance against occupation, national liberation movements, illegitimate use of force by coercive governments against

[229] Falk, ibid., p. 594.

citizens and non state actors (state terrorism), and including state sponsored terrorism. As a result, member states have turned to adopting definitions at regional level and working with the existing international instruments; however, lack of a definition continues to create problems in the application of counter terrorism measures and particularly, sanctions against terrorists and undermines the political resolve of the international community to deal with terrorism.

The fight against international terrorism requires unwavering and long-term commitment that does not wane out with the receding of memories of major terrorist attacks. The past efforts at regional and international level to counter terrorism have largely been reactive involving steps taken following the eruption of particular terrorist attacks. Although UN's global counter terrorism strategy and regional plan of actions to fight terrorism have injected a degree of continuity in collective efforts, the challenge today is to retain renewed focus and momentum without having to wait for another attack to occur. The transformation of al Qaida into a decentralized movement with increasing potential and capability to carry out unpredictable and destructive terrorist attacks shows that the threat is among us and evermore present. Therefore, the priority extended to counter terrorism measures in the wake of 9/11 in terms of funding, time and attention should not be overshadowed by other immediate concerns and higher order issues. And finally, UN's role and impact in the wider context depends on the degree of importance given to the world organization as a principal actor to guide, oversee and coordinate counter terrorism efforts in that attempts on the part of some member states to thwart the authority of the UN and biases against its image has been counter productive and has weakened the legal and political foundations on which multilateral cooperation depends.

On the other hand, a careful examination of UN's past record of responses to security issues demonstrates UN's ability to adjust and respond to new security threats and challenges, and 'learning by doing' seems to be the order of the day. This has been valid for peacekeeping, and will be the same for the counter terrorism enterprise. Both the General Assembly and the Security Council assumed reactive rather than proactive roles in countering terrorism prior to 9/11, but the information and experiences gained from the post 9/11 period as to the nature of and responses to the terrorist threat create unprecedented potential for both organs to take a more proactive approach in a way that supports and complements the efforts of the Secretariat that is traditionally known to act with foresight and to advocate a preventive and

comprehensive approach to security. Furthermore, despite the increasingly active role of the Council in the aftermath of 9/11, the Assembly can win back its former vitality by taking preventive measures to tackle the conditions inspiring and prompting terrorism, continuing to develop a comprehensive normative and legal framework in aspects of counter terrorism not yet dealt by the international community, monitoring the overall counter terrorism efforts in the UN system as the overseer of the organization's resources, and performing as an effective instrument of checks and balances especially in respect of Council's actions and policies. In terms of the issue of use of force, the UN and particularly, the SC could be a more effective arbiter of military action by member states. Just as it has drawn historical lessons from its peacekeeping efforts of the 1990s i.e. timely and targeted intervention capabilities, usefulness of diplomacy, electoral monitoring, inspections, stabilization efforts, and the creation of institutional capacities including the mediation support unit, the peacebuilding commission supported by a standing fund, and the UN standing police, it will draw lessons from Afghanistan and Iraq. As to the latter, the political and financial costs of 'going it alone' will be recognized, if not already, to give the upper hand to multilateralism, and US policies entailing multilateral diplomacy to manage potential crises in Iran, North Korea and to reconstruct Iraq and stabilize Afghanistan attest to this. At the end of the day, "states recognize that they need the UN to build diplomatic coalitions, make rules and monitor adherence to and enforce these rules… if UN did not exist, it would have to be invented"[230].

4.3 Main Recommendations for an Effective Global Counter Terrorism Campaign

For the UN-led global counter terrorism campaign to render success, the study will provide a number of key recommendations that might help inform the process, some of which have been inspired by the available literature on counter terrorism. These are as follows:

- ***Member states would need to consider signing and ratifying the thirteen universal conventions and its three amendments, and to adopt the Nine Special Recommendations on Terrorist Financing of the Financial Action Task Force.***

- ***Member states would need to reach consensus on a standard definition of international terrorism to facilitate the adoption of uniform counter terrorism measures and to demonstrate the political determination of the international community.***

[230] Weiss, ibid., p. 350.

- ***The United Nations needs to pursue a comprehensive and balanced approach to counter terrorism that addresses both the supply and demand side of international terrorism, involving immediate protective measures (hard instruments) aimed at eliminating terrorists and their sanctuaries and depriving terrorists of their means and targets, on the one hand, and long-term preventive measures (soft instruments) aimed at addressing and resolving the conditions that foster and sustain terrorism, on the other.***

- ***Among the preventive measures implemented to fight global jihadism, the international community should step up its efforts to attack the religious, political and historical convictions underpinning al Qaida's ideology, including by: (a) detecting ideological weaknesses and inconsistencies; (b) developing counter-narratives through employing specialists and strategists, communicating these in a way that reaches the most remote Muslim youth, including by investing in the strategic use of the Internet; and (c) supporting and funding studies investigating the ideological development of al Qaida, including evolution, trends, and its dissemination and retreat across the global terrorist network, recognizing that the fight against terrorism is inherently one of ideas.***

- ***In view of the enabling environment created by the post 9/11 period that revitalized the traditional debate on reforming the organization of the UN, the UN member states should take the needed initiatives to gradually introduce measures for the institutional reform of the United Nations with an aim to enhance the legitimacy of the organization, which is essential for strengthening member states' political commitment to implement critical resolutions and decisions in the field of counter terrorism, including: (a) the reform of the Security Council based on the principles of representation, contribution and effectiveness along the modalities introduced by the High Level Panel on Threats and Challenges[231]; (b) the reform of the Security Council's counter terrorism regime on the basis of available consolidation options, including the integration of the existing five counter terrorism committees under a single leadership while retaining their autonomy, and the creation of a treaty-based international center on counter terrorism,***

[231] The High Level Panel proposes 2 models, in which Model A provides for 6 new permanent seats, with no veto being created and 3 new two-year term non-permanent seats, divided among the major regional areas, identified as Africa, Asia and Pacific, Europe, and Americas, and Model B provides for no permanent seats but creates a new category of 8 four-year renewable term seats and one new two-year non-renewable seat, divided among the major regional areas, both of which increase the council to 24 members and provide each region with 6 members. While no additional veto is given to any new SC member under this proposal, the Panel also proposes a more responsible use of the veto in that veto should only be used where vital interests are at stake and that it should not be used in cases of genocide and large-scale human rights abuses.

as also suggested by the Global Counter Terrorism Strategy; (c) the improvement of the working methods and processes of the Security Council and its subsidiary bodies by introducing and formalizing measures to enhance accountability and transparency, including the system of indicative voting and procedural legitimacy by consultations, public debate and justification.

