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The UN Security Council's Response to Terrorism: Before and After September 11, 2001

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The horrific terrorist attacks of September 11 shocked not only the United States but also many other actors around the world. September 11 represented perhaps the first time in history that the action of a transnational actor so altered the course of international relations. Not only did it spawn the American war on terrorism and associated conflicts in Afghanistan and Iraq, it also raised serious questions about the future of the world, about unrestrained and elusive transnational terrorism, and about how the terrorist threat to the global community could be contained. Not surprisingly, overwhelming public and academic attention has focused on the attacks. Scholars, policymakers, and laymen have asked a variety of probing questions: What motivated the terrorists? Did the attacks suggest or presage a broader clash of civilizations between the Judeo-Christian and Muslim worlds? To what extent was the American response to the attacks sensible?

Yet, while much attention has been focused on these questions, other critical questions have received less scrutiny. Indeed, while the UN's role in addressing terrorism drew more attention after September 11 than it had before the attacks,[1] relatively little work has explored the UN Security Council's

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[1] Prior to September 11, the UN Security Council and its work drew significant attention from the international community and from scholars, but the issue of global terrorism and the Security Council's response to it was largely ignored. Jane Boulden and Thomas G. Weiss note that the Council's response to terrorism was "largely peripheral to mainstream analysis of either UN affairs

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response to the attacks of September 11.[2] And no work has explored its response to September 11 by use of a systematic comparison of the periods immediately before and after the attacks.

THE ARGUMENT

Evidence strongly suggests that September 11 was a critical event in the UN Security Council's response to global terrorism. Its response post–September 11 has been more forceful and comprehensive than it was prior to September 11 and has broken some new ground. When assessed by the standards of its past record, the UN's response to the events of September 11, while plagued by a number of significant challenges, represents an improvement in the fight against global terrorism.

This outcome is important to American foreign policy. Indeed, as we elaborate upon in the conclusion of this article, the importance of the United Nations to the United States has been in doubt among American elites and the American public, and not without reason. Detractors point to the UN bureaucracy as sclerotic; to an organization with ethical problems, including the oil-for-food problem and a questionable Human Rights Council; and to an anti-American and anti-Israeli bias in the General Assembly. Yet, while the UN has been and remains controversial in the United States, this study suggests that Washington largely benefited from the UN's response to terrorism in the post–September 11 period, as imperfect as it has been.

THE METHOD

This paper explores the response of the Security Council to terrorism from the late 1980s to the present time, but with a particular emphasis on the periods immediately before and after the attacks of September 11. To the extent that the subject allows, we employ the diachronic method of comparison to examine the behavior of the UN prior to and then after September 11. Scholars use the comparative method either cross-nationally or diachronically. The latter method offers a better solution to the problem of controlling variables than do cross-national studies because, as Arend Lijphart pointed out some time ago,

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or U.S. foreign policy." Jane Boulden and Thomas G. Weiss, "Whither Terrorism and the United Nations?" in Jane Boulden and Thomas G. Weiss, eds., *Terrorism and the UN, Before and After September 11* (Bloomington: Indiana University Press, 2004), 5.

[2] See Boulden and Weiss, "Whither Terrorism"; Chantal de Jonge Oudraat, "The Role of the Security Council" in Boulden and Weiss, eds., *Terrorism and the UN*, 151–172; Edward C. Luck, "Tackling Terrorism" in David M. Malone, ed., *The UN Security Council, From the Cold War to the 21st Century* (Boulder, CO and London: Lynne Rienner Publishers, 2004); and Nicholas Rostow, "Before and After: The Changed UN Response to Terrorism since September 11th," *Cornell International Law Journal* 35 (2002): 475–490.

it involves more constants and fewer variables, since fewer variables change over time than over both time and place.[3]

In order to gauge the UN response, this paper will look at the resolutions passed by the Security Council, because they are the official and legal expression of the Council's intent, power, and jurisdiction. In particular, we will compare five different factors before and after the attacks: first, the general thrust of major UN resolutions; second, the number of UN resolutions adopted in response to terrorism; third, the gravity, content and importance of these resolutions; fourth, the tools made available and used by the UN to deal with terrorism; and fifth, compliance by UN member states with UN resolutions dealing with terrorism. This combination of indicators provides a good sense of how the UN Security Council responded to the attacks of September 11.

Background and General Thrust of Major Resolutions on Terrorism

This section offers some background on the UN's role in addressing terrorism and also sketches the general thrust of major UN resolutions on terrorism before and after September 11. The international community's efforts at cooperation against terrorism are long-standing. Yet, the UN Charter fails to mention terrorism directly, "either as one of its many diverse concerns or as a threat to international peace and security."[4] What it does state, in chapters V and VII, is that it is the duty of the Security Council "to maintain international peace and security in accordance with the principles and purposes of the United Nations; … to determine the existence of a threat to the peace or act of aggression and to recommend what action should be taken; … to call on Members to apply economic sanctions and other measures not involving the use of force to prevent or stop aggression; [and] to take military action against an aggressor."[5] Though terrorism has presented a threat to international peace and security for centuries, for most of the history of the United Nations, states have treated terrorism as a matter of national and local concern and have decided not to bring it to the attention of the UN.[6] This started to change in the late 1980s and 1990s.

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[3] Arend Lijphart, "Comparative Politics and the Comparative Method," *American Political Science Review* 65 (September 1971): 689. On the general challenges of such an approach, see Donald T. Campbell, *Methodology and Epistemology for the Social Sciences* (Chicago, IL: University of Chicago Press, 1988), 226–227.

[4] Edward C. Luck, "Another Belligerent: The United Nations and the War on Terrorism" in Richard M. Price and Mark W. Zacher, eds., *The United Nations and Global Security* (New York: Palgrave Macmillian, 2004), 97.

[5] UN Security Council, "Functions and Powers," accessed on the website of the United Nations at http://www.un.org/Docs/sc/unsc_functions.html, 1 February 2006.

[6] Edward C. Luck, "Global Terrorism and the United Nations: A Challenge in Search of a Policy," accessed on the website of United Nations and Global Security, An Initiative of the United Nations Foundation, at http://www.un-globalsecurity.org/pdf/Luck_paper_terrorism.pdf, 15 March 2006, 1.

The Security Council did not deal with questions of global terrorism until 1989. Before that (as well as later), the broad subject of terrorism was mostly considered by the General Assembly, more specifically by the Sixth (Legal) Committee of the General Assembly.[7] The Assembly sought to encourage cooperation among states in the development of an international legal framework for dealing with terrorism. The main contribution of the General Assembly has been in writing and adopting several conventions that deal with different aspects of acts of terrorism—13 in all.[8] These conventions address, among other areas, airplane hijacking, protected persons, hostage taking, the handling of nuclear material, plastic explosives, aviation, and maritime navigation. The most recent achievement of the Assembly is the Global Counter-Terrorism Strategy, which was adopted on 8 September 2006.[9] The Plan of Action includes measures to address the root causes of terrorism, measures to prevent and fight terrorism, measures to build the individual state's capacity to fight terrorism, and measures to ensure respect for human rights and the rule of law.[10]

In 1989, the Security Council passed its first resolution on terrorism when Resolution 635, on plastic or sheet explosives, was adopted unanimously. Chantal de Jonge Oudraat argues that the Security Council's attention to global terrorism in the 1990s was motivated by new developments in the activities of international terrorism: more attacks were aimed at U.S. facilities and citizens; the number of casualties per incident increased; terrorism became global, with transnational networks; the threat of terrorists using chemical, biological, or nuclear weapons seemed more real; and the role of state-supported terrorism became more visible.[11] Resolution 635 was adopted in reaction to the Lockerbie tragedy (Pan Am Flight 103) on 21 December 1988 and states that

> The Security Council, *Conscious* of the implications of acts of terrorism for international security, … *Mindful* of the important role of the United Nations in supporting and encouraging efforts by all States and intergovernmental organizations in preventing and eliminating all acts of terrorism, including those involving the use of explosives, *Determined* to encourage the promotion of effective mea-

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[7] Rostow, "Before and After," 479.

