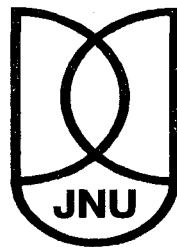# THE UNITED NATIONS AND INTERNATIONAL TERRORISM IN THE POST COLD WAR ERA

Dissertation submitted to the Jawaharlal Nehru University

for the award of the degree of

MASTER OF PHILOSOPHY

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2008

DECLARATION AND CERTIFICATE

28 July 2008

DECLARATION

I declare that the dissertation entitled "THE UNITED NATIONS AND INTERNATIONAL TERRORISM IN THE POST COLD WAR ERA" submitted by me for the award of the degree of MASTER OF PHILOSOPHY of Jawaharlal Nehru University is my own work. The dissertation has not been submitted for any other degree of this University or any other university.

DARYAL ROCKO ANAL

CERTIFICATE

We recommend that this dissertation be placed before the examiners for evaluation.

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ACKNOWLEDGEMENT

DEDICATED TO

MY BELOVED PARENTS

LATE DARYAL ROMISON ANAL (DAD)

AND

PASHEL THUMHLUNG ANAL (MUM)

TABLE OF CONTENTS

Declaration and Certificate

Acknowledgement

List of Abbreviations

LIST OF ABBREVIATIONS

AFSPA   –   Armed Forces Special Powers Act (1958)

AHC   –   Ad Hoc Committee

Art.   –   Article (of the UN Charter)

CCIT   –   Comprehensive Convention on International Terrorism

CIA   –   Central Intelligence Agency (US)

CTC   –   Counter– Terrorism Committee

CTED   –   Counter– Terrorism Executive Directorate

CTITF   –   Counter– Terrorism Implementation Task Force

DAA   –   Disturbed Areas Act

DHS   –   Department of Home Security

ECOSOC   –   Economic and Social Council

ETA   –   Basque Fatherland and liberty

EU   –   European Union

GA   –   General Assembly

GCTS   –   Global Counter– Terrorism Strategy

HLP   –   High Level Panel

IAEA   –   International Atomic and Energy Agency

ICAO   –   International Civil Aviation Organization

IMF   –   International Monetary Fund

IRA   –   Irish Republican Army

J&K   –   Jammu and Kashmir

MDG   –   Millennium Development Goals

MISA   –   Maintenance of Internal Security Act

NAM	–	Non– Aligned Movement
NATO	–	North Atlantic Treaty Organization
OAU	–	Organization of African Union
OHCHR	–	Office of the High Commissioner for Human Rights
P5	–	The 5 UNSC Permanent members
RES	–	Resolution
SAARC	–	South Asian Association for Regional Cooperation
SC	–	Security Council
TADA	–	Terrorist and Disruptive Activities (Prevention) Act
UK	–	United Kingdom
UN	–	United Nations
UNGA	–	United Nation General Assembly
UNSC	–	United Nations Security Council
UNSG	–	United Nations Secretary– General
US	–	United States
UTA	–	Union des Transports Aeriens
WMD	–	Weapons of Mass Destruction
WTC	–	World Trade Centre
9/11	–	September 11, 2001 (the day the WTC in New York and other cities of the US were attacked by terrorists)

CHAPTER - I

INTRODUCTION

I. THE UNITED NATIONS (UN):

With great two world wars in just short span of 40 years (1914-1945) producing horrible consequences in terms of both lives and properties, war-weary states desired for an organization that could help them avoid future conflicts and promote international economic and social cooperation. As such, the United Nations (UN), a state-based international organization, was established in October 1945 in the aftermath of the Second World War, though its roots started during the war, with the primary aim of maintaining international peace and security through collective measures for the prevention and removal of threats to the peace, suppression of acts of aggression or other breaches of the peace. The UN also aim to develop friendly relations among countries, achieve international cooperation in solving international problems in the field of economic, social, culture, human rights etc. Thus, the UN, though established with the primary aim to save succeeding generations from the scourge of war through collective security, did not have only security-related purposes but also extend to other non-security areas like social, economic, culture and human rights. Such idea was not new then, as based on such conception; the League of Nations was established in 1920 in the aftermath of the First World War though it fail to live up to its purposes and came to an end with the outbreak of the Second World War in 1939. The UN could not function effectively during the Cold War due to the Cold War politics. But the end of the Cold War brought the member-states, especially the Security Council Permanent members, closer on many issues enabling the UN to discharge its functions more effectively. The UN has six principal organs, namely the General Assembly, the Security Council, the Economic and Social Council, the Trusteeship Council, and the International Court of Justice besides a Secretariat, among which its functions and responsibilities are divided. Out of these six primary organs, the General Assembly and the Security Council are the most important and talk-about organs of the UN.

The UN General Assembly (UNGA) is the deliberative organ of the UN where all member-states of the UN are represented. The General Assembly mirrors the UN as its member-states are all represented and participates in the Assembly on equal footing. As such, it reflects the democratic character of the UN. The Assembly reflects the universality character of the UN. As the plenary body, it controls much of the work of the UN. Among many of its functions and powers, the UN Charter says, "The General Assembly may discuss any questions or any matters within the scope of the present Charter or related to

the powers and functions of any organs provided for in the present Charter..... (Art.10)" or "....discuss any questions relating to the maintenance of international peace and security... {Art.11 (2)}...." or ".....call the attention of the Security Council to situations which are likely to endanger international peace and security {Art.11 (3)}." As such, the Assembly has the power to discuss any matter it thinks important or as likely to endanger international peace and security, and even bring it before the Security Council for its attentions. Important international issues are discuss and debated in the Assembly. Such debates and discussions among the member-states reflect not just the gravity of the issues-discussed but also reflect the different views of the different member-states. It is a good multilateral platform where any of the member-states can bring any issues for discussions, and also as a unique platform in which to forge consensus on any issues. Consenting on any issue gives its legitimacy behind actions taken on such issues. Importantly, it controls the purse and also the allocation of the resources of the UN. Getting the support of the Assembly on any issue is getting moral legitimacy from the UN and also supports of the member-states. As such, the Assembly has been discharging its functions and responsibilities since 1945 till today. Though originally its member consists of only 51(1945) but now it has reached 192 (2008), and with increased in membership, its responsibilities and importance has increased over the years with the increasing expectations of the people from the UN.

The other most important organ of the UN is the UN Security Council (UNSC). Perhaps, it is the most powerful organ of the UN as it is the organ responsible for maintaining international peace and security – the main objective for which the UN was established in 1945. The founders of the UN conferred primary responsibility on the Security Council for the maintenance of international peace and security. While the Assembly represents the democratic and universal character of the UN, just in reverse, the Security Council represents the power politics of the 1945 or undemocratic character of the UN. However, it was also important to accommodate the wishes of the then great powers as without them the UN would have been just another League of Nations. The Council is a small body consisting of only 5 permanent members and 10 non-permanent members (increase to 10 from 6 in 1965). The Security Council was designed to enable the world body to act decisively to prevent and remove threats. It was created to be not just a representative but a responsible body, one that had the capacity for decisive action. The founders of the United Nations conferred primary responsibility on the Security Council

for the maintenance of international peace and security. The Security Council was designed to enable the world body to act decisively to prevent and remove threats. It was created to be not just a representative but a responsible body, one that had the capacity for decisive action (UNSG HLP Report 2004:79). To implement its decisions, the Council has the power to take non-military measures like economic or other sanctions under Chapter VI and military actions under Chapter VII at the gravest situations or as a last resort. The Security Council could not discharge its functions effectively during the cold war as it was overshadowed by the cold war politics. However, the end of the cold war brought a new era in its history. The Council started acting effectively though not perfectly on many international issues like international terrorism, intra-state conflicts or other issues it thinks it is threatening or affecting international peace and security. Ever since, it has been significantly active in international scenario as an indispensible organ in maintaining international peace and security.

2. INTERNATIONAL TERRORISM: A BURNING CURRENT INTERNATIONAL ISSUE:

Terrorism is a word that has so far no universally accepted definition but nevertheless the phenomenon has constituted an old threat to individual as well as states. Terrorist acts occurred in Greek and Roman times, often as individual acts of violence against a ruler. In the Middle Ages, such acts were perpetrated against groups, while during the French Revolution, acts of terrorism were sponsored by the state itself. Organized state terrorism reached its zenith in Nazi Germany and in the Soviet Union under Josef Stalin. The Middle East conflict spawned a cycle of terror following the 1967 Arab-Israel war and Israel occupation of the West Bank, Gaza, and the Golan Heights. Various Palestine and other Arab groups began using terrorism to draw attention to their cause of establishing a separate sovereign state homeland (or destroying Israel) (Karns and Mingst 2005:344-345).

The issue of terrorism during the cold war remained overshadowed by the Cold War politics. Terrorism began to emerge as an international problem during the 1970s and 1980s, evolving in part as a result of technological advances and partly in reaction to the dramatic explosion of international media influence. Many national causes began to develop into international organizations with links and activities increasingly across borders and among differing causes (Crunin 2002-03:37). The end of the cold war, rapid emergence of globalization and the US hegemony brought the problem of terrorism to the

centre of international politics. The consequences of globalization and the rapid advancement in information, communication and technology have made terrorism global in the real sense of the term, and more sophisticated and dangerous. Moreover, the possibility that terrorists might acquire biological, chemical or other Weapons of Mass Destruction has threatened the international peace and security, especially in the post-cold war and come to the forefront of the UN agenda.

The September 11, 2001 was a significant landmark day and a turning point in the history of the UN and the world in combating international terrorism. Perhaps, 9/11 incident represents the first time in history that the action of an international terrorist group (non-state actor) so altered the course of international relations (Kramer and Yetiv 2007:409). On this fateful day, alleged supporters of Osama bin Laden's Al Qaida terrorist organization hijack four commercial aircrafts and crash two commercial aircraft into the twin towers of the WTC in New York (U.S.A), destroying the complex. The third aircraft hit the Pentagon, Washington D.C (CIA H.Q). And the fourth aircraft crash lands in southern Pennsylvania; it is though that its target was somewhere in Washington (Barry Davies 2003:299). Around 3,000 people died as a result of these acts and many more injured, apart from enormous loss of money. It was a horrific incident one could ever imagine. Immediately, criticisms and condemnations against the act, sympathy and solidarity with the U.S came from all corners of the world. As Noam Chomsky (2002:11) noted that for the US, the 9/11 attack was the first time since the War of 1812 that the national territory has been under attack, or even threatened. Even after the horrific incidents of 9/11, there took place many terrorist incidents like Bali (Indonesia) terrorist bombing in October, 2002 where 202 persons were killed and many others wounded; Moscow theatre hostage crisis in October 2002 where 129 hostages died during the raid or in the following days; Bogota (Colombia) bombing in February 2003 killing 32 persons and wounding 160; Istanbul (Turkey) bombing in November 2003 killing 25 persons and wounding around 300 more; Madrid (Spain) bombing (also known as 11/3) which killed 191 people and wounded around 1,755 people; Beslan (Russia) bombing in September 2004 where around 334 hostages were killed, including 186 children and hundreds more wounded; London bombings in July 2005 killing 52 commuters and injuring around 700 people (also known as 7/7 bombings. On all these terrorist incidents, the UNGA and UNSC condemned and took resolutions and actions which are discuss in detail in Chapter 3 and Chapter 4. There are numerous terrorist incidents also that are never reported

internationally. It was the UN that reacts against such perpetrators and urged the member-states to distance from anything link to terrorism like financing, supporting, nurturing, training, providing safe havens etc through resolutions, many of them adopted under Chapter VII.

A big problem relating to international terrorism is the different perceptions by different states about the threats of international terrorism. In other words, all states do not view the threat of international terrorism from the same lens. Developing countries view the threat of international terrorism differently and even within the developed world, there are differences between the American and European views though the UN has recognized international terrorism as a threat to international peace and security. Rosand (2007:5-6) argues that there are a number of reasons why many African and other developing countries do not view terrorism as a priority. The good reason is that given the limited resources available in such countries; the fact that many more people are dying from HIV/AIDS and other infectious diseases, poverty, and hunger than terrorism; and that most such countries have never been victimized by terrorism. With the fight against Islamist terrorism seen by many as a US-driven Western agenda targeting Islam, many governments, particularly those with significant Muslim constituencies, see little reason to provide support or resources to the pursuit of this agenda. It is not to present that all terrorists are Islamists or all Islamists are terrorists, but that it is the 'Islamists terrorists' (terrorists that is based on Islam religion /use Islam religion but may not be sanctioned by Islam religion as such) that have made impact 'internationally' or comes under the label 'international terrorism.' There are also many non-Islamist terrorists groups as labelled by many individual states which operate domestically only. Finally, even if there are terrorist incidents taking place in the global South, the majority of targets of Islamist terrorism are Western, including embassies or hotels.

Rosand argues that for those states like the US and others whose interests are targeted wherever they are found, the general reluctance of African and other developing states like Sudan, Libya, and Afghanistan to priorities terrorism is itself problematic but offers breathing space to terrorist groups. Africa also provides an example of why many developed states suggest that weak state capacity is itself problematic from a counter-terror perspective: Africa is attractive to terrorists because it offers space within disenfranchised countries, whose populations are frustrated and ripe for recruitment. Moreover, there are a

number of sources of militant radicalism on the continent as well as opportunities for fundraising through exploitation of natural resources such as oil and diamonds. States, like the US, with interests dispersed globally thus tend to see Islamist terrorism as a global threat. The most obvious case is the US which since 9/11 has treated Islamist terrorism as an existential threat requiring eradication through a "global war on terror."

The US in its immediate post-9/11 dealing with international terrorism formed a coalition with the other Western European countries in the fight against international terrorism. But, differences can be seen even among the Western countries, particularly between the US and the Europeans. This, in fact, even goes back to pre-9/11 as Bruce Hoffman noted in 1999 (Hippel 2004:106) that "Terrorism has long been a source of friction between the United States and Europe." Europeans have historically adopted a more tolerant approach to dealing with terrorist-sponsoring states than the U.S for three reasons; i) Europeans considered it better to maintain a dialogue than not; ii) certain countries have wanted to protect foreign investment opportunities, particularly in the oil and gas industries; iii) Many of these same European countries are home to large Muslim populations and therefore have been fearful of a domestic backlash if harsh action were to be taken (Hippel 2004:106). Rosand (2007:6) also argues that though the US and EU approaches have much in common like securing borders, protecting critical infrastructure, preventing the proliferation of WMD and address the underlying conditions that can lead to radicalization, only the US strategy towards terrorism includes a significant military element aimed at destroying terrorist cells and support networks. The EU tends towards continuing the traditional criminal justice approach that allowed EU members to isolate and disrupt local terrorist groups. It focuses more on preventing European citizens from turning to terrorism by sharing experiences of radicalization and recruitment in social environments like schools and places of worship, or through the media and internet. In a survey conducted by Pew Research Centre in April 2002 in the four major European countries, three-quarters of the respondents agreed that in the fight against terrorism "the US is acting mainly on its own interests" rather than "taking into account the interests of its allies." It can be recalled that Chris Patten, the EU commissioner for external affairs, warned against Washington's "unilateralist urge" that allegedly holds that "multilateralism is for wimps."

As a general rule, states prefer to set their own terms for dealing with terrorists, turning to friendly states or functional arrangements for assistance as needed while

avoiding the uncertainties of global political fora in most such situations (Luck 2004:74-79). Luck also points out that the U.S. president Bush and his aides to invoke the importance of multilateral institutions and processes in the war on terrorism have varied from time to time. In other words, its stand on multilateralism approach to international terrorism is blurred or unclear. From the president's two addresses to the UNGA in November 2001 and September 2002, the centrality of the UN (multilateralism) was emphasized. Yet in his two addresses to the congress in September 2001 and January 2002, the UN was not even mentioned.

As such, Rosand (2007:6-7) argues that the divergence among states in their understanding of how terrorism can be dealt with most effectively, including questions of the role of military power, and the balance between unilateral, bilateral and multilateral action has become a central polarizing factor in the UN. This divergence has only been widened by differing analysis of the legitimacy and impacts of the US approach to counterterrorism and particularly the US-led invasion of Iraq. Though the US justifies its action on Iraq as necessary for reducing the threat posed by potential connections between Saddam Hussain and terrorists, Iraq is now functioning as a magnet, training ground, and rallying point for Islamist terrorists worldwide, much as Afghanistan did in the 1980s. Many have argued that the war in Iraq have underscored Osama bin Laden's contention that "America lusts to occupy Islam's sacred sites, abuse the Muslim people, and steal Muslim resources." The violence and regional destabilization unleashed by the invasion of Iraq have caused many states to question the efficacy of the US emphasis on unilateralism and military force in its approach to counterterrorism, and have caused suspicion about ulterior motives in US counterterrorist tactics, even in UN. Thus, many developing states have to view terrorism as posing a threat not only in and of itself, but as a strategy for the US to expand its power at their expense.

Luck (2004:81) argues that terrorism poses a conceptual puzzle for the UN. The UN was founded to prevent or stop war between states, not to protect them from shadowy, ill-defined, and fluid groups of a vaguely transnational character that lack any known structure, affiliation, or address. The UN has adapted to dealing with many forms of intrastate and transnational conflict, so long as the dispute have some geographical definition, some material or political agenda, and some prospect of beings swayed by the inducements, incentives, sanctions, and threats that could be wielded by its member-states

The UN has a long-standing involvement in efforts to combat terrorism. Thirteen international conventions have been elaborated within the framework of the UN system relating to specific terrorist activities. In fact, terrorism has been of concern to the international community since 1937 when the League of Nations elaborated *the Convention for the Prevention and Punishment of Terrorism*. Subsequently, the UN and regional inter-governmental organizations have dealt with terrorism from a legal and political perspective. Traditionally, this was approached through establishing international norms that treated terrorism as a crime. But already in the 1990s, and especially after the attacks on the US embassies in Africa in 1998, the UN began to consider terrorism as a serious threat to international peace and security. Well before the 9/11 terrorist attacks, the UNSC applied sanctions against three countries, Libya, Sudan and Afghanistan, for their role in supporting terrorism. However, the 9/11 terrorist attacks obliged the UNSC to clearly define international terrorism as an immediate threat to international peace and security, and move to higher gear which led to the passing of Resolution 1368 (2001) and Resolution 1373 (2001). According to these resolutions, terrorist attacks have to be regarded as a threat to world peace and to international security and binding obligations under Chapter VII of the UN Charter have been imposed on all states to take steps to prevent terrorism and financing of terrorism. A very significant post-9/11 development was the establishment of the Counter-Terrorism Committee (CTC) to oversee the implementation of Resolution 1373 (2001) and to help states in implementing the resolution. The event of 9/11 brought a new paradigm for the UN to combat international terrorism.

3. RELEVANCE AND SCOPE OF THE STUDY:

The UN is the only international organization in the world that is primarily responsible for maintaining or restoring international peace and security. Today, this concept of international peace and security is not considered just in traditional concept of state-based but also in the concept of human rights i.e. the people. Its responsibilities have been increasing with the increasing expectations from the member-states as well as the people of the world. The UN has come to go beyond its primary objectives and is now involved in almost all areas of life. This task has increased with increased interaction of the states and people of the world. The UN today is an ever active entity by itself. International terrorism remain low profile during the cold war in terms of its operations and network but in the post cold war, with rapid integration of the world and advancement of science and

technology, terrorism has truly evolved itself as an internationalized or global entity in operation and network. Therefore, the word 'international' terrorism is used more in the post cold war than during the pre-cold war or cold war era. Today, the presence of an international terrorist organization, for instance like Al Qaida, can be found in every continent of the world or all corners of the world. Their network also has become so diffuse and dispersed that it becomes difficult to track it down. With advancement in all spheres of life, today, terrorists can send or receive money, information, or contacts with a click of a mouse from one corner to another. There is no necessity to come together at one place to discuss or plan anything. Internet has really helped the terrorist in many ways. Modern transportations which are originally developed to ease ways of life has also reflected its negative side, as seen in the 9/11 incidents how commercial aeroplanes can be used as deadly weapons to kill.

Today, no one can really be guaranteed of one's security of life from terrorist acts. There is always fear in the minds of the people. This usually happens in public places or areas like theatres, halls, malls, stations, markets, etc. to cause maximum effects. Whatever their aims may be, today, most states and people in the world do not agree that violence is the only way to bring about a change. It is unreasonable to accept killing of innocent people who have nothing to do with the perpetrators in trying to achieve their aims. In today's world, most issues are complex and inter-linked with many other issues. For instance, the issue of international terrorism can be link to poverty, cultural differences, failed states, corruption, under-development, Weapon of Mass Destruction (WMD) proliferations, security of flights, transportations, human rights and so on. With the placement of human rights at the centre of UN policies in the post cold war out of which the concept of humanitarian intervention emerges, terrorist acts is also taken to be violating basic human rights i.e. the right to live. Moreover, terrorist acts have come to affect international politics and even threaten international peace and security. More threatening is if terrorist gets hold on WMD. There has been enough evidence of terrorists trying to possess such WMD by manufacturing or acquiring. This has made states to ponder seriously. As such, the issue of international terrorism is an urgent burning issue to reckon with by all states of the world. This is one reason why international terrorism has come to occupy a centre place in the core responsibility of the UN. States cannot combat effectively international terrorism by themselves. It has to be through cooperation and common efforts for which ultimately the UN is the best suited common platform. The UN is the only

international organization that is recognized by all countries of the world in the area of maintaining international peace and security, and members agree to abide by its decision, even mandatorily (under Chapter VII). The UN enjoys the type of legitimacy that no other international organization enjoys. And, no other international organization is as big as the family of the UN. The UN General Assembly and the UN Security Council are the most important organs of the UN. Among the organs of the UN, the UNGA and UNSC are the most active and deeply involved in combating international terrorism. Above all, duty towards their functions as charted out in the UN Charter demands them to focus on the issue of international terrorism which has come to threaten international peace and security.

There has been extensive research and writing on international terrorism since 9/11. But there is less work on international terrorism from the perspective of the UN especially focusing extensively from the perspective of the UNGA and UNSC. This study aims to focus on the role of the two primary organs of the UN (the UNGA and UNSC) in combating international terrorism. In other words, this study on international terrorism is from an organizational perspective i.e. the UN. The UN is currently involved deeply and extensively in trying to eliminate international terrorism. Differences among states on the definition of terrorism continue to be a great hurdle before the UN in combating international terrorism. But the UN has also grown bolder in taking steps towards elimination of terrorism in spite of obstacles especially in the post 9/11 era. Many resolutions were adopted under Chapter VII of the UN Charter. For instance, Resolution 1373 (2001) of the UNSC, adopted under Chapter VII, was quite a comprehensive and powerful resolution that had to be mandatorily implemented by all member-states. It affects all member-states. As such, the role of the UN in combating international terrorism especially in the post cold war is an important area to analyse and study. It is ongoing current issue or phenomenon. Today, in fact, the UN has come to occupy a central position in combating international terrorism.

As such, the study aims to look into the following questions:

1) How has terrorism grown into a problem of global dimensions? What are the central challenges in addressing this issue?

2) What are the challenges faced in finding a common definition of what constitute "terrorism"?

3) What is the role of the UN in combating international terrorism?

4) What are the strengths and weaknesses of the UNGA and UNSC in combating international terrorism?

5) What is the link between terrorism and human rights; violation of human rights and state counter-terrorism? What is the role of the UN in such cases?

Scope of the study:

The aim of this study as its topic indicates is to look at the issue of international terrorism and the role of the UN in combating it. The UN is a big family and its many organs and specialized agencies are involved in combating international terrorism, and focussing on all these aspects would be too lengthy and in fact even hard to produce a qualitative work. Therefore, this study would have a limited focus for manageability.

Firstly, this study focuses only on the phenomenon of "international" or "global" terrorism or terrorists, and not on "domestic" terrorism or terrorists. It is true that sometimes it is hard to demarcate into watertight compartments between domestic and international/global terrorism. Here, international terrorism means terrorism or terrorists that has its presence or affects or acts in more than two states; while domestic terrorism means terrorist acts taking place in only one state. In other words, international terrorism would also mean terrorists operating through cross-border while domestic terrorism does not necessarily. In the words of Paul Wilkinson (2000:21), international terrorism is one that involves the citizens of two or more states while domestic or internal terrorism confines its activities within the borders of a specific state or province. Jenkins (2006:124) notes that there are two ways in which terrorism can be international: firstly, by attacking foreign targets like airliners, embassies or its employees, and local offices and employees of multinational corporations; and secondly, by crossing national frontiers to carry out attacks abroad. According to him, most incidents of international terrorism fall into the first category.

Secondly, Terrorism as such is not a new phenomenon and as mentioned already, terrorism began to evolve with international character by 1970s and 1980s. But the study will focus only on the post-cold war era i.e. from 1990s onwards. But for further reference and better understanding of the subject, the study will also visit the pre-cold war and cold war era in the context of terrorism whenever necessary though briefly, as they form the history and

understanding of its history is crucial to understand the present scenario. One good reason to focus on the post-cold war era is that terrorism really became an issue that threatens international peace and security, the UN particularly the UNSC began to tackle international terrorism under Chapter VII, and above all its international implications not just on the stability of states but also the very fundamental right of people (right to live). Moreover, we see tremendous changes in the nature of terrorism and its operation in the post cold war with the impact of rapid roll of globalization and advancement in science and technology.

Thirdly, There are numerous international organizations or institutions like International Atomic Energy Agency (IAEA), International Civil Aviation Organization (ICAO), International Police (INTREPOL), regional organizations like North Atlantic Treaty Organization (NATO), South Asian Association for Regional Cooperation (SAARC) etc engage in combating international terrorism but, as the title of the topic says, this study will see only the role of the UN in combating international terrorism in the post cold war. Of course, all these organizations work in collaboration with one another directly or indirectly. As such, the omission is not with intention to discredit the contribution of other organizations or institutions in combating international terrorism, which all have their own credibility in the area.

Fourthly, The UN is a big organization composed of many organs or agencies, and many of its agencies or organs are involved in combating international terrorism. As for this study purpose, we will look only at the two principal organs of the UN in combating international terrorism i.e. the General Assembly and the Security Council. In other words, within the UN family, only the General Assembly and the Security Council's role in combating international terrorism will be touched upon.

As such, this study sees the institutional aspects of the UN's success and failures in dealing with the problem of international terrorism. The study aims to bring out why the UN, and its two principal organs, i.e. the General Assembly and the Security Council, despite its limitations, is the forum that is best suited to combat the problem of international terrorism.