- *In view of the need to foster a balanced and multipronged approach to counter terrorism to include both operational and preventive measures, and responding to the increased proactiveness of the Security Council in counter terrorism efforts following 9/11 raising concerns over its exclusivist stance against non-Council members, the United Nations should consider introducing measures to preserve the division of labor (executive, legislative and judiciary), and balance of influence and responsibility (security, development and human rights) between UN's principal organs as originally foreseen by the UN Charter.*

- *In view of the importance of overseeing the use of force to avoid its illegal and illegitimate use, the consequences of which might be disruptive of global peace and security, the United Nations should consider agreeing on and formalizing a set of criteria regulating the use of force along the lines proposed by the High Level Panel on Threats and Challenges, which include seriousness of threat to justify the use of force, proper purpose to ensure that the primary motive is to avert the threat, last resort to ensure that all non-military options are explored and have failed, proportional means to ensure that the scale, duration and intensity of the response is kept at minimum, and balance of consequences to verify, to the extent possible, that the consequence of action is to be better than that of inaction.*

- *Recalling the provisions of the UN Charter that provides the need to acquire authorization of the Security Council for regional peace operations and to inform the Security Council of activities pursued to maintain international peace and security, the UN and regional organizations should establish a working framework that complies with the provisions and spirit of the Charter and ensures that both sides work in an integrated manner, including by exploring and considering options to formalize mutual cooperation and coordination.*

- *Given that international terrorism cannot be fought by any single actor alone and the added value of regional organizations to the fight against terrorism, the United Nations should identify and highlight the comparative advantages of regional organizations, compile, assess and integrate their individual contributions to counter terrorism, produce and disseminate best practices on the basis of information and expertise gathered from regional organizations, create regional and global forums to facilitate and encourage interaction between organizations at subregional, regional and international levels as a central coordinator for interinstitutional cooperation, with an overall aim to administer a coherent global counter terrorism program, while at the same time, avoiding duplication of work and resources and helping to broaden the audience that each organization can reach on their own devices.*

- *In recognition of the mutually reinforcing relationship between the United Nations and regional organizations and in guiding the joint counter terrorism efforts of these organizations, the UN should endeavor to make the best use of the existing potential of; (a) NATO in terms of advanced technologies to defend against terrorism, preventive measures to reduce the vulnerability of individuals, assets and forces to terrorism, and reactive measures to mitigate the destructive impact of terrorism particularly in cases of WMD use (consequence management); (b) OSCE in terms of early warning, conflict prevention, crisis management, post-conflict rehabilitation, institution building, electoral supervision, police training and civilian oversight, legislative and judicial reform, promotion of human rights, tolerance and diversity, border security, organized crime, anti-trafficking, and terrorist financing, recognizing its comprehensive approach to security, intention to assume the role of regional coordinator, and ability to mobilize a wide network of nongovernmental organizations and national parliamentarians; (c) EU in terms of advanced police and judicial cooperation in criminal matters in respect of its progressive development into an area of freedom, security and justice, innovative initiatives to counter violent radicalization, including community policing, imam-training, the use of Internet, capacity building of local authorities, protection of civil and critical infrastructure (emergency preparedness), crisis management, external aid, including instruments for pre-accession, twinning arrangements and development assistance programs for priority third countries.*

CHAPTER V

CONCLUDING REMARKS

International terrorism, and its most recent revelation, global jihadism, is an assault to the principles and purposes on which the United Nations is founded upon, most notably, the maintenance of international peace and security, protection of human rights, and promotion of social and economic development, and therefore, constitutes a threat to states which have the primary responsibility to provide security and social welfare and ensure the exercise of individual rights and freedoms within their individual jurisdictions, and ultimately, to the existence of the world organization that seeks to uphold the international system of states and the human enterprise on which this system is built. UN is both a target of terrorism and a base from which the international counter terrorism campaign is launched and led, which makes the world organization relevant in the fight against terrorism, both conceptually and operationally. UN is also distinct in the fight against terrorism in view of its unparalleled legitimacy stemming from its universal representation, which makes it the ideal platform for reaching political consensus and developing a legal, normative and strategic framework on the basis of which member states are to frame their counter terrorism efforts, and the power accorded the world organization to take collective actions on behalf of the international community against threats to international peace and security, which makes it able to impose binding obligations on all 192 member states.