[8] Twelve treaties have been ratified and are in force. One hundred and fifteen countries have signed the thirteenth, the International Convention for the Suppression of Acts of Nuclear Terrorism, New York, 13 April 2005, but only 21 countries have ratified it as of 30 May, 2007. The convention will enter into force when 22 countries have ratified it; accessed at the UN Treaty Collection website at http://untreaty.un.org/ENGLISH/bible/englishinternetbible/partI/chapterXVIII/treaty19.asp, 5 June 2007.

[9] General Assembly, A/RES/60/288, accessed on the website of the United Nations at http://daccessdds.un.org/doc/UNDOC/GEN/N05/504/88/PDF/N0550488.pdf?OpenElement, 5 June 2007.

[10] For more information on A/RES/60/288 and the annexed Plan of Action see "UN Action to Counter Terrorism," at http://www.un.org/terrorism/strategy/.

[11] Oudraat, "The Role of the Security Council," 151–152.

sures to prevent acts of terrorism, … *Calls upon* all States to co-operate in devising and implementing measures to prevent all acts of terrorism, including those involving explosives, … [and] *Urges* all States, and in particular the producers of plastic or sheet explosives, to intensify research into means of making such explosives more easily detectable, and to co-operate in this endeavour.[12]

Resolution 635 established the United Nations and the Security Council as a venue for dealing with terrorism. It asserted that terrorism is a threat to international peace and security, the main area of concern for the Security Council, and laid the groundwork for the Security Council's future work on terrorism.

For the United States as well as the international community at large, the attacks of September 11 were a watershed event in many respects. This is also true of the United Nations' handling of terrorism as a threat to international peace and security. With a swiftness and decisiveness unprecedented in UN history, the Security Council unanimously adopted Resolution 1368 within 24 hours of the attacks.[13] The resolution condemned, in no uncertain terms, the terrorist attacks on the United States:

> The Security Council, *Reaffirming* the principles and purposes of the Charter of the United Nations, *Determined* to combat by all means threats to international peace and security caused by terrorist acts, *Recognizing* the inherent right of individual or collective self-defence in accordance with the Charter, … *Unequivocally condemns* in the strongest terms the horrifying terrorist attacks which took place on 11 September 2001 in New York, Washington (D.C.) and Pennsylvania and *regards* such acts, like any act of international terrorism, as a threat to international peace and security.[14]

The resolution, furthermore, "calls on all States to work together urgently to bring to justice the perpetrators, organizers and sponsors of these terrorist attacks" and "calls also on the international community to redouble their efforts to prevent and suppress terrorist acts."[15] This resolution laid the foundation for the new, more assertive focus of the Security Council on international terrorism. Most significantly, it "reaffirmed the inherent right of self-defense in accordance with Article 51 of the UN Charter," and represented the first time that self-defense was acknowledged by the Security Council as a legitimate response to terrorism.[16] Jane Boulden and Thomas G. Weiss argue that by explicitly confirming a member state's right to self-defense, the Security

[12] UN Security Council, S/RES 635 (1989), accessed on the website of the United Nations at http://daccessdds.un.org/doc/RESOLUTION/GEN/NR0/557/72/IMG/NR055772.pdf?OpenElement, 15 March 2006.

[13] See Luck, "Tackling Terrorism," 85.

[14] UN Security Council, S/RES/1368 (2001), accessed on the website of the United Nations at http://daccessdds.un.org/doc/UNDOC/GEN/N01/533/82/PDF/N0153382.pdf?OpenElement, 15 March 2006, 1.

[15] Ibid.

[16] Rostow, "Before and After," 481.

Council would "effectively opt out of subsequent decision-making and leave the military response to the United States."[17] In fact, while Resolution 1368 enhanced American leverage by affirming the right of self-defense, the Security Council member states also largely rejected that argument as a legal justification for invading Iraq in 2003. This is important because it shows that the Security Council had become a forum for debating self-defense issues, even though its imprimatur was not needed for the use of force by member states.

The second groundbreaking resolution was Resolution 1373, which was adopted unanimously on 28 September 2001, less than three weeks after the attacks. It imposed a number of binding commitments on all member states of the United Nations.[18] These obligations required states to prohibit both active and passive support for terrorists, to deny terrorists financing, and to freeze the assets of terrorists and their supporters. Moreover, states were required to deny safe haven to terrorists, to increase their vigilance against passport and identification forgery, to tighten their border controls, and to work toward enhancing international cooperation against terrorism. This was an unprecedented and far-reaching resolution, which imposed on all states obligations that are usually contained only in treaties.[19] In contrast to the 13 conventions on terrorism, which are binding only on those states that ratify them, Resolution 1373 established for the first time uniform obligations for all 191 member states.[20]

Not only did Resolution 1373 impose far-reaching legal obligations on member states, it also established a mechanism for monitoring the commitment and progress of the members—the Counter-Terrorism Committee (CTC). As Edward Luck points out, this was the "principal innovation of the post-September 11 period."[21] The CTC serves three purposes. The key function is to strengthen the counter-terrorism capacity of UN member states.[22] The Committee also serves to facilitate the delivery of technical assistance to states trying to carry out counter-terrorism mandates.[23] Furthermore, it is also involved in coordinating the counter-terrorism efforts of international, regional, and subregional organizations.[24] The resolution calls on all states to report to the CTC on how they are carrying out the implementation of the resolution no

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[17] Boulden and Weiss, "Whither Terrorism," 7.

[18] Oudraat argues that "Resolution 1373 would not have been adopted were it not for the precedents set with the sanctions regimes in the 1990s" in "The Role of the Security Council," 158.

[19] Rostow, "Before and After," 482.

[20] Boulden and Weiss, "Whither Terrorism," 11.

[21] Luck, "Another Belligerent," 99.

[22] David Cortright, George A. Lopez, Alistair Millar, and Linda Gerber, *An Action Agenda For Enhancing the United Nations Program on Counter-Terrorism* (Notre Dame and Goshen: Fourth Freedom Forum and Joan B. Kroc Institute for International Peace Studies at the University of Notre Dame, 2004), accessed at Kroc Institute at http://kroc.nd.edu/polbriefs/Action_Agenda.pdf, 22 May 2006, 3–4.

[23] Ibid.

[24] Ibid.

later than 90 days from the date of adoption, and afterward according to a CTC-mandated timetable.