A brief literature survey:

With the increasing attention of the world on terrorism in the post cold war period, academic and scholarly work on terrorism has also increased. Different views on terrorism, its causes and means to combat it have emerged. The problem of definition continues to be one of the biggest hurdles in combating terrorism. *David Whittaker* in his book "*Terrorists and Terrorism in the Contemporary World*" discusses the problems of defining terrorism. Whittaker elaborates upon the role of the UN in combating terrorism through various conventions and resolutions. Likewise, *Ranjit Pachnanda* in his work "*Terrorism and Response to Terrorist threat*" discusses the definitional problem, and also the causes and features/characteristics of terrorism. Pachnanda, while acknowledging the definitional problem, argues that freedom fighters do not target innocent persons and their acts represent the common conscience of the people while the acts of a terrorist demonstrate the cruelty of an individual or a group of individuals, however, large that group may be. To him, in general, terrorism has its origin in diverse causes, viz. colonialism, communalism, racialism, obscurantism, political persecution, human rights violation, economic exploitation, unemployment, alienation, communication gap and an overall moral decay of society. *Rama Mani* examines and sets aside three of the most conventional explanations – poverty and despair, failed states and the clash of civilizations, or Islamic extremism in her writing "*The Root Causes of Terrorism and Conflict Prevention*" in the same book but these provide only partial insights and the true causes of terrorism she asserts, lie in a form of globalization that "impoverishes a vast majority of humanity." Mani argues that the real goal of development assistance should be "social justice and a decent, sustainable livelihood for all" and that aid should not be used merely as a dubious weapon in the war against terrorism.

Peter Krieken in his work "*Terrorism and the International Legal Order: With special reference to the UN, the EU and Cross-Border Aspects*" argues that combating terrorism should involve military, economic, diplomatic and legal methods. He tries to look at the fight against terrorism from the legal point of view. He argues that the fight against terrorism should be within international law and the Charter of the UN. He also emphasise the need to be united in all actions taken and not further divide the world for it is in those circumstances of strife and divisions that terrorism finds fertile ground. He evaluates the role of the UN General Assembly, UN Security Council and other institutions

in combating terrorism referring to numerous declarations and resolutions. The book "*United Nations: Multilateralism and International security*" by *Bhaskar, Sinha, Santhanam and Meenai*, brings out the challenges the UN is facing in terms of international security and credibility among others. The book also talks about the urgent need for UN reform for more effectiveness, legitimacy, efficiency and credibility as the organization mandated to maintain international peace and security. *Alex Conte* in his work "*Security in the 21st century: The UN, Afghanistan and Iraq*" evaluates international terrorism in terms of attempts to define terrorism, international convention on counter-terrorism, and effects of terrorism and counter-terrorism on human rights. Conte argues that with the increasing seriousness of terrorism, many states have extended executive authority, raising the question to balancing between fighting terrorism on the one hand and maintaining human rights standards on the other hand. The question is whether the two objectives are compatible: can human rights be limited, in international law and within free and democratic societies, in the pursuit of counter-terrorist objectives and, if so, to what extent? He acknowledges that not all human rights are absolute but some are fundamental, absolute and non-derogable like the right to life, freedom from torture and slavery, and freedom of thought, conscience and religion. The author, while acknowledging the tremendous challenges the UN is facing in the 21st century, asserts that the world community should strive on through the UN.

Narang and Srivastava in their edited book "*Terrorism: The Global Perspective*" also give their view that violation of human rights in countering terrorism can cause the victims to turn to terrorism. *Sabine von Schorlemer*, in his article "*Human Rights: Substantive and Institutional Implications of the War against Terrorism*" identifies the role of human rights in the context of terrorism. He argues that violations of human rights are a major causal factor of terrorism in more than one ways. The fight against terrorism should not focus on military means, but should also address the worldwide lack of respect for human rights. There is a direct link between terrorist attacks and human rights, as acts of terrorism aim at violating human rights. The author also accepts the debatable view whether human rights law could and should apply to acts of terrorists, as such acts are perpetrated mostly by non-state actors. Therefore, one way to hold terrorists responsible is to qualify their acts as "crime against humanity." On the other hand, he also worries about the tendency to legitimize human rights violations under the pretext of combating terrorism.

Jane Boulden and Thomas Weiss in their edited book *"Terrorism and the UN: Before and after September 11"* provide deep analytical perspective on the UN and terrorism from a different angle. They begin their work by quoting the former UN Secretary General Annan's speech of September 2001 which says, "Terrorism is a global menace. It calls for a united, global response. To defeat it, all nations must take counsel together, and act in unison. That is why we have the United Nations" and the one given in October 2001 saying "The fight against terrorism cannot be used as an excuse for slackening efforts to put an end to conflicts and defeat poverty and disease. Nor can it be an excuse for undermining the bases of the rule of law – good governance, respect for human rights and fundamental freedoms....the best defence...is the establishment of a global society based on common values of solidarity, social justice and respect for human rights." Thus, the authors recognize the importance of the UN leadership in effectively combating terrorism as well the importance of human rights. The authors also recognize the importance of the office of the UN Secretary General and the Secretariat which is often overlooked. One of the reasons terrorism is so challenging is that it touches upon every aspect of international security. However, the book recognizes the weakness of the world community in combating terrorism.

*Eric Ros*and is an expert in the field of combating international terrorism. Rosand in his article *"Security Council Resolution 1373, the Counter-Terrorism Committee, and the Fight against Terrorism"* analyses the importance and lapses of the Resolution 1373 (2001) which has come to be bedrock in combating international terrorism. He also went to bring to out weaknesses and strengths of the Counter-Terrorism Committee (CTC). He noted that though there are many other international, regional, and sub-regional organizations which have come to develop or are in the process of developing counterterrorism action plans, the CTC is the only with the weight of a Chapter VII Security Council resolution behind it with to oversee the implementation of the binding Resolution 1371(2001) by all member-states and to coordinate the provision of technical assistance to combat terrorism. *Rosand* in his two articles *"The UN-Led multilateral Institutional Response to Jihadist Terrorism: Is a Global Counterterrorism Body Needed?"* and *"Global Terrorism: Multilateral Responses to an Extraordinary Threat"* outlines the complexity and evolving nature of terrorists' threat and lack of consensus regarding the underlying causes of terrorism. He also acknowledge that 9/11 incidents brought a new chapter in the history of the UN in combating international terrorism and to this end

established a counterterrorism mechanism cailed the Counter-Terrorism Committee (CTC) under Resolution 1373 (2001). He also analyses the weaknesses and strengths of the CTC in the field of combating international terrorism. In another article titled *"The UN Security Council's Counterterrorism Program: What Lies Ahead?"*, Rosand and his friends analyses the efforts of the Security Council, as the primary organ responsible for maintaining international peace and security, in combating international terrorism in the post-9/11. They also look into the challenges the Council faces in combating international terrorism even in the aftermath of establishing the CTC.

4. STRUCTURE OF THE STUDY:

The structure of the study is divided into five chapters including the Introduction. The first chapter is the *Introduction*, which is already dealt with.

The second chapter entitled *"The Problem of International Terrorism and its Implications for the UN"* discusses the problem of defining the term "terrorism" or "terrorist" and its implications for the UN in combating international terrorism, the history of terrorism, different opinions and theories on the causes of terrorism, and some measures that can help to eliminate international terrorism. Different countries as well as scholars have differed in their attempt to understand what terrorism is or who is a terrorist. Especially there are two opposing poles in the attempt to understand terrorism, and this is also the fundamental reason that has been keeping the UN as well the states incomplete in combating international terrorism. The maxim "one's terrorist is another's freedom fighter" continues to pose a problem of definitional consensus regarding international terrorism.

The third chapter entitled *"The Role of the UN General Assembly in Combating International Terrorism"* deals, as its title suggests, with the role of the UNGA in combating international terrorism. The UNGA started considering the issue of international terrorism from 1972 and was more active than the UNSC during the Cold War in dealing with the issue of international terrorism. The role of the UNGA will be discussed broadly under three sub-headings viz. during the cold war (1972-1990), pre-9/11 post cold war era (1991- July 2001), and post-9/11 era. It is important to note that 9/11 incidents brought a tremendous changes in international politics. We see the establishment of Ad Hoc committee, Counter Terrorism Implementation Task Force (CTITF) and adoption of Global Counter-Terrorism Strategy (GCTS) by the UNGA which are discussed in the

chapter. A special mention of India's role in the effort of the UNGA in combating international terrorism is made, as many of the UNGA resolutions were contributed by India. The chapter also sees the critical analysis of the weaknesses and strengths of the UNGA in its function of combating international terrorism.

The fourth chapter entitled *"The Role of the UN Security Council in Combating International Terrorism"* focuses on the role of the UNSC in combating international terrorism. The UNSC was not active in combating international terrorism during the cold war due to the cold war politics. As such, the matter was handled more by the UNGA during the cold war. Another reason for the inactiveness of the UNSC was that the issue of international terrorism was considered to a domestic one and the UNSC had no mandate to interfere, as the UN Charter mandates non-interferences in the domestic affairs of the member-states. However, this concept totally changed after the end of the cold war. The rapid roll of globalization and advancement in science and technology in the post cold war brought the world closer than ever before, and also made terrorism a global phenomenon in the real sense. As such, even international terrorism became a real global or international actor. The 9/11 incidents brought international terrorism before the UNSC as a threat to international peace and security. A major development of the post-9/11 development was the adoption of Resolution 1373 (2001) under Chapter VII of the UN Charter through which a counter-terrorism mechanism called the Counter-Terrorism Committee (CTC) was established to monitor the implementation of the Resolution 1373 (2001) and to help member-states in implementing the Resolution. As there are questions of credibility of the UNSC in its present form of structure in combating international terrorism apart from its weaknesses, discussion on the reform of the UNSC will be dealt with as to make the UNSC more relevant, more participatory, more effective, more efficient and more legitimate especially in combating international issues like international terrorism.

The last chapter i.e. the fifth chapter which is the *conclusion* of the dissertation will see together briefly how the UNGA and the UNSC haves come so far in the area of combating international terrorism. One main discussion is also to see and asserts that international terrorism as it suggests 'international/global' being global in nature needs global solutions. Taking the view of Neo-liberal institutionalism, the global community needs to come together to cooperate with one another to solve their common problem like international terrorism. A common effort is the only solution to a problem that is internationalized. In other words, multilateralism is the real means that can bring

meaningful solution, and not unilateralism. Unilateralism can be a good means for domestic problems but not an effective one for a globalized problem because the world is composed of many sovereign states and one cannot just enter other's compound, which doing will only increase the problem and create chaos in the world. In fact, it will just become another problem to solve instead of being a solution to the problem. If states are really serious about solving the problem, then common effort based on cooperation should be the means.

As said, before we analyse to the role of the UN, mainly through its two primary organs, in combating international terrorism, it will be necessary to first try to see how we can approach the issue of terrorism or how different scholars and states alike have approached this issue, and what really causes or accelerates the growth of international terrorism. Also important is the historical development of terrorism in world history. The study examines the historical development of terrorism and its transformation into an international problem through the writings of some prominent scholars on terrorism. Different theories, like clash of civilization, blowback theory, failed state theory etc, have argued from different angles trying to identify the causes of terrorism. Terrorism is an international problem which concerns not just countries but also individuals. A right to life is an inherent right of a human being, and it is the responsibility of states to safeguard the life of its people. Given the ramifications of the problem of terrorism, the problem has become a central concern of the UN, which is responsible for maintaining international peace and security. The next chapter introduces in detail the problem of international terrorism and analyses its implications for the United Nations.

CHAPTER - II

**THE PROBLEM OF INTERNATIONAL TERRORISM AND
ITS IMPLICATIONS FOR THE UNITED NATIONS**

1. INTRODUCTION

'Terrorism' is a word that creates fear in the mind and that impacts not just sovereign states but also individual people's lives. At a time when the international community is on a quest for peace and security, terrorism has emerged as a major global threat. Terrorism, within states, has been in existence since a long time but it appeared on the international agenda only since 1934, when the League of Nations took the first major step towards outlawing the scourge by discussing a draft convention for the prevention and punishment of terrorism. But the Convention never came into force and the menace of terrorism continues till today.

Terrorism can be confined within a country's borders, or it may be internationally focused. Broadly, terrorism is domestic when both victims and perpetrators are confined within the borders of a single country. It is international when it involves victims or perpetrators from more than one country (Haynes 2005:227). Even when an incident begins in one country but terminates in another, it is an international terrorist event, as is the case of the hijacking of a plane in one country that is made to fly to another country. When terrorism operates only at the domestic level in its nature, operation and network then it is easier for the victim states to deal with it. But when it is internationalized in its nature, operation and network, then it becomes a problem for the victim state, as the terrorist group in question can operate from another sovereign state's territory. As the world is still based on the sovereign-state principle, no state can intervene in the internal affairs of another, as the UN Charter highlights. There are extreme cases when a state, for its survival, can act in self-defence under Article 51 of the UN Charter. Also, the attack against a multilateral organization is an international incident owing to its multi-country impact, as in the case of the suicide car bombing of the UN H.Q.s in Baghdad in 2003 (Enders and Sandler 2006:7). In short, in broad terms, we can say that the term 'terrorism' means the systematic use of coercive intimidation, usually to service political ends. It is used to create and exploit a climate of fear among a wider target group than the immediate victims of the violence, and to publicise a cause as well as to coerce a target to acceding to the terrorists' aims. It is not a philosophy or a movement but a method (Wilkinson 2000:12-13).

2. HISTORY OF TERRORISM

The exact origins of terrorism in history are hard to trace. But, as such, terrorism is not a new phenomenon but quite an old one, which has changed in nature and characteristics over time. One of the earliest recorded examples is the 'Sicarii', a highly organized religious sect of Zealot struggle in Palestine during 66-73 A.D against the Romans. A thousand years later, the 'Assassins', a Shia sect of Ismailis and Nizari, operated from 1090 to 1275. This group, whose struggle was an attempt to defend religious autonomy, used only the dagger at close range, by this mode of attack both accentuating the terror inflicted and revealing a willingness to die in pursuit of their mission echoed by today's suicide bombers (Gearson 2004:158). Enders and Sandler (2006:14) start their historical survey of terrorism from the Age of Enlightenment in the 18th century, at a time when commoners were no longer the property of the state but persons whose lives and property were to be protected by the state.

The notion of liberal democracy was born out of the American (1775-1783) and French (1789-1795) Revolutions. However, ironically, the term 'terrorism' was first used in the context of state terror as the post-revolutionary government of France massacred the French nobility and associates. In a like manner, Gearson (2004:158) observes that the original use of the term 'terrorism' in English can be traced back to the French Revolution. It entered the language in 1875 in the writings of Edmund Burke commenting on the regime of terror of Robespierre and the Committee of Public Safety in France. The Jacobins spoke positively of themselves as terrorist. Rakesh Gupta (2004:56) also points out that the origins of terrorism are of ancient vintage and that in most societies, terrorism is linked to their hoary past and ideological predilections.

Gearson observes that of all the historical examples of political violence one can identify, it is the anarchists of the 19th century, with their 'propaganda by deeds', who have most shaped modern thinking and the fear of terrorism. The anarchists sought to invoke fear and repression as a means of revolutionary change and successfully executed assassinations of heads of state, for instance, the US President William McKinsley in the 1890s. One of the best known of these groups was the Russian revolutionary group *Narodnaya Volya* (People's Will), which adopted selective targeting and assassination, killing Tsar Alexander II in 1881. Irish 'terrorism' emerged in the 1870s, marked by the murder of Lord Cavendish and his under-secretary. The assassination of Archduke Francis

Ferdinand in 1914 by a young Bosnian called Gavrilo Princip marked the beginning of the First World War. In the 1930s and 1940s, terrorism became a state monopoly in a number of countries. Following the Second World War, terrorism shifted to indigenous nationalist groups which emerged out of various anti-colonial campaigns in Israel, Cyprus, Kenya, Algeria etc. A number of movements saw independence arrive supported in part by terrorism. The idea of 'freedom fighters' emerged at this time, along with the debate over the terminology and definition of terrorism. Many developing countries attached political legitimacy to a number of 'wars of national liberation' and did not see them as terrorist acts, but wholly legitimate armed struggles. In the radical 1960s and 1970s, terrorism broadened to include ideologically motivated groups such as Germany's Red Army Faction, Italy's red brigades, France's Direct Action and America's Weathermen. This period also saw the emergence of various ethno-separatists operating outside the traditional colonial context, including the Palestine Liberation Organization (PLO) and various groups connected with the Arab-Israeli dispute; ETA, the Basque separatists in northern Spain; the FLQ in Quebec etc. **TH- 15854**

In the 1970s and 1980s, international terrorism came to be identified through the activities of various groups associated with the struggle against Israel, and a spate of aircraft hijackings and hostage-takings and the alleged used of terrorist organizations by certain state sponsors as tools of foreign policy (Gearson 2004:160). This era is assumed to be the onset of modern terrorism. John Deutch (1997:11) traces the dawn of the modern age of terrorism to the Palestine terrorist attack on the Israeli Olympic team in Munich on 5 September 1972, followed by a period of commercial airline hijacking like the destruction of Pan Am 103 over Lockerbie, Scotland. Gearson point to the 1986 bombing of a disco in Berlin frequented by US forces that was attributed to Libya, to which the US responded by bombing Tripoli. The Soviet occupation of Afghanistan in 1979 led to a US-backed insurgent movement against the Red Army, leading to its withdrawal after a decade.

The Iranian Revolution of 1978-9 led to a revival in Shiite terrorism, now backed by Iran, and the emergence of suicide terrorism in Lebanon following the Israeli invasion of 1982. This campaign, which eventually led to the withdrawal of foreign peacekeeping forces from Lebanon after the suicide bombing of a US Marine Corps base in Beirut and the simultaneous attack on a French paratroops base in the city, introduced the tactic of suicide missions. It was thereafter emulated and taken to new and unprecedented heights by the Liberation Tigers of Tamil Eelam (LTTE) in Sri Lanka where many state leaders and

civilians are victims of it even today. Thus, 'suicide terrorism' became a popular strategy of terrorism.

The end of the Cold War was expected to usher a new era of peace, but instead the post Cold War era turned out to be a new phase of terrorism, promoted by globalization and developments in various fields like Information Technology and communication, transportation, weaponry etc. The Gulf War I in the early 1990s and the post-war strategy of the US to engage in the region (Middle East) brought about the onset of 'super terrorism' with the aggradations and expansion of conventional weapons which is marked by religious motivation, the propensity to use suicide attack as a tactic and the proliferation of WMD as a potential means which can casualties in high numbers unlike the 'traditional terrorism' which relied on the bomb and the bullet as the weapons of choice which caused casualties in low number. In March 1995, in Tokyo, when the Japanese cult *Aum Shinrikyo* killed 12 people and affected 5,000 people with Sarin gas in an attack in the Tokyo underground, it brought to light the grave danger of terrorists' possessing biochemical weapons and other weapons of mass destruction (WMD) with great destructive potential. Terrorists now posed threats to states that previously only other states could. Traditionally, terrorism had relied on the bomb and the bullet as the weapons of choice and had managed to cause injury in the low hundreds, but this 'New Age of Terrorism' was more sophisticated and complex. This 'New Age of Terrorism' is a phenomenon of the Post Cold War in which new fanaticism represented by cults and religiously motivated groups, equipped with WMD and prepared to use them. This phenomenon was partially revealed in the Sarin gas (chemical) attack in 1995 in Tokyo by *Aum Shinrikyo* and finally revealed on 11th September, 2001 terrorist attacks in the US and anthrax mail attack in the aftermath of the 9/11 incidents, as argued by Gearson (2004:151-164).

However, it is also argued that the fear of increased chances of use of WMD by terrorists is based on small instances of attacks. Most terrorists continue to use bombs and conventional explosives to achieve their goals. In the 11 September 2001 terrorist attacks in the United States, which left thousands dead, many more injured and huge material losses, the weapons of destruction used by the *Al Qaida* were civilian aeroplanes that became an effective weapon to kill when they were flown into the World Trade Centre (WTC) towers. Adopting the methodology of old terrorism, the *Al Qaida* used surprise, planning and training along with the willingness to commit suicide, to cause thousands of casualties in 2001 (Gearson 2004:166-7). Thus, terrorism continues to exist and operate in

all parts of the world, although with ever changing nature, tactics, and methods of operation.

3. PROBLEM OF DEFINITION

The word "terrorism" has been easier to use than to define. As one commentator, Nissan Horowitz, argues in the mainstream Israeli newspaper *Ha`aretz*, "Terrorism- it's all in the eye of the beholder. Why is the attack on the Twin Towers called Terrorism, while the bombing of a hospital in Kabul is not?"(Peter Weiss 2002:11). Indeed, there have been numerous attempts at definition by scholars, experts, governments, inter-governmental organizations etc. but till today, there is still no universally accepted definition of terrorism.

There are two broad approaches to defining terrorism – one focusing on what constitutes terrorism and the other on defining what is *not* terrorism and trying to distinguish it from other forms of violence. Jenkins (1982:12) argues that the problem of definition is compounded by the fact that "terrorism" has become a fad word, used promiscuously and often applied to a variety of acts of violence that are not strictly terrorism, although it is broadly agreed that the term is generally pejorative. Some governments label as terrorism all violent acts committed by their political opponents, while anti-government extremists frequently claim to be the victims of government terror. On the same lines, Bonanate (1979:197) points out that very often the word 'terrorism' has been the object of insults and accusations rather than of analyses, giving rise to moralistic positions rather than scholarly discussions. The ambiguity is strengthened by the fact that as far as violence in general is concerned, any political group can find at least one case in which it is acceptable, yet no political group wants to define itself as terrorist; furthermore, only the action of the other can always and solely be defined as 'terrorist'. Ferracuti (1982:130) also observes that one obvious difficulty is the need to abstain from value judgements and personal involvements, a position that is practically impossible in relation to a phenomenon in which we can all be participants, victims, or even actors. Moral and political judgements cloud the issue, and today's terrorist can become tomorrow's 'freedom fighter' if his actions are successful. Moreover, what terrorism is seems to depend on one's point of view and one person's 'terrorist' could be another's 'freedom fighter'.

Amongst scholars, there are broadly two types of approaches in defining terrorism. One group excludes acts of state from their definition of terrorism as they believe terrorist acts are perpetrated by non-state actors, which means they accord no importance to consequences of the act in defining terrorism. Other scholars include even acts of states in their definition of terrorism; they identify terrorism based on consequences; it does not really matter to the victims whether a bomb blast was carried out by states or state agents or non-state actors.

Roche (2004:1) underscores that with no universally accepted definition of terrorism, it is not possible to construct a theory of terrorism. One basic character of terrorism, on which there is agreement, is the use of violence. But there is disagreement over the role of the purpose and root causes of the violence in defining terrorism. Historically, the term, 'terrorism' described state violence against citizens during the French Revolution. Over the past half century, however, terrorism has come to mean the use of violence by small groups to achieve political change. Those sympathetic to terrorist causes suggest that violence is the only remaining option that can draw attention to the plight of the aggrieved. Such causes have included ideological, ethnic, and religious exclusion or persecution (Kiras 2008: 372-73). According to Kiras (2008:372-373), defining terrorism can be difficult as groups often espouse multiple grievances and the relative importance of these grievances can change over time. Those targeted by terrorists are less inclined to see any justification, much less legitimacy behind such acts. In general, the term 'terrorist' has a pejorative value that is useful in delegitimizing those who commit such acts. Some view terrorist acts as legitimate only if they meet the criteria associated with the 'just war' tradition, such as just cause, proportional use of violence, and the use of force as a last resort. Realists suggest that the political violence used by terrorist groups is illegitimate as the state alone has a monopoly on the legitimate use of physical force. Roche (2004:2-3) also observes that because many conceptions of terrorism include elements that are not readily observable, they are difficult to apply to concrete cases of violence. In particular, psychological (subjective) or teleological elements (a means-ends logic) in a definition make it difficult to identify instances of true terrorism. Therefore, an ideal definition of terrorism should address only readily observable features of violent behaviour, such as whether it is organized, open or secret. and whether its target is a particular individual, organization, or a mass of strangers. Of various definitions of terrorism, Roche sees only Black's definition of pure terrorism as free of psychological and

teleological consideration. Black defines terrorism as "self-help by organized civilians who covertly inflict mass violence on other civilians", a concept that, Roche argues, captures the attack on the WTC as well as numerous other actions commonly known as terrorism in popular usage. Black's definition excludes other organized forms of civilian violence sometime termed as terrorism, such as assassinations of government officials and guerrilla warfare against military targets.

Oberschall (2004: 26), in analyzing the definition of terrorism, quotes Laqueur's definition of terrorism as "the use of covert violence by a group for political ends." To Oberschall, this definition contains four key attributes of terrorism: i) it is covert, not conventional warfare; ii) it is political, not criminal; iii) it is collective action, not individual; and iv) it is violent. He argues that what makes terrorism distinctive is not its ends but the means i.e. violence by a covert group striking without warning and often indiscriminately victimizing, even purposely targeting, innocent bystanders. Oberschall, using 'Collective Action Theory', argues that terrorism is not the act of madmen or of political and religious sociopaths but of political agents who choose covert, violent means to achieve political goals, be they ethno-national, religious, or ideological. He gives four dimensions of approaching terrorism; i) there have to be widespread discontent and dissatisfaction with no means or lack of relief [political solutions like power sharing (as in Northern Ireland), autonomy (as in Macedonia), federation or confederation (as for the Basque provinces), independent statehood (as in Kosovo and Palestine), and self-determination (as in Kashmir) may seem workable to outsiders but are frequently rejected by the major players in the conflict]. ii) there has to be an ideology or belief system widely spread in a population with successful framing of discontent into legitimate grievances, which legitimizes a change and justifies violent means. iii) there must be present the capacity to organize viz. recruitment, fundraising, leadership, internal communication, and decision-making and iv) there must be political opportunity – public opinion support, political allies, a favourable international climate, state's support and sponsorship etc.

Cooper (2004: 3-11) defines terrorism as the intentional generation of massive fear by human beings for the purpose of securing or maintaining control over other human beings. He asserts that terrorism should be defined by reference to what is done rather than by shifting our focus to those who are victimized and the reasons they are targeted. He observes that the present day world is a Hobbesian universe in which life is to be regarded

as "nastie, brutish and shorte", and cheap in the bargain. Terrorism is a naked struggle for power - who shall wield it, and to what ends; it is a battle for the moral high ground, with those in legitimate power trying to preserve their positions against opponents bent on bringing them down.

The U.S Department of State (2000), in its introduction to the Department's "Patterns of Global Terrorism", defines terrorism as politically motivated violence perpetrated against non-combatant targets by sub-national groups or clandestine agents, usually intended to influence an audience. This definition includes three key criteria that distinguish terrorism from other forms of violence. *Firstly*, terrorism must be politically motivated. Thus, violent acts such as robbery, homicide, and kidnapping, which are committed in the furtherance of personal or criminal goals, are not included. *Secondly*, terrorist violence is directed at non-combatants, including those not members of the military services, military members who are not actively involved in military hostilities and military members who are not prepared to defend against political violence. *Thirdly*, terrorists are sub-national groups or clandestine agents. This exclusion of political violence by the state from the definition of terrorism is debatable. In addition, two other important definition criteria have been stressed in the 'psychology of terrorism' literature. Kaplan states that terrorism is intended to create an extremely fearful state of mind. Furthermore, this fearful state is not intended for the terrorist victim; rather, it is intended for an audience who may, in fact, have no relationship to the victims (Ruby 2004: 15-17).