Among the different roles that the UN has assumed since 2001- a break date for elevating international terrorism top priority on the organization's agenda- most notably, analyst, policy planner, convener, legislator, auditor, mediator, coordinator, and overseer, the most important has been its role as a facilitator of technical assistance, including administering and assessing assistance requests by member states, serving as a clearinghouse by matching requests with providers of technical assistance, performing global, regional and national assessments on progress made in counter terrorism efforts, providing roadmap for future global efforts to fight terrorism, and coordinating between governments, intergovernmental organizations and nongovernmental organizations to develop coherent, integrated and holistic policy responses and to ensure focused technical assistance in the context of counter terrorism. In view of the initial role defined for the UN to dissuade terrorist groups from

adopting terrorist tactics, to deny terrorists funds, materials, arms, space, shelter, secrecy, movement required for the perpetration of their activities, and to provide the political, legal and institutional basis for sustaining international cooperation, the world body has been an integral part of the process of 'denial' and assumed a satisfactory role in promoting inter-agency and inter-institutional 'cooperation', but it has failed to effectively tackle 'dissuasion', covering a diverse set of factors that touch upon the conditions that enable terrorism in the long run, including political conflicts and disputes, ideological and cultural divergences, grinding poverty, underdevelopment and unemployment, lack of and conflict over natural resources, environmental degradation and infectious disease, corrupt, unaccountable and repressive governments, social and economic marginalization, inequality within and among nations, to name a few, which ironically constitute the strong points of the UN and where it has the greatest potential to contribute, but nevertheless is not given the priority that it deserves by member states due to political considerations and national interests at stake. However,

> "just as terrorism must never be excused, so must genuine grievances never be ignored simply because terrorism is committed in their name… it does not take away from the justice of a cause that a few wicked men or women commit murder in its name… it only makes it more urgent that the cause is addressed, the grievances heard, and the wrong put right"[232].

The lack of common understanding among member states on the approach to fight terrorism is a mere extension of a general problem of lack of consensus between political actors on key issues affecting their interests, which can be expanded to enforcement of sanctions, reform of the organization, definition of terrorism and others. UN is primarily a political enterprise as member states constitute its one arm while the other is made up of international civil service. As such, the levels of commitment to support, implement and finance policies and decisions vary greatly from one member state to another, and these different commitment levels have also had its reflections on the global counter terrorism campaign. On the other side, there is the interplay between the two United Nations of member states and the organization, and the institutional complexities within the organization itself, only to reveal the complications of governance on international security issues. Therefore, the success of the UN-led global efforts to fight terrorism depends on the achievement of political consensus on policy issues, collective commitment to implement and fund counter terrorism policies, and organizational capabilities and efficiency to deliver responsive technical assistance and promote multilevel cooperation.

[232] Boulden, ibid., p. 234.

As a collective security organization, UN has made noteworthy contributions to maintaining international peace and security, and in this context, to countering terrorism, by leading the efforts to reduce the supply of and demand for terrorism. However, these contributions are often "denigrated, both by those who would have the institutions do more and by those would have them do less"[233]. In the final analysis, however, UN is in large part its member states. The blend between ideals and reality, and rhetoric and performance, is best described in this insightful quote;

> "Its [UN's] Charter represents idealistic goals of achieving international peace and security and promoting human rights, justice and prosperity for all. Its operation represents the reality of state foreign policies mediated by the views of international civil servants and non-state parties such as NGOs. If we compare the real record of achievement to the lofty goals stated in the Charter, the record will be subject to criticism. If we recognize that UN actions depend heavily on the policies of its member states, which are ever sensitive to calculations of national interests, and that much of the time, UN is given the difficult problems that states have not been able to solve on their own, then criticism is moderated… the purpose of the UN is not to get us to heaven but to save us from hell"[234].

[233] High-level Panel, ibid., p. 17.
[234] Weiss, ibid., p. 371.

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APPENDIX A

Major Jihadist Clusters and al-Qaida

- Al-Zarqawi network (Iraq)
- Saudi Jihadists (Saudi Arabia but dispersed)
- Laskar-e-Taiba (Kashmir)
- Jaish-e-Muhammad (Kashmir)
- Harakat-ul-Mujahideen (Kahsmir)
- Laskar-e-Jhangvi (Pakistan)
- Sipah-i-Sahaba (Pakistan)
- Harakat-ul-Jihad-Islami (Bangladesh)
- Moroccan Islamic Combatant Group (Morocco)
- Salafiya Jihadia (Morocco)
- GSPC (Algeria)
- Dhamat Houmet Daawa Salafia (Algeria)
- Tunisian Combatant Group (Tunisia)
- Libyan Islamic Fighting Group (Libya)
- Al-Itihaad al-Islami (Somalia)
- Islamic Movement of Uzbekistan (Uzbekistan)
- Chechen/Basayev faction (Chechnya)
- Jemaah Islamiya (Southeast Asia)

*Source: Rabasa, Angel, Peter Chalk, Kim Cragin, Sara A. Daly, Heather S. Gregg, Theodore W. Karasik, Kevin A. O'Brien, and William Rosenau, *Beyond al-Qaeda: The Global Jihadist Movement*, RAND Corporation: Santa Monica, 2006, p. 79.

APPENDIX B

List of 13 International Legal Instruments and Additional Amendments Dealing With Terrorism

1. 1963 Convention on Offences and Certain Other Acts Committed on Board Aircraft
   (Aircraft Convention-185 Parties)
   - Applies to acts affecting in-flight safety
   - Authorizes the aircraft commander to impose reasonable measures, including restraint, on any person he or she has reason to believe has committed or is about to commit such an act, where necessary to protect the safety of the aircraft; and
   - Requires contracting States to take custody of offenders and to return control of the aircraft to the lawful commander.

2. 1970 Convention for the Suppression of Unlawful Seizure of Aircraft
   (Unlawful Seizure Convention-184 Parties)
   - Makes it an offence for any person on board an aircraft in flight to "unlawfully, by force or threat thereof, or any other form of intimidation, [to] seize or exercise control of that aircraft" or to attempt to do so;
   - Requires parties to the convention to make hijackings punishable by Requires parties to the convention to make hijackings punishable by "severe penalties";
   - Requires parties that have custody of offenders to either extradite the offender or submit the case for prosecution; and
   - Requires parties to assist each other in connection with criminal proceedings brought under the Convention.

3. 1971 Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation
   (Civil Aviation Convention-187 Parties)
   - Makes it an offence for any person unlawfully and intentionally to perform an act of violence against a person on board an aircraft in flight, if that act is likely to endanger the safety of the aircraft; to place an explosive device on an aircraft; to attempt such acts; or to be an accomplice of a person who performs or attempts to perform such acts;
   - Requires parties to the Convention to make offences punishable by "severe penalties"; and
   - Requires parties that have custody of offenders to either extradite the offender or submit the case for prosecution.