Quantitative Changes

While there was a clear difference in the prominence of action against terrorism after September 11, more-particular data also support the finding that the UN responded strongly to terrorism after September 11. First, as mentioned in the previous section, before September 11, the main thrust of the United Nations' counter-terrorism work came in the form of international conventions. The two most important conventions are the International Convention for the Suppression of Terrorist Bombings (1997) and the International Convention for the Suppression of the Financing of Terrorism (1999). There was a clear increase in the number of countries that ratified these two conventions after 11 September 2001. As of June 2001, 59 states had signed the convention on terrorist bombings.[25] Moreover, before 11 September 2001, a total of 27 countries had ratified the convention; afterward, an additional 118 states ratified the convention, bringing the total to 145 as of December 2005 (Table 1).[26] As of June 2001, 43 states had signed the convention on terrorist financing.[27] In addition, before 11 September 2001, only 4 countries had ratified the convention, while 147 countries have done so since the attacks.[28]

Second, when it comes to the work of the Security Council, we can also see that there is a difference in the number of terrorism-related resolutions passed before and after 11 September 2001. Before September 11, the Security Council had passed a total of 13 resolutions classified as dealing with terrorism, according to the United Nations (Table 2), an average of about one a year.[29] However, there has been a marked increase in terrorism-related resolutions passed by the Security Council since 11 September 2001; by the end of 2005, it had passed 20 resolutions, an average of 4 to 5 resolutions a year (Table 2).

Third, another interesting aspect of the terrorism-related resolutions passed before and after 11 September 2001 is the voting record. Eight of the 13 resolutions passed before September 11 were passed unanimously,

[25] UN Association of the United States of America, "Informs, Peace & Security," accessed at the website of UNA-USA at http://www.unausa.org/site/pp.asp?c=fvKRI8MPJpF&b=379693, 14 March 2006.

[26] Through e-mail correspondence, the UN Treaty Section provided the dates that all 145 countries ratified the International Convention for the Suppression of Terrorist Bombings (1997).

[27] UN Association of the United States of America, "Informs, Peace & Security."

[28] Through e-mail correspondence, the UN Treaty Section provided the dates that all 151 countries ratified the International Convention for the Suppression of the Financing of Terrorism (1999).

[29] As reported by the United Nations, "UN Action Against Terrorism, Action by the Security Council," accessed on the website of the United Nations at http://www.un.org/terrorism/sc.htm, 6 February 2006.

TABLE 1

Number of Countries that Ratified the International Convention for the Suppression of Terrorist Bombings (1997) and the International Convention for the Suppression of the Financing of Terrorism (1999)

Year	Convention for the Suppression of Terrorist Bombings	Convention for the Suppression of the Financing of Terrorism
1998	1	—
1999	7	—
2000	9	2
1/1–9/11 2001	10	2
9/12–12/31 2001	19	12
2002	32	48
2003	37	43
2004	17	25
2005	13	17
1/1–3/13 2006	—	2
Total	145	151

Source: UN Treaty Collection website, http://untreaty.un.org/English/treaty.asp and e-mail correspondence (11 April 2006) from the UN Treaty Section, providing information on when countries ratified the International Convention for the Suppression of Terrorist Bombings (1997) and the International Convention for the Suppression of the Financing of Terrorism (1999).

while five had no-votes or countries abstaining from voting (Resolution 687 on Kuwait and four resolutions relating to implementing sanctions). The resolution encountering the most resistance (five abstained: Cape Verde, China, India, Morocco, and Zimbabwe) was Resolution 748 (1992) implementing sanctions on Libya. After 11 September 2001, 19 of 20 resolutions were passed unanimously. Only Syria voted no on Resolution 1450 (2002), condemning the terrorist bomb attack in Kikambala, Kenya and the attempted missile attack on the airliner departing Mombasa, Kenya, 28 November 2002.

Qualitative Changes

The general thrust of action at the UN Security Council, as well as more-particular data, supports the notion that the Security Council's response to September 11 was significant, but it is also important to explore the gravity and quality of actions taken at the UN. For the purpose of evaluating the quality of the resolutions, we have classified them into four types: general/technical; response to terror act; response to terror act and imposing sanctions; and terrorism a minor issue. The first group, general/technical, includes resolutions that deal with terrorism in broad or technical terms and do not necessarily refer to a specific event. Two of the 13 resolutions passed before September 11 deal with terrorism in more-general/technical terms (Table 3): Resolution 635, and Resolution 1269 (1999) on international co-

TABLE 2

*Comparison of UN Security Council Resolutions on Terrorism Passed Before and After
11 September 2001*

Security Council Resolutions on Terrorism	Before September 11	After September 11
Total	13	20
Average per year	∼1	4–5
General/technical	2 (15,5%)	11 (55%)[a]
Terrorism a minor issue	2 (15,5%)	—
Response to terror act	3 (23%)	11 (55%)[a]
Response to terror act and sanctions	6 (46%)	1 (5%)[a]
Unanimous vote	8 (62%)	19 (95%)
No-vote or abstained vote	5 (38%)	1 (5%)

Source: The United Nations, "UN Action Against Terrorism, Action by the Security Council," accessed at http://www.un.org/terrorism/sc.htm, 6 February 2006.

[a]Some of the post–September 11 resolutions have been classified as more than one type (see Table 4). This explains why the classification of the post–September 11 resolutions adds up to more than 100%.

operation in the fight against terrorism. In Resolution 1269 (1999), the Security Council

> *Unequivocally condemns* all acts, methods and practices of terrorism as criminal and unjustifiable, regardless of their motivation, in all their forms and manifestations, wherever and by whomever committed, in particular those which would threaten international peace and security; [and]…*Calls upon* all States to implement fully the international anti-terrorist conventions to which they are parties, *encourages* all States to consider as a matter of priority adhering to those to which they are not parties, and *encourages also* the speedy adoption of the pending conventions.[30]

Of the post–September 11 resolutions, we classified over half of the resolutions (11 of 20) as dealing with terrorism in general terms (Table 4).[31] These include Resolution 1373 (2001), which established the CTC, Resolution 1535 (2004) which revitalized the CTC, Resolution 1540 (2004) on non-proliferation of nuclear, chemical, and biological weapons, and Resolution 1624 (2005) concerning the incitement of terrorist acts.

The second and third types include resolutions that condemn specific terrorist attacks. The third type, response to terror acts and sanctions, includes those resolutions that impose sanctions on countries or regimes found to have assisted terrorist networks. Most of the resolutions passed before 11 September 2001 (9 of 13) fit into these two groups (Table 3), dealing with and reacting to international terrorist actions such as the Pan Am Flight 103 bomb-

[30] UN Security Council, S/ RES 1269 (1999), accessed on the website of the United Nations at http://daccessdds.un.org/doc/UNDOC/GEN/N99/303/92/PDF/N9930392.pdf?OpenElement, 16 March 2006, 2.

[31] Some post–September 11 resolutions have been classified as belonging to two different groups because of the content of the resolution.

