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**Global Counter-Terrorism Efforts:  
The UN Prevention Agenda**

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## **Author's Declaration**

Unless otherwise indicated in the text or references, or acknowledged above, this thesis is entirely the product of my own scholarly work. Any inaccuracies of fact or faults in reasoning are my own and accordingly I take full responsibility. This thesis has not been submitted either in whole or part, for a degree at this or any other university or institution. This is to certify that the printed version is equivalent to the submitted electronic one.

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## **List of Abbreviations**

CTC	Counter-Terrorism Committee
CTED	Counter-Terrorism Committee Executive Directorate
CTITF	Counter-Terrorism Implementation Task Force
ICJ	International Court of Justice
IS/ISIL	Islamic State/Islamic State of Iraq and the Levant
OHCHR	Office of the High Commissioner for Human Rights
UN	United Nations
UNCCT	United Nations Counter-Terrorism Centre
UNGA/GA	United Nations General Assembly
UNHRC	United Nations Human Rights Council
UNODC	United Nations Office on Drugs and Crime
UNSC/SC	United Nations Security Council
UNSG	United Nations Secretary-General
WMD	Weapons of Mass Destruction

## Introduction

Article 1(1) of the United Nations (UN) Charter states that one purpose of the UN is “to maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace”. Accordingly, preventing conflict lies at the very foundation of the UN. With terrorism being one of the major threats to peace in the 21<sup>st</sup> century, terrorism prevention is one of the organization’s main tasks. While it is crucial to act and respond when terrorist attacks take place, comprehensive preventive measures are imperative to minimize the terrorist threat in addition to the ongoing security-based counter-terrorism measures. In the past decades the world has seen a rise of transnational terrorism and violent extremism conducive to it. In 2001, former UN Secretary-General (UNSG) Kofi Annan announced that we should shift from a culture of reaction to a culture of prevention – and a lot of work has been done since then. The UN, along with national policies of its member states, is at the forefront with regard to counter-terrorism efforts. Within this framework an extensive ‘Prevention Agenda’ has emerged in recent years.

This Master’s thesis focuses on the preventive measures in the context of counter-terrorism taken by the UN and its organs as well as its subsidiary bodies established for this purpose. The first part of the thesis is descriptive, giving an overview of the work that has been done, followed by an analytical second part, examining several normative and political questions and problems which arise in that context. This thesis seeks to answer the following research questions:

- How does the UN Terrorism Prevention Agenda look like?
- Which roles can be attributed to the respective organs of the UN?
- Which normative and political discussions surround the decisions of the UN in the context of terrorism prevention?

The first chapter will consider the problem of agreeing on a definition of terrorism on the international level and how the terrorist threat manifests itself today. The second chapter will elaborate on the UN concept of prevention, especially how conflict prevention has been conceived over time by the different UNSGs. Chapter 3 and 4 form the core of this thesis, as the efforts of the UN to prevent terrorism will be outlined and the arising

normative and political problems will be analyzed. The third chapter will explain the work that has been done by relevant UN bodies. First, efforts of the UN General Assembly (UNGA) in the context of terrorism prevention will be examined. After a brief look at the role and importance of Soft Law, it will be described when and in what context international terrorism was addressed. Then the UN Global Counter-Terrorism Strategy as the most comprehensive framework will be highlighted, as well as other recent developments, such as the increased focus on preventing violent extremism. Subsequently, the work of the Counter-Terrorism Implementation Task Force (CTITF) as the main coordinating body will be examined. Secondly, the UN Human Rights Council (UNHRC) will be discussed briefly. The third subchapter will focus on the preventive work done by the UN Security Council (UNSC) as the main actor regarding the maintenance of international peace and security. It will be shown when and how it has placed international terrorism on its agenda and the binding preventive measures in resolutions which were adopted under Chapter VII of the UN Charter will be discussed. Afterwards, the mandate of the UNSC's Counter-Terrorism Committee (CTC) will be dealt with, as well as preventive aspects of the ISIL and Al-Qaida sanctions regime. The fourth subchapter will focus on the Terrorism Prevention Branch of the UN Office on Drugs and Crime (UNODC). Chapter 4 is the critical analytical part of this thesis, as normative and political problems will be analyzed. It will be determined if the UN has moved towards a human rights-based approach in its efforts to prevent terrorism. Then, it will be examined if the UNSC stayed within its scope of authority when acting virtually as a global legislator. Next, legitimacy aspects of the UN in the context of terrorism prevention will be addressed. Lastly, it will be determined whether the sanctions regime is of a preventive nature or rather of a punitive one. In the last chapter, an outlook will be given, touching upon the need for a comprehensive convention on international terrorism and the reform of the counter-terrorism architecture of the UN. The conclusion will provide a summary of the findings, answering the research questions.

This Master's thesis is an account of the work of the UN in the field of terrorism prevention and an analysis of certain normative and political questions. It neither gives an overview over states' approaches to prevent or combat terrorism, nor over terrorism per se. A lot of research has been done on reactive military measures as a response to terrorist attacks and the so-called War on Terror. The overarching purpose of this thesis is to address the often understudied issue of preventive measures in the context of counter-

terrorism. The focus is placed on essential resolutions and decisions, but it is not an exhaustive account of every UN outcome related to terrorism as this would go far beyond the scope of this thesis. At this point it is important to note that the line is sometimes blurred, as resolutions containing preventive measures are in fact adopted quite often after a terrorist attack has taken place, but only the directly relevant content will be discussed. The normative and political questions that will be analyzed are essential and suspenseful in my discretion. As a Master's thesis at the interface between law and politics, legal and political questions will be discussed in order to address one of the most controversially debated issues of contemporary international politics.

# 1. Terrorism

At first it has to be clarified what is understood when we speak about terrorism. For this purpose, this chapter deals with the problem of defining the term on an international level and with its manifestations in the 21<sup>st</sup> century.

## 1.1 (Lack of a) Definition

The international community has not been able to agree upon a definition of the term terrorism so far, neither within the UN system nor elsewhere. However, the pressing need for a precise definition has been recognized, as the failure to achieve a consensus on a definition is subverting the United Nations' "normative and moral stance against terrorism" (A/59/565, par. 159) and the image of the organization has suffered. To manage to agree on a definition within the UNGA would be of special value due to the assembly's universal character (ibid., par. 163).

The need for defining the term terrorism became quite urgent in 2001, when the UNSC decided to act under Chapter VII of the UN Charter and thus required all member states to take certain measures to counter terrorism, adding "operative legal significance" (Saul 2005a:159) to the term. The lack of a definition leaves states a margin when implementing the binding resolutions containing counter-terrorism measures. However, the adoption of resolution 1373 in 2001 arguably depended on the fact that the definition was left to the member states (Saul 2006:48). This suggests that states prefer to have some flexibility regarding the implementation of the resolutions (Haaland Kramer/Yetiv 2007:425). Besides, some states have not reached a consensus on a definition on the national level. Nevertheless, the fact that states have the liberty to decide unilaterally what constitutes terrorist acts can cause responses only serving the national interest (Saul 2005a:160f.) and "may facilitate violations of human rights" (Amnesty International 2001).

In UNSC resolution 1566, adopted in 2004, one paragraph comes close to a definition and provides a framework or a description of what is called terrorism (Duffy 2015:38f.). The UNSC established that

criminal acts, including against civilians, committed with the intent to cause death or serious bodily injury, or taking of hostages, with the purpose to provoke a state of terror in

the general public or in a group of persons or particular persons, intimidate a population or compel a government or an international organization to do or to abstain from doing any act, which constitute offences within the scope of and as defined in the international conventions and protocols relating to terrorism (are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature). (S/RES/1566 (2004), OP3)

The UN further resolved that “[t]errorism attacks the values that lie at the heart of the Charter of the United Nations: respect for human rights; the rule of law; rules of war that protect civilians; tolerance among peoples and nations; and the peaceful resolution of conflict” (A/59/565, par. 145). In addition to resolution 1566, some specific activities are designated as being terrorist acts, defined particularly for the respective purpose of several international conventions (Saul 2005a:165f.). These international conventions and protocols relating to terrorism are the following 19 legal instruments, adopted between 1963 and 2014:

*Instruments regarding civil aviation*

- 1963 Convention on Offences and Certain Other Acts Committed On Board Aircraft
- 1970 Convention for the Suppression of Unlawful Seizure of Aircraft
- 1971 Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation
- 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
- 2010 Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation
- 2010 Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft
- 2014 Protocol to Amend the Convention on Offences and Certain Acts Committed on Board Aircraft

*Instrument regarding the protection of international staff*

- 1973 Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons

*Instrument regarding the taking of hostages*

- 1979 International Convention against the Taking of Hostages

*Instruments regarding the nuclear material*

- 1980 Convention on the Physical Protection of Nuclear Material
- 2005 Amendments to the Convention on the Physical Protection of Nuclear Material

*Instruments regarding the maritime navigation*

- 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation
- 2005 Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation
- 1988 Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf
- 2005 Protocol to the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms located on the Continental Shelf

*Instrument regarding explosive materials*

- 1991 Convention on the Marking of Plastic Explosives for the Purpose of Detection

*Instrument regarding terrorist bombings*

- 1997 International Convention for the Suppression of Terrorist Bombings

*Instrument regarding the financing of terrorism*

- 1999 International Convention for the Suppression of the Financing of Terrorism

*Instrument regarding nuclear terrorism*

- 2005 International Convention for the Suppression of Acts of Nuclear Terrorism (United Nations 2017d)

The quandary is that terrorism is an ever evolving concept that manifests itself in many different forms, using new technologies and new ways of spreading terror (Weimann

2006:21f.), which makes it even more difficult to cover everything it encompasses in one comprehensive definition.

## **1.2 The Threat Today**

Until the late 1980s, terrorism was mostly a national concern. In the 1990s a new international terrorism emerged, characterized by worldwide networks, that culminated in the attacks on the United States on September 11, 2001 (Haaland Kramer/Yetiv 2007:411ff.). Al-Qaida, established in 1988 in Afghanistan and Pakistan, has committed many of the major terrorist attacks in the past decades and can be seen as a prototype of today's transnational terrorism (Schneckener 2006:50ff.). In recent years, the terrorist group Islamic State (IS, also ISIL) has gained increasing presence, unlawfully seizing territories in Iraq and Syria and proclaiming a caliphate in 2014 (Salama 2016:21), using mostly the internet to disseminate its ideology and acquire followers (ibid.:27). In the 21<sup>st</sup> century, the number of terrorist-caused deaths constantly increased from year to year, reaching its peak in 2014. According to the Global Terrorism Index, the IS was the deadliest terrorist group in 2015 (Institute for Economics and Peace 2016:4). The damage caused by terrorist and violent extremist groups has been tremendous with thousands killed and wounded as well as millions of civilians displaced (A/70/826, par. 6).

The terrorist threat is evolving constantly and one major characteristic of this new transnational terrorism is that attacks are not bound to a specific place or time. Members of terrorist networks are dispersed on the globe, as recruitment can easily take place via the internet. The manifestation of terrorist groups today poses various challenges to developing effective counter-terrorism and preventive measures. These include their transnational network structure, which makes the groups flexible and harder to track down (Schneckener 2006:191ff.).

In recent years, violent extremism has gained ever more attention, as it can be conducive to terrorism. Al-Qaida and associated terrorist groups are considered to be violent extremist groups as well. The spread of violent extremist ideologies and their messages of hatred and intolerance, especially when inciting terrorism, thus add to the threat (A/70/674, par. 2-4). Foreign terrorist fighters are another phenomenon that multiplies the current threat, causing concern about their intentions should they decide to come back to their countries of origin.

The majority of states does not have the resources to observe and assess this threat (A/68/841, par. 16).

A change in terrorist tactics has also been noticeable over the years. Often operating alone or in a small group, terrorists increasingly aim for maximal impact with very little resources or planning. The perpetrators might be inspired by a terrorist group, but are not necessarily instructed by one (A/70/826, par. 12). Furthermore, cyberterrorism is a phenomenon on the rise, since terrorist groups have increasingly used the internet and particularly social media for various purposes. The UNODC has identified the following means for which terrorist groups use the internet: “propaganda (including recruitment, radicalization and incitement to terrorism); financing; training; planning (including through secret communication and open-source information); execution; and cyberattacks” (UNODC 2012:3).

The UNSC even stated that the IS “constitutes a global and unprecedented threat to international peace and security” (S/RES/2249 (2015), PP5), due to

its violent extremist ideology, its terrorist acts, its continued gross systematic and widespread attacks directed against civilians, abuses of human rights and violations of international humanitarian law, including those driven on religious or ethnic ground, its eradication of cultural heritage and trafficking of cultural property, but also its control over significant parts and natural resources across Iraq and Syria and its recruitment and training of foreign terrorist fighters whose threat affects all regions and Member States, even those far from conflict zones [...]. (ibid.)

One has to bear in mind that terrorism can probably never be completely defeated, but it is imperative to take measures on various levels in order to try to minimize the threat (Schneckener 2006:247f.). Preventive measures are crucial to achieve this goal in the long-term perspective, and “as terrorism and violent extremism continue to evolve in new and unpredictable directions, efforts to address these phenomena must also evolve” (A/70/826, par. 29). The UN “is the only forum in which a common conceptual strategy and standards could be advocated and the implementation managed. Utilizing the UN for this purpose would also serve to prevent some states from exploiting the counterterrorist campaign as an excuse to clamp down on domestic opposition.” (Von Hippel 2004:111).

## 2. The UN Concept of Prevention

Generally, prevention is defined as “the act of stopping something from happening or of stopping someone from doing something” (Cambridge University Press 2017). For the purpose of this thesis, this definition has to be embedded in the international security realm. Specifically, conflict prevention needs to be linked to the UN collective security system. In the decades following the founding of the UN, collective security was practiced by reactive, mostly military, means (A/55/985–S/2001/574, par. 19). In the 21<sup>st</sup> century, new emerging threats and a fast changing international environment call for a changing nature of collective security, including preventive means.

The concept of prevention is grounded in the UN Charter. Article 1(1) sets forth that a purpose of the UN is to “maintain international peace and security, and to that end: to take effective collective measures for the **prevention** and removal of threats to the peace” [my emphasis]. The UN Charter created a collective security system (Danchin 2010:63), as states agreed to cooperate to ensure security and peace. Prevention of threats to peace is a core task of the UN and essential in order to achieve collective security.

The Cold War was a big hindrance to fulfil the aims of the organization. At a Summit Meeting of the UNSC in January 1992, member states showed recommitment to the UN Charter, which gave rise to a new hope and created a regained possibility for international cooperation. Following an invitation by the UNSC, former UNSG Boutros Boutros-Ghali issued a report called *An Agenda for Peace* later that year, covering, as requested, the topics of ‘preventive diplomacy, peacemaking and peace-keeping’. Additionally, he added the concept of ‘post-conflict peace-building’ (A/47/277-S24111, par. 1-5). This report included recommendations regarding responses to conflict in the post-Cold War times and emphasized conflict prevention as well (ibid., par. 13-15). Boutros Boutros-Ghali identified several threats to peace, including terrorism (ibid., par. 11), and one stated goal was “to seek to identify at the earliest possible stage situations that could produce conflict, and to try through diplomacy to remove the sources of danger before violence results” (ibid., par. 15). Peacemaking, peace-keeping and peace-building constitute the other three pillars of his suggested strategy to secure a peaceful world (ibid., par. 20-21). The UNSC bears the main responsibility; however, the UNGA and other UN bodies, for example the

International Court of Justice (ICJ), are assigned crucial roles as well (ibid., par. 16). The concepts were defined as follows:

*Preventive diplomacy* is action to prevent disputes from arising between parties, to prevent existing disputes from escalating into conflicts and to limit the spread of the latter when they occur.

*Peacemaking* is action to bring hostile parties to agreement, essentially through such peaceful means as those foreseen in Chapter VI of the Charter of the United Nations.

*Peace-keeping* is the deployment of a United Nations presence in the field, hitherto with the consent of all the parties concerned, normally involving United Nations military and/or police personnel and frequently civilians as well. Peace-keeping is a technique that expands the possibilities for both the prevention of conflict and the making of peace.

[...] post-conflict peace-building - action to identify and support structures which will tend to strengthen and solidify peace in order to avoid a relapse into conflict. (ibid., par. 20-21)

Prevention was conceptualized primarily as diplomacy, easing tensions before they would produce some kind of conflict, including measures to strengthen confidence, fact-finding of economic, social, political and environmental developments in order to have early warning and even preventive deployment or demilitarized zones, if necessary (ibid., par. 23-33). Apart from assisting in implementing settlements between conflicting parties, peace-keeping operations are also meant to be preventive in the sense that they should forestall new conflicts in the respective areas (ibid., par. 50). Peace-building is conceived of as enhancing cooperation of states and also promoting democratic structures (ibid., par. 55-59). The *Agenda for Peace* brought the concept of prevention to broad attention again, but in the 1990s the focus was primarily on potential conflict between states, or sometimes national crises, not on transnational threats to peace like terrorist activity.

At the turn of the century, conflict prevention was high on the agenda of the UNSC as well as the UNGA, notably also during the Millennium Summit of the UN (A/55/985–S/2001/574, par. 21-24). In 2001, following an invitation by the UNSC, former UNSG Kofi Annan released a report titled *Prevention of armed conflict* (A/55/985–S/2001/574), emphasizing that he “pledged to move the United Nations from a culture of reaction to a culture of prevention” (ibid., par. 4). In the 20<sup>th</sup> century, the focus was laid on reactive measures, which means responding to existing conflicts, mostly through military means. In the 21<sup>st</sup> century, the main focus should be placed on conflict prevention instead, that is to address tensions and problems that could lead to conflict as soon as possible (ibid., par.

19). Kofi Annan recognized the prevention of conflict as one of the primary obligations rested upon member states resulting from the UN Charter. The UN had to strengthen the national endeavors and enhance their capacity, ensuring a comprehensive strategy, beginning at the multidimensional deep roots of conflicts. The work of the UN regarding conflict prevention had been incomplete and not satisfying until then (ibid., par. 7-15). He noted that reacting to existing conflict often comes first, as prevention is a concept directed at the future and difficult to measure. Despite early warning, the international community failed to act preventively for example in Eastern Africa, which resulted in the horrendous Rwandan genocide in 1994 (ibid., par. 1-3). This further strengthened the call for comprehensive preventive measures and in recognizing the need for extensive cooperation among all kinds of actors, within as well as outside the UN system, to achieve this goal (ibid., executive summary, par. 4).