4. 1973 Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents
   (Diplomatic agents Convention-172 Parties)
   - Defines an "internationally protected person" as a Head of State, Minister for Foreign Affairs, representative or official of a State or international organization who is entitled to special protection in a foreign State, and his/her family; and
   - Requires parties to criminalize and make punishable "by appropriate penalties which take into account their grave nature" the intentional murder, kidnapping or other attack upon the person or liberty of an internationally protected person, a violent attack upon the official premises, the private accommodations, or the means

of transport of such person; a threat or attempt to commit such an attack; and an act "constituting participation as an accomplice".

5. 1979 International Convention against the Taking of Hostages
(Hostages Convention- 167 Parties)
   - Provides that "any person who seizes or detains and threatens to kill, to injure, or to continue to detain another person in order to compel a third party, namely, a State, an international intergovernmental organization, a natural or juridical person, or a group of persons, to do or abstain from doing any act as an explicit or implicit condition for the release of the hostage commits the offence of taking of hostage within the meaning of this Convention".

6. 1980 Convention on the Physical Protection of Nuclear Material
(*Nuclear Materials Convention- 141 Parties)*
   - Criminalizes the unlawful possession, use, transfer or theft of nuclear material and threats to use nuclear material to cause death, serious injury or substantial property damage.

7. Amendments to the Convention on the Physical Protection of Nuclear Material
(22 Parties)
   - Makes it legally binding for States Parties to protect nuclear facilities and material in peaceful domestic use, storage as well as transport; and
   - Provides for expanded cooperation between and among States regarding rapid measures to locate and recover stolen or smuggled nuclear material, mitigate any radiological consequences or sabotage, and prevent and combat related offences.

8. 1988 Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Extends and supplements the Montreal Convention on Air Safety)
(Airport Protocol- 168 Parties)
   - Extends the provisions of the Montreal Convention to encompass terrorist acts at airports serving international civil aviation.

9. 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation
(Maritime Convention-154 Parties)
   - Establishes a legal regime applicable to acts against international maritime navigation that is similar to the regimes established for international aviation; and
   - Makes it an offence for a person unlawfully and intentionally to seize or exercise control over a ship by force, threat, or intimidation; to perform an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of the ship; to place a destructive device or substance aboard a ship; and other acts against the safety of ships.

10. 2005 Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation
(9 Parties)
   - Criminalizes the use of a ship as a device to further an act of terrorism;

- Criminalizes the transport on board a ship various materials knowing that they are intended to be used to cause, or in a threat to cause, death or serious injury or damage to further an act of terrorism;
- Criminalizes the transporting on board a ship of persons who have committed an act of terrorism; and
- Introduces procedures for governing the boarding of a ship believed to have committed an offence under the Convention.

11. 1988 Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf
(Fixed Platform Protocol- 143 Parties)
    - Establishes a legal regime applicable to acts against fixed platforms on the continental shelf that is similar to the regimes established against international aviation.

12. 2005 Protocol to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf
(7 Parties)
    - Adapts the changes to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation to the context of fixed platforms located on the continental shelf.

13. 1991 Convention on the Marking of Plastic Explosives for the Purpose of Detection
(Plastic Explosives Convention- 141 Parties)
    - Designed to control and limit the used of unmarked and undetectable plastic explosives (negotiated in the aftermath of the 1988 Pan Am flight 103 bombing);
    - Parties are obligated in their respective territories to ensure effective control over Parties are obligated in their respective territories to ensure effective control over "unmarked"
    - Generally speaking, each party must, inter alia, take necessary and effective measures to prohibit and prevent the manufacture of unmarked plastic explosives; prevent the movement of unmarked plastic explosives into or out of its territory; exercise strict and effective control over possession and transfer of unmarked explosives made or imported prior to the entry into force of the Convention; ensure that all stocks of unmarked explosives not held by the military or police are destroyed, consumed, marked, or rendered permanently ineffective within three years; take necessary measures to ensure that unmarked plastic explosives held by the military or police are destroyed, consumed, marked or rendered permanently ineffective within fifteen years; and, ensure the destruction, as soon as possible, of any unmarked explosives manufactured after the date of entry into force of the Convention for that State.

14. 1997 International Convention for the Suppression of Terrorist Bombings
(Terrorist Bombing Convention- 162 Parties)
    - Creates a regime of universal jurisdiction over the unlawful and intentional use of explosives and other lethal devices in, into, or against various defined public places with intent to kill or cause serious bodily injury, or with intent to cause extensive destruction of the public place.

15. 1999 International Convention for the Suppression of the Financing of Terrorism
(Terrorist Financing Convention- 169 Parties)

- Requires parties to take steps to prevent and counteract the financing of terrorists, whether direct or indirect, through groups claiming to have charitable, social or cultural goals or which also engage in illicit activities such as drug trafficking or gun running;
- Commits States to hold those who finance terrorism criminally, civilly or administratively liable for such acts; and
- Provides for the identification, freezing and seizure of funds allocated for terrorist activities, as well as for the sharing of the forfeited funds with other States on a case-by-case basis. Bank secrecy is no longer adequate justification for refusing to cooperate.

16. 2005 International Convention for the Suppression of Acts of Nuclear Terrorism
(Nuclear Terrorism Convention- 54 Parties)
    - Covers a broad range of acts and possible targets, including nuclear power plants and nuclear reactors;
    - Covers threats and attempts to commit such crimes or to participate in them, as an accomplice;
    - Stipulates that offenders shall be either extradited or prosecuted;
    - Encourages states to cooperate in preventing terrorist attacks by sharing information and assisting each other in connection with criminal investigations and extradition proceedings; and
    - Deals with both crisis situations (assisting states to solve the situation) and post-crisis situations (rendering nuclear material safe through the International Atomic Energy Agency- IAEA).