Taylor, according to Ruby, elaborates that even with a firm set of definition criteria, as delineated above, different people can interpret an act differently. First, some people see terrorism as a *legal* issue, viewing an act as terrorism only if it is illegal. The determination of an act as terrorism as per this perspective will depend on which government is doing the interpreting, as not all states will have the same definition of what is legal. A second perspective is *moral* in nature and would consider an act to be terrorism if it had no moral justification. For instance, acts committed in the name of *Jihad* (holy war) are sometimes viewed as morally justified by some. It is worth remembering that Osama Bin Laden, the suspected architect of the 9/11 attacks, was part of a "freedom fighter" group that the U.S supported against the Soviet Union's invasion of Afghanistan in 1979. The final perspective is *behavioural*, wherein terrorism is defined purely on the basis of the behaviour involved, regardless of laws or morality. Even here, different interpretations are possible based on social and cultural values.

Badey (2004:22) quotes a comprehensive definition of terrorism, offered by Alex P. Schmid, "Terrorism is an anxiety-inspiring method of repeated violent action, employed by (semi-) clandestine individual, groups or state actors, for idiosyncratic, criminal or political reasons, whereby - in contrast to assassination - the direct targets of violence are generally chosen randomly (targets of opportunity) or selectively representative or symbolic targets) from a target population, and serve as message generators. Threat- and violence- based communication processes between terrorists (organization), (imperilled) victims, and main targets are used to manipulate the main target (audience(s)), turning it into a target of terror, a target of demands, or a target of attention, depending on whether intimidation, coercion, or propaganda is primarily sought." This definition would include acts perpetrated by state as terrorism. Similarly, Boaz Ganor, who has argued forcefully that an analytical useful definition is possible and imperative, proposes that "terrorism is the intentional use of, or threat to use violence against civilians or against civilian targets, in order to attain political aims." As such, this definition also applies to states/governments (and their agencies and proxies) as well as to non-governmental groups and individuals. Jonathan Barker (2005:23-24) argues that definitions that exclude state terrorism remain blind to a major source of the violence and fear that is visited on civilians around the world. State terrorism and group terrorism have different features but their effects on people and politics are similar and they both fit the basic idea of terrorism that most people hold: violence and threats of violence against civilians for political ends. As such, Barker views terrorism in broader perspective.

However, Badey (2004:21-37) viewing terrorism in narrower perspective, defines 'international terrorism' as the repeated use of politically motivated violence with coercive intent, by non-state actors, that affects more than one state. He identifies and explains five elements here i.e. repetition, motivation, intent, actors, and effects; distinguishing international terrorism from other types of violence.

i) **Repetition:** The assumption of systematic and repeated exploitation of fear through violence distinguishes terrorism from isolated events or individual violence. Although a variety of events may cause individuals to experience terror, such events must be identified as part of a larger pattern of violence in order to meet the definitional criterion of terrorism.

ii) **Motivation:** Terrorists usually seek to force governments and institutions to focus on real or imagined social, economic, and political injustice and take great pains to rationalize their behaviour within societal norms. While criminal activity may be the result of their actions, it is not the primary motive of terrorism. So, whereas all terrorists are criminals, not all criminals are terrorists; the criminal's primary motive may be greed, while the terrorist's is the pursuit of a political agenda.

iii) **Intent:** Terrorists intend to influence the behaviour of others through the creation of fear. By inducing governmental reaction, they hope to provide a logical and moral basis for their actions and ensure the long term support of those who become the victims and are affected by governmental violence.

iv) **Actors:** While active state participation is rare, state supported terrorism does exist. Many governments, including the U.S., sponsor external groups with similar interests in the pursuit of foreign policy objectives. Badey observes that two thirds of terrorist incidents are directly or indirectly carried out by non-state actors, which exist at various levels of organization and have adopted various forms of social structure.

v) **Effect:** International terrorism affects more than one state, which distinguishes it from domestic forms. But the gap between the two can be narrow and overlapping sometimes, especially in the light of the increasing interconnectedness of states and the onset of globalization.

Enders and Sandler (2006:3) exclude state in their definition although they concede that states can support sub-national terrorist groups through safe havens, funding, weapons, intelligence, training, or other means. When a state assists a terrorist group, the resulting terrorist act is known as state-sponsored terrorism. For instance, Libya was accused of state sponsoring the downing of Pan Am flight 103 over Lockerbie, Scotland, on 21 December 1988, and agreed in 2003 to compensate the victims' families. Also, Afghanistan was accused of harbouring, providing safe haven, supporting and nurturing *Al Qaida* terrorists (Enders and Sandler 2006: 3-6).

Whittaker (2004: 1-4) identifies the agreed criteria of terrorism as follows:

i) it is a premeditated, politically motivated use of violence or its threat to intimidate or coerce a government or the general public;

ii) it is a strategy of violence designed to achieve desired outcomes by instilling fear and insecurity;

iii) there is an unlawful use or threat of force through sustained campaigning or sporadic incidents;

iv) there is calculated use of violence against civilian, non-combatant targets;

v) power is intrinsically at the root of political violence; its acquisition, its manipulation and its employment to effect changes;

vi) generally, there is clandestine activity which is carefully planned as to goals, means, targets and access;

vii) goals may be understood generally as political, social, ideological, or religious, otherwise terrorists would be thought of as delinquent criminals;

viii) maximum publicity is normally an important objective for terrorists.

According to Whittaker, what distinguishes the terrorist from the others is not the extent of violence but the choice of target and mode of activity. Whether it is guerrilla or freedom fighter, if violence is used against innocent civilians, then it is certainly terrorism. Similarly, Pachnanda (2002: 4) asserts that a terrorist is a person who indulges in criminal acts with manifestly political motive without exhausting legitimate remedies at his disposal for getting redressal of his grievances. His acts may be organized or unorganized, commanding public support or hatred. Freedom fighter, on the other hand, is a person who has been a victim of an alien, illegal and a repressive regime for quite some time without any access to effective legitimate remedies for his sufferings; therefore, he exercises his right of self-determination against such regime. Jenkins (1982:12) also argues that it is possible to identify a terrorist as distinct from a freedom fighter. Terrorism is best defined by the quality of the acts, not by the identity of the perpetrators or the nature of their cause. The perpetrators are usually members of an organized group, and unlike other criminals, they often claim credit for their acts. Jenkin's definition of terrorism does not limit to non-governmental groups but also extends to government. However, government terror tends to be primarily internal and most incidents of international terrorism are carried out by non-governmental groups, although they may have direct or indirect state support.

The inability to arrive at an agreed definition of 'terrorism' is not a new phenomenon. The League of Nations produced a draft *Convention for the Prevention and Punishment of Terrorism* in 1937, defining terrorism as "all criminal acts directed against a state and intended or calculated to create a state of terror in the minds of particular persons or a group of persons or the general public. However, this treaty never received enough ratification to enter into force. Definitions offered in General Assembly Resolutions continue to offer variations of the phrasing used in 1937, though they have dropped the qualification that the terrorist actions must be directed against a state. Contemporary efforts to define the term "terrorism" are plagued by the same problem that stymied the League's efforts: how to formulate the term without criminalizing all armed resistance to oppressive regimes. This dilemma has not kept the General Assembly from discussing terrorism, but it has inflected the direction of discussion as governments contend with how to distinguish legitimate armed struggle from terrorism and how much emphasis to place on identifying root causes of grievances that lead individuals and groups to adopt terrorist methods (Peterson 2004:178-179).

The Report of the Secretary General's High-level Panel on Threats, Challenges and Changes: *A more secure world: Our shared responsibility (2004)* also acknowledges the contested two claims viz. that any definition should include state's use of armed forces against civilians. The Report mentions that the definition of terrorism should include the following elements; i) recognition, in the preamble, that state use of force against civilians is regulated by the Geneva Conventions and other instruments, and is of sufficient scale, constitutes a war crime by the persons concerned or a crime against humanity; ii) restatement that acts under the 12 preceding (now 13) anti-terrorism conventions are terrorism, and a declaration that they are a crime under international law. The Report observes that the description of terrorism should be 'any action that is intended to cause death or serious bodily harm to civilians or non-combatants, when the purpose of such acts, by its nature or context, is to intimidate a population, or to compel a Government or an international organization to do or to abstain from doing any act.'

Barry Davies (2004: 14-5) argues that one cannot impose one's own definition on others of differing territorial, social, and religious backgrounds. Different nationalities and different cultures will view what is and what is not a terrorist act in different ways. Terrorism only exists within the human social framework and individuals within that

framework define and execute terrorist acts. In order to prevent terrorism, understanding of the human element is essentially needed. As is evident from the discussion above, an effort to bring about a universally accepted definition of terrorism continues even today, with little likelihood of resolution in the near future.

4. CHARACTERISTICS OF INTERNATIONAL TERRORISM

In the absence of a universally accepted definition, it may be useful to examine the characteristics of terrorism in order to better understand this phenomenon. According to Jenkins (1982: 15), most terrorists appear to share certain common attitudes, for instance, terrorists are for the most part true-believers, absolutists who see the world in black and white, 'us' versus 'them'. They are uncompromising, action-prone, willing to take risks etc. In the writing of Ferracuti (1982: 135), twelve principles of terrorism are mentioned. They are; i) violence is necessary to overthrow oppression; ii) there is no limit to the extent of violence justified; iii) actions should clearly convey their purpose; iv) reprisal killings are counterproductive; v) ruthlessness and extraordinary violence are essential to terrorist success; vi) government failures can be used to gain popular support; vii) terrorism exposes the repressive side of government; viii) terrorists aim to incapacitate government directly or indirectly; ix) secrecy is important to terrorist operations; x) systematic planning and execution are critical to terrorist success; xi) small-scale, persistent attacks are most effective; and xii) terrorists are dedicated to destruction for the sake of their cause.

Shukla (2007: 106-7) also brings out some salient characteristics of terrorism. They are; i) Terrorism is inherently indiscriminate in its effects. Terrorists often profess to use terrorism selectively and claim to be able to predict precisely the effects of their attacks. Terrorists may choose to follow a selective assassination or kidnapping aimed at key politicians, officials or members of the security forces, in preference to the massacre of large numbers of the general public. Yet, even when terrorists claim to select individual targets, they necessarily do so, clandestinely and according to their own idiosyncratic codes. No one is ever certain that they will not be the terrorist's next victims and where they will strike; ii) Terrorism is essentially arbitrary and unpredictable, both in the minds of its victims and audience and in its effects upon individuals and society. It is precisely because terror is a subjective experience and people have variable 'thresholds' of fear that it is unrealistic for terrorists to claim that they can predict the effects of terrorism on behaviour; iii) It implicitly denies the recognition of all rules and conventions of war. It

refuses to distinguish between combatants and non-combatants and recognises no humanitarian constraints or obligations to prisoners or the wounded. All lives, including those of women and children are considered expendable for the cause and iv) Terrorism rejects all moral constraints which is reflected in the hideous and barbaric cruelties and weapons used. Although terrorist violence does not require an advanced industrial or urban base there is no doubt that modern explosives, technology and firearms have enormously increased the terrorists' capacity for mass slaughter and destruction. In short, to Shukla, terrorism is characterised by its indiscriminateness, inhumanity, arbitraries, and barbarity.

5. CAUSES OF TERRORISM

Rama Mani (2004: 220-224) argues that the real search for root causes of terrorism is futile if the definition of terrorism itself constantly keeps changing. However, as the effort to arrive at a universally accepted definition of terrorism continues, so the effort to combat and eliminate international terrorism continues. And the elimination of terrorism is possible when its root causes are uprooted.

In 2003, Norway and the International Peace Academy (IPA) convened a day-long conference on "*Fighting Terrorism for Humanity: A Conference on the Roots of Evil*" in New York, in which it was asserted that knowledge about the roots of terrorism should be increased if the fight against terrorism is to be strengthened. Though world leaders gave different opinions on the roots of terrorism, they agreed on many points that link to the causes of terrorism. Some of them are: i) Terrorism takes root in chaos and the absence of good governance; ii) extreme nationalism, discrimination, foreign occupation, humiliation and social and economic inequalities, and in the view of some leaders, denial of the right to self-determination; iii) underdevelopment, poverty, inequality and ensuing despair lead to frustration, anger and alienation and comprise a fertile ground for terrorism to breed.

There are some theories that try to bring out the root causes of terrorism or why people embrace terrorism. According to Paul Wilkinson, the theory of terrorism as a political weapon is based on the following assumptions of human behaviour: i) that people faced with threats to life and limb will ultimately always surrender their allegiances, principle or beliefs to save themselves; ii) that terrorism invariably leads to the terrorization of the targets and victims; and iii) that consequently when they have been exposed to a given quotient of coercive intimidation they will inevitably suffer a collapse

of will and submit to their persecutors (Shukla 2007: 104-5). Some of the prominent theories are as follows:

i) **Blowback Theory**: Crenshaw argues that "terrorism should be seen as a strategic reaction to American power." In this perspective, the presence of empires and the analogous unipolar military position of the US in the post cold war provoke resistance in the form of terrorism. The proposition here is that the projection of military power plants seeds of later terrorist reactions. This theory argues that as *Al Qaida* is a reaction to American empire, similar to the earlier pre-1914 terrorist resistance such as the Serbian Black Hand against the Austrian Empire, Inner Macedonian Revolutionary Organization against the Ottoman Empire, and the *Narodnaya Volya* against the Tsarist Russian Empire. Davis also links late 19th century globalization of trade and finance to outbreaks of terrorist activity in the developing world (Bergesen and Lizardo 2004: 45). The argument is that the birth of terrorism has been the result of seeking revenge or reaction of one's deeds.

ii) **The Clash of Civilizations Theory**: This approach has its roots in the much debated writing of Samuel P Huntington's '*The Clash of Civilization and the Remaking of World Order*' as argued by Parida (2007:125). The consequences of the Cold War and the development of the globalization process have increased the levels of terrorist violence. Huntington asserts that the contemporary world is divided into competing civilizations that are based on irreconcilably different cultures and religions which will lead to inevitable conflicts among them. He claims that the West's insistence on universalism will lead to conflict with other civilizations, most seriously with Islamic and Sinic civilizations. The cultural dimension is closely linked to market integration, accelerated by globalization. The spread of global consumer brands and explicitly cultural products has a direct and visible impact on local cultures. As such, the global *jihadist* movement, which is considered to be a symbol of globalization, emerged out of deculturalization. The contemporary world is dominated by the West, and this is a serious threat for people who are concerned about the value of traditions and of indigenous cultural modes. The demise of old ways of living can cause anguish, and a deep sense of loss and deprivation, which can promote violence in the form of terrorism over Western societies (Parida 2007:124-129/134-135). The social changes associated with globalization and the spread of free market capitalism appear to overwhelm the identity or values of groups who perceive themselves as the losers in the new international system. At the local level, this cultural friction may translate into conflicts divided along religious or ethnic lines to safeguard

liberty (Kiras 2008:376). Proponents of this theory argue that *Al Qaida* and 9/11 were a vindication of Huntington's argument because all the perpetrators were Muslims.

Differences in religions and/or culture may not be relevant in every case of terrorism but they do form the cause in certain cases. However, many Arab scholars argue that terrorism has nothing to do with Islam because these individuals cannot be considered representative of more than one billion Muslims of the world. Rama Mani argues that in the light of the carnage wrought by Western, ostensibly Christian, leaders over the last six decades including a world war and a cold war, a holocaust, two atomic bombs, repression of wars of independence, the fuelling of proxy wars, nuclear race, support of dictators and state and non-state terrorists, it is ironical to view Islam as an inherently more violent religion or civilization (Rama Mani 2004: 228-229).

iii) **Relative Deprivation Theory**: The theory of relative deprivation refers to deprivations experienced when individuals compare themselves with others in terms of mal-governance, lacks of human right protection, rampant corruption etc. Extreme poverty makes the poor receptive listeners to the message of extremists and they become ready recruits for their cause. So, terrorism can erupt out of frustration and relative deprivation. This is not to say that all poverty or oppression leads to terrorism, but that such conditions are more vulnerable to terrorism (Parida 2007: 130-132). Dixon adds that sometimes terrorists are recruited directly from communities in misery (Thomas Homer Dixon 2001: 1&2).

A poll conducted by International Herald Tribune and Pew Charitable Trusts in 2001 suggested that 'much of the world views the 9/11 attacks as a symptom of increasingly bitter polarization between the haves and have-nots.' This argument is the most popular and frequently cited within the UN. In the 2001 General Assembly, delegates from countries like Costa Rica, Croatia, and the Netherlands linked terrorism with poverty, inequality, and exclusion. UN Environment Programme (UNEP) Executive-Director Klaus Toepfer observed, "when people are denied access to clean water, soil, and air to meet their basic human needs, we see the rise of poverty, ill-health and a sense of hopelessness. Desperate people can resort to desperate solutions." World Bank President James Wolfensohn emphasized that 9/11 was a wake-up call to the West about how urgently the poverty in the South and inequality between the two unequal halves of the world needed to be addressed (Rama Mani 2004: 225-226). Scholars like Franz Fanon assert that political

violence is often used in the hope of making right economic wrong. The terrorist attacks in 2001 were not reactions against the policies of the US per se, but rather a blow against an icon of global capitalism (Kiras 2008:377). However, this argument offers an incomplete explanation as not all terrorists are 'have-nots', most notably the multimillionaire Osama bin Laden.

iv) **Structural Causes Theory**: The structural causes theories profess that the causes of terrorism can be found in the environment and the political, cultural, social, and economic structure of societies. Ross (1993:320) talks of permissive causes and precipitant causes of terrorism. The *permissive causes* of terrorism consist of: i) *Geographical Location*: Cities are more likely than rural environments to facilitate terrorism, because of logistic superiority, support, and recruits. ii) *Type of Political System*: In general, most terrorist acts take place in democracies rather than in authoritarian or totalitarian countries. Guarantees of fundamental civil liberties promoting freedom of movement, access to media, and the free expression of unrest and dissent, encouraging the proliferation of narrow-based social issues etc. are conducive to the growth of terrorism. However, Ross fails to see the other side of the story, viz. that democratic values provide more spaces to settle differences in a peaceful manner. iii) *Level of Modernization*: Ross argues that modern societies produce several factors that encourage terrorism like destructive weapons and technology, mass media, conflicts with traditional ways of life, network of transportation, population with increased literacy, and vulnerable targets.

The *precipitant causes* of terrorism consist of: i) *Social, Cultural, and Historical Facilitation*: shared attitudes, beliefs, opinions, values, customs, habits, myths, and traditions may permit the development of nationalism, fanaticism, violence and terrorism in a subgroup. ii) *Presence of Other forms of Political Unrest*: The present of other forms of unrest among populations, violent or non-violent, such as war, revolution, strikes, protests etc. may act as a catalyst for terrorism. iii) *Support*: Support may be in the form of finance, training, intelligence, false documents, donations or sales of weapons and explosives, provision of sanctuary or safe housing, propaganda campaigns, ideological justification, public opinion, legal services, and constant supply of recruits. iv) *Grievances*: one widely accepted cause of terrorism is grievances – economic, ethnic, racial, legal, political, religious, and social.

v) **Failed State Theory**: This argument holds that terrorism is a governance problem. Failed states or weak or simply 'bad' or 'undemocratic' states violate human rights and create conditions for terrorism. The choice of Afghanistan as the base for Al Qaida is an instance, apart from Somalia, Yemen, Sudan and other failed or weak states. However, this argument does not explain the fact that terrorist groups have flourished in stable, strong, democratic, and industrialized states, which have served as bases for financing, training, and recruiting militants. Therefore, this theory provides only a partial explanation (Rama Mani 2004: 226-22).

vi) **Social Learning Theory**: This theory suggests that violence follows observation and imitation of an aggressive model. Social learning of the acceptability of terrorist violence may also take a didactic form, as in the teaching of an extremist form of *jihad* in many Pakistani and Palestine *madrasas* (religious schools for young Muslim boys). The Charter of the Islamic Resistance Movement (Hamas) represents an example, in which, Article 15 states, 'we must imprint on the minds of generations of Muslims that the Palestinian problem is a religious one....I indeed wish to go to war for the sake of Allah! I will assault and kill, assault and kill, assault and kill.' However, only a small minority among the hundreds of thousands of those educated for *jihad* in *madrasas* become terrorists. Nevertheless, this theory at least helps animate the small minority who turns to political violence (Jeff Victoroff 2005: 18).

vii) **The Instrumental Approach**: Terrorism is a means to a political end. The terrorist organization acts to achieve collective values, which involve radical changes in political and social conditions. Terrorism is interpreted as a response to external stimuli, particularly government actions. Terrorist organizations which seek to involve the masses in the political struggle are unlikely to commit acts of violence which might alienate potential supporters. However, this theory cannot explain how the preferences of actors are determined. Nor does it permit to distinguish among groups except in terms of their stated ideological objectives (Crenshaw 2001: 13-31).

viii) **The Organizational Process Theory**: This theory focuses on the internal politics of the organization. The minimal goal of any terrorist organization is survival, but the goals of the people occupying roles in an organization transcend mere survival. Under certain conditions, membership in a terrorist organization is a valued social relationship. Since many terrorists are adolescents, joining may be a sign of personal daring or social rebellion

more than political beliefs. Other incentives are those intangible benefits of association in a group, a feeling of belonging, acceptance and solidarity. Thus, the motivations for participation in terrorism include personal needs as much as ideological goals. However, this theory does not explain the fact that the act of aggression appears to be the random result of unpredictable interactions. (Crenshaw 2001:13-31).

There are several other theories that try to identify the underlying causes of terrorism. According to *rational choice* theory, terrorist action derives from a conscious, rational, calculated decision to take these particular types of actions. The *identity theory* of terrorism proposes that candidates for terrorism are young people lacking self-esteem who have strong or even desperate needs to consolidate their identities. Martha Crenshaw argues that radicals choose terrorism when they want immediate action, think that only violence can build organizations and mobilize supporters, and accept the risk of challenging the government in a provocative way. For Rubenstein, the cause of terrorism is vendetta springing from the terroristic sensibility, i.e. despair after the failure of youthful fidelity (Gupta 1998: 33).

Ramesh Thakur (2006: 5-12) summarizes the root causes of terrorism by clubbing them into five categories: (i) Lack of democratic institutions and practices, political freedoms and civil liberties (ii) Group grievances rooted in collective injustice against ethnic and religious sects (iii) Long-standing conflicts iv) Poverty and destitution leading to feelings of desperation and alienation and (v) Misunderstanding or lack of dialogue among civilizations. In the like manner, Pachnanda (2002) also argues that terrorism has its origin in diverse causes like colonialism, communalism, racialism, political persecution, human rights violation, economic exploitation, unemployment, alienation, communication gap and overall moral decay of society. In short, it may be said that there is no single factor that causes terrorism; rather it is a multiplicity of factors that results in terrorism.

The world-wide dissemination of new technology has greatly facilitated the growth of terrorism. For instance, the development of international civil aviation has created new vulnerabilities and lucrative targets for the terrorists to exploit. TV satellites have brought about a media revolution: the terrorists can exploit this by gaining almost instantaneous world-wide publicity for an outrage.

Wilkinson (2000: 34-35) asserts that terrorism motivated by religious fanaticism has been perpetrated throughout history. The early 1980s saw a dramatic emergence of terrorism motivated by extreme Islamist movements, like Hezbollah in South Lebanon and Hamas in Palestine etc. A common inspiration in the rise of all these movements was the Iranian Islamic revolution led by Ayatollah Khomeini. Moreover, widespread poverty and the failure of Arab governments to meet the basic needs of their peoples provided an opportunity for Islamist radicals to develop a stronger popular base of support. Wilkinson (2000:36-37) also argues that the end of the Cold War had a major influence on the patterns of terrorism. The collapse of the Soviet Empire created a power vacuum which was rapidly filled by rival ethnic movements soon locked in bitter conflict, both in the Caucasus and even within the Russian Federation itself. There was also sudden availability of all kinds of weaponry and expertise from the defence and nuclear complexes of the Former Soviet Union.

6. CHANGING NATURE OF INTERNATIONAL TERRORISM: THE COLD WAR AND POST COLD WAR ERA

The end of the Cold War brought many changes in the world including the balkanization of the Soviet Union, supremacy of the US as the superpower in the world, triumph of capitalism and fall of socialism as competing idea, rapid onset of globalizations, intra-state conflicts, greater emphasis on human rights etc. In the post Cold War era, the nature and characteristics of terrorism have also changed, making it more global in impact and character.

In the post Cold War era, there emerged terrorist groups wholly or in part motivated by religious fanaticism. By the end of the 1990s, no less than a third of all currently active international terrorist groups were religiously motivated, with a majority professing Islamist beliefs. It has been argued that religious fanaticism causes a greater propensity for mass-lethality as it is driven by the will of God and that the religious fanatic is also likely to be more susceptible to the idea of sacrificing his or her own life for the cause (Paul Wilkinson 2004:27). *Al Qaida* is an example of a terrorist organization using religion to propagate its ideas.

Bergesen and Lizardo (2004:42-43) brings out six features of the changing nature of terrorism.

i) Terrorist organizations have shifted towards a more networked form, moving away from the earlier model of professionally trained terrorists operating within a hierarchical organization with a central command chain. Similarly, whereas from the 1960s through the 1980s groups more clearly were bound nationally (German, Japanese, Italian, Spanish, Irish, Palestine, and so on), more recent organizations like *Al Qaida* have members from multiple nationalities and organizational sites outside the leadership's country of origin.

ii) Terrorist organizations identify themselves and claim responsibility for specific acts less often. The bombing of the U.S embassies in Africa or the events of September 11, which while purportedly organized by Osama Bin Laden and *Al Qaida*, were never clearly claimed by that organization. This is in contrast with earlier terrorist organizations which were much clearer in taking responsibility for their actions.,

iii) Terrorist demands have become more vague and hazy. Earlier terrorist demands often were quite specific. Black September demanded the release of comrades when they attacked Israeli athletes at the 1971 Munich Olympics; the PLO wants the Israelis out of the West Bank; and Basque independence is a clear desire of Euskadi Ta AsKaTasuna (ETA). In contrast, there were no specific demands surrounding the 1998 US embassy attacks or the events of September 11.

iv) Terrorist ideologies have become more religious. There is rise of new religious terrorism or holy terrorism reflecting the increasing prevalence of religion in the ideology of terrorist organizations.

v) Terrorist targets are dispersed more globally. In the 1960s and 1970s, international terrorism was centred largely in Europe and the Middle East, but by the 1990s onwards it spread to Africa (1998 attack on US embassies), Argentina/South America (1992 truck bombing of Israel embassy and 1994 bombing of a Jewish Community Centre) and the US (1993 WTC bombing and 2001 WTC and other attacks).

vi) Terrorist violence has become more indiscriminate. Along with a geographical dispersion of targets, there seems to be a move away from specific targets, for instance as when hundreds of civilian Kenyan and Tanzanian embassy employees and passers-by were killed to achieve the objective of bombing the US embassy. The 1993 and 2001 attacks on

the WTC were also examples of more indiscriminate targets, as opposed to earlier skyjacking of a national airlines' plane in order to attain specific demands or the kidnapping a particular politician such as Aldo Moro by the Italian Red Brigades. Bergesen and Han (2005:136) also argue that collateral damage (unintended victims) seem to claim a larger portion of the fatalities than in earlier attacks. Whereas businessmen or politicians were often specifically targeted in the radical terrorism of the 1960s and 1970s, it seems that more civilians have become targets in the early 21st century.