TABLE 3

UN Security Council Resolutions on Terrorism before 11 September 2001

Year	Resolution	Content	Vote	Type
1989	635	On making of plastic or sheet explosives for the purpose of detection	Unanimously	Technical
1991	687	On restoration of the sovereignty, independence, and territorial integrity of Kuwait	12 to 1 (Cuba)[a]	Terrorism minor issue
1992	731	On the destruction of Pan American flight 103 and Union des transports aeriens flight 772	Unanimously	Response to terror act
1992	748	On sanctions against the Libyan Arab Jamahiriya	10 to 0[b]	Response to terror act, sanctions
1993	883	On sanctions against the Libyan Arab Jamahiriya in connection with Libyan non-compliance with Security Council Resolutions 731 (1992) and 748 (1992)	11 to 0[c]	Response to terror act, sanctions
1996	1044	Calling upon Sudan to extradite to Ethiopia the three suspects wanted in connection with the assassination attempt against President Mubarak of Egypt	Unanimously	Response to terror act
1996	1054	On sanctions against Sudan in connection with non-compliance with Security Council Resolution 1044 (1996)	13 to 0[d]	Response to terror act, sanctions
1998	1189	Concerning the terrorist bomb attacks of 7 August 1998 in Kenya and Tanzania	Unanimously	Response to terror act
1998	1214	On the situation in Afghanistan	Unanimously	Terrorism minor issue
1999	1267	On measures against the Taliban	Unanimously	Response to terror act, sanctions
1999	1269	On international cooperation in the fight against terrorism	Unanimously	General
2000	1333	On measures against the Taliban	13 to 0[e]	Response to terror act, sanctions
2001	1363	On the establishment of a mechanism to monitor the implementation of measures imposed by Resolutions 1267 (1999) and 1333 (2000)	Unanimously	Response to terror act, sanctions

Source: The United Nations, "UN Action Against Terrorism, Action by the Security Council," accessed at http://www.un.org/terrorism/sc.htm, 6 February 2006. S/RES/883 was not on the website, but has been added by the authors.

[a]Two abstaining (Ecuador, Yemen).
[b]Five abstaining (Cape Verde, China, India, Morocco, Zimbabwe).
[c]Four abstaining (China, Djibouti, Morocco, Pakistan).
[d]Two abstaining (China, USSR).
[e]Two abstaining (China, Malaysia).

ing in 1988 and the terrorist attacks in Kenya and Tanzania in 1996. When countries supporting or harboring terrorists and their organizations have failed to comply with international pressure, the Security Council has taken the next step and enforced sanctions; six resolutions are classified as the third type (Table 3). Since September 11, about half (11 of 20 resolutions) have been in response to specific terror acts (Table 4), including the bomb attacks in Kenya, Madrid, and London. Only one resolution involving sanctions has been passed since 11 September 2001—Resolution 1526 (2004), which extends and

TABLE 4

UN Security Council Resolutions on Terrorism after 11 September 2001

Year	Resolution	Content	Vote	Type
2001	1368	Condemning the terrorist attacks of 11 September 2001 in New York, Washington DC, and Pennsylvania, United States of America	Unanimously	Response to terror act
2001	1373	On threats to international peace and security caused by terrorist acts	Unanimously	General/response to terror act
2001	1377	On the adoption of declaration on the global effort to combat terrorism	Unanimously	General/response to terror act
2002	1438	On the bomb attacks in Bali (Indonesia)	Unanimously	Response to terror act
2002	1440	On condemning the act of taking hostages in Moscow, Russian Federation, on 23 October 2002	Unanimously	Response to terror act
2002	1450	Condemning the terrorist bomb attack in Kikambala, Kenya, and the attempted missile attack on the airliner departing Mombasa, Kenya, 28 November 2002	14 to 1 (Syria)	Response to terror act
2002	1452	On the implementation of measures imposed by para. 4 (b) of Resolution 1267 (1999) and para. 1 and 2 (a) of Resolution 1390 (2002)	Unanimously	General
2003	1455	On improving of implementation of measures imposed by para. 4(b) of Resolution 1267 (1999), para. 8(c) of resolution 1333 (2000), and para. 1 and 2 of Resolution 1390 (2002)	Unanimously	General
2003	1456	On combating terrorism	Unanimously	General
2003	1465	On the bomb attack in Bogota, Colombia	Unanimously	Response to terror act
2003	1516	On the bomb attacks in Istanbul, Turkey, on 15 and 20 November 2003	Unanimously	Response to terror act
2004	1526	Threats to international peace and security caused by terrorist acts and measures against al Qaeda and the Taliban	Unanimously	General/response to terror act, sanctions
2004	1530	On the bomb attacks in Madrid, Spain, on 11 March 2004	Unanimously	Response to terror act
2004	1535	On the revitalization of the Security Council Committee established pursuant to Resolution 1373 (2001) concerning counter-terrorism	Unanimously	General
2004	1540	On non-proliferation of nuclear, chemical, and biological weapons	Unanimously	General
2004	1566	On international cooperation in the fight against terrorism	Unanimously	General
2005	1611	On bomb attacks in London on 7 July 2005	Unanimously	Response to terror act
2005	1617	On international cooperation in the fight against terrorism	Unanimously	General
2005	1618	On continued terrorist attacks in Iraq	Unanimously	Response to terror act
2005	1624	On threats to international peace and security	Unanimously	General

Source: The United Nations, "UN Action Against Terrorism, Action by the Security Council," accessed at http://www.un.org/terrorism/sc.htm, 6 February 2006. S/RES/1625, which the UN website has classified as dealing with terrorism but which, in fact, deals with the general situation in Africa, has not been included by the authors.

expands the sanctions against the Taliban and al Qaeda organizations (Table 4). The fourth type involves resolutions in which terrorism is only a minor issue. There were two such resolutions before and none after September 11 (Table 3): Resolution 687 (1991), which dealt with the aftermath of the first Gulf war, and Resolution 1214 (1998), which related to the general situation in Afghanistan.

To sum up, it can be argued that the "quality" of the resolutions has changed as well. Prior to September 11, only 2 of 13 resolutions (15 percent) dealt with terrorism in more general terms. Since September 11, over half of the resolutions (11 of 20) have dealt with terrorism in general terms (Table 2). This suggests that the fight against terrorism has had a much more central role on the agenda of the Security Council since September 11, while terrorism was dealt with in a more ad-hoc fashion prior to the attacks on the United States. Furthermore, one may, at first glance, argue that the majority of the resolutions before and after September 11 have been reactive in nature (69 percent of resolutions before September 11 and 55 percent of those after), in response to specific terrorist acts (Table 2).

However, there are major differences: before September 11, only a few terrorist attacks were actually referred to the Council. In the last five years, however, almost all terrorist attacks have been referred to and condemned by the Council (Bali, Kenya, Bogota, Istanbul, Madrid, and London). While the member states were rather selective about which cases were handled by the Council prior to September 11, it seems that the Council has been more even-handed and inclusive since September 11. Another distinct difference is the apparent consensus in the Council. Prior to September 11, only 8 of 13 resolutions (62 percent) were adopted unanimously. After September 11, 19 of 20 resolutions (95 percent) were adopted unanimously. How long this consensus will endure is an open question, but the efforts of the Security Council since September 11 have been much more organized, concerted, and prominent than they were in the past. We can say that while the early efforts were more event-driven and dealt with terrorism as a low-level issue, since September 11 they have been much more comprehensive and central. The post–September 11 resolutions carry more significance and clout, frame the work of the UN organs on terrorism, and provide a framework and guide for action for most of the member states of the UN.[32]

Tools

Not only has the nature of the response to terrorism changed as a result of 11 September 2001, the tools available in the fight against terrorism have changed as well. Before September 11, sanctions remained, in practice, the ultimate tool available to the Security Council. The Security Council used

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[32] Rostow, "Before and After," 487.