Kofi Annan distinguished between “**operational prevention**, which refers to measures applicable in the face of immediate crisis, and **structural prevention**, which consists of measures to ensure that crises do not arise in the first place or, if they do, that they do not recur” (ibid., par. 8). The first includes short-term, the latter long-term measures. Moreover, he drew a line between humanitarian and developmental projects for one, and preventive measures directed directly at problems that could result in conflict on the other hand. However, he acknowledged that “an investment in long-term structural prevention is ultimately an investment in sustainable development” (ibid., par. 10) and that the two activities reinforce each other (ibid., par. 8-11). Generally, “consensus is emerging among Member States that comprehensive and coherent conflict prevention strategies offer the greatest potential for promoting lasting peace and creating an enabling environment for sustainable development” (ibid., executive summary, par. 7).

With the fast changing nature of conflicts, Kofi Annan added the concept of systemic prevention in his 2006 *Progress report on the prevention of armed conflict (A/60/891)*. Systemic prevention is referring to

measures to address global risks of conflict that transcend particular States. For example, global initiatives to reduce the illicit trade in small arms and light weapons, to tackle environmental degradation, to regulate industries that are known to fuel conflict and to advance the global development agenda not only are important in and of themselves but also serve to reduce vulnerability to armed conflict. (ibid., par. 8)

Satisfied that his proposed shift to a culture of prevention has already been starting to unfold within the UN system by 2006, he was aware of the huge gap between “rhetoric and reality” (ibid., par. 3-4). This new category was supposed to enhance global cooperation among all kinds of actors in order to better tackle origins of tensions (ibid., par. 61), including establishing “international regulatory frameworks” (ibid., par. 15). Fulfilling the Millennium Development Goals was seen as a basis for the prevention of conflict (ibid., par. 26). Conflict was conceptualized as occurring mostly inside states, or between states. Terrorism is mentioned in the document as regards to sanctions, as “sanctions to stem the financing of terrorist acts or deny safe haven or travel by terrorists have become central tenets of the global effort to counter terrorism” (ibid., par. 37).

The High-level Panel on Threats, Challenges and Change, established by Kofi Annan in 2003 (A/59/565, par. 1-2), called for a new, more comprehensive understanding of collective security in the 21<sup>st</sup> century, as the threats in this new century are interconnected and transcend national boundaries, requiring cooperation on all levels (ibid., synopsis, par. 3-5). The High-level Panel identified terrorism as one of the major threats today and emphasized the importance of prevention (ibid., synopsis, par. 9-11).

In 2015, former UNSG Ban Ki-moon called for a collective recommitment to conflict prevention, stating that “prevention is a goal to which the United Nations as a whole must contribute” (S/2015/730, par. 4) and emphasizing the need for political support. Due to the involvement of many actors with various agendas prevention has become more difficult, but he noted increased efforts through mainstreaming prevention throughout the sustainable development agenda (ibid., par. 3, 8, 10). Ban Ki-moon laid a focus on the prevention of violent extremism, presenting a *Plan of Action to Prevent Violent Extremism* (A/70/674) as part of his intention to “re-energize the Organization’s prevention agenda”, (ibid., par. 6).

At the very beginning of his tenure, current UNSG António Guterres stated that prevention is the priority and that a new approach is needed. Therefore, he aims at reforming the UN system as well as at integrating prevention into the three pillars of the UN – peace and security, human rights and development. António Guterres underlined that prevention is a value in itself and international cooperation must be strengthened in this regard (United Nations 2017e). He further noted that prevention is not a new concept, but it is something that the founders of the UN had envisioned us to do (United Nations 2017f).

Hence, the prevention of terrorism is essential to achieve collective security. Operational counter-terrorism includes measures directed against existing terrorist networks, like thwarting terrorist attacks (Schneckener 2006:198). Structural counter-terrorism focuses for example on diplomatic, economic and security policy measures. The goal is to counter the development of terrorist activity and reduce the number of supporters by stripping it from its ideological breeding ground (ibid.:215). The next chapter will elaborate on the efforts of relevant UN bodies to prevent terrorism. The tasks of the various organs will be examined, as well as what measures they have taken and what topics they have addressed, on what they lay their respective focus', and which developments have to be tackled.

### **3. The UN Terrorism Prevention Agenda**

“The United Nations has been at the forefront of developing the international normative and legal framework to address terrorism in all its manifestations” (A/70/826, par. 19). The UN plays a crucial role in setting the ground rules and defining a framework of terrorism prevention efforts. International cooperation is essential to counter and prevent the terrorist threat, and the UN often serves as ‘pattern setter’ for issues that require extensive cooperation. This chapter gives an overview over the efforts and the work of the UNGA and the UNSC and its subsidiary bodies that have been tasked with the prevention of terrorism, as well as the UNODC’s Terrorism Prevention Branch.

#### **3.1 The General Assembly**

The UNGA has the mandate to address conflict prevention in general, as well as to refer situations which may threaten international peace and security to the UNSC for further consideration, in accordance with Articles 10-14 of the UN Charter. The UNGA has been quite active in addressing challenges related to terrorist activity, in recent years most notably through the adoption of the UN Global Counter-Terrorism Strategy.

##### **3.1.1 The Role and Importance of Soft Law**

UNGA resolutions are not binding for member states and thus are considered to be Soft Law. As the representative body of the UN, the outcomes of the UNGA show common grounds and set the stage for further action. The universal character of its decisions and resolutions makes it indispensable for creating new international norms over time and reflects the position of the international community:

[UNGA] resolutions are not mandatory in the same way as Council Chapter VII decisions, but they may nonetheless, in certain cases, have significant normative value, as the ICJ and others have recognized. Assembly resolutions have particular authority and universality, as the Assembly represents the entire community of states and as such may reflect the *communis opinio* of the international community and give expression to the prevailing international ideology in a manner that no other international body does. [...] [T]he

General Assembly is generally considered to be the principal UN organ engaged in standard-setting and its resolutions make a potentially significant contribution to the body of international law. (Duffy 2015:15f.)

Hence, the UNGA has a “strong legal as well as moral authority” (De Jonge Oudraat 2004:193) and can be considered the primary ‘pattern setter’ for issues that require extensive international cooperation. Its collective decisions set standards and goals to be met by all member states and their “resolutions can still carry significant moral, normative and, eventually, legal weight (to the extent that they may evidence customary law)” (Boulden 2014:567). Nevertheless, implementation ultimately depends on the capability and the willingness of individual states, as the UNGA possesses no mechanism to make sure its resolutions are carried out (ibid.:569f.). Usually states are required to report back on their achievements, but there are little ways for monitoring states’ compliance with their obligations or enforcement in case of noncompliance. The 19 international conventions and protocols relating to terrorism, as mentioned in Chapter 1.1, can also be seen as the “codification of emerging norms” (Boulden/Weiss 2004:14).

### **3.1.2 International Terrorism on the UNGA’s Agenda**

In 1970 the UNGA adopted the *Friendly-Relations-Declaration*, in which member states affirmed principles of friendly relations between each other. This resolution does not take into account the potential involvement of non-state actors, but refers to terrorism concerning state’s participation in it and when the activities are directed at another state. The UNGA resolved that

[e]very State has the duty to refrain from organizing, instigating, assisting or participating in acts of civil strife or terrorist acts in another State or acquiescing in organized activities within its territory directed towards the commission of such acts, when the acts referred to in the present paragraph involve a threat or use of force. (A/RES/25/2625, OP1, principle 1)

Furthermore, it proclaimed that “no State shall organize, assist, foment, finance, incite or tolerate subversive, terrorist or armed activities directed towards the violent overthrow of the regime of another State, or interfere in civil strife in another State” (ibid., OP1, principle 3).

At first mostly concerned with ‘state-sponsored terrorism’, the UNGA began to deal with international terrorism in 1972, initiated by former UNSG Kurt Waldheim. At its 27<sup>th</sup> session, the UNGA adopted its first stand-alone resolution on “measures to prevent international terrorism” following various incidents, for example the Munich massacre of the same year (Peterson 2004:178). With resolution 3034, the UNGA recognized the need to study root causes and find national solutions, condemned regimes that make use of terrorist acts and established an *Ad Hoc Committee on International Terrorism* (A/RES/27/3034, OP2, OP4, OP9). International terrorism became an agenda item and was discussed approximately every other year henceforth. In the course of trying to establish a normative framework, the UNGA addressed the terrorist threat under three resolution streams. At first, under “measures to prevent international terrorism”, since 1991 under “measures to eliminate international terrorism” and since 1993 also under “human rights and terrorism”. Mainly dealt with in the UNGA’s Sixth Committee (Legal), the resolutions concerning human rights were discussed in the Third Committee (Social, Humanitarian and Cultural). In these resolutions, the UNGA condemned and addressed terrorist activity in general and showed concern over increased attacks. It emphasized the need to prevent and combat terrorism and to cooperate on multiple levels. Moreover, the UNGA urged states to take action and was concerned about human rights violations. One recurring dilemma posed the distinction of terrorists on the one hand and national liberation movements on the other hand, as seen for example in resolutions 31/102 (1976), 32/147 (1977), and 34/164 (1979) (Peterson 2004:175ff.).

Although the international community has been aware of the threat of international terrorism since the 1970s, it could not be considered to be very high on the UNGA’s agenda in the following three decades. The UNGA “approached the issue as a general international problem rather than one relating to specific events or conflicts” (Boulden/Weiss 2004:10). The concern grew and cooperation was deemed essential, but the resolutions mostly emphasized national solutions. Nevertheless, the UNGA envisioned the establishment of an international legal framework on terrorism which led to the adoption of the multiple international legal conventions (ibid.). These conventions criminalize certain terrorist acts and lay out rules regarding jurisdiction in order to hold perpetrators accountable (De Jonge Oudraat 2004:184ff.). A major obstacle in their effective implementation is that many states need to change their national laws to incorporate provisions of the conventions (ibid.:191). However, in the 1990s there was

already broad consensus on the rhetorical level on closing legal loopholes in order to hold all perpetrators accountable (ibid.:193).

In 1995, the UNGA adopted a *Declaration on Measures to Eliminate International Terrorism* (A/RES/49/60), which “represents as close to a comprehensive ban on terrorism as the UN has come” (Boulden 2014:568). Boulden argues that this declaration has the status of customary international law, since it has been cited in various resolutions of the UNSC as well as legal documents (ibid.). In 1996, a new *Ad Hoc Committee* was established in order to negotiate a comprehensive convention on terrorism (De Jonge Oudraat 2004:183); this process has not been completed until today.

The terrorist attacks targeting the United States of America on 11 September 2001 shook the world and “their wake brought unprecedented unity of purpose on the international level as to the need to prevent, punish and otherwise combat international terrorism” (Duffy 2015:29). The UNGA called in resolution 56/1 for cooperation in order to prevent terrorist acts, to ensure justice and accountability for those responsible for and those involved in the attacks (A/RES/56/1, OP3-4). Subsequently, the UNGA took on a more active role and started to develop a comprehensive strategy. A working group of the UNGA’s Sixth Committee was mandated with the resumption of drafting an anti-terrorism convention (Schrijver 2004:59). Furthermore, the call to address root causes of terrorism has become louder since the beginning of the 21<sup>st</sup> century (Mani 2004:219).

### **3.1.3 The United Nations Global Counter-Terrorism Strategy and Recent Developments**

Since 2006, the UNGA has adopted around 50 resolutions addressing multiple aspects of terrorism. At the core is the UN Global Counter-Terrorism Strategy, “a comprehensive strategy intended to guide future action across the spectrum of prevention and response” (Boulden 2007:433). The report *Uniting against terrorism: recommendations for a global counter-terrorism strategy* (A/60/825) by former UNSG Kofi Annan served as the basis for the strategy. More than a decade after its unanimous adoption in 2006, the strategy is still equally relevant and has been reviewed every two years. In the process of adopting it, the UNGA “demonstrated all of its international roles: that of coordinator, legitimizer and law-maker, as well as norm consolidator and establisher. The Strategy has become a focal point and clearinghouse for UN work on terrorism” (Boulden 2014:569).

The UNGA condemned all forms and manifestations of terrorism and aimed at improving cooperation regarding the prevention and combat of terrorism in the UN Global Counter-Terrorism Strategy (A/RES/60/288, PP2, PP7). The annexed Plan of Action is divided into four pillars, outlining the common approach and containing practical steps and recommendations:

- I. Measures to address the conditions conducive to the spread of terrorism
- II. Measures to prevent and combat terrorism
- III. Measures to build States' capacity to prevent and combat terrorism and to strengthen the role of the United Nations system in this regard
- IV. Measures to ensure respect for human rights for all and the rule of law as the fundamental basis of the fight against terrorism. (A/RES/60/288)

Pillar I established the interlinked nature of terrorism on the one hand and conflicts as well as situations of injustice and/or violence on the other hand. Resolving other issues peacefully and promoting mutual understanding, tolerance and dialogue is deemed important in the global anti-terrorism regime. This pillar also reaffirmed the commitment to the eradication of poverty and sustainable development (*ibid.*, Annex, pillar I). With the first pillar of the strategy, the UNGA thus addressed long-term structural prevention, arguing that terrorism is not as likely to occur in more developed and just societies.

Pillar II outlined measures aiming more directly at undermining terrorist activities and at giving terrorists no resources and no possibility to act. These measures include the commitment by member states to refrain from any involvement whatsoever, to cooperate in information sharing, as well as regarding prosecution and extradition, and in combating other crimes that may be related to terrorism. Cooperation was also advised with other relevant UN bodies, such as the Counter-Terrorism Committee. Furthermore, pillar II called for better border and customs controls as well as for developing ways to stop the misuse of the internet for terrorist purposes. It is suggested to rather use the internet to counter the threat. The UNGA also resolved to enhance protection of infrastructure and other vulnerable targets (*ibid.*, Annex, pillar II). These measures fell under operational prevention, as they targeted more imminent threats and problems and directly aimed to strip terrorists of their means and thus avert future attacks.

Pillar III identified measures to build capacity in all states in order to develop resources to be able to respond to challenges. These include drawing on technical assistance, sharing best practices, cooperating with all kinds of actors within and outside of the UN system, such as the CTC and the Counter-Terrorism Executive Directorate (CTED), the UNODC, the International Police Organization, the International Monetary Fund, the World Bank, the Organization for the Prohibition of Chemical Weapons and the International Atomic Energy Agency, as well as other relevant international, regional and subregional organizations (*ibid.*, Annex, pillar III).

Pillar IV established human rights and the rule of law as the basis of all measures. States have to adhere to international law at all times, human rights must not be violated in the process of combating or preventing terrorism. A national justice system based on the rule of law is equally important to be able to respond adequately to terrorist offences (*ibid.*, Annex, pillar IV).

In the biennial reviews, the UNGA reaffirmed its commitment to the strategy and emphasized the need to strengthen international cooperation, highlighting progress, needs and concerns. It also requested the UNSG to submit a report every two years elaborating on the strategy's implementation as well as suggested that he includes recommendations (A/RES/62/272; A/RES/64/297; A/RES/66/282; A/RES/68/276; A/RES/70/291). In the fourth review, in 2014, the UNGA expressed particular concern about new and evolving threats and trends (A/RES/68/276, PP16-17) and deemed it imperative to keep the UN Global Counter-Terrorism Strategy "relevant and contemporary" (*ibid.*, OP3). Areas of concern included the rise of violent extremism (*ibid.*, OP16), the linkage between terrorism and transnational organized crime (*ibid.*, OP17), lone wolf attacks (*ibid.*, OP25), the misuse of technologies – especially the internet – for various stages of terrorist activity (*ibid.*, OP27), as well as the increase in both kidnapping and hostage-taking (*ibid.*, OP28), and foreign terrorist fighters (*ibid.*, OP31). The UNGA stressed the need to elaborate measures to prevent and combat these new developments (*ibid.*, OP16-17, OP25-31). In its 2016 review, the UNGA reaffirmed the concerns of the previous resolution and called for further preventive as well as counter-measures (A/RES/70/291).

The biennial reports of the UNSG elaborated on the actions taken by the UN system in the implementation of the strategy and included recommendations for future activities. While member states have the primary responsibility to implement the strategy, the UN has a coordinating and supportive role (A/62/898; A/64/818; A/66/762; A/68/841; A/70/826).

The UNSG noted that the UN Global Counter-Terrorism Strategy “united all 192 Member States behind a common strategic framework” (A/62/898, par. 1) and thus “all Governments conveyed the same critical message: terrorism is never justifiable, whether on political, philosophical, ideological, racial, ethnic, religious or any other grounds” (ibid.). The UNSG continuously lauded the progress, but always concluded that there is a lot that remains to be done (A/62/898; A/64/818; A/66/762; A/68/841; A/70/826). In 2016, a decade after the adoption of the strategy, the UNSG noted that there have been

unforeseen challenges, especially with the rise of new types of terrorism-related threats to international peace and security. The most significant challenge is the spread of violent extremist ideologies and the emergence of terrorist groups fuelled by them. Violent extremism is a diverse phenomenon, without an internationally agreed definition. Nevertheless, in recent years, terrorist groups such as Islamic State in Iraq and the Levant (ISIL), Al-Qaida and Boko Haram have shaped our image of terrorism and violent extremism and the debate on how to address threat. (A/70/826, par. 4)

Since 2014, the prevention of violent extremism has been considered an essential part of the UNGA’s terrorism prevention agenda. In the resolution *A world against violence and violent extremism*, for instance, the UNGA addressed the threat of violent extremism and stressed the need to act collectively (A/RES/68/127). With Resolution 70/254, adopted in 2016, the UNGA decided to consider the *UNSG’s Plan of Action to Prevent Violent Extremism* further (A/RES/70/254, OP2). The Plan of Action contained systematic preventive measures in order to address root causes that lead people to join violent extremist groups, stating that the UNGA as well as the UNSC recognize the need for cooperation in this regard. At the international level, a framework can be established to guide local, national and regional action (A/70/674, par. 38-43). The systematic measures referred to the areas of dialogue and conflict prevention, aimed at strengthening good governance, human rights and the rule of law, engaging communities, empowering youth, gender equality and empowering women, facilitate education, skills development and employment facilitation, as well as addressed strategic communications, the Internet and social media (ibid., par. 49-55). Member states are responsible for implementing these requests and recommendations, the UN system can lend its support (ibid., par. 56).