The post Cold War era has seen more incidents and the rise of more complex and sophisticated international terrorism than ever before. This has been attributed to many factors like to the effects of globalization, intra-state conflicts, advancement of information technology, communication, and arms and weapons etc. Many scholars have pointed to the rise of complex terrorism or rising rate of terrorism in the post Cold War era.

Pachnanda (2002: 2) attributes six factors to the rising rate of terrorist acts and the growing related concerns. First, the technology of terrorism has vastly improved in the recent decades. Second, the targets of terrorism are much more widespread now than they were ever before. Third, sophisticated means of communications have helped both the terrorists as well as their victims. Now terrorists appear on T.V., make radio broadcasts and publish newsletters, espousing their cause. Fourth, terrorism has become a low-cost and highly effective tool in national and international politics. Fifth, the causes of terrorism are increasing, from the simple to the complex. Sixth, terrorism has become an industry, giving rise to many more think-tanks, training camps, consultancy firms, research centres, under world deals and kick backs.

Jenkins (1982: 14) also lists out some factors that contribute to or enhance the rise and growth of terrorism while accepting that there is no single factor that can be identified as a universal precipitating factor. He mentioned factors like the mobility provided by modern jet travel; access to a global audience through the news media; the vulnerabilities of modern society; the availability of weapons and explosives; perceived injustice; deep-rooted ethnic, ideological, and religious divisions; the failure of other modes of dissent or influence; historical traditions of political violence; ideologies that condone violence; unresponsive or insensitive governments; sharply circumscribed or ineffective security forces; the growing number of nations that no longer abide by the rules of international conduct and that support terrorists or dispatch assassination squads; the 'legitimization' of

terrorism itself as a mode of conduct. All the causes are not simultaneously present in different parts of the world but exist in different combinations from place to place.

Thomas Homer-Dixon (2002: 14) also attributes to the advances of weapons technology, new communication technologies, modern hi-tech societies, and rising concentration of high-value assets in geographically small locations, for the rise of complex terrorism. First, progress in materials engineering, the chemistry of explosives, and miniaturization of electronics has brought steady improvement in all key weapons characteristics, including accuracy, destructive power, range, portability, ruggedness, ease-of-use, and affordability. Improvements in light weapons are particularly relevant to trends in terrorism and violence by small groups. There is also the constant fear today that terrorists may possess mass destruction weapons (a product of the modern world) which can endanger the very survival of human race on this earth. Second, a new communication technology, from satellite phones to the internet, allows violent groups to marshal resources and coordinate activities around the planet. Terrorism activities and networks have really become global with all these advancements. Information-processing technologies have also boosted the power of terrorists by allowing them to hide or encrypt their messages. The Web also provides access to critical information. Practically, anything an extremist wants to know about kidnapping, bomb making, and assassination is now available online. Third, modern hi-tech filled with supercharged devices packed with energy, combustibles, and poisons, gives terrorist ample opportunities to divert such non-weapons technologies to destructive ends. To cause maximum damages, all terrorists must do is figure out how to release this power and let it run wild or take control of it and retarget it as it was done on 9/11. Lastly, the rising concentration of high-value assets in geographically small locations has also contributed to rise of complex terrorism and expansion of their range of attacks. Advanced societies concentrate valuable things and people in order to achieve economies of scale. However, in doing so, extraordinary attraction is created for terrorists who realize they can cause a huge amount of damage in a single strike, like the 9/11 WTC attacks, a building complex that took seven years to construct collapsed in 90 minutes.

The 9/11 incidents brought a completely new picture of international terrorism in the eyes of the world. The world could no longer underestimate the capability and ability of terrorists in perpetrating their acts. Enders and Sandler (2006: 1-2) point out a number of reasons why 9/11 incidents represent a significant landmark in the history of terrorism and

in the efforts of combating it. Firstly, the deaths associated with 9/11 were unprecedented: the human toll was equal to the number of deaths from international terrorism from the start of 1988 through the end of 2000. Secondly, the loss associated with 9/11 topped $80 billion and caused insurance companies to end automatic coverage of terrorist-induced losses. Thirdly, 9/11 showed that ordinary objects can be turned into deadly weapons with catastrophic consequences. Fourthly, 9/11 reflected the objectives of today's terrorists to seek maximum casualties and to induce widespread fear, unlike the predominantly left-wing terrorist campaigns of the 1970s and 1980s that sought to win over a constituency. Fifthly, 9/11 mobilized a huge reallocation of resources to homeland security. A little over 60% of DHS's budget goes to defending against terrorism on US soil. This expenditure is small compared to proactive measures taken in fighting the 'war on terror' including the invasion against the Taliban and *Al Qaida* in Afghanistan. Still other proactive spending involves improving intelligence, tracking terrorist assets, and fostering cooperative linkages with other countries. Sixthly, proactive actions taken by rich developed countries have transferred some attacks against these countries' interests to poorer countries – for example, post-9/11 attacks in Egypt, Indonesia, Morocco, Kenya, Saudi Arabia, and Turkey. The events of 9/11 heightened anxiety worldwide and resulted in tradeoffs in terms of trading reduced freedom for greater security; society had not been willing to surrender as much freedom prior to 9/11.

According to Krieken too, the horror of the 9/11 incident revived and increased the intensity of debate on terrorism all over the world; the concept of security prevailed over the concept of freedom; border-control and the increasing screening of migrants alike became an issue of the utmost relevance in many countries; and there was a reaffirmation of the relevance of international law and cooperation. Global technology, which saw tremendous advancement in the post Cold War, also contributed to the development of *"cyber terrorism,"* a new version of international terrorism that is computer-driven and internet-aided. The computer-literate terrorists of the modern times have mastered the art of penetrating deep into the networking of the financial, economic, military, scientific and technological infrastructures of the world through computers and thus have caused considerable economic damages without having to penetrate the physical security infrastructure of establishments or without ever need of leaving the territory of their country or residence. Similarly, the advancement of modern biology has resulted in deep apprehension in relation to the acquisition by terrorists of chemical or biological weapons.

Bio-terrorism came into focus with the Sarin gas attack on the Tokyo subways in 1995 and the anthrax attacks in 2001. Biological warfare has often been described as 'a poor man's atom bomb'. This worry is enhanced by the words of Osama bin Laden made on 13 January, 2001 in the *Time Magazine* justifying his search for WMD (Sanjay Gupta 2004: 568-571). Today's terrorists have Web sites, publish online magazines, explain their causes, debate doctrine, and provide instruction in making explosives (Jenkins 2006:126).

Thus, international terrorism has evolved to new heights in the Post Cold War era and took on a more lethal and dangerous form with an expanded global reach.

7. EFFORTS TO COMBAT INTERNATIONAL TERRORISM

The phenomenon of international terrorism preceded the establishment of the UN in 1945 and had already entered the agenda of the League of Nations in response to a number of high profile assassinations in the 1930s. This effort led to a 1934 Resolution stating that 'it is the duty of every state neither to encourage nor tolerate on its territory any terrorist activity with a political purpose' and 'that every state must do all in its power to prevent and repress acts of this nature and must for this purpose lend assistance to governments which request it'. Within the framework of the League of Nations, two treatise were drafted in 1937, namely the *Convention on the Prevention and Punishment of Terrorism* and the *Convention for the Creation of an International Criminal Court*, though neither of the two came into force. However, interestingly, the former Convention defined terrorism in its Art.2 as 'all criminal acts directed against a state and intended or calculated to create a state of terror in the minds of particular persons or a group of persons or the general public'. Thus from the outset, the international community has reacted in two ways to international terrorism; on the one hand by criminalizing terrorist offences on the basis of treatise that had to be implemented in domestic legal orders, and on the other hand by prohibiting states to encourage or tolerate terrorism (Fijnaut, Wouters and Naert 2004: 412).

Different UN specialized agencies adopted several multilateral conventions to combat international terrorism which are discussed below;

i) *Convention on Offences and Certain Other Acts Committed on Board Aircraft (1963)*

This Convention was signed at Tokyo on 14 September 1963 under the guidance of the International Civil Aviation Organization (ICAO) and applies to acts affecting in-flight

safety. It authorizes the aircraft commander to impose reasonable measures, including restraint, on any person he or she has reason to believe has committed or is about to commit such an act, where necessary to protect the safety of the aircraft; and requires contracting States to take custody of offenders and to return control of the aircraft to the lawful commander. The Convention empowers the state of registration of the aircraft to exercise jurisdiction over offences and acts committed on board [Art.3 (1)]. The Convention does not exclude any criminal jurisdiction exercised in accordance with national law [Art.3 (3)].

ii) Convention for the Suppression of Unlawful Seizure of Aircraft (1970)

This Convention was signed at The Hague on 16 December 1970. It declares as an offence any attempt to "unlawfully, by force or threat thereof, or any other form of intimidation, to seize or exercise control of that aircraft" (Art. 1). The Convention requires parties to the Convention to make hijackings punishable by 'severe penalties' (Art.2). It also requires parties that have custody of offenders to either extradite the offender or submit the case for prosecution; and requires parties to assist each other in connection with criminal proceedings brought under the Convention. However, this convention does not apply to aircraft used in military, customs or police services [Art.3 (2)].

iii) Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1971):-

This Convention was signed at Montreal on 23 September 1971 under the auspices of the ICAO. It makes it an offence for any person to unlawfully and intentionally perform an act of violence against a person on board an aircraft in flight, if that act is likely to endanger the safety of the aircraft; to place an explosive device on an aircraft; to attempt such acts; or to be an accomplice of a person who performs or attempts to perform such acts (Art.1). The convention requires parties to the Convention to make offences punishable by "severe penalties"; and also requires parties that have custody of offenders to either extradite the offender or submit the case for prosecution (Art.3). Any criminal jurisdiction exercised in accordance with national law is not excluded (Art.5).

iv) Convention on the Physical Protection of Nuclear Material (1980):-

This Convention was adopted at Vienna on 26 October 1979 under the auspices of the International Atomic Energy Agency (IAEA), and opened for signature in March 1980. The Convention criminalizes the unlawful possession, use, transfer or theft of nuclear material and threats

to use nuclear material to cause death, serious injury or substantial property damage. It makes it legally binding for States Parties to protect nuclear facilities and material in peaceful domestic use, storage as well as transport; and also provides for expanded cooperation between and among States regarding rapid measures to locate and recover stolen or smuggled nuclear material, mitigate any radiological consequences or sabotage, and prevent and combat related offences.

v) 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 (1988)

This Protocol, which was concluded at Montreal on 24 February 1988, extends and supplements the Montreal Convention of 1971 on air safety. It extends the provisions of the Montreal Convention to encompass terrorist acts at airports serving international civil aviation.

vi) Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (1988)

This Convention was concluded at Rome on 10 March 1988. It makes it an offence for a person to unlawfully and intentionally seize or exercise control over a ship by force, threat, or intimidation; to perform an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of the ship; to place a destructive device or substance aboard a ship; and other acts against the safety of ships [Art 3].

vii) Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf (1988)

This protocol was adopted in 1988 and it establishes a legal regime applicable to acts against fixed platforms on the continental shelf. The provisions of the Convention are similar to those of the regimes established in relation to international aviation.

Considering the globalized nature and impact of international terrorism today, the effort to combat international terrorism must also be globalized. No state can act alone effectively against international terrorism. High-quality intelligence is at the heart of the proactive counterterrorism strategy as to be forewarned is to be forearmed. By gaining advanced warning of terrorists' planned operations, their weaponry, personnel, financial assets and fund-raising, tactics, communications system and so on, it becomes feasible to pre-empt terrorist attacks. There is also the education-based solution, in which the

combination of educational effort by democratic political parties, the mass media, trade unions, churches, schools, colleges and other major social institutions succeeds in persuading the terrorists, or a sufficient proportion of their supporters, that terrorism is both undesirable and counterproductive to the realization of their political ideals (Wilkinson 2000:224). Arguing the involvement of Madrasas (Muslim religious-based schools) directly or indirectly in breeding terrorism, Maj. Gen. Saighal (2003: 230) argues that one of the surest ways of moderating the worst aspects of Islamic extremism would be to modernize the educational curriculum.

Some suggestions made in the 2004 High-level Panel Report concerning the efforts to effectively combat terrorism include dissuasion of individuals from using terrorism by tackling the roots and facilitators of terrorism; acting against extremism and intolerance; developing better instruments of global co-operation; building state capacity and controlling dangerous materials and public health defence (Quenivet 2006: 387). Implementing the Millennium Development Goals (MDGs), i.e. eradicating extreme poverty; achieving universal primary education; promoting gender equality and empowering women; reducing child mortality; improving maternal health; combating HIV/AIDS, malaria and other diseases; ensuring environmental sustainability; developing a global partnership for development will contribute towards addressing the roots of terrorism (MDG Report 2007).

The former UNSG Kofi Annan in *"In Larger Freedom: Towards Development, Security and Human Rights for All (A/59/2005)"* proposes that a strategy against terrorism must be comprehensive and should be based on five pillars, namely:

i)   dissuading people from resorting to terrorism or supporting it;

ii)   deterring states from sponsoring terrorism;

iii)   denying terrorists access to funds and materials;

iv)   developing state capacity to defeat terrorism; and

v)   defending human rights.

To bring about effective strategies and means to combat international terrorism, the UN and member-states should not only adopt 'stick' policies but also 'carrot' policies. The issue of international terrorism is not a uni-factor issue but a multi-facet issue; therefore, multi-facet policies should be adopted. Careful attention must be paid to ensure that

responses to terrorism do not end up inflicting more damage than the terrorists themselves because these can have negative consequences and legitimize the terrorists' claims or arguments (CGCTC 2007:1). Efforts to integrate human rights and counter-terrorism, which is going on with the UN Security Council (UNSC), the Counter-Terrorism Committee (CTC) and the Counter-Terrorism Executive Directorate (CTED), should go on; so that states pragmatically manifest that they stand for what they preach i.e. protection of human rights.

In fact, the UN has intervened on humanitarian ground i.e. protecting human rights in many sovereign states in the post Cold War era. The former UNSG Kofi Annan rightly says that 'terrorism is one of the threats against which states have to protect their citizens. They have not only right, but also duty, to do so. But states must also take the greatest care to ensure that counter-terrorism does not, any more than sovereignty, become an all-embracing concept that is used to cloak, or justify, violations of human rights.' (Saighal 2003: 175)

The UN has so far adopted 13 conventions against international terrorism (nor comprehensive but specific issue related conventions) and this can be practical ground to move together towards combating international terrorism while the efforts to understand 'what is international terrorism' or 'who are international terrorists' among the member-states still goes on.

8. INTERNATIONAL TERRORISM AND THE UN CHARTER

In this section, the aim is to see briefly the connection of the UN Charter with international terrorism. At the outset, it is worth to be begin with the observation of the Report of the SG's High Level Panel on Threats, Challenges and Change (2004) that terrorism attacks the values that lie at the very heart of the Charter of the UN, like, respect for human rights, the peaceful resolution of conflict, rules of war that protect civilians, tolerance among peoples and nations, and the rule of law. It is worth remembering that the UN was established not just to maintain international peace and security but also to save succeeding generations from the scourge of war, to safeguard and promote their fundamental rights, living standards and so on. In other words, the UN Charter has provisions for both nation-states and individuals or the people. Neil MacFarlane (2004: 31) observes that the UN and

its Charter are based on the idea that it is preferable that contentious issues in world politics be considered, and resolved if possible, cooperatively rather than on the basis of the unilateral exercise of power. Art. 1 provides an eloquent demonstration, calling for "effective collective measures for the prevention and removal of threats to the peace." Para.3 of Art.1 identifies the achievement of "cooperation in solving international problems of an economic, social, cultural and humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms" as a purpose of the organization. Para.4 of Art.1 states the UN's intention of becoming a "centre for harmonizing the actions of nations." In this respect, multilateralism can be seen as a goal that is both embodied in and promoted by the UN. As such, a stable order (the maintenance of international peace and security) has been privileged as a value, and multilateralism has been privileged as an approach.

One of the central objectives of the UN is to maintain international peace and security and to that end to take collective measures for the prevention and removal of threats to the peace in conformity with international law and the principles of justice, as reflected in Art.1 of the UN Charter, and to protect and promote fundamental human rights and also to promote social progress and better standards of life in larger freedom as mentioned in the UN Charter Preamble. The recognition of the issue of international terrorism as a threat to international peace and security by the UN has firmly and legitimately brought in the issue within the mandate of the organization. Chapter VII of the UN Charter, which relates to enforcement measures, becomes relevant in this regard. It is worth remembering that the UN operates on the principle of 'sovereign equality of member states' (Art. 2.1) and the members of the UN are states. So, there is no direct mention of terrorism in the context of the role of non-states actors or even state-sponsored/supported terrorism.

The issue of terrorism first emerged as a discrete subject matter of international law in the mid-1930s, following the assassination of a Yugoslavian King and a French minister by ethnic separatists. Even before the UN was established, its predecessor the League of Nations (LoN) had already addressed the issue. As the first international effort to adopt an international convention against terrorism, *the Convention for the Prevention and Punishment of Terrorism* was conceived in 1937 which required states to criminalize terrorist offences and encouraged states to exclude offences from the political offence exception to extradition, among many other provisions. The convention was signed by 24

states (12 were European states, 7 Caribbean, Central or South American states, and 5 others included major states from other regions) and the Convention was only ratified by one (colonial) state, India, which was an original member of the League. However, the Convention never came into force and with the outbreak of the 2nd World War and the death of the League, the Convention also died out (Ben Saul 2006: 78-82).

Under the UN Charter, the use of force is ruled out generally except in two cases; firstly, member-state can act (individually or collectively) in self-defence if an armed aggression takes place against it until the UNSC acts (Art.51) and, secondly, the Security Council can take action when it determines that a threat to, or breach of, international peace and security exists (Chapter VII, Art.39 and 42). The UN has strongly prohibited the aggressive use of force. The 'Definition of Aggression,' which the Assembly adopted in Resolution 3314 (1974) stated that 'no consideration of whatever nature, whether political, economic, military or otherwise, may serve as the justification for aggression.' On the other hand, the Assembly was responsible for a certain dilution of the proscription of the use of force in instances related to national self-determination, apartheid, foreign occupation, or foreign domination.

There has been great debate over whether a terrorist act like that of 9/11 amounts to an act of aggression under the UN Charter, as the US claimed, on the basis of which it attacked Afghanistan after 9/11 on the pretext that the Taliban government in Afghanistan was supporting and harbouring terrorists responsible for the 9/11 attacks. In a way, international terrorism has threatened state sovereignty directly or indirectly in many ways and also cost a lot of lives and resources on the part of states to combat it. Terrorism also creates chaos and insecurity in states, affected development and progress in states. It aims to undermine the legitimacy of target governments, through chaos and attacks, before the eye of the people. Especially after the 9/11 terrorist attacks, the UN has seriously taken up the issue of international terrorism as a threat not just to international peace and security (mainly state sovereignty) but also seriously violating the very basic fundamental rights of the people of the world i.e. right to live, among others. In respect to movements of self-determination, Farlane (2004: 32) observes that the UN focused mostly on the territorial self-determination of colonies rather than on the self-determination of defined peoples. The UNGA Resolution 1514 (1961) explicitly rejects the possibility that self-determination might legitimately be applied to minorities within sovereign states. He asserts that, in this respect, there is no obvious relationship between the UN understanding of self-

determination and the consequences of 9/11 for certain minority peoples within recognised sovereign states.

Terrorism not only threatens state sovereignty but also affects basic fundamental human rights, especially the right to live. States have the responsibility to protect their citizens against terrorism and bring to justice the perpetrators of such criminal acts. They have legitimate and urgent reasons to take all due measures to eliminate this threat. However, it should be noted that the manner in which counterterrorism efforts are conducted can have a far reaching effect on overall respect for human rights (CGCTC 2007: 1). This has been acknowledged even by the UN and its member states. The relationship between terrorism, counterterrorism and human rights have been brought in the limelight in the post Cold War and especially after the 9/11 incidents. Peace and security also mutually depend on the respect for fundamental human rights.

Although the Charter commitment to human rights was rather general, it was elaborated considerably in subsequent UNGA activities, such as the 1948 *Universal Declaration of Human Rights* (UDHR) and the *1966 International Covenant on Civil and Political Rights* (ICCPR). Various UNGA Resolutions have also been taken in this regard. The preamble to the UDHR begins by referring to 'recognition of the inherent dignity and of the equal and alienable rights of all members of the human family'. The *International Covenant on Economic, Social, and Cultural Rights* (ICESCR) and the ICCPR likewise assert that the rights discussed therein 'derive from the inherent dignity of the human person.' They emphasize the inherent value of humanity.

The 9/11 incident brought great changes, and there was a shift towards the rights of states at the expense of those of individuals. In response to the 9/11 incidents, many states adopted policies and practices that affected human rights like the right to fair trail, freedom from torture, privacy rights, freedom of thought, freedom of expression, peaceful assembly, right to seek asylum. Many states also adopted laws formulating new crimes, banning certain organizations, freezing assets, restraining civil liberties and reducing the safeguards against human rights violations (Schorlemer:2003:274-275). It also represented a challenge to multilateralism and what the UN stands for, as states moved towards a focus on security and action on a unilateral basis. 9/11 had an impact on states' perspectives on civil and political rights within their own borders. It was followed by significant changes in security legislation in numerous states including the US, Britain, Canada, Australia, India,

Italy, New Zealand, The Netherland etc. In general, these changes involved an expansion in the rights of the state to freeze or seize assets and to hold individuals without charging them with a crime. The individual's right to privacy was also reduced.

There is also a need for the UN Charter to be revised in relation to international terrorism. For instance, the 2004 UNSG Report on High-level Panel on Threats, Challenges and Change identified the changes needed in the UN Charter like revision of outdated provisions such as Art. 53 and 107 that refers to 'enemy states,' i.e. Germany and Japan in the context of World War II. In fact, today, these two countries are among the top financial contributors to the UN. The Report also felt the need to delete Chapter XIII i.e. The Trusteeship Council, having already completed its work. Focus should now be on issues that confront one and all directly or indirectly like international terrorism.

9. DEBATE WITHIN THE UN ON INTERNATIONAL TERRORISM

The UN member-states, even in the aftermath of 9/11, are still struggling with the problem of definition of terrorism. Two issues have been discussed viz. whether official acts of a state's armed forces should be included in the definition of terrorism and whether violent acts conducted in a struggle against foreign occupation should be considered terrorism (Karns and Mingst 2005: 348). Some state like Cuba, Iraq, Iran, Lebanon, Libya, Pakistan, Syria and Sudan including Organization of the Islamic Conference (OIC) are of the view that the definition of terrorism should be extended to state-sponsored terrorism and acts of state terrorism. The members and associated states of the European Union, the US, Canada, China, Japan and others are for and support the exclusion of the activities of the military forces of a state arguing that these activities undertaken in exercise of the official duties of the armed forces should not be covered by a convention on terrorism as they are governed by other rules of international law.

At the Legal Committee's 29th Meeting in November 2000, several countries responded to the call to define terrorism. Iran noted that some terrorists work under disguised names, including those of human rights NGOs to find safe haven in other states. Israel was particularly concerned that some states believed acts of bombing were not terrorism if done for national liberation. Without a standard definition, without unified political will, terrorism continues to thrive. Congo noted that state terrorism has allowed neighbouring countries to pillage its people's natural resources. Yemen noted that terrorist

attacks now seek to injure relationships between countries (like the U.S and Yemen after the bombing of the *USS Cole).* Syria joined in the call, and also noted that state terrorism by Israel had resulted in the deaths of Palestinian women and children. Further, Syria noted that Israel's chosen targets were often symbolic rather than military in nature, placing their actions under the umbrella of terrorism by some definitions (Jonathan Barker 2005: 26).

The UNGA Resolution 51/210 of 1996 created an Ad Hoc Committee "to address means of further developing a comprehensive legal framework of conventions dealing with international terrorism." The Ad Hoc Committee and a Working Group of the Sixth Committee subsequently worked on separate but related aspects of the draft negotiations. But defining terrorism immediately became a contentious and divisive task. The most problematic issues may be summarized as:

1. Whether the definition of terrorism should include State-sponsored terrorism and acts of State terrorism. Some delegations (including Cuba, Iraq, Iran, Lebanon, Libya, Pakistan, Syria and Sudan) previously have expressed the view that State, and State-sponsored, terrorism should be included in the definition. Other delegations have countered that State and State-sponsored terrorism already are subject to international conventions (including the Prohibition of the Use of Force under Article 2(4) of the UN Charter);

2. Whether the activities of armed forces should fall under the scope of the Convention. Some delegations (including the EU states, Canada, China and Japan) wish to exclude military activities from the Convention, arguing that military activity is already subject to international conventions and treaties;

3. How to resolve the use of the term "terrorism" to ensure that it is not left open to unchecked politicization. Currently, the draft refers to terrorist "offences," but some Member States are concerned that "terrorism" also should be included in the draft, so as to differentiate it from terrorist "offences" and to endow it with a legal definition.

4. The legitimacy of armed struggle against foreign occupation, aggression or colonialism. Some delegations consider such armed struggle to be aimed at self-determination and believe that the Convention should in no way hinder any people's legitimate right to self-determination, whilst others argue that the Convention should identify any act that falls beyond the defined parameters of armed conflict as terrorism.

5. How to situate a "comprehensive convention" in an international system that already includes multiple conventions, while ensuring that no terrorist activity escapes through

legal loopholes. No state wishes to be subject to a "double regime" of anti-terrorism legislation. This is especially problematic because not all States are subject to all conventions, but no State wishes to have to duplicate their counterterrorism efforts. *(http://www.reformtheun.org/index.php/eupdate/3879)*.