sanctions against terrorism three times in the 1990s, against Libya, Sudan, and Afghanistan. It has not used sanctions in response to terrorism since September 11, except for the continuing sanction regime against Osama Bin Laden, members of the al Qaeda and Taliban organizations, and associated individuals and groups.[33] The United States was the driving force in all three instances in the 1990s. The improved climate after the end of the Cold War, as well as the changes in transnational terrorism, created an "opening" in the Security Council and made it possible to use sanctions as a tool against states supporting terrorism networks. As Oudraat points out, "The sanctions regimes of the 1990s helped to consolidate a growing international consensus that saw terrorism as an illegitimate activity that needed to be countered through collective international actions. Sanctions therefore helped to change the public attitudes of states toward terrorism."[34]

While it is known that sanctions may not significantly change the behavior of the target state, Luck maintains that the "expectation, rather, was that such unprecedented steps by the Council would help further delegitimize the state sponsoring terrorist groups and activities. The sanctions were seen, moreover, as a deterrent, as a means of signaling the Council's newfound determination to take a firm stand against terrorism."[35] In the three cases in which sanctions have been used, the results have been uneven, and in the cases in which we may deem the sanctions a success (Libya and Sudan), it is very hard to tell whether the sanctions actually worked or whether other factors played a role. Moreover, the degree to which a state values what it has to give up also makes a significant difference when it comes to the success of sanctions. Libya and Sudan were not asked to relinquish anything central to their power; by contrast, the Taliban depended on Bin Laden for military, financial, and political support to retain power in Afghanistan.[36]

Sanctions have not been used in response to terrorism since 11 September 2001, except for the continuing sanctions against the Taliban and al Qaeda, and there are several reasons for this. First, after the attacks on the United States, the fight against transnational terrorism took on a completely new form and became the "war on terrorism," involving various forms of the use of force. Resolution 1368 "reaffirmed the inherent right of self-defense in accordance with Article 51 of the UN Charter" and gave the U.S. operations in Afghanistan legitimacy and broader international support. The U.S. unilateral and military action in Afghanistan and Iraq eclipsed sanctions in some measure. Second, sanctions work best when applied against a state, thereby allowing

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[33] The 1267 Committee oversees the implementation of these sanctions and is assisted by a monitoring team, set up by Resolution 1526, which analyzes countries' reports and conducts field visits, identifying for the Committee any gaps in implementation of the sanctions.

[34] Oudraat, "The Role of the Security Council," 157–158.

[35] Luck, "Tackling Terrorism," 94.

[36] Ibid., 95; R. Harrison Wagner, "Economic Interdependence, Bargaining, Power, and Political Influence," *International Organization* 42 (Summer 1988): 461–483.

other states to sever diplomatic, economic, military, and other links. Sanctions against transnational terrorist networks, such as al Qaeda, tend to be less effective, because the "target" is constantly moving or hiding. Third, in this new world of transnational terrorism, efforts aimed at strengthening each state's means to fight terrorism (such as the work of the CTC) may be more effective than sanctions. In other words, the use of the military option in Afghanistan and Iraq, the general difficulty in achieving consensus on the use of sanctions, and the work of the CTC have made the employment of sanctions less beneficial since September 11. However, sanctions could still be a significant and useful tool in the future.[37] Oudraat points out that "sanctions regimes paved the way for a military approach to terrorism."[38] It is therefore difficult to say how effective sanctions will be in the future against transnational terrorism. What is certain is that the international community, post–September 11, has utilized tools in addition to sanctions, namely the use of military force as well as general and financial counter-terrorism obligations monitored by the CTC.

Compliance

Another before/after factor to compare is compliance with UN mandates by member states. Unfortunately, there is no easy comparison, because compliance was not requested prior to September 11. No resolution demanded that states take action to address terrorism, except for sanctions resolutions, but that is the rub. Prior to September 11, compliance was a minor issue. After September 11, this clearly changed. The sweeping and binding commitment imposed by Resolution 1373 on the member states, and the monitoring mechanism (the CTC), represent a creative and unique, and some may say intrusive, way to fight terrorism. By early 2004, a consensus had developed in the Security Council on the need to strengthen the CTC by providing additional resources and authority. That led the Security Council to adopt Resolution 1535 in March 2004. Resolution 1535 established a new Counter-Terrorism Executive Directorate (CTED), which greatly increased the Committee's professional staffing and improved its capacity to support member state implementation. The CTED has been fully staffed since September 2005, and was confirmed operational in December 2005.[39] In 2005, the Committee began a series of visits to

[37] Daniel Benjamin notes that "although the problem of the new terrorism is principally one of non-state actors, the ability to condemn and sanction could be an important one in the future" in "Terrorism and International Organizations," accessed on the website of United Nations and Global Security, An Initiative of the United Nations Foundation at http://www.un-globalsecurity.org/pdf/Benjamin_paper_terrorism.pdf, 16 March 2006, 4.

[38] Oudraat, "The Role of the Security Council," 158.

[39] UN Security Council Counter-Terrorism Committee, "About Us, Working Committee Methods," accessed on the website of the United Nations at http://www.un.org/sc/ctc/workingmethods.shtml, 14 March 2006.

member states in order to work directly with officials in the capitals and provide better technical assistance for the implementation of Resolutions 1373 (2001) and 1624 (2005). In 2005, the Committee and CTED visited Morocco, Kenya, Albania, Thailand, and Algeria; in 2006, visits included Tanzania, the Former Yugoslav Republic of Macedonia, and the Philippines.[40]

The CTC/CTED is the UN's first institutionalized attempt at a coordinated and global counter-terrorism scheme.[41] The 13 counter-terrorism conventions serve as legal platforms to harmonize national practices, but carry no compliance or enforcement mechanism. Though the CTC cannot punish member states, the transparency of the process encourages compliance with Resolution 1373. According to the report *An Action Agenda For Enhancing the United Nations Program on Counter-Terrorism*, the CTC has been successful because it "has established legitimacy and political authority for the global counter-terrorism effort, … it has promoted the creation of specialized systems for coordinating global efforts to combat terrorist threats … [and it] has helped to develop and strengthen international norms. The CTC has played a role in creating and sustaining international momentum to strengthen counter-terrorism efforts."[42]

All 191 member states submitted first-round reports to the CTC, in which they laid out their compliance with Resolution 1373. A state's report is first considered by one of the three subcommittees, and later by the whole CTC. The CTED can advise the Committee on "technical aspects of States' reports, including criminal, financial, customs, immigration and extradition law and practice; police and law enforcement issues; and illegal arms trafficking."[43] After analyzing the report, the Committee can send a letter requesting further information. The state then has 90 days to respond with a new report. As of January 2005, "the CTC has received more than 550 reports from states, making it the depository of what one observer termed 'probably the largest body of information about worldwide counterterrorism capacity.'"[44] While there is no easy basis for comparison to the pre–September 11 compliance record on terrorism, the post–September 11 record has been mixed. According to David Cortright, only a few dozen states have fully complied with Resolution 1373, and most of these are advanced industrialized nations that have

[40] Ibid.

[41] The CTC draws its mandate from Resolution 1373 (2001). However, Resolution 1624 (2005), which deals with the issue of incitement to commit acts of terrorism, extended the Committee's mandate to include the monitoring of its implementation according to the UN Security Council Counter-Terrorism Committee, "Mandate," accessed on the website of the United Nations at http://www.un.org/sc/ctc/mandate.shtml, 25 June 2006.

[42] Cortright, Lopez, Millar, and Gerber, *An Action Agenda*, 8, 12.

[43] UN Security Council Counter-Terrorism Committee, "Documents, Country Reports," accessed on the website of the United Nations at http://www.un.org/sc/ctc/countryreports.shtml, 14 March 2006.