*Sources: Official website of the UN Counter-Terrorism Committee (http://www.un.org/sc/ctc/laws.html), and UN Action to Counter Terrorism (http://www.un.org/terrorism/instruments.shtml)

APPENDIX C

List of Security Council Resolutions on Terrorism and a Description of Their Content

S/RES/1822 (2008)	[on directing the 1267 Committee to conduct a review of all names on the consolidated list by 30 June 2010 and followed by regular reviews; making accessible publicly releasable reasons for the listing of individuals and entities and extending the mandate of the Analytical Support and Sanctions Monitoring Team for a further period of 18 months]
S/RES/1810 (2008)	[on extending mandate of the 1540 Committee for a further three years until 25 April 2011]
S/RES/1805 (2008)	[on extending mandate of Counter-Terrorism Committee Executive Directorate (CTED) until 31 December 2010]
S/RES/1787 (2007)	[on extension of Counter-Terrorism Committee Executive Directorate (CTED) mandate]
S/RES/1735 (2006)	[on reviewing the measures imposed resolution 1267 (1999) with a view to their further strengthening in 18 months; providing cover sheet for listing submissions, extending consideration period for exemption requests under resolution 1452 (2002), and extending the mandate of the Analytical Support and Sanctions Monitoring Team for a further period of 18 months]
S/RES/1732 (2006)	[on taking note with interest of the best practices and methods contained in the report of the Informal Working Group on General Issues of Sanctions (S/2006/997) and requesting subsidiary bodies to take note as well]
S/RES/1730 (2006)	[on establishment of a focal point within the Secretariat to receive de-listing requests and directs the relevant sanctions committees to revise their guidelines accordingly]
S/RES/1699 (2006)	[on requesting the Secretary-General to take the necessary steps to increase cooperation between the United Nations and Interpol]
S/RES/1673 (2006)	[on extending mandate of the 1540 Committee for a further two years]
S/RES/1631 (2005)	[on cooperation between the United Nations and regional organizations in maintaining international peace and security]
S/RES/1625 (2005)	[Threats to international peace and security caused by terrorist acts]
S/RES/1624 (2005)	[on prohibition of incitement to commit terrorist acts]
S/RES/1618 (2005)	[on condemnation of terrorist attacks in Iraq]
S/RES/1617 (2005)	[on reviewing the measures imposed by resolution 1267 (1999) with a view to their further strengthening in 17 months; providing definition of "associated with", calling for submission of checklist, and requesting the Secretary-General to extend the mandate of the Analytical Support and Sanctions Monitoring Team for 17 months]
S/RES/1611 (2005)	[on condemnation of terrorist attacks in London]
S/RES/1566 (2004)	[on creation of working group to consider measures against individuals, groups and entities other than Al-Qaida/Taliban]
S/RES/1540 (2004)	[Under Chapter VII of the United Nations Charter, obliges States to refrain from supporting by any means non-State actors from developing, acquiring, manufacturing, possessing, transporting, transferring or using nuclear, chemical or biological weapons and their delivery systems]