### **3.1.4 The Counter-Terrorism Implementation Task Force**

The CTITF was created by former UNSG Kofi Annan in 2005 and is mandated with strengthening coordination and coherence within the UN system regarding counter-terrorism efforts. Moreover, it oversees the implementation of the UN Global Counter-Terrorism Strategy. It comprises 38 entities that contribute to counter-terrorism efforts, each within its existing mandate. The CTITF was established to coordinate the counter-terrorism work of the participants, ranging from various departments of the UN Secretariat to agencies, programs and funds as well as affiliated organizations, in order to better assist member states in the implementation of the strategy (United Nations 2017a):

While the primary responsibility for the implementation of the Global Strategy rests with Member States, CTITF ensures that the UN system is attuned to the needs of Member States, to provide them with the necessary policy support and spread in-depth knowledge of the Strategy, and wherever necessary, expedite delivery of technical assistance. (ibid.)

The CTITF is tasked with the development of best practices and various projects to assist with capacity-building and is divided into 12 thematic working groups that reflect key priorities, based on the provisions of the UN Global Counter-Terrorism Strategy:

- Border Management and Law Enforcement relating to Counter-Terrorism
- Countering the Financing of Terrorism
- Foreign Terrorist Fighters
- National and Regional Counter-Terrorism Strategies
- Preventing and Responding to Weapons of Mass Destruction (WMD) Terrorist Attacks
- Preventing Violent Extremism and Conditions Conducive to the Spread of Terrorism
- Promoting and Protecting Human Rights and the Rule of Law While Countering Terrorism
- Protection of Critical Infrastructure Including Internet, Vulnerable Targets and Tourism Security
- Supporting and Highlighting Victims of Terrorism
- Legal and Criminal Justice Responses to Terrorism

- Gender Sensitive Approach to Preventing and Countering Terrorism (in formation)
- Working Group on Communications (in formation). (United Nations 2017g)

The Task Force can be described as a coordination framework and is supposed to increase effectiveness, accountability and transparency regarding counter-terrorism activities across all of the UN system. Additionally, it leads and supports initiatives and activities aimed at implementing the strategy. The CTITF's mandate does not only include the coordination of its entities, but also the interaction with member states. It provides assistance to them when needed. UNGA resolution 64/235, adopted in 2009, institutionalized the CTITF in the Department of Political Affairs (United Nations 2017b). The Under-Secretary-General for Political Affairs serves as the Chair of the CTITF and as Executive Director of the UN Counter-Terrorism Center (UNCCT). The UNCCT was created within the CTITF Office in 2011, with the purpose of helping to address the needs of member states with regards to capacity-building (United Nations 2017c).

The CTITF's initiative *Integrated Assistance for Countering Terrorism* was set up to safeguard the effective coordination and sharing of information between different CTITF entities in the process of supporting member states with the implementation of the strategy (A/66/762, par. 21-22). The CTITF and the UNCCT cover a plethora of aspects regarding counter-terrorism, which indicates the huge work spectrum of UN entities and the many challenges posed by international terrorism (Porret 2014:589).

### **3.2 The United Nations Human Rights Council**

The UNHRC is a subsidiary body of the UNGA, created in 2006 through resolution 60/251, replacing the UN Commission on Human Rights (OHCHR 2017b). In 2005, the UNHRC's predecessor established the post of the *UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*. The Special Rapporteur's mandate is to ensure human rights are adhered to when combating or preventing terrorism, through recommendations, exchange of information as well as best practices, etc. (OHCHR 2017a). The UNHRC urged "States to ensure that any measures taken to prevent and counter violent extremism comply with all their obligations under international law, in particular international human rights law, international refugee law and international humanitarian law" (A/HRC/RES/30/15, OP3).

Moreover, the UNHRC reaffirmed its supporting role in the implementation of the UN Global Counter-Terrorism Strategy by underlining the dimensions of human rights, stating “that the objectives of countering violent extremism and countering terrorism and of the protection and promotion of human rights, fundamental freedoms and rule of law are mutually reinforcing” (ibid., PP4).

In order to achieve the effective prevention of violent extremism, the protection of human rights is essential (ibid., PP17). However, in the Special Rapporteur’s most recent report he took note that

[d]espite the Organization’s avowed intention to mainstream human rights protection throughout its counter-terrorism initiatives, this goal will remain elusive with the current proliferation of often under-resourced entities with overlapping responsibilities. (A/HRC/34/61, par. 43)

The importance of upholding human rights has increasingly been emphasized over the years, which leads us to the question if the UN is headed towards a human rights-based approach when preventing and combating terrorism.

### **3.3 The Security Council**

The UNSC is primarily tasked with the maintenance of international peace and security. According to Article 24 of the UN Charter, it determines whether there is a threat to peace and acts accordingly, on behalf of all member states. When peaceful measures under Chapter VI of the UN Charter do not lead to the improvement of a conflict situation, the UNSC can, as a last resort, act under Chapter VII, taking measures or obligating member states to take necessary measures to maintain international peace and security.

The UNSC has mostly considered specific conflict situations and thus acted on a case-by-case basis. Its work can be described as reactive and punitive, but a more overarching approach has been noticeable in the 21<sup>st</sup> century (Boulden 2007:429f.). Regarding the prevention and combat of terrorism, the UNSC has acknowledged that a multilateral, multifaceted, coordinated and integrated non-military approach is necessary in the long run. International law can serve as a ‘value system’ on the one hand and as a ‘regulatory system’ on the other hand when preventing and combating international terrorism (Schrijver 2004:68f.).

The UNSC placed terrorism on its agenda in reaction to particular events in the early 1990s. In that decade it imposed sanctions on Libya, the Sudan and Afghanistan, respectively, which were accused of being involved in terrorist activities (De Jonge Oudraat 2004:151). These sanctions regimes contributed to form consensus that terrorism can only be tackled through global collective action (ibid.:157f.).

### **3.3.1 International Terrorism as a Threat to International Peace and Security**

The UNSC addressed international terrorism in general for the first time in 1999 with the adoption of resolution 1269, determining it as a possible threat to international peace and security. The UNSC was concerned about the rise of terrorist attacks and condemned all such acts, regardless of the reason, the location or who was responsible. It stressed the need to strengthen national efforts as well as international cooperation in tackling terrorism, while adhering to the UN Charter and international law. The UNSC recognized that new international instruments might be needed to address the threat and established terrorist acts as criminal acts (S/RES/1269 (1999), PP1-8). It called upon member states to

- cooperate [...] to prevent and suppress terrorist acts, protect their nationals and other persons against terrorist attacks and bring to justice the perpetrators of such acts;
  - prevent and suppress in their territories through all lawful means the preparation and financing of any acts of terrorism;
  - deny those who plan, finance or commit terrorist acts safe havens by ensuring their apprehension and prosecution or extradition;
  - take appropriate measures in conformity with the relevant provisions of national and international law, including international standards of human rights, before granting refugee status, for the purpose of ensuring that the asylum-seeker has not participated in terrorist acts;
  - exchange information in accordance with international and domestic law, and cooperate on administrative and judicial matters in order to prevent the commission of terrorist acts.
- (ibid., OP4)

Thus, the UNSC addressed structural prevention and recognized the need to take measures to prevent further attacks, although it did not elaborate on the substance of these measures and left a wide margin to the member states.

In resolution 1368, adopted right after the 9/11 attacks, the UNSC requested member states to increase efforts regarding the prevention and suppression of terrorist acts and strengthen cooperation. It also emphasized the need for accountability for those responsible (S/RES/1368 (2001), OP3-4). A few days later, the UNSC established in resolution 1373 that “any act of international terrorism constitute[s] a threat to international peace and security” (S/RES/1373 (2001), PP3) and called on member states “to work together urgently to prevent and suppress terrorist acts, including through increased cooperation and full implementation of the relevant international conventions relating to terrorism” (ibid., PP7). The UNSC acted under Chapter VII of the UN Charter (ibid., PP10), obligating member states to take action in order to prevent future attacks (ibid., OP1-2). Later in 2001, the UNSC adopted the *Declaration on the global effort to combat terrorism*, annexed to resolution 1377, recognizing international terrorism as a major threat to international peace and security in the 21<sup>st</sup> century and putting it in a much bigger context. International cooperation and a comprehensive approach were deemed crucial (S/RES/1377 (2001)).

In the *Declaration on the issue of combating terrorism*, annexed to resolution 1456, adopted in 2003, the UNSC stated that “[a]ll States must take urgent action to prevent and suppress all active and passive support to terrorism” (S/RES/1456 (2003), OP1). In 2005, the UNSC adopted resolution 1624, requesting member states to take “necessary and appropriate” measures to “prohibit by law incitement to commit a terrorist act or acts” as well as “prevent such conduct”, in conformity with international law (S/RES/1624 (2005), OP1). Thus, by addressing incitement,

[t]he prevention agenda includes the analyses of factors that lead to people’s choices for violent action. It entails understanding and addressing people’s grievances and complaints that, if ignored, may lead to anger, frustration, and eventually violence. This, in itself, is a good development, since prevention is better than cure. More worrying, however, is the fact that the penal system is shifting towards criminalising acts that are considered to be part of the preparation phase of terrorism, thereby mixing prevention and repression in a possible counter-productive manner. (Van Ginkel 2011:24)

Particularly since 2014 the prevention of international terrorism has been high on the UNSCs agenda, as

[i]n recent years, counter-terrorism has increasingly been discussed in the context of prevention, in large part due to the rise of the Islamic State in Iraq and the Levant (ISIL)

and especially in relation to the theme of countering violent extremism. (Security Council Report 2017:9)

In resolution 2133, the UNSC addressed the prevention of financing terrorist activity (S/RES/2133 (2014), PP3), in particular through the prevention of kidnapping and hostage-taking in order to avoid that terrorists profit from payment of a ransom or political concessions (ibid., PP7). Resolution 2195 established a link between terrorism and transnational organized crime. The UNSC showed

concern that terrorists benefit from transnational organized crime in some regions, including from the trafficking of arms, persons, drugs, and artefacts and from the illicit trade in natural resources including gold and other precious metals and stones, minerals, wildlife, charcoal and oil, as well as from kidnapping for ransom and other crimes including extortion and bank robbery, (S/RES/2195 (2014), PP7)

and emphasized the need to cooperate in order to prevent and counter terrorists profiting from transnational organized crime. Furthermore, it requested member states to prevent the movement of terrorists, including those involved in transnational organized crime (ibid., OP1-2). In resolution 2249, the UNSC designated ISIL as “a global and unprecedented threat to international peace and security” (S/RES/2249 (2015), PP5) and specifically requested member states to take necessary measures in Syria and Iraq on the territories controlled by said terrorist organization to intensify and coordinate efforts within their respective capacities (ibid., OP5) in order “to prevent and suppress terrorist acts committed specifically by ISIL also known as Da’esh as well as ANF [Al-Nusra Front], and all other individuals, groups, undertakings, and entities associated with Al Qaeda, and other terrorist groups [...]” (ibid.).

In resolution 2309 the UNSC addressed the prevention and countering of terrorist threats to civil aviation (S/RES/2309 (2016), OP6). In resolution 2322 the UNSC addressed various issues for cooperation to prevent terrorist activity, such as information exchange and cooperation regarding administrative, police and judicial issues, and called for better cooperation to avoid that terrorists profit from transnational organized crime (S/RES/2322 (2016), OP9). In resolution 2331 the UNSC addressed trafficking in persons and established a “connection between trafficking in persons, sexual violence and terrorism and other transnational organized criminal activities” (S/RES/2331 (2016), PP6). It further requested member states to act, inter alia, in order to prevent such actions (ibid., OP2). Resolution 2341 called for enhanced cooperation to prevent attacks against critical

infrastructure and to ensure their protection (S/RES/2341 (2017), OP1-2) and resolution 2347 requested the prevention and combat of “illicit trade and trafficking in cultural property and other items of archaeological, historical, cultural, rare scientific, and religious importance originating from a context of armed conflict, notably from terrorist groups” (S/RES/2347 (2017), OP8). Preventive measures include regulations on export and import, and establishing specialized units as well as databases (ibid., OP17). In resolution 2370, the UNSC expressed concern about terrorists acquiring weapons (S/RES/2370 (2017), PP7). It emphasized the need to prevent non-state actors from misusing explosives, especially improvised explosive devices, which have increasingly been used in attacks (ibid., PP10-11). Member states are required to take measures to prevent illicit trafficking of weapons to terrorists, in accordance with international law. These include holding those involved accountable, securing national stockpiles, as well as enhancing capacities regarding border control or law enforcement (ibid., OP5-6). The UNSC deemed international cooperation crucial in that endeavor (ibid., OP14).

In the last few years, the UNSC has thus identified various areas and activities where preventive measures are necessary and can reduce the threat coming from international terrorism. The following chapter deals with those measures that are legally binding through invoking Chapter VII of the UN Charter.

### **3.3.2 Binding Preventive Measures under Chapter VII**

The 9/11 attacks marked a major change in the UNSC’s response to terrorism, as resolution 1373 required all member states to undertake comprehensive measures against international terrorism under Chapter VII of the UN Charter, and report back on their implementation to the newly established Counter-Terrorism Committee within 90 days (S/RES/1373 (2001)).

Resolution 1373 was the first legally binding Security Council resolution addressing international terrorism as a global phenomenon without referring to a particular state or region. Through this binding set of anti-terrorism measures, the Security Council took on a quasi-legislative role in a pioneering way. (Schrijver 2004:58)

According to resolution 1373, all member states are legally obliged to prevent the commission of terrorist acts, to prevent and suppress the financing of terrorist acts, to freeze the financial assets of persons and entities involved in the commission of such acts,

to deny safe havens to those involved in such acts, prevent their territories from being used for terrorist purposes, prevent the movement of terrorists and bring perpetrators to justice (S/RES/1373 (2001), OP1-2). These measures might require alterations to national legislation (Boulden/Weiss 2004:11). Additionally, the UNSC also laid the foundation for improving international cooperation regarding terrorism, acknowledging the need to improve multilateral cooperation in various areas such as intelligence, police and financial monitoring in order to tackle the threat (MacFarlane 2004:37).

With the adoption of resolution 1540 in 2004, the UNSC addressed the risk that terrorist groups could acquire WMD and thus obliged states to

adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, (S/RES/1540 (2004), OP2)

and to take measures to prevent their proliferation. The UNSC established the 1540 Committee to oversee the implementation of the resolution (ibid., OP4).

As set forth in chapter 1.1 of this thesis, the UNSC provided a description of terrorism which comes close to a definition in resolution 1566 and further explicitly requested member states to prevent such acts that fall under that description (S/RES/1566 (2004), OP3), although not elaborating on specific measures to be taken.

In resolution 2178, adopted in 2014, the UNSC expressed concern over increased terrorist acts (S/RES/2178 (2014), PP2), recognized the link between violent extremism and terrorism (ibid., OP1), and addressed the threat coming from foreign terrorist fighters (ibid., PP10). It emphasized the need to address conditions conducive to terrorism, such as preventing radicalization and incitement, as well as the need to cooperate to prevent misuse of communications technology by terrorists (ibid., PP13-15). The UNSC legally obliged member states to

cooperate in efforts to address the threat posed by foreign terrorist fighters, including by preventing the radicalization to terrorism and recruitment of foreign terrorist fighters, including children, preventing foreign terrorist fighters from crossing their borders, disrupting and preventing financial support to foreign terrorist fighters, and developing and implementing prosecution, rehabilitation and reintegration strategies for returning foreign terrorist fighters. (ibid., OP4)

Furthermore, it established that the “violent extremist narrative [...] can incite terrorist acts” (ibid., OP16) and resolved to counter violent extremism in order to prevent terrorism, requiring collective efforts, “including preventing radicalization, recruitment and mobilization of individuals into terrorist groups and becoming foreign terrorist fighters” (ibid., OP15).

UNSC resolution 2199, adopted in 2015, required member states to prevent terrorism financing, in particular through oil trade, to prevent trade of cultural property from Syria and Iraq, and to prevent kidnapping and the taking of hostages by terrorists. It called upon states to prevent terrorists from having access to the international financial system as well as restated that states shall prevent terrorists from acquiring arms and related materiel (S/RES/2199 (2015), OP1-27).

Through these Chapter VII resolutions, the UNSC legally obliged all member states to ensure the implementation of the provisions and thus take certain steps to prevent and combat international terrorism. However, the UNSC

faces significant political and operational obstacles in discharging its prevention responsibilities. Nonetheless, preventing conflict is one of its most significant responsibilities under the UN Charter, and there are opportunities for this organ to sharpen and expand its preventive capacities. (Security Council Report 2017:2)

In particular, the UNSC has been criticized for expanding its powers and acting virtually as a global legislator, which raised the question if the UNSC still acted within its scope of authority or rather outside its initial mandate (Rosand 2004:551f.). Moreover, the legitimacy of UNSC’s decisions was under debate in light of the absence of judicial review.

### **3.3.3 The Counter-Terrorism Committee and its Executive Directorate**

The CTC was established by UNSC resolution 1373 and was mandated to oversee the implementation of the provisions contained in said resolution (S/RES/1373 (2001), OP6). In 2004, the UNSC adopted resolution 1535, acknowledging that many member states needed assistance with the implementation of resolution 1373 (S/RES/1535 (2004), PP9) and therefore establishing the CTED, a special political mission to support the CTC in monitoring the implementation as well as further assist with capacity-building (ibid., OP2).

In 2005, the UNSC directed the CTC to also include the provisions of resolution 1624 in its consultations with member states (S/RES/1624 (2005), OP6).