[44] David Cortright, "Can the UN Battle Terrorism Effectively?" *USA Today* Magazine, January 2005, 2.

the capacity and resources to deal effectively with the financing, travel, and supply of terrorist organizations.[45] About 60 states are in transition; "these countries are in the process of introducing the necessary legislative, administrative, and regulary changes for countering international terrorism."[46] About 70 states are "sympathetic to the CTC but face difficulties ranging from armed conflict to extreme poverty and are unable to prioritize counter-terrorism concerns."[47] The last group, of about 20 states, has some capacity to comply but has chosen not to; "some of these countries are on the front lines of the battle against terrorism, and their inaction weakens the overall UN effort."[48]

Moreover, when it comes to compliance, another of the Security Council's committees on counter-terrorism, the 1540 Committee (on nuclear non-proliferation) reports that as of 30 May 2006, "129 States and one organization had submitted first national reports to the Committee; and 62 Member States had yet to submit their first report. In response to the Committee's examination of the first national reports, 83 States had provided additional information. Facilitating reporting and the conduct of outreach activities to promote reporting remained among the top priorities of the Committee's future work."[49]

The third Security Council counter-terrorism committee, the 1267 Committee (dealing with al Qaeda, the Taliban, and associated individuals and groups) was established in 1999 and is the only one that lends itself to a before-and-after comparison. The 1267 Committee has a monitoring group that has published several reports, but member states were not required to submit national reports until 2002.[50] As of March 2006, 45 states had not yet reported.[51]

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[45] David Cortright, "Terrorism Beyond the State: Dilemmas and Solutions," accessed on the website of United Nations and Global Security, An Initiative of the United Nations Foundation at http://www.un-globalsecurity.org/pdf/cortright.pdf, 16 March 2006, 4.

[46] Ibid.

[47] Ibid.

[48] Ibid.

[49] United Nations Security Council, "Press Release Sc/8730, Security Council Reviews Work Of Committees On Nuclear Non-Proliferation, Counter-Terrorism, Al-Qaida And Taliban: Main Issues Discussed Include Reporting Systems, Coordination Among Committees, Cooperation With Regional Organizations, May 30, 2006," accessed on the website of the United Nations at http://www.un.org/News/Press/docs/2006/sc8730.doc.htm, 1 July 2006.

[50] United Nations Security Council, "Letter dated 14 February 2005 from the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities addressed to the President of the Security Council containing the SECOND REPORT of the MONITORING TEAM pursuant to resolution 1526 (2004)," accessed on the website of the United Nations at http://daccessdds.un.org/doc/UNDOC/GEN/N05/240/73/PDF/N0524073.pdf?OpenElement, 25 June 2006, 14.

[51] United Nations Security Council, "S/2006/154, Letter dated 8 March 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities addressed to the President of the Security Council containing the FOURTH REPORT of the MONITORING TEAM pursuant to resolution 1526 (2004)," accessed on the website of the United Nations at http://daccessdds.un.org/doc/UNDOC/GEN/N06/230/45/PDF/N0623045.pdf?OpenElement, 25 June 2006, 37.

However, the monitoring team asserted that while it is difficult to make a "thorough independent assessment of compliance by all 191 Member States" and while many states "failed to include sufficient detail to permit a through assessment of their sanction regimes," the compliance so far provides "encouraging news about the status of global implementation."[52]

CHALLENGES

The foregoing discussion argues that the UN Security Council's response to terrorism became much stronger after September 11. However, the work of the United Nations as a whole, and of the Security Council in particular, has been hampered by several issues. These include the lack of a universal definition of terrorism, lack of enforcement mechanisms, concerns about American dominance, human rights issues, and the importance of root causes.

First, one of the foremost issues related to the United Nations' response to terrorism is the inability of the member states to agree on a definition of terrorism. The member states seem quite content to live with the ambiguity, which allows them to define terrorism in ways that suit their policy objectives. Indeed, the main struggle has been over whether terrorism should sometimes be defined as a political movement. Some are in favor of exempting from the definition of terrorism "all activities done in resistance to 'foreign occupation' and activities by those 'engaged in the struggle for national liberation.'"[53] However, the lack of a definition does not seem to have significantly inhibited the Security Council or the CTC in their practical work. The work of the General Assembly toward a single comprehensive convention on terrorism in place of the existing conventions and protocols will most likely necessitate a consensus among the member states as to what constitutes international terrorism.

The concern about the lack of a universal definition of terrorism is therefore more a normative, moral, and human rights concern: In his 2006 report, the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism writes that "calls by the international community to combat terrorism, without defining the term, can be understood as leaving it to individual States to define what is meant by the term. This carries the potential for unintended human rights abuses and even the deliberate misuse of the term."[54] The closest the Council comes to a definition may be the wording in Resolution 1269 (1999): the Security Council "unequivocally condemns all acts, methods and practices

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[52] Security Council, "Letter dated 14 February 2005," 14.

[53] Rostow, "Before and After," 480.

[54] Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism, "Report on Promotion and Protection of Human Rights," E/CN.4/2006/98, 28 December 2005, accessed on the website of the United Nations at http://daccessdds. un.org/doc/UNDOC/GEN/G05/168/84/PDF/G0516884.pdf?OpenElement, 16 March 2006, 9.

of terrorism as criminal and unjustifiable, regardless of their motivation, in all their forms and manifestations, wherever and by whomever committed, in particular those which could threaten international peace and security," which still leaves plenty of leeway for national interpretations.[55] The practice that has been employed is the "use of counter-terrorism conventions as a trigger for determining what conduct is to be proscribed in the fight against terrorism."[56] Nevertheless, the United Nations community needs to agree on a universal definition of terrorism in order to protect human rights and develop a comprehensive counter-terrorism strategy, and because a "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."[57]

Second, the issue of enforcement is central to the success of the Security Council's response to transnational terrorism. The implementation of Resolution 1373 is partly hampered by the CTC's lack of resources and capabilities to undertake comprehensive monitoring.[58] Moreover, it does not have any enforcement mechanisms with which to "punish" those countries that are not complying with the obligations of 1373. Some of these countries may not be able to divert scarce resources to counter-terrorism efforts, while others may not want to; the latter are the states most likely to harbor or assist terrorist networks.

Third, the United States has been the driving force in getting the Security Council to play a more active role in combating global terrorism. For the other members of the Council, the preponderance of American power may lead to difficult choices of whether to maximize the fight against terrorism or attempt to balance against U.S. power and dominance.[59] This problem may have been reflected, in some measure, in the Security Council split over whether to use force in Iraq in 2003.

Fourth, many experts believe that if the Security Council is to be effective in its counter-terrorism efforts, either the Security Council as a whole, or powerful states such as the United States, will have to take an active role in solving some long-standing regional conflicts. "The conventional wisdom

[55] UN Security Council, S/RES 1269 (1999), 2.

[56] Special Rapporteur, "Report on Promotion and Protection of Human Rights," 10.

[57] United Nations, "A More Secure World: Our Shared Responsibility, Report of the High-level Panel on Threats, Challenges and Changes, 2004," accessed on the website of the United Nations at http://www.un.org/secureworld/report2.pdf, 15 November 2006, 51.