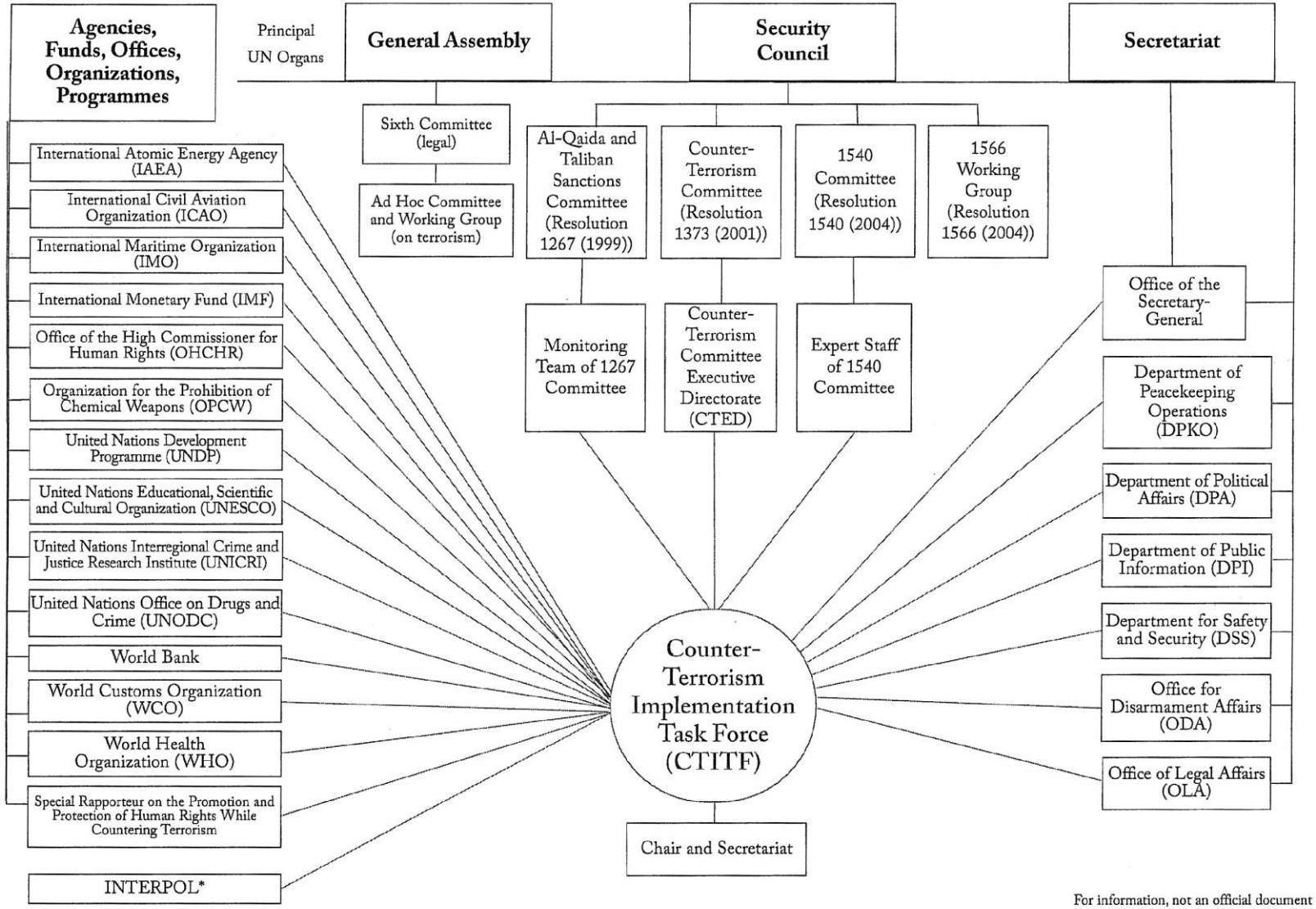
S/RES/1535(2004)	[on creation of Counter-Terrorism Committee Executive Directorate (CTED)]
S/RES/1530(2004)	[on the bomb attacks in Madrid, Spain, on 11 March 2004]
S/RES/1526(2004)	[on further improving the implementation of resolution 1267 (1999), strengthening the mandate of the 1267 Committee and requesting the Secretary-General to appoint an Analytical Support and Sanctions Monitoring Team for 18 months (paras 1, 3, 6 & 7)]
S/RES/1516(2003)	[on the bomb attacks in Istanbul, Turkey, on 15 November 2003 and 20 November 2003]
S/RES/1465(2003)	[on the bomb attack in Bogota, Colombia]
S/RES/1456(2003)	[on high-level meeting of the Security Council on combating terrorism]
S/RES/1455(2003)	[on improving implementation of measures imposed by resolution 1267 (1999]
S/RES/1452(2002)	[on implementation of measures imposed by resolution 1267 (1999)]
S/RES/1450(2002)	[on condemning the terrorist bomb attack, in Kikambala, Kenya, and the attempted missile attack on the airline departing Mombasa, Kenya, 28 November 2002]
S/RES/1440(2002)	[on condemning the act of taking hostages in Moscow, Russian Federation, on 23 October 2002]
S/RES/1438(2002)	[on the bomb attacks in Bali, Indonesia]
S/RES/1377(2001)	[on the adoption of declaration on the global effort to combat terrorism]
S/RES/1373(2001)	[on international cooperation to combat threats to international peace and security caused by terrorist acts]
S/RES/1368(2001)	[condemning the terrorist attacks of 11 September 2001 in New York, Washington, D.C. and Pennsylvania, United States of America]
S/RES/1363(2001)	[on the establishment of a mechanism to monitor the implementation of measures imposed by resolutions 1267 (1999) and 1333 (2000)]
S/RES/1333(2000)	[on measures against the Taliban]
S/RES/1269(1999)	[on international cooperation in the fight against terrorism]
S/RES/1267(1999)	[on measures against the Taliban]
S/RES/1214(1998)	[on the situation in Afghanistan]
S/RES/1189(1998)	[on the terrorist bomb attacks of 7 Aug. 1998 in Kenya and Tanzania]
S/RES/1054(1996)	[on sanctions against the Sudan in connection with non-compliance with Security Council resolution 1044 (1996) demanding extradition to Ethiopia of the three suspects wanted in connection with assassination attempt on President Mubarak of Egypt]
S/RES/1044(1996)	[calling upon the Sudan to extradite to Ethiopia the three suspects wanted in connection with the assassination attempt against President Mubarak of Egypt]
S/RES/731(1992)	[on the destruction of Pan American flight 103 and Union des transports aériens flights 772]
S/RES/748(1992)	[on sanctions against the Libyan Arab Jamahiriya]
S/RES/687(1991)	[on restoration of the sovereignty, independence and territorial integrity of Kuwait]
S/RES/635(1989)	[on marking of plastic or sheet explosives for the purpose of detection]

*Source: UN official website on UN Action to Counter Terrorism, http://www.un.org/terrorism/sc-res.shtml

COMPARATIVE TABLE REGARDING THE UNITED NATIONS SECURITY COUNCIL COMMITTEES ESTABLISHED PURSUANT TO RESOLUTIONS 1267(1999), 1373 (2001) and 1540 (2004)