In the latest Ad Hoc Committee Proceedings (February-March 2008), different opinions were shared. The European Union called the meeting, "A new opportunity to resolve the outstanding issues on the Comprehensive Convention on International Terrorism (CCIT)". The Rio Group, an international organization of Latin American and Caribbean states, recognized, "it is of great importance that we all have the opportunity to share our opinions on the subject in a transparent and inclusive manner." Japan recognized, "it is essential to make the provisions as unambiguous as possible, in spite of the difficulties we are facing" and urged "every state to exercise utmost flexibility for an early conclusion of the negotiation on the draft Convention." Liechtenstein noted that "what divides us are ... not insurmountable differences as far as the substance of the law is concerned, but differences of opinion and perception relating more closely to the realm of politics and the intricacies of multilateral negotiations." The Organization of Islamic Conference (OIC) stressed the need to resolve the outstanding issues, which include 1) the legal definition of terrorism (particularly on the distinction between terrorism and people's struggle for self-determination and against foreign occupation), and 2) the scope of the acts covered by the draft Convention. Israel stressed, "A comprehensive convention must reflect universal support of the basic legal indeed, moral principle that murder of the innocent can never be justified by the furtherance of political or ideological goals." *(www.reformtheun.org/index.php/eupdate/3879)*. Despite the positive tenor of the plenary meeting, real differences of opinion remain as to the exact nature and scope of a comprehensive Convention on international terrorism.

10. INDIA AND INTERNATIONAL TERRORISM

India is one of the most affected countries by terrorism in the world. It is also one of the long terrorism-affected countries in the world. India has been affected by terrorism since the late 1980s and has suffered a total of 45,182 terrorist incidents in Jammu & Kashmir (J&K) alone. The state of J&K is the most terrorism-affected state in India. India has suffered from terrorism acts that have been mostly operated from the territory of its neighbouring state Pakistan. The loss to life and property and the drain on resources has

been tremendous. It is inconceivable that terrorism of such scale and magnitude can be sustained over such a large period of time without state sponsorship from across the border. Ghatate (2002: 197) argues that terrorism in India started in Punjab with the object to carve out the independent state of Khalistan, actively encouraged by Pakistan. He claimed that Pakistan sponsored terrorism has claimed the lives of 29,000 civilians and 5,000 security personnel till 1998. In J&K alone, there have been more than 45,000 incidents of violence claiming over 20,500 lives.

India has had and continues to have a spectrum of draconian laws that are supposedly aimed at stopping terrorism but are often used effectively by state agents to abuse human rights. These laws include *the 1973 Maintenance of Internal Security Act (MISA), the 1987 Terrorist and Disruptive Activities (Prevention) Act (TADA), the 2002 Prevention of Terrorism Act (POTA), the Disturbed Areas Act (DAA), the 1958 Armed Forces Special Powers Act (AFSPA), the 1980 Assam Preventive Detention Act, the 1980 National Security Act,* and *the 1990 Armed Forces (Jammu and Kashmir) Special Powers Act.* While these laws are implemented all over India, they have been seen to have negative effects on the human rights of minorities, vulnerable communities in areas where people have opposed these laws. The application of these laws has been put under question on the basis of the human rights violations that are possible under the protection of these laws. And despite the range of national legislation, India continues to be plagued with terrorism. *(http://lib.ohchr.org/HRBodies/UPR/Documents/Session1/IN/LIB_IND_UPR_S1_2008_Li beration_uprsubmission.pdf).*

Terrorism has been known to thrive on external support of the neighbouring state in the following ways:

i)   Operation of training camps for terrorists in territories under its control

ii)   Supply of sophisticated weapons and explosives to terrorists

iii)   Financing of terrorists and terrorist organisations and their terrorist activities   in India, inter alia through drug trafficking

iv)   Infiltration of terrorists, including foreign mercenaries into India for terrorist outrages.

v)   Planning and organising terrorist and bomb attacks against civilians, public and private property, looting of banks, kidnapping, raping of women, etc.

vi)   Terrorist bombings in crowded metropolitan areas resulting in extensive loss of lives.

vii) Assassination of prominent public personalities.

viii) Hijacking of aircraft (http://meaindia.nic.in/wthome.htm).

As far as India's role in strengthening international consensus against terrorism is concerned, it has played a significant role at the UN. India is party to most major international conventions against terrorism, and has also incorporated anti-terrorism provisions in its domestic legislation:

i)   India gave effect to the *Convention on Offences and Certain Other Acts Committed on Board Aircraft* (1963) by the Tokyo Convention Act, 1975 (20 of 1975).

ii)   India implemented the *Convention for the Suppression of Unlawful Seizure of Aircraft* (1973) through the Anti-Hijacking Act, 1982 (Act No. 65) of 1982).

iii) India has implemented the *Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation* (1971) and the *1988 Protocol for the Suppression of Unlawful Acts of Violence at Airports* serving International Civil Aviation Suppression of Unlawful Acts against Safety of Civil Aviation Act, 1982 (66 of 1982) through the Suppression of Unlawful Acts Against Safety of Civil Aviation Act, 1982 (66 of 1982).

iv)   India also implemented the *Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents* (1973) through the provisions of the Indian Penal Code, 1960.

v)   India is implementing the *International Convention Against the Taking of Hostages* (1979) under section 364 A of the Indian Penal Code, 1960.

vi)   India is implementing the *UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances*, 1988 through the Narcotic Drug and Psychotropic Substances Amendment) Act, 1989 which amended the Narcotic Drugs and Psychotropic Substances Act, 1985.

vii) International Conventions against the taking of hostages, adopted in New York on 7 December, 1979 is implemented in India under Article 364 A of Indian Penal Code.

In another significant step towards combating international terrorism, India also has decided to sign and ratify the *International Convention for the Suppression of Terrorist Bombings* (http://meaindia.nic.in./).

India has also played a role in evolving a consensus within the Non-Aligned Movement (NAM) against terrorism. NAM has unequivocally affirmed that criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons, for whatever purposes, are unjustifiable. The 12th NAM Summit at Durban in 1998 re-affirmed that all Member States have an obligation to refrain from organising, assisting or participating in terrorist acts in the territories of other States. The Summit unequivocally condemned any political, diplomatic, moral or material support to terrorism *(http://meaindia.nic.in/wthome.htm)*. Existing international conventions against terrorism do not adequately address the issue of State responsibility to prevent and refrain from acts of terrorism. A legal convention adopted by the UN General Assembly would provide a more internationally legitimate basis for combating international terrorism and avoid controversies arising from unilateral or selective action. India has, therefore proposed the adoption of a comprehensive convention against international terrorism. A draft has already been circulated which is discussed in the next chapter.

As is clear in the discussion above, the problem of international terrorism has become a central agenda especially after the 9/11 incidents for the UN as well as its member states. The two primary organs of the UN i.e. the UN General Assembly (UNGA) and the UN Security Council (UNSC) are actively engaged in combating international terrorism within their own respective mandates. The UNGA, which represents all member-states reflecting its universal character, has started dealing with the issue of international terrorism much ahead of the UNSC, amidst its inability to bring a commonly accepted definition on terrorism. The next chapter deals with the role of the UNGA in combating international terrorism.

CHAPTER III

**THE ROLE OF THE UNITED NATIONS GENERAL ASSEMBLY IN
COMBATING INTERNATIONAL TERRORISM**

1. INTRODUCTION

The United Nations General Assembly (UNGA) is the main United Nations deliberative organ. It consists of all the Member States of the United Nations (UN). Chapter IV of the UN Charter deals with the General Assembly. Article 9 of the UN Charter says that the General Assembly shall consist of all the members of the United Nations, and that each member shall have not more than five representatives in the UNGA. The Assembly, like the League's Assembly, was designed as the general debate arena where all UN members would be equally represented according to a one-state, one-vote formula. If the UN is known as the most well-known and legitimate international organization, then it is the UNGA that reflects this character, as it is here that all members have their representatives. In fact, membership in the Assembly is the identity card for a state to identify itself that it a member-state of the UN. In other words, a state automatically becomes a member of the Assembly as soon as it becomes a member of the UN.

As Inis Claude has pointed out, 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 behaviour of individual governments and other actors in particular situations. This collective legitimization most often proceeds at the level of generally applicable norms. Related efforts to influence particular governments' behaviour through resolutions praising or condemning their actions or inactions occur, but their impact is often minor or very slow in developing and depends on existence of a strong consensus on the norms applicable to the situation at hand (Peterson 2004: 173-174).

The UNGA is one of the first principal organs of the UN that started to take up the issue of international terrorism. It has been dealing with the issue of international terrorism since 1972 when some Palestinians kidnapped and killed Israelite athletes during the Munich Olympic in 1972. The UNGA was more active than its counterpart the UNSC during the Cold War as the UNSC was paralyzed by the Cold War politics. The UNGA has passed many resolutions and declarations against international terrorism which would be dealt as we go down.

Articles 10 to17 of the UN Charter deal with the functions and powers of the Assembly. The UNGA can consider any matter within the purview of the UN Charter (Art.10), and the number of items on the Assembly's agenda has continually grown over the years from 46 in 1946 to 165 in 2003. Many items, however, are repeated year after year with no effort at review. They range from various conflict situations to arms control, development, global resource management, human rights, legal issues, the persistence of colonialism, and the UN's finances. Resolutions may be aimed at individual member states, nonmembers, the Security Council or other organs, the Secretary-General, or even the Assembly itself. Although the Security Council is the primary organ for dealing with threats to international peace and security, the Assembly can make inquiries and studies with respect to conflicts, make recommendation for promoting international cooperation in the political field and encouraging the progressive development of international law and its codification; promoting international cooperation in the economic, social, cultural, educational, and health fields, and assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion (Articles 13 and 14); it may discuss a situation and make recommendations if the Council is not exercising its functions (Articles 11, 12); and it has the right to be kept informed by the Security Council and the Secretary General (Articles 10, 11 and 12). Under Art.11, the Assembly can call the attention of the Security Council to situations which are likely to endanger international peace and security. Apart from this, the Assembly is endowed with elective and administrative functions as well.

The *Uniting for Peace Resolution* passed during the Korean War in November 1950 ignited controversy over the relationship between the roles of the Assembly and the Council (Karn and Mingst 2005: 101-103). Under this Resolution, the Assembly may take action if the Security Council, because of lack of unanimity of its permanent members, fails to act where there appears to be a threat to international peace and security, breach of peace or act of aggression. The Assembly is empowered to consider the matter immediately with a view to making recommendations to members for collective measures, including, in case of a breach of peace or act of aggression, the use of armed forces when necessary to maintain or restore international peace and security (Basic Facts About the UN 2004: 6). In other words, under the Resolution, the Assembly claimed authority to recommend collective measures when the Security Council was deadlocked by a veto. This was subsequently used to deal with crises in the Suez and Hungary (1956), the Middle East

(1958), the Congo (1960), and the occupied Palestine territories (1997). The Assembly has also an important role in the development of international law (Art.13). Although, it is not a world legislature, its resolutions may lay the basis for new international law by articulating new principles, such as one that called the seas the "common heritage of mankind," and new concepts such as sustainable development. In fact, the Assembly is most useful for the symbolic politics of agenda setting and mustering large majorities in support of Resolutions.

The recognition of power politics through veto power in the Security Council can be contrasted with the universalist principles of the Assembly, or even in fact other organs of the UN. Each member-state of the Assembly has one vote. Decisions on important questions, such as peace and security, admission of new Members and budgetary matters, require a two-thirds majority while decisions on other questions are adopted by a simple majority. Apart from a few exceptions, decisions reached by the Assembly only have the status of recommendations, rather than binding decisions. However, while the decisions of the Assembly have no legal binding force for states, they carry the weight of world opinion, as well as the moral authority of the world community (Basic Facts About the UN 2004: 8).

2. THE UN GENERAL ASSEMBLY (UNGA) AND INTERNATIONAL TERRORISM

Combating terrorism is integral to the entire mandate of the UN. The UN Charter sets out the purposes of the Organization, which include the maintenance of international peace and security, to take collective measures to prevent threats to peace and suppress aggression and to promote human rights and economic development. The UN Charter gives the mandate of maintaining international peace and security to the UNSC but the UNGA also has the power to discuss any matter that it thinks is threatening international peace and security, bring them before the UNSC for actions etc. as defined by its powers and functions (Art.10, 11 and 13). As an assault on the principles of law and order, human rights and the peaceful settlement of disputes, terrorism runs counter to the principles and purposes that define the United Nations. The issue of terrorism, being global in nature, also gives a mandate for the UNGA to take up the issue as it is in the UNGA that all member-states are represented thereby enjoying the largest legitimacy, support and participation from its member-states.

Although the issue of international terrorism appeared at the UN in 1963, the UNGA began dealing with it only in 1972. When the problem of terrorism was first brought before it in 1972, the Assembly was a well-established body with a long enough agenda that it had little time to anticipate problems and address them before they emerged. As with most new items, international terrorism was added to the agenda when it began inspiring widespread concern among member states. On the topic of terrorism, the Assembly, like most deliberative bodies at any level of governance, functioned primarily as a reactive body and took up the matter only when a significant portion of the membership was ready to regard it as a "problem." The one constant feature in the Assembly's discussion of terrorism as a general problem has been the member states' inability to agree on common definitions of the terms "terrorism," "terrorist acts," and "international terrorism." Even the central statement in the current "measures to eliminate" stream, the *Declaration on Measures to Eliminate International Terrorism* adopted in Resolution 49/60 (1994) does not go beyond categorizing terrorism as criminal activity (Peterson 2004: 177).

Though this work is focused in the post Cold War era, it is important to trace back to when the UNGA began to talk about international terrorism to better understand the ongoing battle against international terrorism and the development of its efforts. However, keeping in mind the focus of the work, the discussion on the UNGA and international terrorism during the Cold War will be brief.

2.1. THE UNGA AND INTERNATIONAL TERRORISM DURING THE COLD WAR ERA

Though the UN was established in 1945 and the Cold War began by late 1940s, the question of terrorism has been on the UN agenda since the 1960s when the spread of aircraft hijacking incidents drove states to draft conventions on international terrorism. The *Convention on Offences and Certain Other Acts Committed On Board Aircraft* (Tokyo, 1963), the *Convention for the Suppression of Unlawful Seizure of Aircraft* (Hague, 1970) and the *Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation* (Montreal, 1971) were the first treaties to deal with the problem of international terrorism.

The UNGA has focused on terrorism as an international problem since 1972. Therefore, the period of discussion will be from 1972, the year when the UNGA started addressing the issue of international terrorism, to 1990 the assumed year the Cold War ended. In fact, the exact date of the end of the Cold War is contested but here the year 1990 is taken for convenience. The General Assembly, the largest but not the most powerful organ of the UN, has focused on terrorism as an international problem since 1972. In fact, it was the UNGA that was almost solely focusing on the issue of international terrorism as the UNSC was overshadowed by the Cold War politics and frequent use of veto power by one or the other of the P5 which brought the wheels of the UNSC to a grinding halt.

The UNGA has addressed international terrorism in two ways, i.e. firstly, by developing a normative framework that defines terrorism as a common problem, and secondly, by encouraging concerted government action to develop more particular international and national legal rules for dealing with terrorists. The Assembly cannot act as a direct coordinator of action against terrorism because this function is granted only to the UNSC by the UN Charter. Moreover, the Assembly has no power to take actions (militarily or non-militarily) against any member-states. Given these constraints and the fact that it is the only intergovernmental body dealing with broad political issues in which nearly all states of the world are represented and have equal votes, the UNGA is able to serve as a developer of normative discourse and an encourager of cooperative action. The UNGA has passed many resolutions mostly commented on particular terrorist incidents. States have not sought to use the UNGA as a forum for close coordination of action by invoking the 'Uniting for Peace' procedures. Despite grumbling about the P5's tendency to leave even the other ten members of the Security Council out of key discussions, the Assembly majority has deferred to the Security Council's more immediate competence on this matter. Resolutions commenting on particular events reveal how this general normative framework is understood and applied by governments at any particular moment and thereby help illuminate the evolution of states' view on terrorism. The Assembly's related effort to encourage concerted international actions against terrorists have taken three forms: firstly, it has convened two *ad hoc* committees on terrorism, composed of delegates of member states, to work out more specific measures; secondly, it has encouraged UN specialized agencies with competence in fields likely to be affected by terrorist activity to address the issue; and thirdly, it has urged governments to perfect the

international and domestic laws against terrorist activity and cooperate more closely with one another in suppressing terrorism (Peterson 2004: 173-175).

The UNGA first addressed terrorism as a distinct problem in September 1972 on the initiative of Secretary-General Kurt Waldheim, who proposed that it consider the problem in the wake of several major incidents, most notably the attack on Lod Airport in Israel and the capture and the killing of Israeli athletes at the 1972 Summer Olympics in Munich. Waldheim proposed that the UNGA create an *ad hoc* committee to explore practical ways of improving national and international efforts to identify, apprehend, and punish those involved in terrorist activities. However, the Assembly's discussion was quickly directed by a coalition of Third World states, the Soviet bloc, and China towards affirming the rights of national liberation movements fighting against colonial or (white) racist regimes and other forms of external domination, condemning such regimes for their repression of national liberation movements, and emphasizing that the surest way to end terrorism was to eliminate the forms of domination that provoked it. This redirection of attention was signalled by a change in the title of the agenda item and the resolution. Waldheim's proposal was labelled "measures to prevent terrorism and other forms of violence which endanger or take innocent human lives or jeopardize fundamental freedoms". When the matter was assigned to the Sixth Committee of the UNGA for discussion, Third World preferences for a wider discussion were reflected in the new title "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 lies in misery, frustration, grievances and despair, and which cause some people to sacrifice human lives, including their own, in an attempt to effect radical changes." (Peterson 2004: 178-179).

Peterson (2004: 179-180) notes two comments here: i) the Assembly limited its attention to those forms of terrorism which endanger or take innocent lives or jeopardize fundamental freedoms, implying that there are other forms of terrorism which do not fall under this definition and which do not deserve to be taken up as an issue; and ii) by immediately adding the need to study the underlying causes, the Assembly appears to have an understanding, if not an appreciation, of the offenders, who are sometimes so desperate that they even take their own lives. This can only be understood with the Israeli challenge in mind. In the early 1980s, the Soviets and some of the more radical leftist Third World

governments raised the issue of "state terrorism", defined largely as use of force by the U.S., Israel, and South Africa against leftist revolutionary movements, Palestinians, and anti-apartheid activists, respectively. However, the notion got a mixed reception among the members of the Non-Aligned Movement (NAM). Cuban and other delegates of governments strongly sympathetic with Soviet views eagerly adopted it.

Even during the Cold War, the UNGA, in its effort to strengthen combating international terrorism, adopted Conventions focusing on different aspects of terrorism. Here is a summary of the UNGA Conventions and Protocols dealing with terrorism, adopted during the Cold War.

i) Convention on the Prevention and Punishment of Crimes Against International Protected Persons (1973)

In 1970, the increased frequency of attacks on diplomats in various parts of the world was brought to the attention of the UN. This Convention was adopted by the UNGA, at New York, on 14 December 1973 vide Resolution 3166. The Convention requires parties to criminalize and make punishable by appropriate penalties, which take into account their grave nature, offences against internationally protected persons (Art.2). "Internationally protected person" includes a Head of State or Government, Minister or accompanying family members or the representatives or officials of an international organization. Offences such as murder, kidnapping or other attack upon the person or liberty of an internationally protected person, a violent attack upon the official premises, the private accommodations, or the means of transport of such person, a threat or attempt to commit such an attack, and an act constituting participation as an accomplice in any such attack is to be considered as a punishable crime under this Convention [Art.2 (1)].

ii) International Convention Against the Taking of Hostage (1979)

This Convention was adopted by the UNGA on 17 December 1979. The Convention provides that any person who seizes or detains and threatens to kill, to injure, or to continue to detain another person in order to compel a third party, namely, a State, an intergovernmental organization, a natural or juridical person, or a group of persons, to do or abstain from doing any act as an explicit or implicit condition for the release of the hostage commits the offence of 'taking of hostage' within the meaning of this Convention

(Art.1). The Convention also demands all party states to make such offences punishable by appropriate measures taking into account the nature of those offences (Art.2). States parties, under Art. 4, are to cooperate in the prevention of those offences as set out in Art.1 of the Convention.

The UN also adopted many Resolutions against international terrorism since 1972 when it began to have concern about the problem. These Resolutions reflect the growing concern of the UNGA in relation to international terrorism (For details of the Resolutions, please refer to Annexure I).

Thus, it can be seen that the UNGA had started to tackle the issue of international terrorism since the early 1970s through different Resolutions and Conventions. The General Assembly also encouraged the adoption of several Conventions and Protocols under the auspices of different specialized agencies. But the Cold War politics overshadowed the issue of terrorism. Moreover, this issue got intermixed with national liberation movements or self-determination movements against colonial or racist rule in different parts of the world. In fact, the phenomenon of terrorism was also not yet global in nature and operation, as it is in the 21st century. The post-Cold War era brought out the issue of terrorism in a new perspective altogether.

2.2. THE UNGA AND INTERNATIONAL TERRORISM IN THE POST COLD WAR ERA

The end of the Cold War created better environment for the UN to deal with the problem of international terrorism. The super powers began disengaging from conflicts in the Third World and either participating in or refraining from hindering efforts to negotiate settlement of several long-running civil wars. In this context, the Assembly was able to reach consensus on the terms of a statement about the problem of terrorism for the first time when it adopted Resolution 46/51 in December 1991. Particularly noteworthy was the new formulation for distinguishing terrorists from freedom fighters, which defined the latter as those who "struggle legitimately" to end colonial or racist rule or foreign domination. This indicated that more of the Non Aligned Movement (NAM) states were coming around to the view that even persons or groups having morally justified ends need to employ morally justifiable means and exercise certain restraints in the conduct of their armed resistance. The end of the Cold War could not lessen terrorist activity in any way. New and continuing ethnic conflicts turned violent, and the conscious targeting of civilians

became more frequent. Issues of intra-states conflicts or civil wars or ethnic conflicts, failed states, and their related humanitarian crisis, like in former Yugoslavia, Somalia, Rwanda, Cambodia, Sudan, Congo etc, and many others came to haunt the UN. The Assembly discussions took on a new direction as the individuals involved in or affected by terrorism became a more significant element of discussion. Concern for those harmed by terrorist acts has been given greatest expression in the "human rights and terrorism" stream of resolutions drafted in the Third committee. This stream of Assembly Resolutions started as an expression of concern for the situation of victims and for the due process rights of individuals accused of engaging in terrorist activity. Emphasis was given to take swift and effective action against perpetrators of terrorist acts while avoiding erosion of international human rights and due process standards (Peterson 2004: 181-182).

In the post Cold War period, there were tremendous changes in international politics as the U.S. remained the lone super power in the world. Intra-state conflicts replaced inter-state conflicts as the super powers began disengaging from the conflicts in the Third World unlike during the Cold War. Suspicions among the nations, especially the great powers, diminished and provided the UN a better chance to take decisions. Even within the post Cold War era, the 9/11 incident represented a landmark watershed, It was in the post 9/11 period that the UN declared the issue of international terrorism as a threat to international peace and security. Therefore, it will also be relevant to examine the post Cold War era in two distinct periods.

2.2.1. The UNGA and International Terrorism in the Pre-9/11 Period

With the end of the Cold War and the easing of tensions, there was hope that co-operation among the countries or the UN member states would be stronger. But even in this new era, the UNGA continues to battle international terrorism, as the problem of international terrorism continues in an even more acute form. The Assembly has adopted several Conventions and Resolutions in the Post Cold War era as part of its efforts towards combating international terrorism.

The evolving contours of the Assembly's collective conception regarding terrorism can be traced through the titles and preambles of its Resolutions containing general prescriptive statements. The titles and preambles reveal that the General Assembly's

approach to the problem of terrorism underwent a marked change in the early 1990s. From 1972 through 1989, consideration of terrorism as a general problem was assigned primarily to its Sixth Committee (Legal). The Sixth Committee is the primary forum for the consideration of legal questions in the UNGA. All of the UN Member States are entitled to representation in the Sixth Committee as one of the main committees of the UNGA. The issue was discussed under an agenda item title beginning "measures to prevent international terrorism", and this phrase was used in resolution titles as well. However the preambles devoted more attention to distinguishing justifiable armed struggle from terrorism than they did to suggesting measures for reducing the incidence of terrorism. The operative paragraphs provided no more guidance; rather, they reflected sharp disagreements among governments about whether terrorism should be prevented by cooperation to suppress terrorist activity or by removal of the "root causes" said to inspire terrorism. The issue was still assigned to the Sixth Committee in the 1990s, but the Resolutions adopted in that decade were quite different in character. In 1991, by consensus, the first resolution on the general problem of terrorism that was adopted renamed the agenda item and hence the resulting Resolutions, "Measures to eliminate international terrorism". The new name reflected wider agreement that the existence of root causes did not justify terrorist acts (Peterson 2004: 175-182). The 1991 Resolution (46/51) had already replaced the title which referred to the causes and the offender with a simple, straightforward 'Measures to eliminate international terrorism'. But still, self-determination and the struggle of national liberation movements got included. In the 1994 Resolution (49/60), references to liberation movements were omitted, the issue of state terrorism was avoided and any understanding for the offender was firmly dropped. The language became more pragmatic and reflected the serious reality of the situation. The Resolution also linked the issue of terrorism firmly to both Chapter I and Chapter VII of the UN Charter (Krieken 2002:115). Many member governments that continued to stress the need to remove root causes agreed that a greater measure of cooperative action against anyone engaging in terrorist acts was needed in the meantime.