[58] Eric Rosand, "Security Council Resolution 1373, the Counter-Terrorism Committee, and the Fight against Terrorism," *The American Journal of International Law* 97 (April 2003): 338–340. Rosand suggests that the issue of financial and human resources, the lack of resources to provide direct assistance, the absence of an agreed-upon definition of terrorism, and the issue of the protection of human rights are still difficult areas for the CTC.

[59] The position that the UN Security Council is used by other states to balance against the superpower is argued by, among others, Erik Voeten, "The Political Origins of the UN Security Council's Ability to Legitimize the Use of Force," *International Organization* 59 (Summer 2005): 527–557.

concludes that the international community will not succeed in this area [terrorism] until the conflicts in the Middle East and over Kashmir come to and end."[60]

Fifth, the possibility of the United Nations taking on a larger and more forceful role in the fight against terrorism worries some communities, such as human rights groups, humanitarian organizations, and disarmament advocates. The fear is that counter-terrorism efforts can be used by states to clamp down on dissidents. Counter-terrorism cooperation may provide authoritarian regimes with cover for repressing their already-limited commitments to human rights and the rule of law. Since 11 September 2001, the General Assembly has passed three resolutions regarding "protecting human rights and fundamental freedoms while countering terrorism," in 2002, 2003, and 2004.[61] In Resolution 59/191, the General Assembly "*reaffirms* that States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights, refugee and humanitarian law."[62] The Secretary-General has submitted three reports on "protecting human rights and fundamental freedoms while countering terrorism," in 2003, 2004, and 2005. In his latest report, the Secretary-General points out that the Commission on Human Rights appointed a special rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism in July 2005. The Office of the United Nations High Commissioner for Human Rights (OHCHR) has also printed a "digest of jurisprudence of the UN and regional organizations on the protection of human rights while countering terrorism,"[63] and the OHCHR will continue and deepen its contact with the CTC and CTED.[64] In conclusion, the Secretary-General writes that he, "the High Commissioner for Human Rights, and many other human rights experts continue to express concern that many counter-terrorism measures are infringing on human rights and fundamental freedoms."[65]

Sixth, this paper has mainly dealt with the tactical response of the Security Council to the terrorist threat, but many experts, as well as world leaders,

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[60] Rostow, "Before and After," 489.

[61] These resolutions are A/RES/57/219, A/RES/58/187, and A/RES/59/191, accessed at http://www.un.org/terrorism/res.htm, 7 June 2007.

[62] General Assembly, A/RES/59/191 (2005), accessed on the website of the United Nations at http://daccessdds.un.org/doc/UNDOC/GEN/N04/487/72/PDF/N0448772.pdf?OpenElement, 17 March 2006, 2.

[63] "Its aim is to assist policy makers and other concerned parties in developing a vision of counter-terrorism strategies that are fully respectful of human rights," according to OHCHR, "Digest of Jurisprudence of the UN and Regional Organizations on the Protection of Human Rights While Countering Terrorism," accessed on the OHCHR website at http://www.ohchr.org/english/about/publications/docs/digest.doc, 15 March 2006, 3.

[64] UN Secretary-General, "Report: Protecting Human Rights and Fundamental Freedoms while Countering Terrorism," A/60/374, accessed on the website of the United Nations at http://daccessdds.un.org/doc/UNDOC/GEN/N05/520/75/PDF/N0552075.pdf?OpenElement, 16 March 2006, 3.

[65] Ibid., 8.

believe that this response will not be successful as long as the root causes of terrorism are not tackled. "Analogous to the emphasis on economic development and democracy as ways to prevent armed conflict, the desire to deal with root causes is based on the assumption that if specific parts of the world were better places, then terrorism would not take root."[66] Secretary-General Kofi Annan stated in 2002 that terrorism is "a weapon for alienated, desperate people, and often a product of despair. If human beings everywhere are given real hope of achieving self-respect and a decent life by peaceful methods, terrorists will become much harder to recruit."[67] Others have pointed out that "continued promotion of human rights, humanitarian assistance, and economic development can be a major UN contribution to eliminating terrorism."[68]

Reflecting some broadly held views, Daniel Benjamin lists the following root causes that have to be addressed: authoritarian rule, the disintegration of public education, the culture of incitement, economic stagnation, and the demographic explosion.[69] Another concern is that violent internal and international conflicts can constitute fertile ground for international terrorism: "Prolonged unresolved conflicts in particular often create conditions conducive to exploitation by terrorists and as such must not be allowed to fester, however intractable they might seem."[70] The United Nations has an extensive history of preventing and resolving armed conflicts through its peacebuilding and peacekeeping capacities; for example, the special representatives and envoys of the Secretary-General have been instrumental in facilitating peace agreements in 13 conflicts since 2001.[71] Furthermore, "Human Security Report 2005 identified a dramatic 40 percent reduction in armed conflicts since 1992 and attributed the achievement in part to increased United Nations peacekeeping, prevention and peacebuilding activities." While it is true that the Security Council and peacebuilding and peacekeeping operations can play an important role in the fight against terrorism, one should be mindful of the fact that preventing terrorism is, at best, only a positive by-product of these operations; building and sustaining the peace should always be the main priority.

[66] Boulden and Weiss, "Whither Terrorism," 12–13.

[67] United Nations, "Press Release SG/SM/8105, SC/7277, 18 January 2002," accessed on the website of the United Nations at http://www.un.org/News/Press/docs/2002/sgsm8105.doc.htm, 17 March 2006.

[68] James Sutterlin, *The United Nations and the Maintenance of International Security, A Challenge to Be Met* (Westport, CT and London: Praeger, 2003), 112.

[69] Benjamin, "Terrorism and International Organizations," 2.

[70] UN Secretary-General, "United Against Terrorism: Recommendation for a Global Counter-terrorism Strategy," A/60/825, 27 April 2006, accessed on the website of the United Nations at http://www.un.org/unitingagainstterrorism/sg-terrorism-2may06.pdf, 15 November 2006, 6.

[71] United Nations, "UN Action to Counter Terrorism, Taking Action: UN Measures to Counter Terrorism," accessed on the website of the United Nations at http://www.un.org/terrorism/strategy/forthepress.html, 15 November 2006.

CONCLUSION

The Security Council's response to terrorism since 11 September 2001 has been in a different league than its response prior to the attacks. The acknowledgement of self-defense as a state's legitimate response to terrorism, the sweeping obligations put on all member states by Resolution 1373, and the formation of and response to the CTC are all firsts in UN history. The importance of counter-terrorism is also manifested by the sheer volume of resolutions passed: 20 in all since 11 September 2001, an average of 4 to 5 a year. There is also a new sense of consensus and determination in the Security Council when it comes to tackling the issue of terrorism (the lack of a definition notwithstanding), illustrated by the fact that all but one of the resolutions were passed unanimously. The nature of the resolutions has also changed; there is now much more attention given to how to fight terrorism in general than to condemning specific acts. One may argue that the Security Council post–September 11 has had more of a strategy or concerted approach, which includes political condemnation of most major terrorist attacks, collective counter-terrorism obligations, and monitoring and assistance in improving states' counter-terrorism capabilities.[72] Yet the persistence of the serious conceptual, institutional, and political constraints described in this article suggests that progress will only be made incrementally and within limits.[73] Indeed, as the UN Working Group on the United Nations and Terrorism pointed out, the UN's political and institutional capacity to contribute to counter-terrorism has progressed in positive and innovative ways, but the UN is also limited in that it is not "well placed to play an active operational role in efforts to suppress terrorist groups, to preempt specific terrorist strikes, or to develop dedicated intelligence-gathering capacities."[74]

At the outset, we noted that we would elaborate upon the question of the importance to the United States of the United Nations. On that score, opinion has been strongly divided in the United States. In fact, in the year following the Iraq war, just 55 percent of Americans had a favorable view of the UN, which was the lowest recorded in 14 years of Pew Research surveys.[75] Some detractors argue that the UN is ineffective and expensive,[76] that it is an anti-American vessel, composed of countries that seek to undermine U.S.