SECURITY COUNCIL COMMITTEE ESTABLISHED PURSUANT TO RESOLUTION 1267 (1999) CONCERNING AL-QAIDA AND THE TALIBAN AND ASSOCIATED INDIVIDUALS AND ENTITIES	SECURITY COUNCIL COMMITTEE ESTABLISHED PURSUANT TO RESOLUTION 1373 (2001) CONCERNING COUNTER-TERRORISM	SECURITY COUNCIL COMMITTEE ESTABLISHED PURSUANT TO RESOLUTION 1540 (2004)
Establishment and Mandate	**Establishment and Mandate**	**Establishment and Mandate**
The Committee was established on 15 October 1999 under resolution 1267 which imposed sanctions measures on Taliban-controlled Afghanistan for its support of Usama Bin Laden and Al-Qaida. The sanctions regime has been modified and strengthened by subsequent resolutions, including resolutions 1333 (2000), 1390 (2002), 1455 (2003), 1526 (2004), 1617 (2005), 1735 (2006) and 1822 (2008). As of January 2002, the sanctions measures no longer exclusively target territory in Afghanistan but now apply to the individuals, groups, undertakings and entities designated on the Consolidated List wherever they may be located. There are over 500 names of individuals and entities on the Consolidated List against whom 3 sanctions measures (assets freeze, travel ban and arms embargo) must be applied by all States. The latest version of the Consolidated List can be found at: http://www.un.org/sc/committees/1267/consolist.shtml. The Committee oversees the implementation by UN Member States of the 3 sanctions measures. It considers names submitted for listing and de-listing as well as any additional information on listed individuals and entities. It also considers exemptions to the assets freeze and travel ban measures. Since March 2009, the Committee has made accessible on its website, pursuant to paragraph 13 of resolution 1822 (2008), narrative summaries of reasons for listing for the individuals and entities on the Consolidated List.	Following the adoption of resolution 1368 (2001), in the wake of the attacks of 11 September 2001, the Security Council adopted resolution 1373 (2001) which, *inter alia,* requires States to combat terrorism through a series of actions that are best carried out through the adoption of laws and regulations and the establishment of administrative structures. Resolution 1373 (2001) also called upon States to work together to prevent and suppress terrorist acts, including through increased cooperation. It also established the CTC to monitor implementation of the resolution by all States and to increase the capability of States to fight terrorism. In carrying out its mandate, the CTC liaises with international, regional and subregional organizations and devotes substantial attention to facilitating the provision of assistance to those States that require such assistance for the effective implementation of the resolution. The CTC is also mandated to maintain a dialogue with States on the implementation of resolution 1624 (2005) on prohibiting incitement to commit terrorists acts and promoting dialogue and understanding among civilizations.	On 28 April 2004, the Security Council unanimously adopted resolution 1540 (2004) under Chapter VII of the UN Charter. The resolution requires all states to establish domestic controls to prevent access by non-State actors to nuclear, chemical, biological weapons and their means of delivery and to take effective measures to prevent proliferation of such items and establish appropriate controls over related materials. The mandate of the Committee was extended by resolution 1673 (2006) until April 2008 and again by resolution 1810 (2008) until April 2011. While reaffirming the provisions of resolution 1540 (2004), the Council decided that the Committee shall intensify its efforts to promote full implementation of the resolution by all States and encouraged the submission of reports and additional information on such implementation and assistance requests. The Committee cooperates with international, regional and sub-regional organizations, and acts as a clearinghouse to match offers and requests for assistance to States to implement the resolution. The Committee submitted in July 2008, its second report to the Security Council on States' compliance with the resolution through the achievement of the implementation of its requirements (S/2008/493).
Expert Group	**Expert Group**	**Expert Group**
The 1267 Committee is assisted by a Monitoring Team of 8 experts with expertise related to activities of the Al-Qaida organization and/or the Taliban, including: counter-terrorism and related legislation; financing of terrorism and international financial transactions, including technical banking expertise; alternative remittance systems, charities, and use of couriers; border enforcement, including port security; arms embargoes and export controls; and drug trafficking.	The CTC was originally assisted by a group of 10 experts. Subsequently, in seeking to revitalize the CTC, the Security Council established the Counter-Terrorism Committee Executive Directorate (CTED) pursuant to resolution 1535 (2004), in order to enhance the ability of the CTC to monitor the implementation of resolution 1373 (2001) and effectively continue its capacity-building work. The mandate of CTED was extended until 31 December 2010 as per resolution 1805 (2008). CTED is headed by an Executive Director with the rank of Assistant Secretary-General. It consists of the Executive Director's office; the Assessment and Technical Assistance Office (ATAO), comprising the Head of Office and 18 experts; and the Administration and Information Office (AIO), comprising the Head of Office and support staff.	The 1540 Committee is assisted by an Expert Group of 8 persons with expertise in the various areas covered by the resolution. The Expert Group has developed a 'matrix' to examine the status of Member States' implementation of the resolution. The filled elements of the matrix draw upon legislative and enforcement measures provided in the national reports, as complemented by official information made available in the websites of governments and international inter-governmental organizations, and through dialogue with States.
Measures	**Measures**	**Measures**
The 1267 Committee monitors a sanctions regime which requires all UN Member States to: 1. Freeze without delay, the funds and other financial assets or economic resources of the individuals and entities designated on the Consolidated List. There is no requirement to seize or confiscate/forfeit these assets, funds and resources. 2. Prevent the entry into or the transit through their territories of the individuals designated on the Consolidated List. There is no requirement to arrest or prosecute these individuals. 3. Prevent the direct or indirect supply, sale or transfer, from their territories or by their nationals outside their territories, or using their flag vessels or aircraft, of arms and related materiel of all types, including military equipment, spare parts and technical advice, assistance, or training related to military activities, to the individuals and entities on the Consolidated List. All three measures are preventive in nature and are not reliant on criminal standards set out under national laws. More information can be found on the Committee's website at: http://www.un.org/sc/committees/1267/index.shtml	Legal, institutional and practical measures related to resolution 1373 (2001), including their related technical assistance measures, fall under the following categories: 1. Counter-terrorism law and practice (e.g. international counter-terrorism instruments) 2. Financial law and practice (e.g. criminalization of the financing of terrorism, establishing an FIU, freezing of funds, etc.) 3. Customs and border controls 4. Police and law enforcement 5. Immigration law and practice to prevent movement of terrorists 6. Extradition law and practice (e.g. mutual legal assistance) 7. Training and capacity-building for the judiciary 8. Expert monitoring and illegal arms trafficking 9. Civil aviation security 10. Maritime security 11. Transportation security 12. Military counter-terrorism training 13. National security Website: http://www.un.org/sc/ctc/	Resolution 1540 (2004), in its paragraphs as numbered below, requires: 1. States to refrain from providing any support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical, biological weapons and their means of delivery. 2. States to adopt and enforce appropriate effective laws and controls which prohibit non-State actors to: conduct such activities or use such weapons and their means of delivery, in particular for terrorist purposes; and attempts to engage, participate in as an accomplice, assist or finance such activities. 3. States to take and enforce effective domestic control measures to: account for, secure, physically protect, such weapons, delivery means, and related materials (3a-b); improve border and customs controls to detect, deter, prevent and combat illicit trafficking and brokering in such items; establish export, transit, trans-shipment, and end-user controls; and enforce criminal and civil penalties (3c-d). In paragraphs 9 and 10, States are called upon to promote dialogue and cooperation on non-proliferation and take cooperative action to prevent illicit trafficking of such weapons, delivery means and related materials. Website: http://www.un.org/sc/1540

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



*while Interpol is not a part of the UN system, it is a member of CTITF.