According to Sir Jeremy Greenstock, the first chairman of the committee, the CTC was established

to help the world system to upgrade its capability to deny money, support, or haven to terrorism, and to establish a network of information sharing and cooperative executive action to make an effective global mechanism to deny space for terrorism anywhere. (United Nations 2014)

The UNSC used the momentum after the attacks of 9/11 to create this committee. The unanimity to recognize the terrorist threat as a global one and to agree on wide-ranging measures to tackle it was lauded, but the implementation faced multiple problems. Many member states did not have the means or the capacity, legislative as well as administrative, to implement the resolution. Additionally, the CTC lacked personal and monetary resources for assistance. Aside from these technical problems, there were political problems such as disagreement on the nature of terrorism as well as on measures in case of non-compliance (De Jonge Oudraat 2004:161ff.). Thus, the CTC lacked resources and capability to monitor the implementation thoroughly and provide a follow-up (Boulden/Weiss 2004:12). However, up to now the CTC has taken on a constructive approach, rather promoting than enforcing the implementation of resolution 1373, cooperating with member states to build their capacities so that they are able to gradually comply with their obligations (Hinojosa-Martínez 2014:642). The fact that every member state has cooperated with the CTC in some way (Rosand 2004:583) suggests that the political will of the member states is there.

Recently, the CTC proposed a *Comprehensive international framework to counter terrorist narratives* at the request of the UNSC. It is divided into the three sections (1) legal and law enforcement measures, (2) public-private partnerships and (3) the development of counter-narratives (S/2017/375 (2017), par. 1). Legal and law enforcement measures serve to “prohibit and prevent incitement to commit acts of terrorism” (ibid., par. 3), obligations derive particularly from resolutions 1373 and 1624 (ibid.). Public-private partnerships are relevant especially regarding the prevention of exploitation of new technology (ibid., par. 8). Counter-narratives address the underlying motivations that can lead people to think about joining terrorist organizations. The goal is to develop effective positive or alternative

narratives (ibid., par. 17-18). The UNSC welcomed the framework in resolution 2354 (S/RES/2354 (2017), OP1).

### **3.3.4 The ISIL and Al-Qaida Sanctions Regime**

With the adoption of resolution 1267 in 1999, the UNSC created a sanctions regime under Chapter VII of the UN Charter, imposing primarily financial sanctions against the Taliban in Afghanistan, overseen by the newly established 1267 Committee, consisting of all 15 members of the UNSC (S/RES/1267 (1999)). One year later, the UNSC extended the sanctions regime to include Al-Qaida with resolution 1333 (S/RES/1333 (2000), OP8), also imposing an arms embargo (ibid., OP5). After the 9/11 attacks, with the “determination to prevent all such acts” (S/RES/1390 (2002), PP4), the UNSC expanded the sanctions beyond the territory of Afghanistan with resolution 1390, henceforth applying to “members of the Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them” (ibid., OP2). Additionally to the asset freeze and the arms embargo, the UNSC added a travel ban against designated individuals and entities (ibid.).

What started out as a “traditional territorial sanctions regime” soon became legally controversial, as through resolution 1390 the UNSC transformed it into a “global sanctions regime” by expanding its scope to be “indefinite in both space and time, and applying to individuals associated with a loose terrorist network” (Ginsborg 2014:609f.). Thus, “Resolution 1390 provided a new open-ended power to the Security Council, with the result of remaining in force indefinitely and creating a permanent sanctions regime” (ibid.:610). Moreover, the requirements as to who was added to the list were loosened, as sometimes there was lack of evidence why individuals or entities were added (ibid.:611f.).

Several resolutions, all adopted under Chapter VII, further strengthened as well as modified the sanctions regime over time. Resolution 1452 addressed humanitarian exemptions of the financial sanctions (S/RES/1452 (2002), OP1). Resolution 1455 was intended to improve the implementation of the measures; the UNSC called for better coordination between the 1267 Committee and the CTC and requested the 1267 Committee to share the list of individuals and entities with member states regularly (S/RES/1455 (2003), OP3-4). Through resolution 1526 the UNSC established an *Analytical Support and Sanctions Monitoring Team* in order to assist the 1267 Committee (S/RES/1526 (2004)),

OP6). In 2005, the UNSC asked member states to establish a case providing reasons why individuals and entities should be listed (S/RES/1617 (2005), OP4). It also requested states to inform the newly included ones of the imposed sanctions (ibid., OP5). With resolution 1735 the UNSC further aimed at improving transparency by asking states to include more detailed information in their listing proposals (S/RES/1735 (2006), OP5) as well as by enhancing the process of delisting (ibid., OP13-14). With resolution 1822 the UNSC improved the accountability by directing the 1267 Committee to publish information on the reasons for the listings on its website (S/RES/1822 (2008), OP13). Through resolution 1904 the UNSC created the *Office of the Ombudsperson* in order to independently and impartially review delisting requests (S/RES/1904 (2009), OP20).

In 2011, the UNSC split the sanctions regime into two separate ones. Henceforth, the sanctions regime pursuant to resolution 1988 was dealing with the Taliban (S/RES/1988 (2011), OP1), and the one pursuant to resolution 1989 was dealing with Al-Qaida (S/RES/1989 (2011), OP1). The UNSC affirmed that the imposed sanctions “are preventative in nature and are not reliant upon criminal standards set out under national law” (ibid., PP14).

In resolution 2170 the UNSC extended the Al-Qaida sanctions list to also impose the asset freeze, arms embargo and travel ban on ISIL and Al Nusrah Front (S/RES/2170 (2014), OP18). With resolution 2253 the UNSC renamed the committee *1267/1989/2253 ISIL (Da’esh) and Al-Qaida Sanctions Committee* and the list *ISIL (Da’esh) & Al-Qaida Sanctions List* (S/RES/2253 (2015), OP1). Moreover, the UNSC urged states “to act cooperatively to prevent terrorists from recruiting, to counter their violent extremist propaganda and incitement to violence on the Internet and social media” (ibid., OP22). Additionally, the UNSC acknowledged “that development, security, and human rights are mutually reinforcing and are vital to an effective and comprehensive approach to countering terrorism” (ibid., PP9).

In resolution 2368 the UNSC reflected recent developments, urging member states to prevent trade and ties with ISIL, Al-Qaida and associates (S/RES/2368 (2017), PP14), as well as to be vigilant about foreign terrorist fighters (ibid., OP39) and trafficking in persons (ibid., OP15). The UNSC also highlighted the importance of countering narratives (ibid., OP23).

In almost two decades, the UNSC put a comprehensive sanctions regime in place. Ginsborg noted that

while the sanctions were intended as preventive measures, their open-ended nature and the lack of avenues for individuals and entities to challenge mistaken listings made their effects more severe, and started to raise questions about their character as preventive or punitive. (Ginsborg 2014:613)

As of the last update on 28 July 2017, there are 256 individuals and 80 entities on the *ISIL (Da'esh) & Al-Qaida Sanctions List* (United Nations and the Security Council Affairs Division 2017).

### **3.4 United Nations Office on Drugs and Crime – The Terrorism Prevention Branch**

The UNODC is an entity of the UN Secretariat, established in order to support member states upon request “with the prevention of drug trafficking, crime and terrorism by providing legal technical assistance and criminal justice capacity-building activities” (Requena 2014:591). The UNODC’s Terrorism Prevention Branch was created in 2003 (ibid.:606) in order to strengthen UN counter-terrorism efforts and assist member states “with the ratification, legislative incorporation and implementation of the universal legal framework against terrorism” (UNODC 2017d). It is mandated to

- Promote the ratification and implementation of the 19 international legal instruments against terrorism;
- Assist Member States to bring their counter-terrorism legislation in line with these instruments;
- Provide training to criminal justice officials aimed at strengthening their capacities to prevent and combat terrorism; and
- Strengthen regional and international cooperation in criminal matters. (UNODC 2017b)

In 2003, the Terrorism Prevention Branch launched the *Global Project on Strengthening the Legal Regime against Terrorism*, serving as a framework for providing legal technical assistance to member states (UNODC 2017c):

This assistance includes specialized substantive training on the international legal framework against terrorism, legislative drafting assistance and legal advisory services, thematically-focused regional, sub-regional and national workshops, on-line training courses and live legal discussion forums for counter-terrorism practitioners, as well as the development and dissemination of 33 training tools and practical guides. (ibid.)

The goal is to reinforce national criminal justice systems. To be able to meet the different requirements of states, the Terrorism Prevention Branch has field experts in various regions of the world (ibid.). To ensure implementation of the legal instruments, changes to national legislation might be necessary. In case member states request assistance, the Branch helps drafting or revising national law (UNODC 2017a). UNODC cooperates closely with the CTITF, the CTC and the CTED in order to favor synergies and avoid overlap. Since its creation, the Terrorism Prevention Branch has provided legal technical assistance to the majority of member states, which led to over 600 additional ratifications of the international instruments related to terrorism (Requena 2014:605f.).

## **4. Normative and Political Problems**

Now that the foundations have been covered and an overview over UN efforts regarding the prevention of terrorism and over the work of the various relevant UN bodies has been provided, normative and political problems that have come up will be analyzed. First, human rights concerns will be examined, as it has been a major criticism that preventive measures have had a negative impact on human rights in the process. Through an analysis of the UN bodies' practices and outcomes, it shall be determined if the UN pursues a human rights-based approach. Secondly, questions evolving around the scope of the UNSC's authority after acting as a global legislator will be addressed. Subsequently, the legitimacy and the responsibility of the UN in the context of terrorism prevention will be discussed. Lastly, the debate about measures being still preventive or rather punitive, particularly in the context of the sanctions regime, will be taken up.

### **4.1 A Human Rights-based Approach?**

“A significant casualty of the struggle against terrorism has been respect for human rights” (Foot 2007:490), although both the UNGA and the UNSC have repeatedly acknowledged the importance of upholding human rights at all times in their efforts to prevent terrorism and violent extremism. Furthermore, they have stated that measures to prevent and combat terrorism and the protection and promotion of human rights are mutually reinforcing, to the point that “[i]t has almost become a truism to assert that counterterrorism measures must be conducted in conformity with human rights law” (Rosand/Miller/Ipe 2008:1).

The UNGA placed a huge emphasis on human rights in the UN Global Counter-Terrorism Strategy. The strategy has one of its four pillars devoted to human rights and the rule of law, establishing them as the basis of all measures to prevent and combat terrorism. Through the adoption of the strategy, member states committed to this approach. Scholars contended that following this rhetorical commitment, “[t]he challenge is finding ways to ensure that this human rights-based approach [...] is mainstreamed throughout the various UN and regional bodies and programs dealing with Strategy implementation, as well as at the national level” (Rosand/Miller/Ipe 2008:2). The *Plan of Action to Prevent Violent Extremism* highlights respect for human rights as well. In the CTITF, there is a working

group mandated with addressing human rights issues (ibid.:3). The UNHRC's *Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism* has recently noted that enhanced coordination and more resources are essential, as the Office of the High Commissioner for Human Rights (OHCHR), the CTITF, the CTED, the UNODC's Terrorism Prevention Branch and others are working on important terrorism-related human rights projects (A/HRC/34/61, par. 51) and "the work of all these entities (including that of the Special Rapporteur) suffers from a lack of resources and a lack of central coordination" (ibid.).

The UNSC has been less clear on its commitment to human rights and consequently has often been criticized in this regard. In resolution 1373, for instance, the UNSC did not explicitly mention human rights, which received a lot of criticism (Foot 2007:496). Resolution 2178 is said to leave too wide a margin for interpretation and might be a rollback for the commitment to a human-rights based approach (Scheinin 2014b). In resolution 1540, for example, the UNSC made reference to international law, but did not specify further (S/RES/1540 (2004), OP3, OP10). In resolution 1566, for instance, the UNSC did explicitly state that all measures have to be "in accordance with international law, in particular international human rights, refugee, and humanitarian law" (S/RES/1566 (2004), PP6). In resolution 1624 the UNSC called for compliance with human rights as well (S/RES/1624 (2005), OP4).

The commitment of the Counter-Terrorism Committee with regards to the protection of human rights remains rather ambiguous, also since resolution 1373 (which led to the CTC's establishment) does not emphasize the compliance with human rights law when implementing its provisions, except when granting refugee status (Rosand/Miller/Ipe 2008:6f.). The CTC's lack of commitment to human rights in its early years can probably be attributed to the circumstances in which it was established. The desired swift response to the atrocities of 9/11 led to the disregard of broader consequences. Only gradually the impact on human rights and also implications of due process were addressed. In 2003, the UNSC stated in resolution 1456 that measures taken under resolution 1373 have to be consistent with human rights law (Foot 2007:499f.). Moreover, the CTC has emphasized in letters to member states that measures have to be in line with human rights law and the Counter-Terrorism Committee Executive Directorate recruited its own human rights expert (Rosand/Miller/Ipe 2008:7). Thus, the CTC and its Executive Directorate have increasingly

addressed human rights issues over time. Currently, three key aspects in the context of human rights are identified by the CTED:

(a) the abusive application of state emergency laws to presumed terrorists with the consequent denial of human rights; (b) the enactment of special laws for the investigation and prosecution of terrorism that allow for long preventative or military detention, the inaccessibility of secret information to the detainee's lawyers, or grave infringements of the right to privacy; and (c) overly broad definitions of terrorism or of incitement to terrorism in national legislation as an excuse to restrict freedom of expression, conscience and assembly and to repress political opposition (Hinojosa-Martínez 2014:638f.)

However, human rights adherence is still seen as complementary to the CTC's work and not an essential instrument of it (ibid.:639).

The UNODC and its Terrorism Prevention Branch have emphasized the protection of human rights in their counterterrorism efforts (Rosand/Miller/Ipe 2008:9). The Branch highlighted the moral value of respecting human rights and the rule of law (UNODC 2006:46) and affirmed that

[t]he misconception that effective anti-terrorism prevention and enforcement automatically diminish human rights protections under the rule of law should be avoided. A preventive, even aggressively proactive, anti-terrorism strategy can be based upon scrupulous observance of human rights, and can simultaneously enhance both the rule of law and the protective abilities of Member States. (ibid.)

This suggests that on a rhetorical level the commitment to human rights has become quite strong. All relevant UN bodies have emphasized the importance of respecting human rights in the process. "Yet, [...] many countries have opportunistically used terrorism to justify repressive policies against political opponents, minorities, immigrants, asylum seekers, and refugees or have taken other actions in the name of fighting terrorism" (Rosand/Miller/Ipe 2008:1).

To a great extent it is the task of member states to respect human rights when implementing measures and therefore it depends on their respective willingness and commitment. The implementation of UNSC resolutions still carries the risk of violating human rights, for example

[i]nternational measures against the financing of terrorism have put freedom of movement of persons and the right to property under strain. International initiatives to prevent incitement to terrorism are likely to add a new set of conflict, primarily between terrorism-

prevention and freedom of speech, freedom of association and freedom of religion. (Ronen 2009:4)

Resolution 1624, aiming at preventing and criminalizing incitement to terrorism, could have considerable impact on the right to freedom of expression, particularly as it refers to all forms of violent extremism and does not define the term incitement (Van Ginkel 2011:1f. and 18). Van Ginkel argued that the criminalization of incitement is in fact a limitation to freedom of expression, but does not necessarily violate the right (ibid.:9).

Saul raised concern that lack of a definition of incitement may lead to abuse by states to unduly restrict freedom of expression (Saul 2005b:870). He acknowledged that this right is alienable, but “it cannot be restricted because of mere speculation that it leads to terrorism” (ibid.:885). Saul argued in favor of criminalizing incitement only if it can be linked directly to a particular crime. Otherwise, counter-narratives and public debate might be more useful tools to prevent incitement (ibid.). Ronen, on the other hand, argued that incitement is an indispensable condition for terrorist acts. New technology to spread messages has most likely had a huge impact on the development of the new international terrorism. Grievances are created by disseminating ideologies that legitimize terrorist activities. Thus, preventing incitement is increasingly essential in the prevention of terrorism (Ronen 2009:14ff.).

The UNSG stated that “the right to freedom of expression may be limited to proscribe incitement to terrorism or derogated from in the case of declaring a state of emergency” (A/63/337, par. 17). However, in the same report he emphasized the distinction between incitement and glorification (ibid., par. 61) and defined incitement as “a direct call to engage in terrorism, with the intention that this will promote terrorism, and in a context in which the call is directly causally responsible for increasing the actual likelihood of a terrorist act occurring” (ibid.). He further stated that states should only prosecute this form of incitement (ibid., par 62).

Ronen perceived the limitations by the UNSG to only criminalize direct incitement as too narrow and possibly ineffective (Ronen 2009:24) and stated that “the need to prevent an environment conducive to terrorism should outweigh the freedom of speech interest and allow the criminalization of indirect advocacy of terrorism” (ibid.). However, she acknowledged that the limitations serve to decrease the risk of states’ abuse to unduly restrict freedom of speech (ibid.:31).

The implementation of resolution 2178 on foreign terrorist fighters carries many risks of violating human rights as well, although the UNSC repeatedly referred to the need to comply with human rights when implementing the resolution (Conte 2015). Human Rights Watch examined national implementation and concluded that the

measures represent a broad and dangerous expansion of government powers at the expense of internationally protected human rights including freedom of expression, association, peaceful assembly, and movement, as well as freedom from religious or ethnic discrimination, and from torture and other inhuman or degrading treatment. They also threaten the rights to a fair trial and other due process guarantees, to privacy, and in some cases, to the right to life. These rights are protected by the Universal Declaration of Human Rights, as well as an array of international and regional treaties (Human Rights Watch 2016:9f.).

To recognize the intent of people and thus prevent the entry or departure of alleged foreign terrorist fighters while in the process respecting all human rights does not seem to be a realistic endeavor (Ambos 2014). The problem is how “this very intent, justifying the criminalisation, is to be determined without taking recourse to [...] offender-focused external factors (ibid.).