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[72] This is partly argued by Eric Rosand in "The Security Council's Efforts to Monitor the Implementation of Al Qaeda/Taliban Sanctions," *The American Journal of International Law* 98 (October 2004): 745.

[73] Luck, "Another Belligerent," 106.

[74] United Nations, "Report of the Policy Working Group on the United Nations and Terrorism," A/57/273, S/2002/875, 6 August 2002, accessed on the website of the United Nations at http://documents-dds-ny.un.org/doc/UNDOC/GEN/N02/512/97/img/N0251297.pdf?OpenElement, 18 March 2006, 5.

[75] The Pew Research Center for the People and the Press, "A Year After the Iraq War: Mistrust of America in Europe Even Higher, Muslim Anger Persists," 16 March 2004, accessed on the Pew Research Center website at http://people-press.org/reports/pdf/206.pdf, 15 May 2006, 3.

[76] On the criticisms of the United Nations and on why it does matter, see Kim R. Holmes, "Why the United Nations Matters to U.S. Foreign Policy, Remarks before the Baltimore Council on Foreign

interests and to contain American power, and that it is used for purposes of "soft balancing" against the United States in lieu of balancing by military power.[77] In this view, Washington should not support the UN significantly, should view it in a wary light, should remove funding from certain organs within it (such as the highly controversial Human Rights Council), or should withdraw from the UN altogether. At a minimum, detractors would counsel that the United States should steadfastly pursue its national interests within the context of the UN, rather than allow the organization to circumscribe its autonomy and power. The appointment of John Bolton as U.S. Ambassador to the United Nations pleased these detractors because of his frequent criticisms of the world body and reflected the George W. Bush administration's view that the United Nations was in serious need of reform, and was too often problematic for U.S. interests.[78] Indeed, Secretary of State Condoleezza Rice pointed to the need to reform the UN, whose efficacy she viewed with skepticism, in defending Bolton's controversial appointment.[79]

By contrast, proponents of the United Nations, with respect to the American role, believe that it furthers the interests of the United States. In this view, it provides, among other things, a forum within which the United States can cultivate and benefit from allies. It performs a variety of functions across issue areas that add predictability to world politics, from which a hegemon can gain. Moreover, it adds credibility to what otherwise might be viewed as unabashed American unilateralism.

This debate obviously will not be settled here. It certainly is true that the United Nations has posed some serious problems for American interests. Moreover, numerous problems, as laid out in this paper, have arisen in the UN's effort to deal with terrorism, which have been problematic from Washington's standpoint. This is especially the case with regard to the challenges of seeking compliance on UN actions on terrorism.[80] However, on the whole, the UN

Affairs World Trade Center, Baltimore, Maryland December 6, 2004," accessed on the website of the U.S. Department of State at http://www.state.gov/p/io/rls/rm/2004/39496.htm, 7 June 2007.

[77] On soft balancing, see Robert A. Pape, "Soft Balancing against the United States," *International Security* 30 (Summer 2005). Also, T.V. Paul, "Soft Balancing in the Age of U.S. Primacy," *International Security* 30 (Summer 2005): 58–59.

[78] On the American perception of the need for reform, see United States Congress, House Committee on International Relations, Henry J. Hyde, *United Nations Reform Act of 2005* (Washington DC: U.S. Government Printing Office, 2005). On the clash between the United States and the United Nations on a range of issues, see the website of the Council on Foreign Relations at http://www.cfr.org/publication/7541/feinstein.html, accessed 7 June 2007.

[79] Condoleezza Rice, "Remarks to the Annual Convention of the American Society of Newspaper Editors, Washington, DC, April 15, 2005," accessed on the website of the U.S. State Department at http://www.state.gov/secretary/rm/2005/44728.htm, 7 June 2007; "Rice Urges Changes at U.N.," *The Washington Post*, 10 April 2005, A5.

[80] On these difficulties, see Congressional hearings, "The United Nations and the Fight Against Terrorism," accessed on the website of the House of Representatives at http://commdocs.house.gov/committees/intlrel/hfa20061.000/hfa20061_0f.htm, 30 May 2007.

Security Council's response to September 11 has benefited the United States in several ways, as imperfect as this response has been. First, at the broadest level, transnational terrorists have targeted the United States more than any other state and it would likely be the target of any future, major attack by al Qaeda. The greater the number of countries that are enlisted in the war on terrorism, the better off is the United States. The UN allowed the United States to enlist the support of many states in a forum that these states considered legitimate. The UN offered the institutional apparatus, the political cover for states that were sensitive to being seen as too pro-American, and the credibility that facilitated such efforts. It conferred legitimacy on anti-terrorist efforts in a manner that the United States could not have done on its own, because many states saw the UN as at least attempting to represent broader international views.

Second, the UN allowed the United States an institutional forum in which to gain adherents. Illuminating this point, Secretary of State Condoleezza Rice identified the UN as a place that enhanced the ability of the United States to mobilize other actors, such as in the war on terrorism, despite her calls for UN reform in general.[81]

Third, Resolution 1368 created the basis for a new, more involved Security Council focused on terrorism and reflected an unprecedented assertion by the Council that self-defense is a legitimate response to terrorism. This is exactly what the United States wanted in the wake of September 11 when it sought to communicate the importance of dealing with terrorism before it actually manifested itself.

Fourth, for its part, Resolution 1373 imposed far-reaching, creative, and unique obligations on states to fight terrorism, in a variety of different arenas. Such broad action would have been very hard for the United States to spearhead and coordinate outside the confines of the UN. The transaction costs would have been far higher at the bilateral level, the coordination more difficult, and the ability to gain such commitments in the first place more limited. Fifth, the quantity and quality of resolutions passed by the Council against terrorism increased significantly after September 11. In virtually all cases, the United States supported and sought such a heightened stand. Sixth, UN action, including sanctions, has probably sent a message to state sponsors of terrorism. The chance that they will be punished for such support has increased. The Council has developed a consensus that such action is unacceptable, even as it debates how to respond to these provocations.

Seventh, the UN role in counter-terrorism has been important in another respect as well. Even before September 11, the Bush administration had a reputation for unilateralism, which was heightened by the invasion of Iraq. It is fair to say that the multilateral response to terrorism within the context of the UN contrasted sharply and positively with such perceived unilateralism. It

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[81] Condoleezza Rice, "Remarks to the Annual Convention of the American Society of Newspaper Editors," accessed 30 May 2007.

made it unfair to label the war on terrorism as simply an American unilateral military response. Indeed, as Luck points out, "Whatever the unilateral impulses of the George W. Bush administration, its efforts to link multilateral diplomacy through the UN and regional institutions with the unilateral exercise of U.S. power since the events of September 11, 2001, represent, if anything, one of Washington's more vigorous attempts to involve the Security Council in counterterrorism."[82]*

[82] Luck, "Tackling Terrorism," 93.