For information, not an official document
Published by the Peace and Security Section of the United Nations
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For more information, visit: http://www.un.org/terrorism

APPENDIX F

List of Counter-Terrorism Implementation Task Force Entities and Nine Working Groups and Their Composition

The Counter-Terrorism Implementation Task Force includes representatives of:

1. Counter-Terrorism Committee Executive Directorate
2. Department of Peacekeeping Operations
3. Department of Political Affairs
4. Department of Public Information
5. Department of Safety and Security
6. Expert staff of the Security Council Committee established pursuant to resolution 1540 (2004)
7. International Atomic Energy Agency
8. International Civil Aviation Organization
9. International Maritime Organization
10. International Monetary Fund
11. International Criminal Police Organization
12. Monitoring Team of the Security Council Committee established pursuant to resolution 1267 (1999)
13. Office of Disarmament Affairs
14. Office of the High Commissioner for Human Rights
15. Office of Legal Affairs
16. Organization for the Prohibition of Chemical Weapons
17. Special Rapporteur on the promotion and protection of human rights while countering terrorism
18. United Nations Development Programme
19. United Nations Educational, Scientific and Cultural Organization
20. United Nations Interregional Crime and Justice Research Institute
21. United Nations Office on Drugs and Crime
22. World Customs Organization
23. World Bank
24. World Health Organization

The working groups of the Counter-Terrorism Implementation Task Force and their representatives are as follows:

1. Working group on preventing and resolving conflicts

Department of Political Affairs (lead)
Department of Peacekeeping Operations
Executive Office of the Secretary-General
Office of the United Nations High Commissioner for Human Rights
Office of Legal Affairs
United Nations Development Programme
United Nations Educational, Scientific and Cultural Organization
United Nations Office on Drugs and Crime

2. Working group on addressing radicalization and extremism that lead to terrorism

Executive Office of the Secretary-General (lead)
Monitoring Team of the Security Council Committee established pursuant to resolution 1267 (lead)
United Nations Interregional Crime and Justice Research Institute (lead)
Counter-Terrorism Executive Directorate
Department of Political Affairs
Department of Public Information
International Criminal Police Organization
United Nations Development Programme
United Nations Educational, Scientific and Cultural Organization
Additional Partner: Department of Economic and Social Affairs

3. Working group on supporting and highlighting victims of terrorism

Executive Office of the Secretary-General (lead)
Department of Public Information
International Civil Aviation Organization
Office of the High Commissioner for Human Rights
Special Rapporteur on the promotion and protection of human rights while countering terrorism
Additional Partner: United Nations Office for the Coordination of Humanitarian Affairs

4. Working group on preventing and responding to weapons of mass destruction attacks

International Atomic Energy Agency (lead)
Office for Disarmament Affairs (lead)
Organization for the Prohibition of Chemical Weapons (lead)
United Nations Interregional Crime and Justice Research Institute (lead)
World Health Organization (lead)
Expert staff of the Security Council Committee established pursuant to resolution 1540 (2004)
International Criminal Police Organization
United Nations Development Programme
Additional Partner: United Nations Office for the Coordination of Humanitarian Affairs

5. Working group on tackling the financing of terrorism

International Monetary Fund (lead)
United Nations Office on Drugs and Crime (lead)
World Bank (lead)
Counter-Terrorism Committee Executive Directorate
International Criminal Police Organization
Monitoring Team of the Security Council Committee established pursuant to resolution 1267 (lead)

6. Working group on countering the use of the Internet for terrorist purposes

Executive Office of the Secretary-General (lead)
Monitoring Team of the Security Council Committee established pursuant to resolution 1267 (lead)
Department of Public Information
Department of Peacekeeping Operations
Department of Safety and Security
International Criminal Police Organization
Office of the United Nations High Commissioner for Human Rights
Special Rapporteur on the promotion and protection of human rights while countering terrorism
United Nations Educational, Scientific and Cultural Organization
United Nations Interregional Crime and Justice Research Institute
United Nations Office on Drugs and Crime
Additional Partners: Department of Economic and Social Affairs, Secretariat of the Internet Governance Forum, International Telecommunication Union

7. Working group on facilitating the integrated implementation of the United Nations Global Counter-Terrorism Strategy

Executive Office of the Secretary-General (lead)
United Nations Office on Drugs and Crime (lead)
Counter-Terrorism Committee Executive Directorate (lead)
Counter-Terrorism Implementation Task Force Entities

8. Working group on strengthening the protection of vulnerable targets

Department of Safety and Security (lead)
International Criminal Police Organization (lead)
United Nations Interregional Crime and Justice Research Institute (lead)
Department of Political Affairs
Department of Peacekeeping Operations
International Civil Aviation Organization
International Maritime Organization
United Nations Development Programme
Additional Partner: United Nations Office for the Coordination of Humanitarian Affairs

9. Working group on protecting human rights while countering terrorism
Office of the United Nations High Commissioner for Human Rights (lead)
Counter-Terrorism Committee Executive Directorate
International Maritime Organization
Office of Legal Affairs
Special Rapporteur on the promotion and protection of human rights while countering terrorism
United Nations Interregional Crime and Justice Research Institute
United Nations Office on Drugs and Crime
World Bank
Additional Partners: International Committee of the Red Cross, United Nations Office for the Coordination of Humanitarian Affairs

*Source: Report of the Secretary-General, *United Nations Global Counter-Terrorism Strategy: activities of the United Nations system in implementing the Strategy,* General Assembly, UN: New York, July 2008.