In 1993, an additional stream of Resolutions on "human rights and terrorism" addressing the situations of both victims and those accused of engaging in terrorist activity emerged from the Third Committee. The "measures to eliminate" stream of Resolutions is more government centred and, like the earlier "measures to prevent" stream, lays out a normative framework encouraging governments to treat terrorism as a form of criminal

activity, to suppress it using police methods, and to cooperate with one another in suppressing it. The UNGA has given less explicit attention to identifying the underlying causes of terrorism, though invocation of the Declaration on the Occasion of the Fiftieth Anniversary of the UN and the UN Millennium Declaration in the preambles of more recent Resolutions on terrorism include references to visions of a more just, equitable, and ecologically sustainable world. According to Peterson (2004: 175-183), What is notable about the current "measures to eliminate" stream is the breadth of consensus at the verbal level about taking additional measures against perpetrators of particular actions and closing off some of the legal loopholes that let such perpetrators avoid prosecution and punishment by slipping through the cracks created by uneven national responses. Even states such as Sudan and Libya have become less active supporters of terrorism and have joined in the general condemnation of more recent terrorist acts. Peterson (2004: 182-184) notes that though references to "state terrorism" continue to appear in debates, the term does not appear in the "measures to eliminate" Resolutions. The Resolutions address the primary concerns expressed in the 1980s discussions of "state terrorism" by drawing instead on the general international law regarding threat or use of armed force by states against other states to emphasize two principles. The first affirms the duty of states to refrain from organizing, instigating, assisting, or participating in terrorist acts against other states; the second affirms that terrorist acts may not be used as an excuse for threats or uses of force against other states. This is where the Assembly's approach to terrorism differs from the Security Council's. The Assembly's Resolutions emphasize on treating terrorism as a form of transnational crime to be suppressed through policing while Council Resolutions treat terrorism as a security question. It is clear that greater adherence to the duty to avoid aiding or harbouring terrorists would reduce the excuses available for responding to terrorism by threatening or using force against a state. The "measures to eliminate" stream continues to emphasize the need to develop national and international legal rules adequate to suppressing terrorism. The current "measures to eliminate" stream routinely calls on governments to provide the UN Secretary-General with information regarding their adherence to the multilateral treaties on terrorism and the state of their national law on suppressing and punishing terrorism.

The Assembly has also endorsed a number of norms that more clearly distinguish terrorists from other persons fleeing their homelands that have significant implications for national efforts to prosecute suspected terrorists. The first emphasizes that terrorist acts

should not be treated as "political offences." This norm diverges from the rule found in most treaties and national laws on extradition, which permits states to refuse to extradite persons whose alleged crimes were committed in the course of an organised political struggle against the authorities of the requesting states. The second emphasizes that terrorists should not be given asylum or be allowed to invoke refugee status to escape prosecution and punishment. The Resolutions have, however, maintained the traditional rule of non-return to a state where the person might be persecuted for political affiliation, race, ethnicity, gender, or other characteristics (Peterson 2004: 184).

An important outcome of the work of the Assembly is the *Declaration on Measures to Eliminate International Terrorism* (A/RES/49/60/1994), and its supplement declaration under Resolution 51/210 (1996). Some of the significant features of the Declaration are:

i) closer coordination and cooperation among states in combating crimes closely connected with terrorism, including drug trafficking, unlawful arms trade, money laundering and smuggling of nuclear and other potentially deadly materials;

ii) determination to eliminate international terrorism in all its forms and manifestations;

iii) suppression of acts of terrorism, including those in which states are directly or indirectly involved

iv) statement that acts, method and practices of terrorism constitute a grave violation of the purposes and principles of the UN, which may pose a threat to international peace and security, jeopardize friendly relations among states, hinder international cooperation and aim at the destruction of human rights, fundamental freedoms and the democratic bases of society;

v) states, guided by the purposes and principles of the UN Charter and other relevant rules of international law, must refrain from organizing, instigating, assisting or participating in terrorist acts in territories of other states, or from encouraging activities within their territories directed towards the commission of such acts;

vi) ensure the apprehension and prosecution or extradition of perpetrators of terrorist acts, in accordance with the relevant provisions of their national law;

vii) the UN, the relevant specialized agencies and intergovernmental organizations and other relevant bodies must make every effort with a view to combating and eliminating terrorism and to strengthening their role in this field.

The Supplement Declaration of A/RES/51/210 (1996) adds:

i) reaffirms the importance of ensuring effective cooperation between member states so that those who have participated in terrorist acts, including their financing, planning or incitement, are brought to justice;

ii) emphasises the importance of sharing expertise and information about terrorists, their movements, their support and their weapons and sharing information regarding the investigation and prosecution of terrorist acts.

Several multilateral conventions were adopted in this period to combat international terrorism by states under the auspices of different specialized agencies.

i) *Convention on the Marking of Plastic Explosives for the Purpose of Detection (1991)*

This Convention, negotiated in the aftermath of the 1988 Pan Am flight 103 bombing, was adopted in 1991 under the auspices of the ICAO. It was designed to control and limit the use of unmarked and undetectable plastic explosives. The Convention directs each party to take necessary and effective measures to prohibit and prevent the manufacture of unmarked plastic explosives (Art. 2); and to prevent the movement of unmarked plastic explosives into or out of its territory (Art.3). The Convention also asserts for measures to exercise strict and effective control over possession and transfer of unmarked explosives made or imported prior to the entry into force of the Convention; ensure that all stocks of unmarked explosives not held by the military or police are destroyed, consumed, marked, or rendered permanently ineffective within three years; take necessary measures to ensure that unmarked plastic explosives held by the military or police are destroyed, consumed, marked or rendered permanently ineffective within fifteen years; and, ensure the destruction, as soon as possible, of any unmarked explosives manufactured after the date of entry into force of the Convention for that State (Art.4). Interestingly, this convention also established an International Explosives Technical Commission to evaluate technical developments relating to the manufacture, marking and detection of explosives (Art. 5).

In the post- Cold War era, the UNGA has strengthened its efforts to combat international terrorism and has adopted several conventions in this connection.

(ii) International Convention for the Suppression of Terrorist Bombings (1997)

This Convention was adopted in New York in 1997 by the General Assembly. The Convention seeks to deny 'safe havens' to persons wanted for terrorist bombings by obligating each state party to prosecute such persons if it does not extradite them to another state that has issued an extradition request. This Convention creates a regime of universal jurisdiction over the unlawful and intentional use of explosives and other lethal devices in, into, or against various defined public places with intent to kill or cause serious bodily injury, or with intent to cause extensive destruction of the public place. The Convention directs each state party to adopt measures to ensure that criminal acts within the scope of this convention are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature and are punished by penalties consistent with their grave nature (Art.5).

(iii) International Convention for the Suppression of the Financing of Terrorism (1999)

This Convention is the first to cover the preparatory phase of financing terrorism rather than the act of terrorism itself. This Convention was adopted in New York in1999 by the General Assembly. The Convention obligates states parties either to prosecute or to extradite persons accused of funding terrorist activities, and requires banks to enact measures to identify suspicious transactions. This Convention also requires parties to take steps to prevent and counteract the financing of terrorists, whether direct or indirect, through groups claiming to have charitable, social or cultural goals or which also engage in illicit activities such as drug trafficking or gun running. It commits states to hold those who finance terrorism criminally, civilly or administratively liable for such acts; and provides for the identification, freezing and seizure of funds allocated for terrorist activities, as well as for the sharing of the forfeited funds with other States on a case-by-case basis. Bank secrecy is no longer adequate justification for refusing to cooperate. The Convention is not applicable where the offence is committed within a single state; the alleged offender is a national of that state and is present in the territory of that state (Art.3).

The UNGA's Ad Hoc Committee

Going a step forward in combating international terrorism, the Assembly through Resolution 51/210 of 17 December (1996) decided to establish an Ad Hoc Committee to elaborate an international Convention for the suppression of terrorist bombings and, subsequently, an international Convention for the suppression of acts of nuclear terrorism,

to supplement related existing international instruments, and thereafter to address means of further developing a comprehensive legal framework of Conventions dealing with international terrorism. This mandate continued to be renewed and revised on an annual basis by the General Assembly in its Resolutions on the topic of measures to eliminate international terrorism (Krieken 2002: 120).

The Ad Hoc Committee's mandate is further framed by the following two declarations adopted by the General Assembly, namely the *Declaration on Measures to Eliminate International Terrorism*, Res. 49/60 of 9 December 1994, and the *Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism*, Res. 51/210 of 17 December 1996. Under the terms of UNGA Resolution 61/40 adopted on 4 December 2006, as a means to further develop a comprehensive legal framework of Conventions dealing with international terrorism, the Ad Hoc Committee shall continue to elaborate the draft comprehensive Convention on international terrorism; continue its efforts to resolve the outstanding issues relating to the elaboration of a draft international convention for the suppression of acts of nuclear terrorism; and keep on its agenda the question of convening a high-level conference under the auspices of the UN to formulate a joint organized response of the international community against terrorism. Since its establishment, the Ad Hoc Committee has negotiated several texts resulting in the adoption of three treaties:

i) *International Convention for the Suppression of Terrorist Bombings* adopted by the General Assembly in resolution 52/164 of 15 December 1997,

ii) *International Convention for the Suppression of the Financing of Terrorism* adopted by the General Assembly in resolution 54/109 of 9 December 1999 and,

iii)*International Convention for the Suppression of Acts of Nuclear Terrorism* adopted by the General Assembly in resolution 59/290 of 13 April 2005.

The Ad Hoc Committee has adopted the pattern of holding one session per year over a one or two week period, usually early in the year. The work is then continued in the framework of a Working Group of the Sixth Committee held later in the year during the regular session of the General Assembly. The Ad Hoc Committee works on the understanding that all proposals remain on the table and nothing is agreed until everything is agreed. The Committee is open to all States members of the United Nations or members of specialized agencies or of the IAEA (Krieken 2002: 121).

In its Resolution 55/158 adopted on 12 December 2000, the General Assembly requested the Ad Hoc Committee to continue work on its mandate and to keep on its agenda the question of convening a high-level conference under the auspices of the UN to formulate a joint organised response of the international community to terrorism. The General Assembly reiterated that terrorist acts committed for political purposes are in any circumstances unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or other nature that may be invoked to justify them.

Prior to 11 September 2001, there was no co-ordinated international response to terrorism and the existing prescriptions were woefully inadequate in dealing with the multi-dimensional nature of the challenge. Efforts underway in the UN to craft a comprehensive legal framework, which began in earnest in 2000 with the introduction in the United Nations 6th Committee of a *Draft Comprehensive Convention on International Terrorism*, have not made sufficient progress due in part to the lack of an agreed and widely acceptable definition of international terrorism. However, the support for such a comprehensive convention is stronger now than it has ever been and some progress has been made. This progress is reflected in the report of the Ad Hoc Committee charged with negotiating the draft comprehensive convention, which also recommended that the Sixth Committee at the fifty-seventh session of the General Assembly convene a working group to continue, as a matter of urgency, the elaboration of the draft comprehensive convention. The General Assembly has given its full endorsement for the continuation of the work of the Ad Hoc Committee in January 2001.

2.2.2. The UNGA and International Terrorism in the Post 9/11 Period

The terrorist attack of 9/11 in 2001 on the U.S. and its devastating consequences was a defining landmark and opened a new chapter in the work of the UN towards combating international terrorism. The world was shocked by the 9/11 incident and at the capability of the terrorists and the event gave a clear message that no country or people could be immune from terrorist acts. Indeed, the international community had for many years recognized international terrorism as a serious threat to the global order, and although ways were sought in different fora to deal with this phenomenon throughout the latter part of the twentieth century, the events of 11 September demonstrated that much more needed to be

done. It was also evident that different ways had to be found to ensure a global response to terrorism that had not been tried before.

The UNGA, the day after the 9/11 attack, strongly condemned the heinous acts of terrorism, and called for urgent action to enhance international cooperation to prevent and eradicate acts of terrorism. Right after the incidents of 9/11, the Assembly adopted many significant Resolutions against international terrorism, which indicated its responses towards the issue [See Annexure 1(B)].

The UNGA has become more concerned about the human rights implications in the process of combating international terrorism. There is more realization that in the process of combating terrorism, human rights are often violated which in turn further leads to incitement to terrorism. An important objective behind combating terrorism is to protect human rights as terrorism violates human rights. And if the same thing is done by states, in the name of combating terrorism, what would actually differentiate it from the acts of the terrorists, in the eyes of the victims? The former UNSG Kofi Annan in *In Larger Freedom: Towards Development, Security and Human Rights for All (A/59/2005)* asserts that *"Terrorists are accountable to no one. We, on the other hand, must never lose sight of our accountability to citizens all around the world. In our struggle against terrorism, we must never compromise human rights. When we do so we facilitate achievement of one of the terrorist's objectives. By ceding the moral high ground we provoke tension, hatred and mistrust of Governments among precisely those parts of the population where terrorists find recruits."* Therefore, the realization on the part of the UNGA and its members of the importance of upholding human rights in combating terrorism is a positive step. At the same time, the scope of the Resolutions expanded to embrace within them Weapons of Mass Destruction (WMD), nuclear weapons and radiological related weapons as the world cannot take the risk of their possible slip into the hands of terrorists. This perception and related Resolutions like A/RES/58/48(2003), which is similar with its predecessor A/RES/57/83(2002), on 'Measures to prevent terrorists from acquiring WMD' emerged in the background of the episode relating to Pakistani nuclear scientist A.Q. Khan.

The UNGA adopted the last of the 13 international conventions on international terrorism in the post 9/11 period – in 2005 – and this shows the broadening of the arm of the UNGA in combating international terrorism, encompassing new areas i.e. nuclear aspects.

i) *International Convention for the Suppression of Acts of Nuclear Terrorism (2005)*

This Convention was adopted by the UNGA on 13th April 2005. As suggested by its name, it deals with international terrorism in relation to nuclear terrorism. After 9/11 which brought enormous sufferings, the Assembly realized that even terrorists may come to possess nuclear and mass destruction weapons which will threaten international peace and security, and also the very survival of the people of the world. Therefore, to prevent such outcome, this Convention was adopted by the Assembly. Under Art. 2 of the convention, any person commits an offence if that person unlawfully and intentionally possesses radioactive material or makes or possesses a device, with the intent to cause death or serious bodily injury or substantial damage to property or to the environment. At the same time, Art. 4 say that nothing in this Convention shall affect other rights, obligations and responsibilities of states and individuals under international law, in particular the purposes and principles of the UN Charter and international humanitarian law.

Thus, in all, the UN has adopted 13 anti-terrorism agreements since 1963. These Conventions have many limitations. To begin with, they only apply to state parties to the conventions. Even then, the conventions themselves are of limited application because of the very precise subject matter of each treaty. All these Conventions are not of general application but were *ad hoc* responses and relate to specific situations in which terrorist acts might have effect, whether on board aircraft and ships, airports and fixed maritime platforms, diplomats, hostages, explosives and other dangerous instrumentalities (Alex Conte 2005: 18).

According to Alex Conte (2005: 18), the only potentially wide-impacting treaty is the *International Convention for the Suppression of the Financing of Terrorism 1999*, for two reasons. Firstly, the Convention mirrors most of the suppression of financing obligations contained in Resolution 1373, the resolution which is binding upon all members of the UN, thereby having a significant impact upon the status of the Convention. Secondly, the Convention is of greater relevance as, in prohibiting the financing of terrorist entities or operations, it defines what type of acts one may not finance. It does therefore have some potentially wider application and is useful for states in determining the type of conduct they are to prohibit. Laborde and Defeo (2006: 1090-1091) bringing out some positive aspects of those Conventions points out that only three anti-terrorism agreements have

significant preventive aspects. The first is the *1980 Convention on the Physical Protection of Nuclear Material* which imposes regulatory obligations concerning the movement of nuclear materials, and also criminalizes certain acts. The second is the *1991 Convention for the Marking of Plastic Explosives for the Purpose of Detection* which requires inventory controls on plastic explosives and the incorporation of volatile elements susceptible to vapour detection devices. The last is the *1999 International Convention for the Suppression of the Financing of Terrorism* which permits authorities to interrupt financial preparations for violent acts.

Eight anti-terrorism Conventions and Protocols adopted between 1970 and 1988 require that criminal liability be imposed on the acts of a principal, on attempts, and on participation as an accomplice. The *1997 International Convention for the Suppression of Terrorist Bombings* introduced two additional forms of criminal responsibility: organizing or directing others to commit an offence, and intentionally contributing to the commission of an offence by a group.

The Assembly welcomed the ongoing dialogue established, in the context of the fight against terrorism, between the Security Council and its Counter-Terrorism Committee and the relevant bodies for the promotion and protection of human rights, and encouraged the Security Council and its Counter-Terrorism Committee to strengthen the links and to continue to develop cooperation with relevant human rights bodies. It encouraged States, while countering terrorism, to take into account relevant UN Resolutions and decisions on human rights, and encouraged them to consider the Recommendations of the special procedures and mechanisms of the Commission on Human Rights and the relevant comments and views of UN human rights treaty bodies. It also encouraged the Special Rapporteur on Human Rights to work closely with them to coordinate efforts in order to promote a consistent approach on this subject. The Secretary-General was requested to submit a report on the implementation of Resolution 60/158 (2005) to the Assembly at its sixty-first session (A/RES/60/158/2005).

From the existing multilateral agreements adopted by states, Peterson (2004: 185) picks out the given eleven acts as definition of crimes;

i)   Any acts on board an aircraft flying over the high seas that may or does endanger the safety of the aircraft or good order and discipline on board;

ii) Hijacking aircraft by direct seizure or by forcing the pilots to divert to a different destination;

iii) Interfering with safe flight by violence against persons; onboard acts damaging the aircraft; placement of explosive devices or other substances on board; destruction or damage to an aircraft on the ground that makes it incapable of flight; destroying, damaging, or interfering with air navigation facilities; or communication of false information that endangers the safety of aircraft in flight;

iv) Seizing control of, attacking, destroying, or damaging severely enough to endanger the safety of offshore platforms;

v) Seizing control of a ship on the high sea;

vi) "Intentional commission" of murder, kidnapping, or assault on heads of states or government, ministers of foreign affairs, or representatives of a government or an intergovernmental organization entitled to diplomatic immunity who are outside their own country at the time of the act or an attack on their official premises, private accommodation, or means of transport that is likely to endanger them;

vii) Unlawful receipt, possession, transfer, or disposal of those isotopes of uranium and plutonium most useful for making weapons;

viii) Seizing and holding any persons to compel a government, an international intergovernmental organization, a natural or juridical person, or a group of persons to do or abstain from doing any act;

ix) Violence against persons, facilities, or aircraft in airports serving international civil aviation that causes death or serious injury and destruction of or serious damage to airport facilities or aircraft not in service that disrupts operations at such an airport;

x) Intentionally destroying or damaging buildings open to the public or other public spaces with the intention of causing death or injury to occupants;

xi) Knowingly providing funds directly or indirectly to persons or groups engaging in terrorism or assisting them through money-laundering.

The Assembly had adopted many resolutions and conventions aimed at suppressing terrorism financing, bombings and access to nuclear material. The effort of the Member States to strengthen coordination on counter terrorism resulted in the adoption of the first ever Global Counter-Terrorism Strategy (GCTS).

Global Counter-Terrorism Strategy (GCTS)

In the 2005 World Summit, the international community mandated the UNGA to adopt a Counter-Terrorism Strategy to combat terrorism and as outcome of it, the UNGA strongly condemned terrorism in all its forms and manifestations, committed by whomever, wherever and for whatever purposes, as it constitutes one of the most serious threats to international peace and security. Building on this historic platform, the Summit also requested Member States to work through the General Assembly and adopt a counter-terrorism strategy based on recommendations from the Secretary-General that would promote comprehensive, coordinated and consistent responses at the national, regional and international level to counter terrorism. The GCTS can be seen as a pivotal step towards countering the international terrorist threat. The Strategy aims to dissuade, deny, deter and defeat terrorism whilst maintaining a defence of human rights. The Strategy is unique insomuch as it is the first time that all Member States have agreed to a common strategic approach against terrorism.

Acting on those recommendations, Secretary-General Kofi Annan submitted to the UNGA an elaborate set of recommendations in report on 2 May 2006. Those recommendations formed the initial basis of a series of consultations by Member States that led to the adoption of a global counter-terrorism strategy for the United Nations. With this strategy the UNGA has concretely reaffirmed and enhanced its role in countering terrorism. The strategy also called for the Assembly to monitor implementation and to review and update the strategy. The strategy is in the form of a resolution (A/RES/60/288) with an annexed plan of action (http://www.un.org/terrorism/strategy-counter-terrorism.shtml).

Sheikha Haya Rashed Al Khalifa, President of the 61st session of the UNGA, launching the UN Global Counter-Terrorism Strategy on 19 September 2006, said, "The passing of the resolution on the United Nations Global Counter-Terrorism Strategy with its annexed Plan of Action by 192 Member States represents a common testament that we, the United Nations, will face terrorism head on and that terrorism in all its forms and manifestations, committed by whomever, wherever and for whatever purposes, must be condemned and shall not be tolerated." She goes on to say that "The United Nations global counter-terrorism strategy will complement the General Assembly's legal framework by providing practical and action-oriented measures... "(*http://un.org/terrorism/*).

Thus, with the need to move forward in combating international terrorism, a global counter-terrorism strategy for the United Nations was adopted by all 192 Member States on 8 September 2006 and launched at a high-level meeting of the General Assembly on 19 September 2006. The strategy is in the form of a Resolution (A/RES/60/288/2006) with an annexed plan of action. This is the first time that all countries in the world agreed on a common approach to fight terrorism. The adoption of the strategy is a culmination of years of efforts and fulfils the commitment made by world leaders at the 2005 September Summit. The strategy also builds on many of the proposals and recommendations made by Secretary-General Kofi Annan. It was destined to serve as the common platform that brings together the counter-terrorism efforts of the various United Nations system bodies into a common, coherent and more focused framework. Some of the important points of the Resolution are (A/RES/60/288/2006);

i) strongly condemned terrorism as it constitutes one of the most serious threats to international peace and security;

ii) implement all GA resolutions on measures to eliminate international terrorism, and relevant GA resolutions on the protection of human rights and fundamental freedoms while countering terrorism;

iii) adopted 'Measures to address the conditions conducive to the spread of terrorism' like to continue to strengthen and make best possible use of the capacities of the UN in areas such as conflict prevention, negotiation, mediation, conciliation, rule of law, peacekeeping and peace-building, to end unresolved conflicts as such conflicts would contribute to strengthen the global fight against terrorism; promote a culture of peace, justice and human development, ethnic, national and religious tolerance, and respect for all religions or cultures, education, inter-faith, intra-faith and inter-civilizations dialogue; pursue development and social inclusion agendas at every level as goals in themselves and success in this area, especially on youth unemployment, could reduce marginalization and subsequent victimization that propels extremism and the recruitment of terrorists.

iv) adopted 'Measures to prevent and combat terrorism' like refraining from organizing, facilitating, participating in, financing, encouraging or tolerating terrorist activities, denying safe haven; cooperating in the fight against terrorism and consider the idea of creating an international centre to fight terrorism as part of the international efforts to enhance the fight against terrorism.

v) recognised that capacity-building in all states is a core element of the global counter-terrorism effort, states adopted 'Measures to build states' capacity to prevent and combat terrorism and to strengthen the role of the UN system in this regard' like considering of reaching out to private sector for contributing to capacity-building programmes; encourage the IMF, the World bank, the UNODC and the Interpol to enhance cooperation with states to help them to comply fully with international norms and obligations to combat money-laundering and financing of terrorism; encourage the IAEA and others to continue their efforts in helping states to prevent terrorists from laying hand on nuclear, chemical or radiological materials.

vi) adopted 'Measures to ensure respect for human rights for all and the rule of law as the fundamental basis of the fight against terrorism' in recognition that effective counter-terrorism measures and the protection of human rights are not conflicting goals, but complementary and mutually reinforcing, and thus reaffirms the UN system's important role in strengthening the international legal norms by promoting the rule of law, respect for human rights, and effective criminal justice system, which constitute the fundamental basis of the common fight against terrorism.

(http://daccessdds.un.org/doc/UNDOC/GEN/N05/504/88/PDF/N0550488.pdf?OpenElement).

According to Quenivet (2006: 390), the 2005 World Summit Resolution puts the stress on states' international obligations because states are the front line responders to today's threats. Instead of entrusting the implementation of the comprehensive strategy, which is nominally mentioned in the section on terrorism, to UN organs, the GA requests states to deal with the matter. Much is left to states in the implementation of the comprehensive strategy, so that territorial integrity is put at the forefront.

Given the universal membership of the GA, the politically sensitive nature of many of the issues involved, and the often different regional and sub-regional perspectives on both the nature of and appropriate strategy for addressing the threat, it should come as little surprise that the GCTS consists largely of a series of broadly worded provisions which offer few specifics to help guide implementation. Yet the strategy is significant as it by brings together these commitments into a single document unanimously adopted by the 192-member GA, establishing a global counterterrorism framework for the first time. The test will be whether it is implemented (Rosand 2007: 16).

So far, without derecognising its shortcomings, the GCTS has done a pretty good job. This can be known from the UN Press Conference held on GCTS of December 5, 2007. Here, Robert Orr, Assistant Secretary-General for Policy Coordination and Strategic Planning asserted that the Task Force comprised 24 entities from the UN, but only a few were exclusively devoted to counter-terrorism. The group was an "unexpected but very successful example" of system-wide coherence where diverse bodies had come together under a common issue. He explained that the Task Force was trying to develop a novel, long-term approach to the problem of international terrorism, adding that it intended to follow through on a proposal to hold a meeting between Member States and victims, who often were disempowered, unable to tell their stories or take part in solving problems. It was also examining the questions of radicalization that led to terrorism, the "pipeline of resources and ideas" that incites terrorists.

(www.un.org/News/briefings/docs/2007/071205_Terrorism.doc.htm).

Counter-Terrorism Implementation Task Force (CTITF)

 The UN Secretary-General established the Counter-Terrorism Implementation Task Force (CTITF) in July 2005 to ensure coordinated and coherent efforts across the UN system in combating terrorism. The CTITF goes beyond the wider UN system in its planning and coordinating work to also include other bodies, such as the International Criminal Police Organization (Interpol). The practical work of the CTITF is supported by the GCTS. Its one work is to ensure overall coordination and coherence among the entities throughout the United Nations system involved in counterterrorism efforts.

The CTITF includes representatives from:

i)   The Counter-Terrorism Executive Directorate (CTED)

ii)   The Department for Disarmament Affairs (DDA)

iii) The Department of Peacekeeping Operations (DPKO)

iv)   The Department of Political Affairs (DPA)

v)   The Department of Public Information (DPI)

vi)   The Department for Safety and Security (DSS)

vii) The Expert Staff of the 1540 Committee

viii) The International Atomic Energy Agency (IAEA)

ix)   The International Civil Aviation Organization (ICAO)

x)   The International Maritime Organization (IMO)

xi) The International Monetary Fund (IMF)

xii) The International Criminal Police Organization (INTERPOL)

xiii) The Monitoring Team of the 1267 Committee

xiv) The Office of the High Commissioner of Human Rights (OHCHR)

xv) The Office of Legal Affairs (OLA)

xvi) The Organization for the Prohibition of Chemical Weapons (OPCW)

xvii) The Special Rapporteur on Promoting and Protection of Human Rights While Countering Terrorism.

xviii) The United Nations Development Program (UNDP)

xix) The United Nations Educational, Scientific and Cultural Organization (UNESCO)

xx) The United Nations Interregional Crime and Justice Research Institute (UNICRI)

xxi) The United Nations Office on Drugs and Crime (UNODC)

xxii) The World Customs Organization (WCO)

xxiii) The World Bank

xxiv) The World Health Organization (WHO). (http://un.org/terrorism/cttaskforce.shtml).