The 1267 sanctions regime has often been criticized for its human rights impact on the listed individuals and entities. The rights to property and freedom of movement, for instance, are severely limited (Ginsborg 2014:612f.). Listed individuals are deprived of generating income by formal means, as well as stigmatized by being designated terrorists (Hudson 2007:206). Moreover, the right to a fair hearing is not guaranteed (ibid.:215). On a similar note like the CTC, the 1267 Committee has been criticized for the implications of the sanctions on human rights and lack of due process (Foot 2007:504f.). Over time, both the CTC and the 1267 Committee have increasingly addressed human rights issues, as human rights have become more influential across all UN bodies and agencies (ibid.:511). The creation of the Office of the Ombudsperson was probably the most significant modification of the sanctions regime with regards to enhancing fairness and transparency. This step also showed the UNSC’s willingness to respond to criticism and improve due process (Eckert/Biersteker 2012:6f.):

The Ombudsperson mechanism provides essential elements of due process for listed individuals – the right to review by an independent and impartial authority, the right to be informed of the case against them and to be heard (and respond), and approximates the

provision of effective remedy – removal from the list. It has proven to be an effective and successful means of protecting individual rights. (ibid.:36)

Although minimum standards have been addressed by various resolutions, modifying the original sanctions regime, the current procedural reforms still do not “meet minimum international procedural standards” (Ginsborg 2014:625). Under certain circumstances, the restriction of some human rights might be legitimate on a national level, in accordance with international human rights treaties (A/63/337, par. 15):

Human rights law allows for limitations on certain rights and, in a very limited set of exceptional circumstances, for derogations from certain human rights provisions. The international legal framework of restrictions is specifically conceived to provide States with the necessary flexibility to deal with exceptional circumstances, while at the same time providing the conditions of compliance with international obligations and guarantees of respect and protection of fundamental non-derogable rights. (ibid., par. 16)

Non-derogable rights include, for example, the right to life, the prohibition of slavery and the recognition of everyone as a person before the law (ibid., par. 24). Since the derogation of some rights is only legitimate in the case of a state of emergency, the restriction of fundamental freedoms due to general suspicion definitely crosses a line. This leads to the eternal struggle between security versus liberty. To elaborate on this debate would go beyond the scope of this thesis, but it can be noted at this point that “[e]ssential to the element of security is the protection of human rights at all times” (Amet 2013:39).

A final point for consideration is the fact that the violation of human rights might be a factor that can lead to terrorism in the first place. Hence, there might be an inherently “preventive nature of human rights- and rule of law-compliant counter-terrorism measures. The High Commissioner has stressed the need for a deeper appreciation of the linkages between a lack of respect for human rights and the conditions conducive to terrorism” (A/68/841, par. 94).

In conclusion, the UN has increasingly addressed human rights issues in the context of counter-terrorism and terrorism prevention. However, in order to speak of a truly human-rights based approach, human rights would have to be integrated in all other parts of the work process. The work of all actors within the UN system that are tasked with human rights issues has to be better coordinated. The OHCHR as well as the UNHRC’s Special Rapporteur lack resources to follow a comprehensive approach (Rosand/Miller/Ipe 2008:3f.), therefore “[e]fforts to mainstream the human rights-based approach to fighting

terrorism throughout the UN system must be met with the sufficient resources so that each relevant entity has the necessary human rights expertise to carry forward the mandate” (ibid.:19). Arguably, the UN is headed towards a human rights-based approach, but is not quite there yet.

## **4.2 Scope of the Security Council’s Authority**

When the UNSC began to act under Chapter VII of the UN Charter in the context of international terrorism – legally obligating states to take measures to combat it and prevent future attacks – it has been controversial if this was within its mandate. Criticism evolved around the questions if the UN Charter assigned it the function of legislator and if 15 states should decide on behalf of all UN member states to adapt domestic law in certain ways. This debate will be the content of this chapter, trying to determine if the UNSC acted within its scope of authority in the context of international terrorism, especially with regards to its powers under Chapter VII of the UN Charter.

It has been contested to which extent the interpretation of the UN Charter allows for general law-making practices of the UNSC, although not explicitly ruled out by its broad Chapter VII mandate (Bianchi 2006a:887f.). Through the adoption of Chapter VII resolutions referring not to a specific threat but to a global one, the UNSC acted as a global legislator, requiring all member states to change or develop national legislation. These resolutions are intended to establish global norms and member states are left a wide margin on how to implement the provisions of the resolutions. Given the nature of the terrorist threat and the gap in international law to address it, Rosand argued that the adoption of resolutions 1373 and 1540 was logical and pragmatic (Rosand 2004:547f.). If the UNSC was “serious about tackling the global terrorist threat to international peace and security” (ibid.:550), there was a great need to develop norms and establish a committee to help with their implementation. However, this action of the UNSC received criticism and sparked debate, especially regarding the question if the UNSC acted within its mandate or not. Critics voiced concern that the UN Charter does not assign it the function of a global legislator (ibid.:550ff.) and stated that “resolution [1373] was adopted *ultra vires* (i.e. outside its powers, and thus illegally)” (Van Ginkel 2014).

The UNSC is obliged to respect the UN Charter as the treaty that created it (Wouters/Odermatt 2013:15), but “there is little agreement on whether provisions of the Charter may be used to imply further legal limits on its lawmaking power” (ibid.). Chapter VII of the UN Charter authorizes the UNSC to adopt necessary measures in order to maintain international peace and security. This includes the authority to adopt far-reaching, legally binding resolutions (Rosand 2004:552f.). By designating international terrorism in general as a threat, the UNSC started to address this threat irrespective of a specific situation. Arguably, a global threat also requires a global response, therefore acting as a global legislator would seem only proportionate and appropriate, otherwise the UNSC would not be able to fulfil its mandate (ibid.:558ff.). Nevertheless, political and legal limits of the authority of the UNSC have been the center of many discussions (ibid.:552.), especially due to the fact that resolution 1373 for the first time imposed legal obligations for all member states without referring to a specific situation and without containing a time limitation (ibid.:567ff.). Thus, the UNSC inserted “itself into domestic affairs in a significant way” (Boulden/Weiss 2004:11). According to Happold, for instance, the UNSC exceeded its authority, as resolution 1373 contains “a series of general and temporally undefined legal obligations” (Happold 2003:607) for all member states. Van Ginkel agreed that

[t]hese actions [to maintain and restore international peace and security] are by nature normally temporary, since they are intended to change a situation, after which these measures should no longer be necessary. Hence, it can be argued that legislative actions do not fit these characteristics. (Van Ginkel 2014)

Other scholars concluded that resolutions 1373 and 1540 are innovative, but not outside the UNSC’s mandate (Rosand 2004:567), stating that “the discretion given to the Council under the Charter, both in terms of determining the existence of threats to the peace and the appropriate enforcement measures to address such threats, appears broad enough to allow for this innovative activity” (ibid.:569f.). The ever-changing nature of threats led to a gradual widening of the UNSC’s scope (Wouters/Odermatt 2013:14). New threats call for evolving responses (Rosand 2004:570), thus it can be argued that developing legal norms in order to address these new threats fall pragmatically as well as legally within the UNSC’s authority (ibid.:572f.). Wouters and Odermatt contended that while no provision in the Charter calls for a “proportionate” response to a threat (Wouters/Odermatt 2013:15), “[t]here is arguably a need for a ‘genuine link’ between the threat and the obligations

imposed” (ibid.). It is largely up to the UNSC to determine threats and consequently the measures it deems appropriate or necessary (ibid.). However, critics claimed that the UNSC does not have the authority to legislate in order to prevent future threats from arising (Happold 2003:600). Bianchi stated that “the SC’s exercise of normative powers under Chapter VII [...] risks turning itself into a rehearsal for world governance” (Bianchi 2006a:891).

The UNSC’s small size and its lack of accountability have also been the center of debate, specifically “whether it is appropriate for the Council, a small and unaccountable political body, whose decisions are immune from judicial review, to create far-reaching legal obligations for the entire international community” (Rosand 2004:573). Traditionally, the consensus of member states creates the basis for the development of international law, either through a treaty or through customary international law, which depends on general state practice and *opinio juris* (ibid.). However, in light of pressing threats,

[l]eaving it to the General Assembly to agree upon global norms to address urgent and global threats [...] would [...] significantly impede the United Nation’s and particularly, the Security Council’s ability to deal effectively with the critical threats of the twenty-first century. (ibid.:575)

It can be argued that by joining the UN and ratifying the UN Charter, member states consent to give the UNSC the authority as set forth in the Charter. This suggests member states accept the UNSC’s decisions that it deems necessary in taking up its task of maintaining international peace and security (ibid.:574). In doing so, “in certain circumstances, [...] the Council will need to make innovative use of its Chapter VII authority to establish global norms to address certain problems of the new century” (ibid.:578). In these instances, the UNSC has to be mindful all the same to preserve its “institutional legitimacy” and make sure that the wider membership approves of its actions (ibid.:579).

Moreover, the fact that resolution 1373 was adopted unanimously and that it has been consistently supported by resolutions of the General Assembly could be interpreted as proof of the general acceptance of the Council’s normative capacity by the UN member states, at least in exceptional circumstances. (Hinojosa-Martínez 2014:630f.)

Hinojosa-Martínez argued further that “there are solid reasons to contend that the Council enjoys a legislative capacity to confront specific and imminent threats to international peace and security, although this power is subject to considerable legal, political and

practical limits” (ibid.:631). Legally, the UNSC must act in accordance with the UN Charter and international law. Politically, the UNSC must act based on international consensus. Practically, the UNSC must be realistic. It cannot expect that the imposed obligations will be fully achieved, but rather that they lead to the improvement of the capacity of states (ibid.).

Thus, in spite of determining its own jurisdiction and not being subject to judicial scrutiny, there are certain limits to the UNSC’s powers, since “it is limited by the Charter, by general international law and by *jus cogens* norms” (Galloway 2011:110). Still, “[t]he overwhelming problem with holding the Security Council to account [...] is that there is no sovereign authority to adjudicate and enforce the Security Council’s compliance with Charter and international law” (ibid.). The International Court of Justice as the United Nations’ primary judicial body has a limited role in reviewing decisions by the UNSC and might do so indirectly, in the process of carrying out its judicial function. There is no provision that prohibits the ICJ from ruling on the same matters that the UNSC addresses (Wouters/Odermatt 2013:16ff.), as it is authorized to decide “any question of international law” according to Article 36(2b) of its Statute. An active judicial review process, however, might even be detrimental to the UNSC’s capability to rapidly address threats, as states could potentially look to the ICJ for the court to first establish the validity of resolutions before starting with their implementation (Wouters/Odermatt 2013:19). Furthermore, doubt might arise on the obligatory nature of UNSC decisions and undermine its authority (Reinisch 2009:284).

[B]y exercising the functions of the Security Council related to Chapter VII in crisis threshold situations, there is an undisputable need for fast and effective reaction, forasmuch as the decisions must hold enough authority to be accepted by all parties as conclusive and binding. Otherwise, the process of deliberating and reviewing might be likely to block responsiveness to actual breaches of international peace and security and the effectiveness of the Council in such crisis situations. (Ušiak/Saktorová 2014:209)

Bianchi noted that in spite of the matter in dispute regarding the UNSC’s limits on its authority, it is quite easy to explain why the UNSC has been acting as a legislator from a practical perspective: “Traditional law-making mechanisms at the international level are ill-suited to produce general law in a short time span. Therefore, when a prompt normative response is required, the system does not readily possess adequate instruments to react”

(Bianchi 2006a:888). Thus, the UNSC acting under Chapter VII is “the only available means of promptly producing general law” (ibid.:889).

According to Article 103 of the UN Charter, “[i]n the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail.” This provision seemingly gives the UNSC far-reaching powers, inter alia, to override existing international law. Wouters and Odermatt argued that

[w]hile the obligations under a SC resolution will have *priority* over conflicting obligations under international agreements, these resolutions do not *modify* those agreements, but are legally superior in event of conflict. A SC resolution only has the effect of having precedence to the extent that a ‘conflict’ exists between the two sources of law. (Wouters/Odermatt 2013:8)

Therefore, this Article is required in order to make sure that the UNSC’s decisions are not undermined by incompatible international agreements that member states entered into (ibid.:8f.). However, “the obligation to comply with the Council’s resolutions is conditional upon the Council’s compliance with the Charter principles: Article 103 cannot make a resolution which is unlawful under the Charter prevail over other legal norms” (Orakhelashvili 2005:69). As an international body created by states, the UNSC is subject to international law (Wouters/Odermatt 2013:16), and “a treaty such as the UN Charter cannot be construed as authorizing any organ to act in violation of *jus cogens*” (Orakhelashvili 2005:69). Actions breaching it are considered to be *ultra vires* (ibid.:68), as resolutions of the UNSC are “part of a system which in its entirety is subordinated to *jus cogens*” (ibid.:79). According to Article 53 of the Vienna Convention on the Law of Treaties “[a] treaty is void if, at the time of its conclusion, it conflicts with a peremptory norm of general international law”. Petculescu contended that “[a]lthough the Convention refers only to treaties, the doctrine widely admits that it applies to all international acts, including acts of international organs” (Petculescu 2005:184).

In order to act within its authority and avert criticism regarding its scope, the UNSC should only impose legal obligations on all states if a new and urgent threat is addressed, which is not covered in existing international law (Rosand 2004:579). Furthermore, these obligations should generally picture the will of the wider membership (ibid.:581). The UNSC should create a committee to work with member states on the implementation of the measures, as this will also soften the impact of the provisions. Additionally, states should

be left a wide margin regarding the implementation of the resolutions. Instead of strict legal obligations, this makes the measures seem rather like aims or standards (ibid.:583f.).

Arguably, this was the case in both resolution 1373 and 1540, giving wide flexibility to member states regarding their implementation. The CTC does not follow one strict implementation approach when working with respective states, but rather works with best practices and standards. Every member state has cooperated with the CTC in some way (ibid.), which suggests acceptance of the imposed obligations. Resolution 1373, for example, contains language from the Terrorist Financing Convention and from other terrorism-related conventions. Even as these conventions had been far from universally ratified, their wordings had previously been adopted by consensus. Thus, it can be said that the provisions taken from them picture the will of the member states. The UNSC did not address controversial issues such as a definition. Resolution 1540 was adopted only after consultations with the wider membership, in which no state voiced criticism on the substance of the measures (ibid.:581f.). Member states were aware of the need to close this gap in international law (Ahrnens 2007:181). However, the UNSC's legislative role was indeed criticized in those consultations (Rosand 2004:582).

In resolution 1373, the UNSC stated “its determination to take all necessary steps in order to ensure the full implementation of this resolution, in accordance with its responsibilities under the Charter” (S/RES/1373 (2001), OP8). This gave rise to the concern that the UNSC may adopt further enforcement measures in case of non-compliance (Rosand 2004:586f.). In order to avoid further criticism with regard to possibly overstepping its authority in that context, the UNSC stated in resolution 1540 that further enforcement measures in case of non-compliance require another resolution. Additionally, the CTC worked constructively with member states, rather promoting than enforcing the implementation of resolution 1373 (Hinojosa-Martínez 2014:642).

After the adoption of resolution 1566, several member states contended that

developing definitions and codifying international norms is the prerogative of the international community as a whole, through the General Assembly or the formation of custom, and that the Security Council – not being a legislative body – should be careful not to overstep its boundaries. (Ahrnens 2007:125)

Also the adoption of resolution 2178 has caused various reactions. Many welcomed its timely adoption, but it was also met with “criticism and concern with regard to the far reaching powers used by the SC, its lack of clarity in the wording of the resolution, and its

wide scope of applicability” (Van Ginkel 2014). The scope is not explicitly limited to international terrorism and it lacks a definition of who is a foreign terrorist fighter. The “risk of abuse and its disproportional use” (ibid.) could have been limited by referring to resolution 1566, which provided sort of a definition (ibid.). Van Ginkel even stated that

[t]he combination of the criticised legislative character of the resolution, its lack of respect of principles for clear legislating, and its limited focus of genuine preventive strategies, might result in a marginalisation of those factors and those actors that actually hold the key to sustainable solutions to counter violent extremism. In the worst case scenario, this marginalisation results in even further radicalisation. And herewith, the SC actually undermines its own ambition to present a holistic approach to deal with the problem of foreign terrorist fighters. (ibid.)

Scheinin, former *Special Rapporteur on the protection and promotion of human rights and fundamental freedoms while countering terrorism* also criticized the enormous risks of abuse of resolution 2178 as it fails to limit its applicability to international terrorism (Scheinin 2014b). Moreover, he argued that while resolution 1373 practically made a previously negotiated treaty binding, resolution 2178 “imposes new legislative obligations upon Member States, without the existence of preceding treaty adopted by the General Assembly” (Scheinin 2014a). Thus, it “is worse [...] from the perspective of the international rule of law” (ibid.).

The sanctions regime also brought up “serious concerns about whether an inter-state body such as the Security Council can legitimately target individuals with sanctions” (Hudson 2007:203). Furthermore, the lack of procedural guarantees and the permanency of the sanctions regime raised questions if this is within the UNSC’s authority.

Human rights issues raise questions about the scope of the UNSC’s authority as well, insofar as to which extent the UNSC is limited by obligations under international law, in this case especially human rights law (Bianchi 2006a:903f.). According to Article 24(2) of the UN Charter the UNSC has to “act in accordance with the Purposes and Principles of the United Nations”, which include respect for human rights. Arguably, this can be understood as a limitation. The ICJ has confirmed this stance (Hudson 2007:210ff.). Either way, states are obliged to implement measures in accordance with international law at all times, irrespective of the fact if the UNSC is acting within international law (Bianchi 2006a:904). The UNSC has shown an enhanced commitment to respect human rights by emphasizing that the implementation of resolutions has to be in consistency with human

rights law. This practice highly likely has a positive impact, as this increases the legitimacy of the provisions which in turn may lead to increased compliance by member states (ibid.:916f.).

Although the UNSC has innovatively extended its powers under Chapter VII of the UN Charter, its legislative activity has not been contested severely by member states (Bianchi 2006b:1071). “[I]t is now generally accepted that the Council has the capacity to enact rules of a general nature when it acts to maintain international peace and security. This is supported by State practice, which has shown little resistance to this legislative role, as well as writings of legal academics” (Wouters/Odermatt 2013:5), which suggests that the UNSC has not exceeded its authority.

### **4.3 Legitimacy and Responsibility of the UN**

It seems rather undisputed that the prevention of terrorism falls under the responsibilities of the UN. The allocation of tasks and responsibilities has mostly also been quite clear in that context. As elaborated in the previous chapters, the UNGA has developed a normative framework and the UNSC has addressed urgent threats emanating from international terrorism in order to maintain international peace and security. Nevertheless, some inherent problems of the United Nations’ bodies as well as lack of coordination, lack of resources and activity overlap have been chipping away on the organization’s legitimacy. Generally, the legitimacy of UN decisions depends on consent and them being in conformity with international law. As the High Level Panel on Threats, Challenges and Change noted

[t]he effectiveness of the global collective security system, as with any other legal order, depends ultimately not only on the legality of decisions but also on the common perception of their legitimacy – their being made on solid evidentiary grounds, and for the right reasons, morally as well as legally. (A/59/565, pg. 57)

In order to ensure member states’ cooperation and support and thus secure the organization’s effectiveness, it is crucial to be perceived as legitimate. The legitimacy of an organization “is not established once and for all” (Daugirdas 2014:1009), as every new decision has to be perceived as legitimate and could erode an organization’s standing. To act in accordance with international law is an essential part of this process (ibid.:993). Legitimacy and effectiveness are closely linked, as the UN relies on cooperation as well as

financial resources of member states. In order to ensure this support, it needs to be perceived as legitimate (ibid.:1007f.).