The members of the CTITF have combined efforts to assist Member States in implementing the global strategy. Partly reflecting the concern of some of the permanent members of the UNSC, who want the Council to remain the focus of the UN's counterterrorism program and the need to achieve consensus, the Strategy states that the CTITF must conduct its work within existing resources. In other words, despite the recognised need for improved coordination and coherence, the GA may not have provided the CTITF with the tools necessary to allow it to succeed in the long term. In addition to inadequate resources, it remains to be seen whether the CTITF has the necessary authority to get the different parts of the system to share information, cooperate, and reduce overlapping mandates, all of which are required to improve the UN effort (Rosand 2007: 17).

3. INDIA'S CONTRIBUTION TO THE UNGA EFFORTS IN COMBATING INTERNATIONAL TERRORISM

India as a terrorism-affected country has been active in the UNGA in its best capacity to bring about a comprehensive convention on international terrorism as this is a crucial means of combating international terrorism effectively. The reason behind the lack of a comprehensive convention so far was the inability of the UN member-states to come to a

single definition of 'terrorism'. India submitted a draft Convention on the Suppression of Terrorism, (A/C.6/51/6) which it circulated among the States during the1998 Session of the UNGA in 1998. *(http://cns.miis.edu/pubs/inven /pdfs/ intlterr.pdf)*.

The draft Convention recalls the already adopted UNGA and UNSC resolutions, declarations, protocols, treaties and conventions against international terrorism and also reflects the urgent need to combat international terrorism. India`s projected convention also reflects India's position on international terrorism. This Convention focuses only on international terrorism as its Art. 3 say that the convention shall not apply where the offence is committed within a single State; the alleged offender is a national of that State and is present in the territory of that State.

The draft Convention also declares that criminal acts are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature (Art. 5). India has always stood firm on this line. As such, India does not accept Pakistan's claim that the Kashmir issue has a religious reasoning behind it. The states are obliged to carry out the Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other states (Art. 20).

India has a terrorist problem in its own state of Jammu and Kashmir. Although Pakistan has tried to bring the matter be before the UN but India has refused on the ground that this is its own internal problem and has been against the involvement of any third player. India's position is seen reflected in its proposed Convention which prohibits a State party to undertake in the territory of another State Party the exercise of jurisdiction or performance of functions which are exclusively reserved for the authorities of that other State Party by the domestic law (Article 22).

As like other UN conventions or resolutions, India's proposed draft also expresses deep concern about the worldwide escalation of acts of terrorism in all its forms, which endanger or take innocent lives, jeopardize fundamental freedoms and seriously impair the dignity of human beings; contains a strong condemnation of all acts, methods and practices of terrorism as criminal and unjustifiable, wherever and by whomever committed, including those which jeopardize friendly relations among states and people and threaten the territorial integrity and security of States. The draft Convention also recognises that

acts, methods and practices of terrorism constitute a grave violation of the purposes and principles of the United Nations, threatening international peace and security, jeopardizing friendly relations among States, hindering international cooperation and aiming at the undermining of human rights, fundamental freedoms and the democratic basis of society.

The Convention also recognise that the financing, planning and inciting of terrorist acts are also contrary to the purposes and principles of the United Nations, and that it is the duty of the States Parties to bring to justice those who have participated in such terrorist acts. The Convention was asserts that the suppression of acts of international terrorism, including those which are committed or supported by States, directly or indirectly, is an essential element in the maintenance of international peace and security and the sovereignty and territorial integrity of States (http://meaindia.nic.in/wthome.htm).

India emphasises that the need for a strong response to terrorism requires broad-based international cooperation, compressing the space available to terrorists, and increasing the capability of States to address terrorist threats. India welcomes the UN Global Counter Terrorism Strategy and hopes that the strategy would provide the impetus to unite the international community in its fight against terrorism via practical measures that facilitate cooperation by way of extradition, prosecution, information exchange, and capacity building. At the same time, India also warns that the global struggle against terrorism will remain incomplete without an early adoption of the Comprehensive Convention against International Terrorism (CCIT). India believes that the CCIT is not concerned with terrorism as a philosophical category but terrorist acts that are specific crimes and these have been defined. India believes that the CCIT would provide a solid legal basis for the fight against international terrorism.

Firmly rejecting the notion that any cause can justify the terrorism, India argues that "the senseless slaughter of innocents reinforces the urgency with which we need to unitedly and resolutely confront terrorism everywhere and at all levels and clearly proclaim that terrorism can never be accepted or justified". As seen, India supports a united international effort based on cooperation to fight against international terrorism. It is worth remembering that India is a party to all the existing 13 UN conventions. India had also ratified the 2005 *International Convention for the Suppression of Acts of Nuclear Terrorism*. However, India noted that the effectiveness of this instrument depends on the

degree to which States Parties respect, abide by and enforce its provisions. India also emphasises on strengthening the security of fissile materials stored in nuclear facilities. India's representative to the UN stated that "If governments fulfil their duties under this Convention, the agreement will work well and accomplish its purposes" (Shourie 2007).

India has always been supportive of the UN in its effort of combating international terrorism. This is a reflection of India being a victim of terrorism itself. India also has bilateral cooperation with many countries of the world in the field of combating international terrorism. Most significantly, India has cooperation with the US, Russia and Israel in combating international terrorism. Many military exercises have also taken place with these countries in the area of combating international terrorism. At the regional level, India supports the SAARC *Convention on the Suppression of Terrorism, 1987* which is implemented in India by SAARC Convention (Suppression of Terrorism) Act, 1993 (36 of 1993). Thus, India supports and is involved in the fight against international terrorism at bilateral, regional and global levels.

4. CRITICAL ANALYSIS OF THE WEAKNESSES AND STRENGTHS OF THE UNGA IN COMBATING INTERNATIONAL TERRORISM

Having discussed the efforts of the UNGA in combating international terrorism, we have seen that the UNGA has no sanction power and its Resolutions are not binding on member-states. This is because the UNGA is a deliberative body and more of a legislative wing of the UN and has the power only to discuss a matter and bring it before the UNSC.

One of the most outstanding weaknesses of the UNGA in combating international terrorism is the inability to come out with a universally accepted definition of terrorism or to bring together its member-states in defining terrorism. Though there is general agreement on the importance of eradicating international terrorism among the states, there is still exist disagreement over certain issues which remains the main stumbling block for the UN in taking a comprehensive approach towards terrorism. As had been dealt in the second chapter, the search for an agreed definition is always blocked by two issues which the Report of the Secretary General's High-level Panel on Threats, Challenges and Changes: *A more secure world: Our shared responsibility (2004)* clearly presents the contested two claims viz. firstly, any definition should include state's use of armed forces against civilians, and secondly, people under foreign occupation have a right to resistance and a definition of terrorism should not override this right. It is not surprising to note that

most Arab or Muslim countries want the definition of terrorism to include acts of state and to exclude people or groups fighting against foreign occupation. This is influenced mainly by the West Asian or Israel-Palestinian crisis, while most of the Western states want exclusion of the acts of state from the definition of terrorism. One way it can be said that while the most Arab states have broader view of terrorism, most Western states have narrower view of terrorism. This difference of perspective on terrorism among the UN member-states has been the most important shortcoming of the UNGA in combating international terrorism. Till today, the conventions adopted by the UNGA are specific-related conventions. The UNGA has not been able to come out with a comprehensive convention on international terrorism till today though the efforts had started almost a decade ago. Member-states have always attached politics in their view of terrorism and this political implication on the issue of terrorism is what dividing the member-states in defining terrorism or arriving at comprehensive convention on terrorism. However, there is progress towards it even though it has been slow.

With increasing terrorist-related incidents, more widespread of terrorist incidents and its lethality, condemnation against terrorism has also increased worldwide. The 9/11 (2001) terrorist incidents marked a new chapter with the UNSC adopting Resolution 1373 (2001) under the Chapter VII of the UN Charter which is binding on all member-states. States seems to come closer with each other on the issue of international terrorism in the Post-9/11 though there is still differences on the core issue i.e. definition of terrorism. One thing that is very clear is that all member-states are interested in eliminating terrorism yet supporting freedom movement against foreign occupation. What terrorism means or who is a terrorist continue to be defined by member-states according to their conveniences, interests or domestic political compulsions. Thus, the UNGA member-states continue to be guided by their selfish interest; therefore, they could never, so far, come together to one definition of terrorism which is a prerequisite to combat international terrorism. What terrorism means or who is a terrorist continues to differ from state to state. This gives strength to terrorists and their actions. The 21st century world is a globalized world, popularly known as a global village, and so are the terrorists and their presence, movements and impacts. Terrorists continue to find safe haven in one state or the other, as states' view of who is a terrorist differs from one another. Generally, all states are against terrorism and their acts, and support self-determination as mentioned in the UN Charter but it is the line of demarcation between the freedom fighters for self-determination and

terrorists that is the issue. States need to come above their self-interest if they are really serious about eliminating terrorism. History has shown that terrorists have no permanent friends and anyone fall victim to their acts.

Many criticisms of the UN are really criticisms of the Assembly. The number of Resolutions passed by the Assembly steadily increased over time from 119 annually during the first five years, to a peak of 343 per year during 1981-1985 when efforts to reduce the number began. In the 1990s, the number of Resolutions averaged 328 per year. At the 57th GA in 2002, 301 Resolutions were approved, many passed with little concern for implementation. This is so even on the issue of terrorism. Since the end of the Cold War, the Assembly has been marginalized as the epicentre of UN activity shifted back to the Security Council and Secretariat, much to the dismay of the South, which would like more consultation between the GA and the SC on peace and security issues. Unquestionably, the GA needs reform and revitalization. There has been some progress since the mid-1980s in reducing the agenda and the number of resolutions as well as requiring renewal of programs or funds based on continuing relevance and effectiveness. Nothing can be done, however, without the political will of a majority of states to reform (Karn and Mingst 2005: 109-110).

Peterson (2004: 192) asserts that the Resolutions addressing terrorism as a general problem put forward what the UNGA is most suited to provide; formulation of norms enjoying the widest support among member governments at the time that they are adopted and indications of the breadth of that support through votes and statements in debate. The UNGA has not defined the term "terrorism," preferring a more oblique approach of identifying certain acts as "criminal" whatever the motivation for or the circumstances of their commission. The Assembly has also suggested some practical measures that would make terrorist operations more difficult. Resolutions also reveal continued concern that the "terrorist" label not be extended to those engaged in what the UNGA's majority regards as justified acts of political resistance and reminders that both victims and accused perpetrators have rights that deserve respect.

Ozgercin (2004: 10) argues that though the GA has over time progressively lost credibility as an effective decision-making body, stricken with institutional pathologies and a record of ineffectiveness, with many viewing it as just a talk shop; many still believe that the GA has an important role to perform in addressing future threats and challenges to

international peace and security. Its source of legitimacy and authority lie in its universal membership and voting structure, which place countries on an equal footing, making it an unparalleled global body. The GA has a potential significant role to perform in creating and maintaining international norms and treaties.

The 2005 World Summit was taken to be a break through, as discussed already, for leading up to the adoption of the GCTS. However, Quenivet (2006: 389) asserts that a first look at the 2005 World Summit report is disappointing as it seems that the states are unable to suggest efficient and comprehensive means to counteract terrorism. Instead, it takes ten paragraphs to enumerate activities that must be undertaken to come to terms with terrorism. Despite this criticism, he asserts that there is concern in all member states to develop a global strategy of fighting terrorism that addresses root causes and strengthens responsible states and the rule of law and fundamental human rights. Rosand (2007 April: 17) asserts that there is a lack of effective coordination and cooperation in the UN. There seems to be overlapping of mandates among the multiple counterterrorism bodies. Unfortunately, the strategy does not address this problem adequately. It calls for more cooperation within the UN, but its provisions are largely directed to individual parts of the UN system. It does not identify ways in which overlapping mandates could be streamlined or redundant programs could be eliminated.

The UNGA, as a deliberative organ and as defined by the UN Charter, does not in any real sense have strong teeth or powers unlike the UNSC. But as already mentioned, its universality of membership gives a feeling of oneness among the member states at least in theory or a sense of responsibility to all member states as they are all represented in the UNGA. It is from here that the UN enjoys the largest legitimacy, among all organizations, in the world. It also gives a feeling of ownership to all member states, a feeling that the UN also belongs to them like to any other. As already seen from the assessment of the UNGA roles in combating terrorism in particular, it has experienced both ups and downs. Its Resolutions are not binding upon the member states but they do form a source of international norms, law for future or for the UNSC in adopting resolutions or actions, which can be binding upon member states if adopted under Chapter VII of the UN Charter. The need of the hour is to reform and strengthen the UNGA so as to make it more effective in discharging its functions. The effort for UN reform has been increasing since the end of the Cold War with the rise of complicated and complex issues. The issue of international

terrorism is one of them. Therefore, as acknowledged by the UNGA in many of its resolutions, the issue of international terrorism is a complicated issue, needing multi-faced solutions. Some measures to enhance the effectiveness of the UNGA have been mentioned already in the above sections while mentioning the 2005 World Summit and its follow-up Resolution 60/288(2006).

One hindrance in enhancing the effectiveness of the UNGA in particular and UN in general in the effort of combating terrorism is the lack of finance. Without sufficient financial resources, it is hard to conceive of effectively setting up committees, mechanisms, panel, and institutions or to take up any practical measures against international terrorism. A chasm has developed between the tasks entrusted to the UN and the financial means provided to it to address those tasks. States are not paying their assessed contribution in time, at a time when the tasks of the UN have increased to a great extent in the post Cold War period. New departments, offices, committees continue to be set up, which all need money to run efficiently. This issue is not new and has been dealt quite early as 1992 when the then UNSG Ghali in his report *'An Agenda for Peace, Preventive Diplomacy, Peacemaking and Peace-building'* suggested ways and means to the resolve the UN financial crisis, like i) charging interest on the amounts of assessed contributions that are not paid on time; ii) suspending certain financial regulations of the UN to permit the retention of budgetary surpluses; iii) authorization to the UNSG to borrow commercially, should other sources of cash be inadequate; iv) a levy on arms sales that could be related to maintaining an Arms Register by the UN; v) a levy on international air travel, which is dependent on the maintenance of peace; authorization for the UN to borrow from the WB and the IMF, for peace and development are interdependent; vi) general tax exemption for contributions made to the UN by foundations, businesses and individuals etc. The US, the largest contributor (app. 22 percent presently), is the leading defaulter. Any organization cannot function effectively without adequate finance. Therefore, if member states are serious about enhancing the effectiveness of the UN, they should ensure that they provide their assessed contribution in time. Sharing costs more evenly would reflect better the fact that the UN is an instrument of all nations and would prevent it become dependent on any country individually (Lehmann and Mclellan 2006; 1&2).

The UNGA has come a long way. But it is first and foremost a political body that reflects the political opinion of a majority of the UN Member States, influenced up to 1989 by the ideological divide between East and West and since 1948 by a clash of history in the Middle East which till today continues to affect the UN's efforts in combating international terrorism. Therefore, the Assembly will continue to face obstacles in effectively combating international terrorism unless it comes out with the definition of the term "terrorism". This will require the member-states to rise above their self-interest. The Assembly should also oblige its Member-States to adhere strictly to international human rights norms while combating international terrorism, as there is a link between violation of human rights and the issue of terrorism. The member states should seriously consider adopting and implementing the different solutions discussed in Chapter 2. The Assembly's efforts in combating international terrorism may not be as effective concretely, as that of the Security Council, but on its part it has come a long way through resolutions, conventions, treaties etc in keeping with its primary functions of deliberation. One cannot underestimate the value or importance of the UNGA. It is the body that reflects the legitimacy that the organization enjoys. Consensus in the UNGA, more than in any other forum, represents world opinion, ensuring cooperation from member-states.

If the UNGA is a deliberative body, then the UNSC is the executive wing of the UN which is primarily responsible for maintaining international peace and security. The UNSC is a small body but most powerful organ of the UN. It has both the power to discuss any matter that it thinks is threatening international peace and security, such as international terrorism, and can take economic or military actions, impose sanctions, and pass binding resolutions on member-states. We have seen that the UNGA was the active organ during the Cold War in combating international terrorism, but in the post-cold war, the UNSC has taken over the role from the UNGA in combating international terrorism. The UNSC has become even more serious about the issue of international terrorism after the 9/11 incidents. The following chapter deals with the role of the UNSC in combating international terrorism in the post Cold War era and tries to analyse its weaknesses and strengths.

CHAPTER - IV

THE ROLE OF THE UN SECURITY COUNCIL IN COMBATING
INTERNATIONAL TERRORISM

1. INTRODUCTION

The United Nations Security Council (UNSC) is one of the principal organs of the United Nations (UN) and, perhaps, is the most powerful organ of the UN as it is responsible for maintaining international peace and security – the main objective for which the UN was established in 1945. The founders of the UN conferred primary responsibility on the Security Council for the maintenance of international peace and security. The Security Council was designed to enable the world body to act decisively to prevent and remove threats. It was created to be not just a representative but a responsible body, one that had the capacity for decisive action. The founders of the UN conferred primary responsibility on the Security Council for the maintenance of international peace and security (UNSG HLP Report 2004: 79).

During the Cold War, the UNSC mostly dealt with inter-state issues though not exclusively. But the post Cold War brought a new era which has been mostly defined by intra-state conflicts, along with international terrorism as a burning issue. The issue of international terrorism appeared in the UNSC only after the end of the Cold War. Prior to that, the issue was almost exclusively handled by the UNGA. Of course, the Cold War politics deflected the P5 from the issue during the Cold War as they were caught up in ideological warfare against each other. So the focus of the UNSC on the issue of international terrorism is a recent phenomenon.

It is important to note at the outset that the UN Charter has no mention of terrorism, but neither does it refer to Peacekeeping, Peace building or Weapons of Mass Destruction (WMD) (Luck 2006: 338). The UNSC is the primary organ that is responsible for maintaining international peace and security, and as international terrorism has come to threaten international peace and security, as recognized by the UNSC in its Resolutions, the UNSC has come to be engaged with the issue of international terrorism as a priority area.

The UNSC is relatively a much smaller body compared to the UNGA. Under the UN Charter Article 23(1), the Council consists of 15 members: five permanent members' viz. the People's Republic of China (PRC), France, the Russian Federation (the successor state to the seat of the Soviet Union in 1992), the United Kingdom and the United States of

America; and ten non-permanent members elected by the UNGA on the basis of two criteria, firstly, contribution made by the members of the UN to the maintenance of international peace and security and to the other purposes of the Organization, and secondly, equitable geographical distribution. Originally, there were only six non-permanent seats but they expanded to ten in 1965. The non-permanent members of the Security Council are elected for a term of two years. A retiring member is not eligible for immediate re-election [Article 23 (2)], so that all states have a chance to be represented in the UNSC. Each member of the Security Council has one representative in the Council [Article 23 (3)]. There have been arguments from different quarters, especially from the developing countries, that the UNSC composition needs to be democratized and enlarged to reflect the changing times, and to ensure greater legitimacy and more effectiveness and efficiency.

The UNSC has primary responsibility, under the Charter, for the maintenance of international peace and security and the authority to act on behalf of all members of the UN (Art. 24). It is under this primary responsibility that the UNSC has an important role to deal with the issue of international terrorism. The members of the UN agree to accept and carry out the decisions of the UNSC in accordance with the present Charter (Art. 25). Provisions for carrying out this role in accordance with the Purposes and Principles of the UN are spelt out in Chapter VI, VII, VIII and XII of the Charter.

Chapters VI and VII are the main focus for the Council. Chapter VI deals with peaceful settlement of disputes, providing a wide range of techniques to investigate disputes and help parties achieve resolution without using force. When an issue crops up that is likely to endanger or is endangering international peace and security, the UNSC, as a first step, will try to solve the problem or ask the parties to the conflict to resolve the issue through negotiation, arbitration, mediation, or any other peaceful means. But if this fails, the UNSC can evoke Chapter VII, which gives it authority to identify aggressors and commit all UN members to take enforcement measures such as economic sanctions or to provide military forces for joint action. Even here in Chapter VII, the UNSC will first try to settle the issue through non- force measures like economic sanctions, severance of diplomatic relations etc. (Art. 41). But if this fails again, then as the last resort, the UNSC can opt for use of force by air, sea or land in

order to restore international peace and security (Art. 42). Thus, it is only after the efforts under Art. 41 i.e. through non-force measures fail that Art. 42 which involve use of physical force is invoked in order to restore international peace and security. Therefore, the pre-condition of invoking Art.42 is the failure of Art. 41. In all these efforts of the UNSC, the member-states should extend all possible help to the UNSC, as specified in Art.43, in order to restore international peace and security. There is also provision for regional arrangements to resolve local disputes, their responsibilities to the Security Council and their utilization by the Security Council for enforcing its authority as specified in Chapter VIII.

2. THE UNSC AND INTERNATIONAL TERRORISM IN THE PRE-9/11 ERA

The UNSC was generally reluctant to address terrorism prior to the events of September 2001. This reluctance reflected the prevailing attitude that terrorism was largely a national problem and thus generally did not constitute a threat to international peace and security, as was required for the Council to be seized with the issue under the UN Charter. International terrorism was placed on the UNSC`s agenda in the early 1990s. On January 31, 1992, at the Council's first-ever meeting of heads of state and government, the members of the Council "expressed their deep concern over acts of international terrorism and emphasized the need for the international community to deal effectively with all such acts". In March 1992, the Council backed up this rhetorical commitment with action and adopted mandatory sanctions against Libya, which was accused of involvement in the terrorist bombing of two commercial airliners i.e. Pan Am flight 103 over Lockerbie, Scotland, in December 1988 and Union des Transports Aeriens (UTA) flight 772 in September 1989 which prompted France, the United Kingdom, and the United States to involve the UNSC in the fight against terrorism. Economic sanctions became the main policy instrument. The UNSC imposed sanctions to fight terrorism on two other occasions in the 1990s i.e. in 1996 against the Sudan and in 1999 against the Taliban regime in Afghanistan (expanded to include Al-Qaida in 2000 by resolution 1333) (Oudraat 2004: 151-154).

The UNSC has adopted several Resolutions against terrorism since the issue has been placed on the agenda of the Council. It is through these resolutions that the efforts of the UNSC in the fight against international terrorism can be understood. The

Resolutions are mostly adopted in the context of specific incidents. There is a massive shift in the Council's focus on international terrorism in the post-9/11 period. The pre-9/11 period will be discussed in this section while the post-9/11 period will be discussed in the next section.

The UNSC Resolutions on terrorism in the pre-9/11 period essentially begin with its Resolution 635 (1989). On 21 December 1988, a bomb believed to have been placed on the aircraft by Libyan terrorists in Frankfurt, West Germany blew up Pan American Airlines Flight 103 over Lockerbie, Scotland. All 259 people on board were killed. In another similar incident, on 19 September 1989, a bomb explosion destroyed UTA Flight 772 over the Sahara Desert in southern Niger during a flight from Brazzaville to Paris. All 170 persons aboard were killed. Six Libyans were later found guilty. Reacting to these incidents, in its first Resolution directed against international terrorism, the UNSC adopted Resolution 635 in 1989 (S/RES/635/1989) titled "*Marking of Plastic or Sheet Explosives for the Purposes of Detection*". This Resolution was adopted in the backdrop of unlawful interferences by terrorists against international civil aviation by which plastic or sheet explosives can be used in acts of terrorism with little risk of detection. It calls upon all states to cooperate in devising and implementing measures to prevent all acts of terrorism, including those involving explosives. It also urged ICAO to intensify its work aimed at preventing terrorism in its field particularly in devising an international regime for the marking of plastic or sheet explosives for detection. amer and Yetiv (2007:413) argue that the Resolution established the UN and the UNSC as a venue for dealing with terrorism and laid the groundwork for the UNSC's future work on terrorism. In relation to these incidents, the UNSC also passed Resolution 731 titled '*Items Relating to the Libyan Arab Jamahiriya*' in January 1992 (S/RES/731/1992) condemning the incidents. Commenting on the ineffective response of Libya, the Resolution urged the Libyan government to fully cooperate with the request made by the UNSC in the effort to eliminate international terrorism. It also urged all states to encourage Libya to fully cooperate with the UNSC.

With the Libyan government not cooperating fully with the UNSC, the UNSC went for a stronger Resolution 748 in March 1992 (S/RES/748/1992) asserting that the failure by Libyan government to demonstrate by concrete actions its renunciation of

terrorism and particularly its continued failure to respond to the UNSC constitute a threat to international peace and security. The UNSC, acting under Chapter VII of the UN Charter, asked the Libyan government to fully cooperate with the UNSC and concretely renunciate terrorist actions and assistance to terrorists. Sanctions in relation to air travel to and from Libya, except for humanitarian reasons, an embargo on supply of arms and ammunition and technical assistance, and reducing of diplomatic relations etc. were authorized by the UNSC against Libya and all states were urged to fully carry out the Resolution (S/RES/748/1992).

In another incident, on 26th June 1995, when Egyptian President Hosni Mubarak was visiting Addis Ababa, Ethiopia, for an Organisation of African Union (OAU) Summit, a very well-planned and ambitiously organized assassination attempt was made against him. There was clear indication of Sudan's involvement in the incident. (www.fas.org/irp/threat/terror_95/terafr.htm). In response to this incident, the UNSC, adopting Resolution 1044 in 1996 (S/RES/1044/1996), strongly condemned the incident and asked Sudan to desist from engaging, assisting, supporting, providing shelters to terrorists, and facilitating terrorist activities, and to act cooperatively with others in tune with the UN Charter and the OAU Charter. The Resolution asked Sudan to extradite the suspected involved persons to Ethiopia for prosecution. As Sudan did not cooperate fully with the UNSC Resolution 1044 (1996), the UNSC, acting under Chapter VII of the UN Charter, demanded full cooperation from Sudan. The Resolution also imposed restrictions in some areas viz. no international or regional organizations were allowed to convene any conference in Sudan; restrictions of international movement for Sudan government, officials, military; and reduction in the number and the level of the staff at Sudanese diplomatic missions and consular posts (S/RES/1044/1996).

On 7 August 1998, in simultaneous car bomb explosions at the US embassies in the two East African capital cities of Dar es Salaam, Tanzania and Nairobi, Kenya, hundreds of people were killed. *Al Qaida* and its leader Osama bin Laden were held responsible for the incidents. This brought bin Laden and *Al Qaeda* to international attention for the first time, and resulted in the U.S. placing Osama bin Laden on its 'Ten Most Wanted' list. *(http://en.wikipedia.org/wiki/1998_US_embassy_bombings).*

Condemning the act as jeopardizing the security of states, the UNSC adopted Resolution 1189 on 13th August, 1998 (S/RES/1189/1998). The Resolution also asks states, in accordance with international law, to adopt measures to prevent such acts of terrorism and to prosecute and punish their perpetrators (S/RES/1189/1998).