It falls under the responsibility of the UNGA to negotiate treaties in order to close gaps in existing international law (Rosand 2004:575). However, its failure to agree on an international anti-terrorism convention has led critics to question its legitimacy and its effectiveness. With other resolutions or decisions, the UNGA often agrees on the least common denominator. In its quest to seek consensus, the UNGA often adopts “highly ambiguous or empty provisions, undermining what is needed to ensure the establishment of an effective international regime” (ibid.:576). Often rather less effective, it still gives it something to build future decisions on:

Consensus has been regarded as both the basis and the bane of assembly influence in world politics. A real consensus overcomes some of the problems inherent in the General Assembly’s lack of capacity to implement decisions or impose sanctions by engaging the efforts of the member states. Yet when pursued in the face of strong disagreements among governments, consensus can be achieved only by papering them over, which produces vacuous pronouncements that different member governments can interpret in divergent ways. [...] However even a least-common-denominator understanding is useful for identifying the state of current opinion about some issue or situation. (Peterson 2004:174)

The adoption of the UN Global Counter-Terrorism Strategy can be regarded as an incredible success. It constitutes one of the essential documents and serves as a guide for counter-terrorism efforts (Rosenow 2011:37). To have been able to agree on such a substantial document indicates wide consensus on the fact that terrorism and its root causes must be tackled through a comprehensive approach. Rosenow argued that the strategy has restored the legitimacy of the UN regarding its counter-terrorism efforts (ibid.:32). Nevertheless, the strategy was not only applauded, as Cockayne, for example, contended that it “represented a classic diplomatic exercise in creative ambiguity” (Cockayne 2014:671). It included wordings that all member states could interpret in accordance with their respective stances, but in fact it concealed differences rather than to overcome them (ibid.:671f.).

Generally, the UNGA

functions as an organ for collective legitimization or collective delegitimization of normative prescriptions that guide the activity of member governments in some general-issue areas, and it influences the statements, policies, or behavior of individual

governments and other actors in particular situations. This collective legitimation most often proceeds at the level of generally applicable norms. (Peterson 2004:173f.)

Consensus is not only essential in the UNGA, also the UNSC's legitimacy depends on the approval of the wider membership, as it is crucial that its decisions are accepted and viewed to reflect the opinion and will of the international community. Thus, the legitimacy of the UNSC in taking up the role of closing gaps in existing international law is debated, as some measures "are viewed by some as unbalanced and selective, as they tend to represent the views of the most powerful members of the already unrepresentative political body" (Rosand 2004:575). Additionally, the perceived double standards which conflicts are addressed in the first place (Boulden/Weiss 2004:16) "contributed to a sense that it was simply a conduit for Western security interests" (ibid.). Discussions of the legitimacy of the UNSC mostly revolve around the question of its impartiality and to what extent it only represents the political interests of its five permanent members (also called P5, consisting of China, France, the United Kingdom, the United States and Russia). As Rosand noted, the "Council's legitimacy will be jeopardized if the measures it seeks to impose are seen as solely reflecting the views of the P5" (Rosand 2004:583). Frictions among them "spill over into the work of the organization and damage its credibility and effectiveness" (Von Hippel 2004:111). Therefore, "the ultimate test of the legitimacy of the SC's action remains the level of acceptance of its practice by the UN Member States" (Bianchi 2006a:887).

As established in the previous chapter, the UNSC is the only organ that can instantly produce general law. However, "[t]he lack of a formal and express entitlement under the Charter to produce law-making resolutions is but one factor that affects the perceptions of legitimacy" (ibid.:917). Bianchi held that "[t]he irony of this is that the SC is, in all likelihood, the least suitable international body that could credibly discharge a legislative function" (ibid.:889). As we have seen in Chapter 3.3, the UNSC has undertaken several institutional adjustments over time, especially regarding the sanctions regime. According to Bianchi, this is proof of the inadequacy of the UNSC in taking up legislative actions for which it is not qualified and lacks resources (ibid.:903). She stated that "[r]egardless of its exercise of quasi-judicial powers, the SC remains a political organ which makes its decisions on the basis of political considerations, enjoying an almost unfettered discretion" (ibid.:906). Boulden and Weiss argued that "[h]owever flawed its composition may be, the council's decision-making process is at least subject to international oversight"

(Boulden/Weiss 2004:16f.). For UNSC outcomes “the backing of the General Assembly, whether express or implied, seems indispensable in order to secure the perception of legitimacy which is necessary to enhance the effectiveness of SC resolutions” (Bianchi 2006a:918). Moreover, the UNSC’s legitimacy “depends on compliance with the provisions of the Charter that created it” (Boulden/Weiss 2004:10). If the UNSC is perceived to act outside its scope of authority, this would negatively affect its claim of legitimacy.

A legitimacy crisis of the UN is the lack of checks and balances, as every organ has an independent mandate and the respective areas of competence are largely determined by the organ itself (Bianchi 2006a:910). On top of that, judicial scrutiny is very limited, as the UNGA and the UNSC largely act without interference. In several instances the ICJ or international tribunals have indirectly or incidentally exercised judicial scrutiny (ibid.:912), but as stated above “[t]he ICJ has no judicial review powers in the sense of authority to quash Security Council resolutions” (Galloway 2011:112). Advisory opinions of the ICJ can also serve as judicial review, but have to be requested by the UNSC or the UNGA (Petculescu 2005:181). As Bianchi noted, “judicial control at any level – however scant the instances of its exercise may be – remains a fairly powerful instrument influencing perceptions of legitimacy” (Bianchi 2006a:914).

Another crisis of legitimacy of the UN is its lack of enforcement. Even when states ratify treaties and thus consent to be legally bound by the provisions, the actual implementation cannot be enforced (Rosand 2004:577). “Enforcing compliance with Security Council resolutions is a political process, and is only as strong as states’ willingness to undertake it within the collective security framework of the UN system” (Van Ham/Bosch 2007:19). Ultimately, the legitimacy of the UN depends on its member states, as the organization can only ever be as effective as its member states want it to be. Thus, it comes down to the political will of member states, as “[i]nternational consensus in this common struggle [against terrorism] also produces material positive results and the UN is the right forum within which to generate it” (Hinojosa-Martínez 2014:650). In its efforts to prevent terrorism, the UN can lend its support to member states, assuming its role in setting norms and issuing recommendations (Rosenow 2011:35f.), as well as help with capacity-building. Many subsidiary bodies lend member states technical assistance. With regards to violent extremism, Breslauer noted the lack of political will for implementing preventive

measures, which leads to a scarceness of resources available for its effective prevention (International Peace Institute 2017).

As Hampson et al. stated „in general at the UN, prevention is preached (by the UN Secretary-General) more often than it is practiced (certainly by the member states) (Hampson/Wermester/Malone 2002:4). At this point it has to be noted that even though all member states have recognized the terrorist threat as being global, many countries face huge internal difficulties. In light of more pressing threats and needs, they may not consider the prevention and combat of terrorism their top priority (Schenk 2014). Moreover, there is still the need for improving coordination within the UN system (Rosenow 2011:41). The CTITF is a valuable framework to ensure enhanced coordination, but

[t]he gravity, scale and urgency of the current threat is not [...] matched by the piecemeal institutional arrangements made by the Organization. At present, there are 38 United Nations entities with some form of responsibility for aspects of counter-terrorism policy. Despite the Organization's avowed intention to mainstream human rights protection throughout its counter-terrorism initiatives, this goal will remain elusive with the current proliferation of often under-resourced entities with overlapping responsibilities, and while there is no single coordinating body responsible for all aspects of counter-terrorism policy. (A/HRC/34/61, par. 43)

This observation by the *Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism* points out the lack of resources as well as the lack of coordination, as entities have overlapping mandates. This leads us to the often voiced need for reform of the UN structure with regards to counter-terrorism, as “[i]t is essential that the United Nations architecture be fit for purpose in meeting this growing challenge, in all its dimensions” (ibid., par. 43). The Special Rapporteur further stated that a new Under-Secretary-General could facilitate coordination of all priority areas, as well as ensure that human rights are placed at the core of the counter-terrorism work of the UN, by working closely with the OHCHR (ibid., par. 66). Also scholars have noted that

[i]nternational cooperation against terrorism [...] must ground its legitimacy on respect for the rule of law and the universality of its support. In this context, the UN has a crucial role to play as it possesses a comparative advantage in providing both sources of legitimacy. [...] However, the present UN counter-terrorism structure is dysfunctional, as it has been constructed in an improvised and incoherent way to respond to relatively urgent threats.

This model has shown its limitations and needs to be redesigned because the UN risks progressively losing its leadership status and credibility [...]” (Hinojosa-Martínez 2014:648)

That the UN continues to address terrorism prevention and member states show willingness to discuss this topic in the various bodies suggests that the UN is seen as the legitimate place to do so. Legitimacy is generated when decisions are perceived to be based on international law and consent, this holds for the UNGA as well as for the UNSC, even though they each have their own crises of legitimacy. In order to continue to be perceived as legitimate, reform might be needed.

#### **4.4 A Thin Line between Preventive and Punitive Measures**

The measures outlined in Chapter 3 are supposed to prevent terrorist activity, but especially the sanctions regime gave rise to the question if such targeted sanctions are still of a preventive or rather of a punitive nature. The UNSC has emphasized multiple times that the sanctions are preventive, for example in resolution 1989, and also the 1267 Committee has stated that “[a] criminal charge or conviction is not a prerequisite for listing as the sanctions are intended to be preventive in nature” (1267 Committee 2016:4, Article 6(c)). However, “[w]hile political and administrative in nature, targeted sanctions can affect people’s lives in a manner comparable to criminal proceedings” (Eckert/Biersteker 2006:3):

Targeted sanctions are political measures imposed by a political body, the United Nations Security Council. They are preventative measures, rather than punitive ones, intended to address threats to international peace and security – in the case of the 1267 committee, international terrorism. Decisions to list individuals or entities are not legal determinations *per se*, but rather political findings of association with Al Qaeda. Designations are intended to be temporary, at least in theory. As such, they do not require the same evidentiary standards associated with criminal prosecutions. Nonetheless, the open-ended nature of UN sanctions have had serious punitive effects on those designated, leading courts to find violations of due process. (Eckert/Biersteker 2012:4)

Prevention implies anticipating risks, and thus individuals and entities, which might pose a threat, have to be identified and controlled (Galli 2014:44). Other than criminal prosecution after a crime has already been committed, sanctions are based on the

“possibility of future harm” (ibid.:47) and therefore it is enough if someone is suspected of being linked to terrorism to impose sanctions. Galli argued as well that the sanctions’ consequences have a punitive effect (ibid.:50f.). Furthermore, she contended that to argue that the freezing of assets is temporary and precautionary does not seem credible, since there is no independent tribunal and therefore no effective remedy system, nor is the listing temporary due to the possibility of unlimited renewal (ibid.:54). She stated that an asset freeze, for instance, has “preventive purposes with a punitive effect” (ibid.:43).

Other scholars noted that “it is debatable whether or not asset freezing has a punitive effect, and if so, whether this is the primary effect of this sanction; opinions in literature vary on this point” (Van den Broek/Hazelhorst/de Zanger 2010:27). Moreover, they observed that “[t]he imposition of such a measure is not a determination that an infringement has indeed taken place, but is merely imposed within an *administrative procedure* which is purely preventive and [sic] nature and enables the Council to effectively counteract terrorism” (ibid.:24). There is a thin line between preventive and punitive measures and scholars are divided over the nature of sanctions. The UNSC continues to emphasize that the sanctions regime is of a preventive nature.

## 5. Where do we go from here?

As the previous chapter has shown, the UN faces several problems while trying to prevent and counter the terrorist threat. The efforts prove sometimes more, oftentimes seemingly less effective. Nevertheless, being the only truly global organization, the UN is the essential forum to address international terrorism. It has been established several times in this thesis that the UN can only be as strong as its member states want it to be. Much depends on the political will of states to implement the decisions made within the UN system, as well as on the resources they provide the UN with. This chapter will touch on the prospects of future developments, elaborating on the comprehensive convention on international terrorism as a desirable and decisive step forward and examining the recent reform of the UN counter-terrorism architecture.

### 5.1 The Need for a Comprehensive Convention on International Terrorism

The first talks in the UNGA of elaborating a comprehensive convention on international terrorism date back more than two decades, but the process has not been completed until today. The *Ad Hoc Committee* that was established by the UNGA in 1996 and was mandated with elaborating said convention started negotiations in 2000 and last met in 2013, recommending that a working group of the Sixth Committee finalizes the process (UN Office of Legal Affairs 2017).

The draft convention criminalizes all terrorist acts as well as threats or attempts to commit them and aims at states developing national legislation to ensure jurisdiction and take appropriate preventive measures (A/68/37, Annex I, Art. 2-10). However, there are major outstanding issues on the scope of the convention that are obstructing its adoption, most notably the differences on a definition of terrorism and the distinction of terrorist acts and the legitimate struggle to self-determination. In the *Ad Hoc Committee*'s last session for the time being, member states

stressed the need to have a clear definition of acts of terrorism, to distinguish such acts from the right of peoples to self-determination, in particular those under foreign occupation and under colonial or alien domination, to ensure the integrity of international humanitarian

law and to ensure that there is no impunity for military forces of the State. (ibid., Annex III, par. 13)

Member states showed commitment to finally conclude the draft and emphasized that the convention “would fill gaps and complement existing conventions and thereby strengthen the legal counter-terrorism framework” (ibid., Annex III, par. 19). However, “[t]he view was [...] expressed that is [sic] was essential not to sacrifice an effective definition of terrorism for the sake of expediency” (ibid., Annex III, par. 20). Thus, a working group of the Sixth Committee resumed the task but has not been able to overcome the substantial differences either.

In various resolutions in the past, the UNGA reaffirmed

Member States’ determination to make every effort to reach an agreement on and conclude a comprehensive convention on international terrorism, including by resolving the outstanding issues related to the legal definition and scope of the acts covered by the convention, so that it can serve as an effective instrument to counter terrorism. (A/RES/60/288, PP9)

Moreover, member states resolved that “there is particular value in achieving a consensus definition within the General Assembly, given its unique legitimacy in normative terms” (A/59/565, par. 163). The High Level Panel also stated that

[t]he United Nations must achieve the same degree of normative strength concerning non-State use of force as it has concerning State use of force. Lack of agreement on a clear and well-known definition undermines the normative and moral stance against terrorism and has stained the United Nations image. Achieving a comprehensive convention on terrorism, including a clear definition, is a political imperative. (ibid., par. 159)

Additionally, scholars have recognized the value of such a convention:

It is here, on the question of a comprehensive ban on terrorism, more than in any other aspect of its work, that the General Assembly has the potential to establish a foundation stone in international law. The convention would be a culminating piece of work flowing from and building on the earlier conventions established by the General Assembly as well as counter-terrorism conventions that have been developed outside the General Assembly framework. In addition to the legal impact of a convention, the very fact of its passage by the General Assembly, as a body with universal state membership, would give it tremendous normative and moral weight. (Boulden 2014:565)

The inability to agree on a comprehensive convention on international terrorism as well as on a definition of terrorism continues to undermine the legitimacy of the UN. Nevertheless, the UN takes important strides in stepping up efforts to counter and prevent the terrorist threat, most recently by reforming its counter-terrorism architecture by making some institutional changes.

## **5.2 Reforming the Counter-Terrorism Architecture of the UN**

Upon the request of the UNGA to make recommendations for strengthening the capability of the UN to assist states in implementing the UN Global Counter-Terrorism Strategy and following an informal consultation with member states, UNSG António Guterres proposed in a report dated 3<sup>rd</sup> of April 2017 the establishment of a new UN Office of Counter-Terrorism, to be headed by a new Under-Secretary-General (A/71/858, par. 1-2 & 62). He noted that there is a need to adapt and further improve counter-terrorism efforts as well as that “a comprehensive, strategic and long-term response to terrorism is fundamental” (ibid., par. 59), since the terrorist threat has become more complex and far-reaching, and member states’ requests for UN assistance to tackle the threat have increased exponentially. The UNSG stated that the UN response has lacked necessary institutional changes in order to provide adequate counter-terrorism leadership. The Under-Secretary-General for Political Affairs, who serves as Chair of CTITF and Head of the Department of Political Affairs, has to balance both workloads, limiting his time available for his functions related to counter-terrorism (ibid., par. 58-60):

The absence of a full-time senior United Nations counter-terrorism official has prevented a consistent institutionalization of the All-of-United Nations approach to supporting efforts by Member States to counter terrorism and a stronger ability to mobilize resources and coordinate fundraising efforts. (ibid., par. 61)

Thus, the reform was intended to improve the UN response to terrorism and enhance the capability of the UN system in assisting member states, without changing existing mandates of UN entities. The new Under-Secretary-General would act as the Chair of the CTITF and as the Executive Director of the UNCCT, providing strategic leadership (ibid., par. 66-68). The UNSG envisioned the new Office to have the following main functions:

- (a) provide leadership on the General Assembly counter-terrorism mandates entrusted to me [the UNSG] from across the United Nations system;
- (b) enhance coordination and coherence across the 38 Counter-Terrorism Implementation Task Force entities to ensure the balanced implementation of the four pillars of the Strategy;
- (c) strengthen the delivery of United Nations counter-terrorism capacity-building assistance to Member States;
- (d) improve visibility, advocacy and resource mobilization for United Nations counter-terrorism efforts; and
- (e) ensure that due priority is given to counter-terrorism across the United Nations system and that the important work on preventing violent extremism is firmly rooted in the Strategy. (ibid., par. 64)

However, “[t]his new office would respect the established competencies and mandates of General Assembly and Security Council subsidiary bodies. The office would not have any oversight over Security Council subsidiary bodies” (ibid., par. 66).

In June 2017, the UNGA created the new UN Office of Counter-Terrorism by unanimously adopting resolution 71/291 and decided that the Office shall have the competencies and functions as set forth in the UNSG’s report. Furthermore, the UNGA welcomed the UNSG’s initiative to transfer relevant functions into the new Office. Thus, the CTITF and the UNCCT, which have been institutionalized in the Department of Political Affairs up to now, will be moved into the Office of Counter-Terrorism (A/RES/71/291, OP1-4).

The new Office could bring about improved efforts and a new boost. However, it remains to be seen if it will lead to enhanced coordination with the bodies established by the UNSC. There will still be two factions, the UNGA- and the UNSC-mandated bodies. The new Office will mainly be dealing with the implementation of the UN Global Counter-Terrorism Strategy, and the CTC and the CTED will continue to deal with the implementation of relevant UNSC resolutions. It can only be hoped that the restructuring proves effective and brings about progress, much of it will likely depend on the relationship between the new Office and the CTED.

This reform of the UN counter-terrorism architecture is in line with the UNSG’s vision of an “all-of-UN”-approach, aimed at further mainstreaming terrorism-related issues into the

broader work of the UN. UNSG António Guterres expressed that prevention requires to address root causes integrating all three pillars of the UN – peace and security, development and human rights – and thus be able to better address issues around the entire life cycle of a threat. He intends to reform UN structures to be simpler, more decentralized, flexible and accountable. Moreover, the success of prevention depends on cooperation of multiple actors. The UNSG noted that “[w]e should have the humility to acknowledge the essential role of other actors while maintaining full awareness of our unique convening power” (United Nations 2017f).

In 2016 it has been noted that “[t]here is a need to integrate prevention of violent extremism and countering terrorism into the Organization’s broader conflict prevention and conflict management efforts, especially through its field missions” (A/70/826, par. 51), largely due to the fact that “special political missions and peacekeeping operations have increasingly been deployed in areas beset by violent extremism and terrorism” (ibid.). In his first few months in office, the current UNSG has already made significant changes in the UN terrorism prevention agenda. It will be most interesting to see if such operations will address terrorism-related issues in their future mandates.

## 6. Conclusion

One of the main tasks of the UN is the prevention of conflicts. With terrorism being one of the biggest threats to peace in the 21<sup>st</sup> century, the UN is at the forefront of developing a framework to prevent and combat it as well as identifying measures and addressing new developments. Despite the lack of an internationally agreed upon definition, the UN continues to tackle the evolving terrorist threat. Transnational groups, which are largely unbound to a specific place and time, and terrorists acting alone with little resources aiming for a large impact, make it increasingly difficult to find appropriate ways to respond. The foreign terrorist fighter phenomenon or the abuse of new technology for various purposes such as disseminating ideologies and recruitment multiply the threat and pose challenges on how to best address such new developments.

The UN Charter established a collective security system, for which the prevention of threats to peace is essential. In the decades after the founding of the UN, collective security was practiced mostly through reactive, military means. After the end of the Cold War there was a regained possibility for cooperation and thus each UNSG has emphasized the importance and the huge need to prevent conflicts. At first largely focused on diplomatic activities to ease tensions, at the turn of the century attention has shifted towards addressing root causes as well as direct measures when a crisis is already looming. Short-term and long-term measures were deemed crucial. However, sustainable development and preventive measures still need to be separated, even if they are mutually reinforcing. In recent years, the prevention of violent extremism, which can be conducive to terrorism, has increasingly been highlighted. Current UNSG António Guterres stressed the need to integrate prevention strategies into the three pillars of the UN – peace and security, human rights and development.

The various bodies of the UN have focused on different aspects of terrorism prevention and have taken different approaches how to address the issue. Now, how does the UN Terrorism Prevention Agenda look like? And which roles can be attributed to the respective organs of the UN? The UNGA started to deal with international terrorism in the 1970s, elaborating conventions in order to criminalize certain actions, calling for national solutions, and acknowledging the need for international cooperation. The most important step was set in 2006 with the unanimous adoption of the UN Global Counter-Terrorism

Strategy, a comprehensive framework outlining common ground how to prevent and combat terrorism, which is still equally relevant today. The strategy emphasizes operational as well as structural measures, recognizes the role of the UN as helping member states with capacity-building, and establishes human rights and the rule of law as the foundation of all measures. In recent years, the focus has been placed on preventing violent extremism, as it can be conducive to terrorism. The UNGA reflects the opinion of the international community, serves to build consensus and develop a normative framework. The universal character of its decisions may indicate new international norms over time. Its decisions are essential to identify common grounds among member states and may carry considerable normative value.

The CTITF is the main coordinating body of terrorism prevention efforts, comprising 38 entities that contribute to the counter-terrorism work. It oversees the implementation of the strategy and aims at strengthening coherence. The UNCCT was established in order to further assist member states with capacity-building.

The UNHRC advocates the adherence to human rights at all times when preventing and combating terrorism, having set up the special post of *UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism* to further this call. This includes issuing recommendations, exchanging information and sharing best practices.

The UNSC started to address international terrorism only at the end of the 1990s, when identifying it as a possible threat to international peace and security. Especially since the 9/11 attacks the topic has been high on the UNSC's agenda, calling for international cooperation and advocating a comprehensive approach. Over time, the UNSC identified various areas and activities where preventive measures are necessary and can reduce the threat coming from international terrorism, for example preventing incitement to terrorism or financing terrorism, its connections to transnational organized crime, its impact on cultural heritage, strategies such as kidnapping and hostage taking, etc. The UNSC has also acted under Chapter VII of the UN Charter, thus it legally obliged states to take certain measures to prevent and combat terrorism. These include asset freezing, denying safe haven, preventing non-state actors from acquiring WMD, ensuring accountability for perpetrators, countering the foreign terrorist fighter phenomenon by preventing incitement or the misuse of new technology, etc. The CTC was mandated to oversee the implementation of resolution 1373, working with member states to identify gaps and

provide assistance when requested. Its Executive Directorate was set up to further help with capacity-building needs. Recently, an emphasis has been placed on developing counter-narratives. Through the ISIL and Al-Qaida sanctions regime the UNSC has obliged states to take certain measures against designated individuals and entities, trying to prevent attacks by stripping suspects of their means. The UNSC takes the measures it sees fit in order to address international terrorism as a threat to international peace and security. For that purpose, it acted virtually as a global legislator, obligating states to take certain measures aimed at preventing terrorist attacks.

The UNODC's Terrorism Prevention Branch was created to help states with the implementation of the terrorism-related international conventions, as well as assist with capacity-building and enhance cooperation.

The UN is setting norms and rules on how to prevent terrorism, sometimes detailing the measures, sometimes leaving the implementation almost entirely up to the member states. The United Nations' main work is to identify threats and developments which have to be tackled, and then its role is to assist member states, to enhance their capacity and strengthen international cooperation in order to implement necessary measures. UN decisions reflect collective decisions and collective goals, but do not necessarily lead to collective action, as their implementation is ultimately up to the individual member states and depend to a great extent on their political will. In recent years it has been established that terrorism is not a separated phenomenon, but it is interlinked with many other problems and conflicts. The UN has acknowledged that preventing terrorism is a concerted effort of the entire international community on the global, regional and national level.

Which normative and political discussions surround the decisions of the UN in the context of terrorism prevention? The first debate evolved around the commitment of the UN to human rights while countering and preventing terrorism. On a rhetorical level, the commitment to human rights is quite strong, but the organization does not pursue a truly human rights-based approach, as human rights are not mainstreamed throughout the entire work of the UN regarding terrorism prevention. Nevertheless, it has been increasingly acknowledged that respect for human rights and the combat and prevention of terrorism are mutually reinforcing.

Secondly, the UNSC's actions under Chapter VII have sparked debate if it was within its mandate to act virtually as a global legislator, obligating states to change or adapt national

legislation in order to comply with resolutions. The UN Charter gives the UNSC far-reaching powers, but it faces some legal, practical and political limits. The UNSC is still obliged to act in accordance with the principles of the document that created it and is bound by *jus cogens*. Moreover, the decisions have to reflect the will of the wider membership. It seems like despite considerably extending its powers, the UNSC has still acted within its scope of authority, as the wider membership is seen to largely accept and comply with its resolutions.

As a third point, it was noted that the lack of checks and balances, for instance the absence of judicial review, and the lack of enforcement have considerable impact on the perceived legitimacy of the UN. Generally, the legitimacy of UN decisions depends on them being in conformity with international law as well as them being based on consent. The UNGA and the UNSC each face its own crises of legitimacy, but member states' willingness to continue to discuss terrorism prevention within the UN system suggests the UN is the legitimate organization to do so.

Finally, in particular the sanctions regime led to questions about the nature of the measures, if they are still preventive or rather punitive. There is a very thin line between prevention and punishment in the context of sanctions, but the UN has repeatedly stated that they are meant to be solely preventive.

The adoption of a comprehensive convention on international terrorism would arguably help to strengthen the normative framework that the UN has developed so far. A clear definition of the term terrorism and thus a comprehensive ban would enhance not only its legitimacy but also its authority. The recent reform of the UN counter-terrorism structure by establishing a new Office of Counter-Terrorism will hopefully increase the United Nations' effectiveness in tackling the terrorist threat, but at this point it is too early to predict its impact.

## 7. Bibliography

- Ahrnens, Anette (2007) *A Quest for Legitimacy: Debating UN Security Council Rules on Terrorism and Non-proliferation*. Lund: Department of Political Science, Lund University.
- Ambos, Kai (2014) “Our terrorists, your terrorists? The United Nations Security Council urges states to combat ‘foreign terrorist fighters’, but does not define ‘terrorism’”, available at: <https://www.ejiltalk.org/our-terrorists-your-terrorists-the-united-nations-security-council-urges-states-to-combat-foreign-terrorist-fighters-but-does-not-define-terrorism/> [Accessed 12 July 2017].
- Amet, Sir Arnold K. (2013) “Terrorism and International Law: Cure the Underlying Problem, Not Just the Symptom”, in: *Annual Survey of International and Comparative Law* 19:1, 17-43.
- Amnesty International (2001) “Statement on the Implementation of Security Council Resolution 1373”, available at: <http://repository.forcedmigration.org/pdf/?pid=fmo:4111>. [Accessed 19 November 2016].
- Bianchi, Andrea (2006a) “Assessing the Effectiveness of the UN Security Council’s Anti-terrorism Measures: The Quest for Legitimacy and Cohesion”, in: *The European Journal of International Law* 17:5, 881-919.
- Bianchi, Andrea (2006b) “Security Council’s Anti-terror Resolutions and their Implementation by Member States”, in: *Journal of International Criminal Justice* 4:5, 1044-1073.
- Boulden, Jane (2007) “Terrorism”, in: Weiss, Thomas G./Daws, Sam (eds.) *The Oxford Handbook on the United Nations*. Oxford: Oxford University Press, 427-436.
- Boulden, Jane (2014) “The United Nations General Assembly and terrorism”, in: Saul, Ben (ed.), 555-571.

- Boulden, Jane/Weiss, Thomas G. (2004) “Whither Terrorism and the United Nations?”, in: Boulden, Jane/Weiss, Thomas G. (eds.), 3-26.
- Boulden, Jane/Weiss, Thomas G. (eds.) (2004) *Terrorism and the UN. Before and After September 11*. Bloomington/Indianapolis: Indiana University Press.
- Cambridge University Press (2017) “Meaning of ‘prevention’ in the English Dictionary”, available at: <https://dictionary.cambridge.org/dictionary/english/prevention> [Accessed 28 July 2017].
- Cockayne, James (2014) “Challenges in United Nations counter-terrorism coordination”, in: Saul, Ben (ed.), 666-682.
- Conte, Alex (2015) “An Old Question in a New Context: Do States Have to Comply with Human Rights When Countering the Phenomenon of Foreign Fighters?”, available at: <https://www.ejiltalk.org/an-old-question-in-a-new-context-do-states-have-to-comply-with-human-rights-when-countering-the-phenomenon-of-foreign-fighters/> [Accessed 12 July 2017].
- Danchin, Peter G. (2010) „Things fall apart: the concept of collective security in international law”, in: Danchin, Peter G./Fischer, Horst (eds.) *United Nations Reform and the New Collective Security*. Cambridge/New York/et al.: Cambridge University Press, 35-75.
- Daugirdas, Kristina (2014) “Reputation and the Responsibility of International Organizations”, in: *The European Journal of International Law* 25:4, 991-1018.
- De Jonge Oudraat, Chantal (2004) “The Role of the Security Council”, in: Boulden, Jane/Weiss, Thomas G. (eds.), 151-172.
- Duffy, Helen (2015) *The ‘War on Terror’ and the Framework of International Law*. Cambridge: Cambridge University Press.
- Eckert, Sue E./Biersteker, Thomas J. (2006) *Strengthening Targeted Sanctions Through Fair and Clear Procedures. White Paper prepared by the Watson Institute Targeted Sanctions Project, Brown University*. Providence: Watson Institute for International Studies, Brown University.

- Eckert, Sue E./Biersteker, Thomas J. (2012) *Due Process and Targeted Sanctions: An Update of the "Watson Report"*. Providence: Watson Institute for International Studies, Brown University.
- Foot, Rosemary (2007) "The United Nations, Counter Terrorism, and Human Rights: Institutional Adaption and Embedded Ideas", in: *Human Rights Quarterly* 29:2, 489-514.
- Galli, Francesca (2014) "The freezing of terrorists' assets: preventive purposes with a punitive effect", in: Galli, Francesca/Weyembergh, Anne (eds.) *Do labels still matter? Blurring boundaries between administrative and criminal law. The influence of the EU*. Brüssel: Editions de l'Université de Bruxelles, 43-68.
- Galloway, Fraser (2011) "Anti-Terrorism Resolutions: The Security Council's Threat to the UN System", in: *Journal of Terrorism Research* 2:3 (Law Special Edition), 105-125.
- Ginsborg, Lisa (2014) "The United Nations Security Council's counter-terrorism Al-Qaida sanctions regime: Resolution 1267 and the 1267 Committee", in: Saul, Ben (ed.), 608-625.
- Haaland Kramer, Hilde/Yetiv, Steve A. (2007) "The UN Security Council's Response to Terrorism: Before and after September 11, 2001", in: *Political Science Quarterly* 122:3, 409-432.
- Hampson, Fen Osler/Wermester, Karin/Malone, David M. (2002) „Introduction: Making Conflict Prevention a Priority“, in: Hampson, Fen Osler/Malone, David M. (eds.) *From Reaction to Conflict Prevention. Opportunities for the UN System*. Boulder/London: Lynne Rienner Publishers.
- Happold, Matthew (2003) "Security Council Resolution 1373 and the Constitution of the United Nations", in: *Leiden Journal of International Law* 16, 593-610.
- Hinojosa-Martínez, Luis Miguel (2014) "A critical assessment of United Nations Security Council Resolution 1373", in: Saul, Ben (ed.), 626-650.

- Hudson, Andrew (2007) “Not a Great Asset: The UN Security Council’s Counter-Terrorism Regime: Violating Human Rights”, in: *Berkeley Journal of International Law* 25:2, 203-227.
- Human Rights Watch (2016) “‘Foreign Terrorist Fighter’ Laws. Human Rights Rollbacks Under UN Security Council Resolution 2178”, available at: [https://www.hrw.org/sites/default/files/news\\_attachments/ftf\\_essay\\_03feb2017\\_final.pdf](https://www.hrw.org/sites/default/files/news_attachments/ftf_essay_03feb2017_final.pdf) [Accessed 12 July 2017].
- Institute for Economics and Peace (2016) “Global Terrorism Index 2016”, available at: <http://economicsandpeace.org/reports/> [Accessed 19 November 2016].
- International Peace Institute (2017) “Rosand: UN Role in Preventing Violent Extremism ‘More Important Than Ever’”, December 13, 2016, available at: <https://www.ipinst.org/2016/12/preventing-violent-extremism-challenges#8> [Accessed 13 July 2017].
- MacFarlane, S. Neil (2004) “Charter Values and the Response to Terrorism”, in: Boulden, Jane/Weiss, Thomas G. (eds.), 27-52.
- Mani, Rama (2004) “The Root Causes of Terrorism and Conflict Prevention”, in: Boulden, Jane/Weiss, Thomas G. (eds.), 219-241.
- OHCHR (2017a) “Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism”, available at: <http://www.ohchr.org/EN/Issues/Terrorism/Pages/SRTerrorismIndex.aspx> [Accessed 26 June 2017].
- OHCHR (2017b) “Welcome to the Human Rights Council”, available at: <http://www.ohchr.org/EN/HRBodies/HRC/Pages/AboutCouncil.aspx> [Accessed 26 June 2017].
- Orakhelashvili, Alexander (2005) “The Impact of Peremptory Norms on the Interpretation and Application of United Nations Security Council Resolutions”, in: *The European Journal of International Law* 16:1, 59-88.

- Petculescu, Ioana (2005) “The Review of the United Nations Security Council Decisions by the International Court of Justice”, in: *Netherlands International Law Review* 52:2, 167-195.
- Peterson, M. J. (2004) “Using the General Assembly”, in: Boulden, Jane/Weiss, Thomas G. (eds.), 173-197.
- Porret, Marc (2014) “The role of the United Nations Counter-Terrorism Implementation Task Force and the United Nations Counter-Terrorism Centre”, in: Saul, Ben (ed.), 572-590.
- Reinisch, August (2009) “Should Judges Second-Guess the UN Security Council?”, in: *International Organizations Law Review* 6, 257-291.
- Requena, Marta (2014) “The role of the United Nations Office on Drugs and Crime’s Terrorism Prevention Branch”, in: Saul, Ben (ed.), 591-607.
- Ronen, Yaël (2009) “Incitement to terrorist acts under international law”, International Law Forum of the Hebrew University of Jerusalem Law Faculty, Research Paper No. 15-09.
- Rosand, Eric (2004) “The Security Council As ‘Global Legislator’: Ultra Vires or Ultra Innovative?”, in: *Fordham International Law Journal* 28:3, 542-590.
- Rosand, Eric/Millar, Alistair/Ipe, Jason (2008) “Human Rights and the Implementation of the UN Global Counter-Terrorism Strategy. Hopes and Challenges”, Center on Global Counterterrorism Cooperation, available at: <http://www.globalcenter.org/publications/human-rights-and-the-implementation-of-the-un-global-counter-terrorism-strategy/> [Accessed 15 June 2017].
- Rosenow, Patrick (2011) “United we fight? Terrorismusbekämpfung im Rahmen der Vereinten Nationen seit dem 11. September 2001“, in: *Die Friedens-Warte. Journal of International Peace and Organization* 86:3-4, 15-51.
- Salama, Basma (2016) *The Resilience of the Islamic State*. Wien: Bundesministerium für Landesverteidigung und Sport (Schriftenreihe der Landesverteidigungsakademie).

- Saul, Ben (2005a) “Definition of ‘Terrorism’ in the UN Security Council: 1985–2004”, in: *Chinese Journal of International Law* 4:1, 141-166.
- Saul, Ben (2005b) “Speaking of terror: criminalizing incitement to violence”, in: *UNSW Law Journal* 28:3, 868-886.
- Saul, Ben (2006) *Defining Terrorism in International Law*. Oxford: Oxford University Press.
- Saul, Ben (ed.) (2014) *Research Handbook on International Law and Terrorism*. Cheltenham/Northampton: Edward Elgar.
- Scheinin, Martin (2014a) “A Comment on Security Council Res 2178 (Foreign Terrorist Fighters) as a ‘Form’ of Global Governance”, available at: <https://www.justsecurity.org/15989/comment-security-council-res-2178-foreign-fighters-form-global-governance/> [Accessed 17 June 2017].
- Scheinin, Martin (2014b) “Back to post-9/11 panic? Security Council resolution on foreign terrorist fighters”, available at: <https://www.justsecurity.org/15407/post-911-panic-security-council-resolution-foreign-terrorist-fighters-scheinin/> [Accessed 17 June 2017].
- Schenk, Trevor (2014) “United Nations Global Counter-Terrorism Strategy: Effective Global Governance or Failed Policy?”, available at: <http://natoassociation.ca/35475/> [Accessed 13 July 2017].
- Schneckener, Ulrich (2006) *Transnationaler Terrorismus*. Frankfurt am Main: Suhrkamp.
- Schrijver, Nico (2004) “September 11 and Challenges to International Law”, in: Boulden, Jane/Weiss, Thomas G. (eds.), 55-73.
- Security Council Committee pursuant to Resolutions 1267 (1999), 1989 (2011), and 2353 (2015) concerning ISIL (Da’esh), Al-Qaida and associated individuals, groups, undertakings and entities (2016) [cited as 1267 Committee] “Guidelines of the Committee for the Conduct of its Work”, available at: [https://www.un.org/sc/suborg/sites/www.un.org.sc.suborg/files/guidelines\\_of\\_the\\_committee\\_for\\_the\\_conduct\\_of\\_its\\_work.pdf](https://www.un.org/sc/suborg/sites/www.un.org.sc.suborg/files/guidelines_of_the_committee_for_the_conduct_of_its_work.pdf) [Accessed 21 July 2017].

Security Council Report (2017) “Can the Security Council Prevent Conflict?”, available at: <http://www.securitycouncilreport.org/special-research-report/can-the-security-council-prevent-conflict.php> [Accessed 27 June 2017].

UN Office of Legal Affairs (2017) “Ad Hoc Committee established by General Assembly Resolution 51/210 of 17 December 1996”, available at: <http://legal.un.org/committees/terrorism/> [Accessed 29 June 2017].

United Nations (2014) “Press Briefing by Chairman of Counter-Terrorism Committee, 19 October 2001”, available at: <https://www.un.org/press/en/2001/Greenstockbrf.doc.htm> [Accessed 26 June 2017].

United Nations (2017a) “About the Task Force”, available at: <https://www.un.org/counterterrorism/ctitf/en/about-task-force> [Accessed 26 June 2017].

United Nations (2017b) “CTITF Office”, available at: <https://www.un.org/counterterrorism/ctitf/en/ctitf-office> [Accessed 26 June 2017].

United Nations (2017c) “Membership and Structure”, available at: <https://www.un.org/counterterrorism/ctitf/en/membership-and-structure> [Accessed 26 June 2017].

United Nations (2017d) “United Nations Action to Counter Terrorism. International Legal Instruments”, available at: <http://www.un.org/en/counterterrorism/legal-instruments.shtml> [Accessed 27 July 2017].

United Nations (2017e) “Remarks to the Security Council Open Debate on ‘Maintenance of International Peace and Security: Conflict Prevention and Sustaining Peace’”, António Guterres, 10 January 2017, available at: <https://www.un.org/sg/en/content/sg/speeches/2017-01-10/secretary-generals-remarks-maintenance-international-peace-and> [Accessed 19 July 2017].

United Nations (2017f) “Secretary-General-designate António Guterres’ remarks to the General Assembly on taking the oath of office”, António Guterres, 12 December 2016, available at: <https://www.un.org/sg/en/content/sg/speeches/2016-12->

12/secretary-general-designate-ant%C3%B3nio-guterres-oath-office-speech  
[Accessed 25 July 2017].

United Nations (2017g) “Working Groups”, available at:  
<https://www.un.org/counterterrorism/ctitf/en/working-groups> [Accessed 26 June 2017].

United Nations and the Security Council Affairs Division (2017) “Sanctions List Materials”, available at:  
[https://www.un.org/sc/suborg/en/sanctions/1267/aq\\_sanctions\\_list](https://www.un.org/sc/suborg/en/sanctions/1267/aq_sanctions_list) [Accessed 08 August 2017].

UNODC (2006) “Preventing terrorist acts: A criminal justice strategy integrating rule of law standards in implementation of United Nations anti-terrorism instruments”, Technical Assistance Working Paper, Terrorism Prevention Branch, available at:  
<https://www.unodc.org/pdf/terrorism/TATs/en/3IRoLen.pdf> [Accessed 12 July 2017].

UNODC (2012) “The Use of the Internet for terrorist purposes”, available at:  
[https://www.unodc.org/documents/frontpage/Use\\_of\\_Internet\\_for\\_Terrorist\\_Purposes.pdf](https://www.unodc.org/documents/frontpage/Use_of_Internet_for_Terrorist_Purposes.pdf) [Accessed 19 November 2016].

UNODC (2017a) “Legislative Assistance”, available at:  
<https://www.unodc.org/unodc/en/terrorism/news-and-events/legal-assistance.html>  
[Accessed 26 June 2017].

UNODC (2017b) „Mandate of the Terrorism Prevention Branch“, available at:  
<https://www.unodc.org/unodc/en/terrorism/mandate-of-the-terrorism-prevention-branch.html> [Accessed 26 June 2017].

UNODC (2017c) “Our Work”, available at:  
[https://www.unodc.org/unodc/en/terrorism/UNODC\\_Role.html](https://www.unodc.org/unodc/en/terrorism/UNODC_Role.html) [Accessed 26 June 2017].

UNODC (2017d) “The United Nations Office on Drugs and Crime and Terrorism Prevention”, available at: <https://www.unodc.org/unodc/en/terrorism/> [Accessed 26 June 2017].

- Ušiak, Jaroslav/Saktorová, Lubica (2014) “The International Court of Justice and the Legality of UN Security Council Resolutions”, in: *DANUBE: Law and Economics Review* 5:3, 201-212.
- Van den Broek, Melissa/Hazelhorst, Monique/de Zanger, Wouter (2010) “Asset Freezing: Smart Sanction or Criminal Charge?”, in: *Merkourios Utrecht Journal of International and European Law* 27:72, 18-27.
- Van Ginkel, Bibi (2011) “Incitement to Terrorism: A Matter of Prevention or Repression?”, *The International Centre for Counter-Terrorism – The Hague* 2:6, available at: <https://icct.nl/publication/incitement-to-terrorism-a-matter-of-prevention-or-repression/> [Accessed 17 June 2017].
- Van Ginkel, Bibi (2014) „The New Security Council Resolution 2178 on Foreign Terrorist Fighters: A Missed Opportunity for a Holistic Approach”, Perspectives, *The International Centre for Counter-Terrorism – The Hague* 5, available at: <https://icct.nl/publication/the-new-security-council-resolution-2178-on-foreign-terrorist-fighters-a-missed-opportunity-for-a-holistic-approach/> [Accessed 17 June 2017].
- Van Ham, Peter/Bosch, Olivia (2007) “Global Non-Proliferation and Counter-Terrorism. The Role of Resolution 1540 and Its Implications”, in: Bosch, Olivia/Van Ham, Peter (eds.) *Global Non-Proliferation and Counter-Terrorism. The Impact of UNSCR 1540*. Washington DC: Brookings Institution Press, 3-23.
- Von Hippel, Karin (2004) “Improving the International Response to the Transnational Terrorist Threat”, in: Boulden, Jane/Weiss, Thomas G. (eds.), 102-119.
- Weimann, Gabriel (2006) *Terror on the internet: the new arena, the new challenges*. Washington, D.C.: United States Institute of Peace Press.
- Wouters, Jan/Odermatt, Jed (2013) “Quis Custodiet Consilium Securitatis? Reflections on the Lawmaking Powers of the Security Council”, Working Paper No. 109 – June 2013, Leuven Centre for Global Governance Studies, available at: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2286208](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2286208) [Accessed 17 July 2017].

## 8. Documents

UNGA (1970) 2625 (XXV). Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, 24 October 1970, A/RES/25/2625.

UNGA (1972) 3034 (XXVII). Measures to prevent international terrorism which endangers or takes innocent human lives or jeopardizes fundamental freedoms, and study of the underlying causes of those forms of terrorism and acts of violence which lie in misery, frustration, grievance and despair and which cause some people to sacrifice human lives, including their own, in an attempt to effect radical changes, 18 December 1972, A/RES/27/3034.

UNGA (1995) 49/60. Measures to eliminate international terrorism, 17 February 1995, A/RES/49/60.

UNGA (2001) 56/1. Condemnation of terrorist attacks in the United States of America, 18 September 2001, A/RES/56/1.

UNGA (2004) A more secure world: our shared responsibility, Report of the High-level Panel on Threats, Challenges and Change, 2 December 2004, A/59/565.

UNGA (2006) 60/288. The United Nations Global Counter-Terrorism Strategy, 20 September 2006, A/RES/60/288.

UNGA (2006) Progress Report on the prevention of armed conflict, Report of the Secretary-General, 18 July 2006, A/60/891.

UNGA (2006) Uniting against terrorism: recommendations for a global counter-terrorism strategy, Report of the Secretary-General, 27 April 2006, A/60/825.

UNGA (2008) 62/272. The United Nations Global Counter-Terrorism Strategy, 15 September 2008, A/RES/62/272.

UNGA (2008) The protection of human rights and fundamental freedoms while countering terrorism, Report of the Secretary-General, 28 August 2008, A/63/337.

- UNGA (2008) United Nations Global Counter-Terrorism Strategy: activities of the United Nations system in implementing the Strategy, Report of the Secretary-General, 7 July 2008, A/62/898.
- UNGA (2010) 64/297. The United Nations Global Counter-Terrorism Strategy, 13 October 2010, A/RES/64/297.
- UNGA (2010) United Nations Global Counter-Terrorism Strategy: activities of the United Nations system in implementing the Strategy, Report of the Secretary-General, 17 June 2010, A/64/818.
- UNGA (2012) 66/282. The United Nations Global Counter-Terrorism Strategy Review, 12 July 2012, A/RES/66/282.
- UNGA (2012) United Nations Global Counter-Terrorism Strategy: activities of the United Nations system in implementing the Strategy, Report of the Secretary-General, 4 April 2012, A/66/762.
- UNGA (2013) Report of the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996, Sixteenth session (8 to 12 April 2013), General Assembly Official Records, A/68/37.
- UNGA (2014) 68/127. A world against violence and violent extremism, 20 February 2014, A/RES/68/127.
- UNGA (2014) 68/276. The United Nations Global Counter-Terrorism Strategy Review, 24 June 2014, A/RES/68/276.
- UNGA (2014) Activities of the United Nations system in implementing the United Nations Global Counter-Terrorism Strategy, Report of the Secretary-General, 14 April 2014, A/68/841.
- UNGA (2015) 30/15. Human rights and preventing and countering violent extremism, 12 October 2015, A/HRC/RES/30/15.
- UNGA (2015) Plan of Action to Prevent Violent Extremism, Report of the Secretary-General, 24 December 2015, A/70/674.

- UNGA (2016) 70/254. Secretary-General's Plan of Action to Prevent Violent Extremism, 10 March 2016, A/RES/70/254.
- UNGA (2016) 70/291. The United Nations Global Counter-Terrorism Strategy Review, 19 July 2016, A/RES/70/291.
- UNGA (2016) Activities of the United Nations system in implementing the United Nations Global Counter-Terrorism Strategy, Report of the Secretary-General, 12 April 2016, A/70/826.
- UNGA (2017) 71/291. Strengthening the capability of the United Nations system to assist Member States in implementing the United Nations Global Counter-Terrorism Strategy, 19 June 2017, A/RES/71/291.
- UNGA (2017) Capability of the United Nations system to assist Member States in implementing the United Nations Global Counter-Terrorism Strategy, Report of the Secretary-General, 3 April 2017, A/71/858.
- UNGA (2017) Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism. *Advance edited version*, 21 February 2017, A/HRC/34/61.
- UNGA/UNSC (1992) An Agenda for Peace. Preventive diplomacy, peacemaking and peace-keeping, Report of the Secretary-General pursuant to the statement adopted by the Summit Meeting of the Security Council on 21 January 1992, 17 June 1992, A/47/277-S/24111.
- UNGA/UNSC (2001) Prevention of armed conflict, Report of the Secretary-General, 7 June 2001, A/55/985-S/2001/574.
- United Nations (1945) Charter of the United Nations and Statute of the International Court of Justice, 24 October 1945.
- United Nations (1969) Vienna Convention on the Law of Treaties, 23 May 1969.
- UNSC (1999) Afghanistan, 15 October 1999, S/RES/1267 (1999).

UNSC (1999) Responsibility of the Security Council in the maintenance of international peace and security, 19 October 1999, S/RES/1269 (1999).

UNSC (2000) Afghanistan, 19 December 2000, S/RES/1333 (2000).

UNSC (2001) Threats to international peace and security caused by terrorist acts, 28 September 2001, S/RES/1373 (2001).

UNSC (2001) Threats to international peace and security caused by terrorist acts, 12 September 2001, S/RES/1368 (2001).

UNSC (2001) Threats to international peace and security caused by terrorist acts, 12 November 2001, S/RES/1377 (2001).

UNSC (2002) Afghanistan, 28 January 2002, S/RES/1390 (2002).

UNSC (2002) Threats to international peace and security caused by terrorist acts, 20 December 2002, S/RES/1452 (2002).

UNSC (2003) High-level meeting of the Security Council: combating terrorism, 20 January 2003, S/RES/1456 (2003).

UNSC (2003) Threats to international peace and security caused by terrorist acts, 17 January 2003, S/RES/1455 (2003).

UNSC (2004) Non-proliferation of weapons of mass destruction, 28 April 2004, S/RES/1540 (2004).

UNSC (2004) Threats to international peace and security caused by terrorist acts, 8 October 2004, S/RES/1566 (2004).

UNSC (2004) Threats to international peace and security caused by terrorist acts, 26 March 2004, S/RES/1535 (2004).

UNSC (2004) Threats to international peace and security caused by terrorist acts, 30 January 2004, S/RES/1526 (2004).

UNSC (2005) Threats to international peace and security (Security Council Summit 2005), 14 September 2005, S/RES/1624 (2005).

UNSC (2005) Threats to international peace and security caused by terrorist acts, 29 July 2005, S/RES/1617 (2005).

UNSC (2006) Threats to international peace and security caused by terrorist acts, 22 December 2006, S/RES/1735 (2006).

UNSC (2008) Threats to international peace and security caused by terrorist acts, 30 June 2008, S/RES/1822 (2008).

UNSC (2009) Threats to international peace and security caused by terrorist acts, 17 December 2009, S/RES/1904 (2009).

UNSC (2011) Threats to international peace and security caused by terrorist acts, 17 June 2011, S/RES/1988 (2011).

UNSC (2011) Threats to international peace and security caused by terrorist acts, 17 June 2011, S/RES/1989 (2011).

UNSC (2014) Threats to international peace and security caused by terrorist acts, 27 January 2014, S/RES/2133 (2014).

UNSC (2014) Threats to international peace and security caused by terrorist acts, 24 September 2014, S/RES/2178 (2014).

UNSC (2014) Threats to international peace and security caused by terrorist acts, 15 August 2014, S/RES/2170 (2014).

UNSC (2014) Threats to international peace and security, 19 December 2014, S/RES/2195 (2014).

UNSC (2015) Report of the Secretary-General on the United Nations and conflict prevention: a collective recommitment, 25 September 2015, S/2015/730.

UNSC (2015) Threats to international peace and security caused by terrorist acts, 20 November 2015, S/RES/2249 (2015).

UNSC (2015) Threats to international peace and security caused by terrorist acts, 12 February 2015, S/RES/2199 (2015).

UNSC (2015) Threats to international peace and security caused by terrorist acts, 17 December 2015, S/RES/2253 (2015).

UNSC (2016) Maintenance of international peace and security, 20 December 2016, S/RES/2331 (2016).

UNSC (2016) Threats to international peace and security caused by terrorist acts, 22 September 2016, S/RES/2309 (2016).

UNSC (2016) Threats to international peace and security caused by terrorist acts, 12 December 2016, S/RES/2322 (2016).

UNSC (2017) Comprehensive international framework to counter terrorist narratives, 28 April 2017, S/2017/375.

UNSC (2017) Maintenance of international peace and security, 24 March 2017, S/RES/2347 (2017).

UNSC (2017) Threats to international peace and security caused by terrorist acts, 13 February 2017, S/RES/2341 (2017).

UNSC (2017) Threats to international peace and security caused by terrorist acts, 24 May 2017, S/RES/2354 (2017).

UNSC (2017) Threats to international peace and security caused by terrorist acts, 20 July 2017, S/RES/2368 (2017).

UNSC (2017) Threats to international peace and security caused by terrorist acts – Preventing terrorists from acquiring weapons, 2 August 2017, S/RES/2370 (2017).