When the Taliban government in Afghanistan was held to be harboring terrorists in its territories, the UNSC adopted Resolution 1214 on 8 December 1998 (S/RES/1214/1998) and directed the Taliban government to stop providing sanctuary and training to international terrorists and their organizations. The Resolution also asked all Afghan factions to cooperate in the effort of bringing the indicated terrorists to justice. Afghanistan being a top producer of cocaine/drugs which is also used majorly to finance the terrorists, the Resolution also directed the Taliban and others to halt the cultivation, production and trafficking of illegal drugs. With the failure of the Taliban government to comply with the Resolution, the UNSC adopted Resolution 1267 on 15th October 1999 (S/RES/1267/1999) under Chapter VII urging Taliban to cease providing sanctuary and training to international terrorists and their organizations, to take appropriate effective measures to ensure that the territory under its control is not used for terrorist installations and camps, or for the preparation or organization of terrorist acts against other states or their citizens, and to cooperate with efforts to bring indicted terrorists to justice, to hand over Osama bin Laden without further delay to appropriate authorities in a country where he has been indicted, or to appropriate authorities in a country where he will be returned to such a country, or to appropriate authorities in a country where he will be arrested and effectively brought to justice (paragraph 4). To pressurize the Taliban to hand over Osama bin Laden, the Resolution also sought to deny permission for any aircraft to take off from or land in their territory if it is owned, leased or operated by or on behalf of the Taliban excluding those for humanitarian need, including religious obligation such as the performance of the Hajj; to freeze funds and other financial resources, including funds derived or generated from property owned or controlled directly or indirectly by the Taliban, or by any undertaking owned or controlled by the Taliban. A significant feature of this Resolution is the establishment of a Committee (popularly known as "The 1267 Committee" or "Al Qaida and Taliban Sanctions Committee") (S/RES/1214/1998).

With the increasing acts of international terrorism and the concern over them, the UNSC adopted another Resolution 1269 on 19 October 1999 condemning all acts of terrorism, regardless of motives, wherever and by whomever committed. The Resolution acknowledged that suppression of international terrorism is an essential key to international peace and security. It also stressed the importance of the UN in dealing with such issues, and once again reiterated to deny or support terrorism, prevent and suppress terrorism, cooperate with each other and exchange information in accordance to international and domestic law (S/RES/1269/1999).

As the Taliban continued to harbour *Al Qaida* and its leader Osama bin Laden, and other international terrorists and camps besides producing opium in violation to the UNSC Resolution 1267 (1999), the UNSC adopted Resolution 1333 on 19th November 2000 (S/RES/1333/2000) under Chapter VII of the UN Charter. The Resolution once again directed the Taliban to fully comply with the Council's Resolution 1267 (1999). To pressurize the Taliban, the Resolution imposed sanctions: (a) Prevent the direct or indirect supply, sale and transfer to the territory of Afghanistan under Taliban control as designated by the Committee established pursuant to Resolution 1267 (1999) by their nationals or from their territories, or using their flag vessels or aircraft, of arms and related materiel of all types including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned; (b) Prevent the direct or indirect sale, supply and transfer to the territory of Afghanistan under Taliban control, as designated by the 1267 Committee, by their nationals or from their territories, of technical advice, assistance, or training related to the military activities of the armed personnel under the control of the Taliban; (c) Withdraw any of their officials, agents, advisers, and military personnel employed by contract or other arrangement present in Afghanistan to advise the Taliban on military or related security matters, and urge other nationals in this context to leave the country; (d) To close immediately and completely all Taliban offices in their territories; (e) To close immediately all offices of Ariana Afghan Airlines in their territories (S/RES/1333/2000). These measures do not apply to supplies of non-lethal military equipment intended solely for humanitarian or protective use, and related technical assistance or training, as approved in advance by the Committee. The Resolution also

urged all states that maintain diplomatic relations with the Taliban to reduce significantly the number and level of the staff at Taliban missions and posts and to restrict or control the movement within their territory of all such staff who remain.

With the deteriorating situation in Afghanistan and non-compliance of the UNSC Resolutions directed against it, the UNSC adopted Resolution 1363 on 30 July 2001 (S/RES/1363/2001) under Chapter VII of the UN Charter. The Resolution, going a step further in its effort to deal with the Taliban and terrorism, established a monitoring mechanism to monitor the implementation of all the provisions imposed by the Resolutions 1267 (1999) and 1333 (2000), to offer assistance to States bordering the territory of Afghanistan under Taliban control and other States, as appropriate, to . increase their capacity regarding the implementation of the measures imposed by Resolutions 1267 (1999) and 1333 (2000), and to collate, assess, verify wherever possible, report and make recommendations on information regarding violations of the measures imposed by Resolutions 1267 (1999) and 1333 (2000). The Resolution also established a Sanction Enforcement Support Team, under the coordination of the Monitoring Group, of up to 15 members with expertise in areas such as customs, border security and counter-terrorism. The Resolution also demanded full cooperation with these mechanisms and full implementation of Resolutions 1267 (1999) and 1333 (2000).

As has been mentioned, the UNSC only started to take the issue of international terrorism in its agenda from 1989, which is when the Cold War came to an end. This was mainly because during the Cold War, the Council, especially the P5, was busy in Cold War politics against each other. But, after the Cold War paralysis in the UN Security Council ended, it was able to adopt resolutions and impose remedial measures in response to discrete acts of terrorism, such as the bombing of Pan Am flight no.103 and the bombings of the US embassies in Kenya and Tanzania. The sanctions regime 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. Interestingly, the only resolution of the UN Security Council prior to September 11 and dealing with terrorism in the international context, rather than relating to and restricted to specific events, is Security Council Resolution 1189 (1998). Although the

resolution was adopted in response to the 1998 bombings in Nairobi, Kenya and Tanzania, it called upon all states "to adopt, in accordance with international law and as a matter of priority, effective and practical measures for security cooperation, for the prevention of such acts of terrorism, and for the prosecution and punishment of their perpetrators" (Conte, Alex 2005: 25-26).

Moving a step forward in its effort to combat terrorism, the Council adopted Resolution 1267 (1999) which established a committee called "**The Al Qaida and Taliban Sanctions Committee**" or "**The 1267 Committee**" to oversee the implementation of the Resolution adopted under Chapter VII of the UN Charter, having binding obligation on all the member states. The Resolution aimed at *Al Qaida* and Taliban focussed on three main aspects viz. asset freeze, travel ban, and arms embargo (S/RES/1267/1999). According to the Resolution, the Committee, which consists of all the members of the UNSC, has the following tasks: (a) To seek from all states further information regarding the action taken by them with a view to effectively implementing the measures imposed by Paragraph 4; Under Paragraph 4 all states should deny permission for any aircraft to take off from or land in their territory if it is owned, leased or operated by or on behalf of the Taliban; and freeze funds and other financial resources, including funds derived or generated from property owned or controlled directly or indirectly by the Taliban. (b) To consider information brought to its attention by states concerning violations of the measures imposed by paragraph 4 above and to recommend appropriate measures in response thereto; (c) To make periodic reports to the Council on the impact, including the humanitarian implications, of the measures imposed by paragraph 4; (d) To make periodic reports to the Council on information submitted to it regarding alleged violations of the measures imposed by paragraph 4, identifying where possible persons or entities reported to be engaged in such violations; (e) To designate the aircraft and funds or other financial resources referred to in paragraph 4 in order to facilitate the implementation of the measures imposed by that paragraph; (f) To consider requests for exemptions from the measures imposed by paragraph 4 as provided in that paragraph, and to decide on the granting of an exemption to these measures in respect of the payment by the International Air

Transport Association (IATA) to the aeronautical authority of Afghanistan on behalf of international airlines for air traffic control services (S/RES/1267/1999).

Rosand (2007: 412) points out that although the Committee was originally established as part of the UNSC's strategy to address the terrorist threat posed by Taliban-controlled Afghanistan, the mandate of the 1267 Committee was expanded following 9/11 incidents, to deal with the global *Al Qaida* threat. As part of its response to the events of 9/11, the UNSC required all states to impose these measures on the individuals and entities listed by the Committee, which manages and updates the list. To assist the Committee with its work, the UNSC established an eight-person Analytical Support and Sanctions Monitoring Team to collate, assess, monitor, and report on steps being taken to implement new measures to address the evolving *Al Qaida* threat.

There are now more than four hundred names on the Committee's list, which increased in the post-9/11 period. In the weeks that followed 9/11, the list was based largely on political trust, with the Committee having no particular guidelines or standards for states to follow in proposing names. Since then, the Committee has adopted guidelines, putting minimum evidentiary standards for submitting names and a transparent listing process into place to help ensure that due process and other human rights standards are respected. Yet, concerns about the Committee's lack of due process continue to dominate discussions regarding its work, with the procedures for listing and delisting proving to be contentious. Even if states may be reluctant to freeze the assets of an entity simply because the US or another powerful country suspects it of having ties to Al Qaida, they have an obligation under international law to do so if that entity is included on the Committee's list. With regard to state implementation of the sanctions themselves, the record is mixed. As the reports of the Monitoring Team have revealed, the travel ban and arms embargo have produced some tangible results. The asset-freeze requirement has proved valuable in helping internationalize the policy of freezing terrorist assets. Despite some success, however, the UNSG and world leaders at the 2005 World Summit observed that too often the UN-imposed sanctions are not implemented and more must be done to ensure that they are. Rather than lack of political commitment from states, the Monitoring Team has found a lack of legislative

and operational capacity to be the major impediment to implementation (Rosand 2007: 413).

The Security Council recognized international terrorism as a threat to international peace and security and strongly condemned all such acts in its Resolution 1269 (1999). Oudraat (2004: 151-153) asserts that the greater attention paid by the Security Council to the issue of terrorism was motivated by new developments in international terrorist activities. Five trends stood out. They are:

First, an increasing proportion of terrorist attacks were aimed at U.S facilities or citizens. According to some calculations, attacks on U.S targets increased from about 20 percent of the total attacks in 1993-1995 to almost 50 percent of the total in 2000.

Second, the average number of casualties per incident increased. U.S. State Department statistics show that there was a fourfold increase in the number of casualties per attack in the latter half of the 1990s.

Third, terrorists groups seemed to be operating as part of a global network. The 1998 attacks in east Africa underscored the global reach of the Al Qaeda network, which was estimated to have 4,000-5,000 well-trained fighters scattered around the world. Compared to the 500 members of the Abu Nidal organization, the 200-400 activities of the Irish Republican Army (IRA) and the Basque Fatherland and liberty (ETA), and the 50-75 hard-core members of the Red Brigades, Al Qaeda was a significantly larger and qualitatively different type of terrorist organization.

Fourth, there is increasing fears that terrorists might one day use chemical, biological, or nuclear weapons. The 1995 Sarin nerve gas attack in the Tokyo subway by Aum Shinrikyo made such fears less of a theoretical proposition. There is growing concern of possibility of terrorists obtaining biological, chemical or nuclear weapons – either by buying or stealing or through collusion with states developing weapons of mass destruction (WMD).

Fifth, the United States has been of the role of certain states play in supporting and sponsoring terrorism. Terrorist groups grow stronger with the supports of states. States

might also provide them with WMD and also use terrorist groups as proxies for their own interest.

In December 2000, the UNSC strengthened the sanctions package and required all member states to close all Taliban offices in their countries and to freeze the financial assets of Bin Laden and his associates. It also imposed an arms embargo on the Taliban in Resolution 1333. Russia, which was concerned about the spread of Islamic extremism, strongly supported the latter measure and also supported the Northern Alliance's fight against the Taliban. Faced with poor implementation of the sanctions regime, the Council created a monitoring mechanism in July 2001 in Resolution 1363. Sanctions were not successful against the Taliban. They had limited funds abroad, and the extent of Taliban controlled air traffic was negligible. Economically, the Taliban was not operating in the global economy. Its international economic dealings were in the black market – much of its money came from the illegal opium and heroin trade. Moreover, Afghanistan was already awash in weapons, and the arms embargo did little to change that. All of this made the Taliban relatively immune to outside pressure (Oudraat 2004:157).

3. THE UNSC AND INTERNATIONAL TERRORISM IN THE POST 9/11 PERIOD

September 11, 2001 was a significant landmark day in the history of the UN and the world in combating international terrorism. Perhaps, 9/11 incident represents the first time in history that the action of an international terrorist group (non-state actor) so altered the course of international relations (Kramer and Yetiv 2007: 409). On this fateful day, supporters of Osama bin Laden's Al Qaida terrorist organization hijacked four commercial aircrafts and crashed two commercial aircraft into the twin towers of the WTC in New York (U.S.A), destroying the complex. The third aircraft hit the Pentagon, Washington D.C. (CIA H.Q). And the fourth aircraft crash landed in southern Pennsylvania; it is thought that its target was somewhere in Washington (Barry Davies 2003: 299). Around 3,000 people died as a result of these acts and many more were injured, apart from an enormous loss of money. Immediately, criticisms and condemnations against the act, sympathy and solidarity with the U.S. came from all corners of the world.

Kramer and Yetiv (2007: 415-422) compare and bring out the differences of the UNSC role in combating international terrorism in the post-9/11from the pre-9/11. Firstly, before 9/11, the UNSC had passed only 13 resolutions dealing with terrorism, an average of about one a year. But, after 9/11, the UNSC passed 20 resolutions by the end of 2005, an average of 4 to 5 resolutions a year. Secondly, there is also a change in the voting record. Before 9/11, 8 of the 13 resolutions were unanimously passed while five had no-votes or abstaining. But, after 9/11, 19 of 20 resolutions were passed unanimously. Thirdly, prior to 9/11, only 2 of 13 resolutions deal with terrorism in more general terms. But, after 9/11, over half of the resolutions (11 of 20) deal with terrorism in general terms which suggests that the fight against terrorism has had a much more central role on the agenda of the UNSC in the post 9/11. Fourthly, before 9/11, only a few terrorist attacks were actually referred to the Council. But, in the post 9/11, almost all terrorist attacks have been referred to and condemned by the Council (Bali, Kenya, Bogota, Istanbul, Madrid, London, Beslan etc). The Council has been more even-handed and inclusive since 9/11. Fifthly, before 9/11, sanctions remained in practice the ultimate tool available to the UNSC and used it against terrorism three times in the 1990s (Libya, Sudan and Afghanistan). But after 9/11, it has not used sanctions in response to terrorism except for the continuing sanction regime against Osama bin Laden, members of the Al Qaida and Taliban organizations. This was mainly because, after 9/11, the US declared a 'war on terror' involving various forms of use of force.

Resolution 1368 (2001) recognised the right to self-defence against terrorism; the nature of terrorists i.e. constantly moving and hiding which made sanctions less effective; focus shifting to strengthening state's means to fight terrorism which may be more effective. This was not to discredit the importance of sanctions as it could still be a significant and useful tool. Lastly, there is a big shift on compliance as before 9/11, no resolutions, except for sanctions resolutions, demanded that state take action to address terrorism, but after 9/11, there is sweeping and binding commitment on states with the adoption of Resolution 1373 (2001), which represents a creative, unique and intrusive way to fight terrorism. The 9/11 terrorist attacks was a turning point in the efforts of the UNSC in combating international terrorism and a wake-up call to the world that international terrorism poses grave risks threatening not just international peace and security but also the very fundamental rights of human being i.e. the right to live.

The terrorist attacks on September 11, 2001, made terrorism a top priority for the Security Council. Within hours of the attacks, the Council president, French ambassador Jean-David Levitte, circulated a draft resolution strongly condemning the attacks and paving the way for military action. On September 12, Resolution 1368 was adopted unanimously. Two weeks later, the Council adopted another unprecedented decision-resolution 1373 obligating all member states to take far reaching domestic legislative and executive action in order to forestall future terrorist activities. The Security Council took unprecedented action following the terrorist attacks. It ordered every member state to take a wide array of measures that would forestall terrorist activities. It asserted itself as a global instrument for collective action. The crisis situation opened by the 9/11 events was characterized by the Security Council as constituting a "threat to international peace and security" not merely because of the combined attacks against the US, but even more so because of the high degree of efficiency and capacity for harm of transnational terrorism that was revealed by these attacks and the acute threat it has become to world public order at large.

It is important to note that prior to 9/11 (2001) incidents, not only was there no comprehensive international legal instrument in place, no country in the world had appropriate legal tools to deal with and suppress terrorist acts. Faced with this gap in the legal and institutional capacities of states, and of the international community as a whole to adequately deal with the complex issues surrounding international terrorism, the UN Security Council started taking series of actions (Ward, Curtis A 2003: 292). As such, it is in the post 9/11 that the Security Council began to seriously focus on international terrorism and took many strong resolutions, many under chapter VII of the UN Charter, which are binding upon the member-states. It is important to go through these resolutions to see the development of the path of struggle of the UN Security Council against terrorism.

Just the day after the September 11, 2001 terrorist attacks, i.e. on 12 September, 2001, the UNSC adopted Resolution 1368 (S/RES/1368/2001), strongly condemning the terrorist attacks of September 11, 2001 in New York City and other cities of the U.S. The significance of the resolution was that it recognises the inherent right of individual

or collective self-defence in accordance with the Charter (Art.51). This was the first instance that Art.51 of the UN Charter (Right to Self-Defence) included even non-state entity (terrorist) and the first time that UNSC acknowledged self-defence as a legitimate response to terrorism. The resolution affirmed that a state victimized by terrorism was justified in exercising the right of individual and collective self-defence in response.

Just after the 9/11 incidents, in the same year (2001), the US, with its allies, evoked its right to self-defence under Art.51 and invaded Taliban-Afghanistan, under '*Enduring Freedom*', after the Taliban refused to hand over Osama bin Laden to the US, the presumed master-mind behind the 9/11 attacks. This action of the US did not face as much criticism. However, when it extended against Iraq in 2003, a huge debate on self-defence in the context of 'pre-emption' started and criticism of the US actions on Iraq mounted. Many states and scholars have supported for and argued against it. The attacks of 9/11 led the US president Bush to declare a 'war' on terrorism. Pre-emptive strikes became a part of the US strategy for self-defence.

Abraham Sofaer (2003:209-226)) argues that states can attempt to avoid responsibility for attacks by using terrorists to carry them out. States can also enable terrorists to attack other states by refusing to prevent such attacks, as Taliban did. However, he argues that some criteria like the existence of threat, likelihood of threat being realized, exhaustion of alternatives, and consistency with the UN Charter Purposes should be met before pre-emption self-defence is initiated. He accepts that the use of force to pre-empt threats is a matter of considerable complexity. However, properly applied, pre-emption is an aspect of a state's legitimate self-defence authority. He justifies the action of the US against Afghanistan on the ground that Afghanistan refused to hand over Osama bin Laden, responsible for 9/11 acts and who killed so many Americans and even issued a *fatwa* authorizing killing of Americans anywhere. He considers pre-emption a useful weapon, to be used responsibly on a case-by-case basis.

Michael Bothe (2003:229-234) also argues that in Art. 39, three terms are used; 'threat to the peace, breach of the peace, or act of aggression.' These notions together cover a field which is broader than that of an armed attack within the meaning of Art.51. As such, 'armed attack' in the sense of Art.51 is an actual armed attack happening or

occurring, not one which is only threatened. He argues that in situations whereby a state is actually, to a sufficient degree, in non-state violence, it is acceptable to be equivalent to an armed attack and evoke the right to self-defence. He argues that self-defence is the right of the victim of an attack. In other words, there is no self-defence without a victim.

Nico (2003:63-66) argues that any act of self-defence must focus on repelling the armed attack and acute terrorist violence and hence a targeted and prudent use of military force to destroy the terrorist infrastructure in Afghanistan in order to repel and prevent further terrorist attacks was certainly legitimate. The concept of "armed attack" of Art.51 may well include "armed attacks" by non-state actors such as international terrorists. After all, the text of Art.51 does not stipulate an "armed attack by a state". Hence the hijacking and deliberately planned and simultaneous use of large passenger aircraft as bombs to attack the WTC and others may well be viewed as an "armed attack" against the US and the civilized world as a whole. As such, the US and its allies were justified in taking counterterrorism measures involving the use of armed force until such time as the UNSC acts to restore and maintain peace and security. But, he questions whether self-defence through combating international terrorism could legitimately extend to seeking the overthrow by military force of the Taliban authority in Afghanistan and replacing it with a more democratic regime. In other words, he poses the unclear limitation of the scope of the right to self-defence. The law of self-defence does not provide a license to victim states to target at their whim other states, including those considered to be part of the "axis of evil".

On the other hand, according to Maj. Gen Saighal (2003:178-180), even in self-defence, Art.51 does not allow a state to wage war on an individual or group, but only on other states whose official forces have attacked across one's border. Supporters of the US action argued that given the scale of the 9/11 attacks, the US was correct in designating them an act of war and consequently going ahead with its actions in Afghanistan. He argues that it is the powerful states that are in a position to respond decisively to large scale terrorist provocations. Many victimized states are unable to respond. There can be instances where the state subjected to terrorist attacks is smaller or weaker than the state sponsoring the elements that launched the attacks. His argument

is that any actions not undertaken under the UNSC is illegitimate and contrary to the UN Charter.

In Greenwood's writing (2002:311-312), opponents of the US actions argue that the attacks of 9/11 were over long before the US military response was launched. Self-defence, which is lawful in international law, has to be carefully distinguished from reprisals, which, if they involve the use of armed force, are no longer considered lawful. The requirement of necessity in self-defence means that it is not sufficient that force is used after an armed attack; it must be necessary to repel that attack. The use of force in response to an armed attack which is over and done with does not meet that requirement and looks more like a reprisal, as was the US action, and not a genuine action in self-defence. The attacks of 9/11 came from Al Qaida rather from a state. Yet the military action taken by the US and its allies also affected the Taliban government. Though the US and its allies accused the Taliban regime of harbouring and supporting Al Qaida under its controlled-territory, they stopped short of alleging that Afghanistan was responsible, as a matter of international law. Therefore, Afghanistan was not internationally responsible for the attacks.

On the contrary, Greenwood (2002:308) argues that an armed attack need not emanate from a state as upheld in the famous *Caroline* dispute which is still regarded as the classical definition of the right to self-defence in international law. Even a state which has not itself been the victim of an armed attack may use force by way of collective self-defence only if a state which is the victim of such attack invites to do so. Greenwood argues that the events of 9/11 cannot be taken in isolation. Taken together with other events such as the embassy attacks and the attack on the USS Cole, for which Al Qaida had claimed responsibility, they posed a clear threat of further outrages to come. The military action taken by the US and its allies is properly seen as a forward-looking measure to prevent that threat from materializing, rather than as a backward-looking act of retaliation for what had gone before. Indeed, the Taliban regime had violated international law in permitting Al Qaida to operate from its territory. Taliban regime, which controlled the majority portion of the country, constituted at least de facto government and their actions could be seen as the actions of the state of Afghanistan. By allowing Al Qaida to operate from its territory, the Taliban and thus

Afghanistan violated the general duty of a state under international law not to allow its territory to be used as a base for attacks on other states. Indeed, he argues that the right to self-defence would become a hollow shell outside the context of full-scale military actions by regular armed forces if this were not the case. There is still much debate on the scope of the right to self-defence (Art.51). Art. 51 continues to be hotly debated today, not that it is unaccepted but of its limits as sometime it can be misused to promote one's self-interest and interfere with other states and thus violate another's sovereignty and also the UN Charter (Art.2 (4)).

However, the most significant landmark in the efforts to combat international terrorism for the UN was the adopting of Resolution 1373 on September 28, 2001 (S/RES/1373/2001) under Chapter VII of the UN Charter, just after a week of the 9/11 incident. It became the cornerstone of the UN's counterterrorism effort and also represents a departure for the institution. According to Krieken (2002:6-8), this resolution reaffirmed resolution 1269 (1999) and should indeed be seen as a logical follow-up, repeating the 1269 text but adding some new elements. Resolution 1373 can be roughly divided into seven sub-parts:

i) *Threats to the Peace (Chapter VII):* The resolution reaffirmed that the 9/11 terrorist attacks, like any act of international terrorism, constitute a threat to international peace and security, which makes Chapter VII of the Charter applicable, and enables the UNSC to act under Chapter VII. The UNSC reaffirmed the need to combat by all means, in accordance with the UN Charter, threats to international peace and security caused by terrorist acts. The need to link terrorism with other forms of crime was highlighted and a close connection was noted between international terrorism and transnational organized crime, illicit drugs, money-laundering, illegal arms trafficking, and the illegal movement of nuclear, chemical, biological, and other potentially deadly materials, and in this regard the need to enhance the coordination of efforts on national, sub-regional, regional and international levels in order to strengthen a global response to this serious challenge and threat to international security was emphasized.

ii) *Contrary to Purposes and Principles (Chapter I):* The resolution also declared that acts, methods, and practices of terrorism are contrary to the purposes and principles of

the UN and that knowingly financing, planning and inciting terrorist acts are also contrary to the purposes and principles of the UN.

iii) *International Treaties*: States were called upon to become parties as soon as possible to the relevant international conventions and protocols relating to terrorism, including the *International Convention for the Suppression of the Financing of Terrorism* of 9 December 1999; and to increase cooperation and fully implement the relevant international conventions and protocols relating to terrorism and UNSC resolutions 1269 (1999) and 1368 (2001).

iv) *Cooperation:* The UNSC called upon states to work together urgently to prevent and suppress terrorist acts. In fact, this is a recognition of the fact that no individual state, however powerful it may be, can alone combat international terrorism effectively and also a recognition that international terrorism can be dealt effectively only through cooperation among states or common efforts (multilateralism).

v) *Obligations:* States were reminded that they have the duty to refrain from organizing, instigating, assisting or participating in terrorist acts in another state or acquiescing in organizing activities within its territory directed towards the commission of such acts. The resolution obliged the states to a) prevent and suppress the financing of terrorist acts; b) criminalize the wilful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts; c) freeze without delay funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts; of entities owned or controlled directly or indirectly by such persons; d) prohibit their nationals or any persons and entities within their territories from making any funds, financial assets or economic resources or financial or other related services available, directly or indirectly, for the benefit of persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts; e) refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts, including by suppressing recruitment of members of terrorist groups and eliminating the supply of weapons to terrorists; f) take the necessary steps to prevent the commission of terrorist acts, including by the

provision of early warning to other states by exchange of information; g) ensure that any person who participate in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice and ensure that such terrorist acts are established as serious criminal offences in domestic laws and regulations and that the punishment duly reflects the seriousness of such terrorist acts; h) afford one another the greatest measure of assistance in connection with criminal investigations or criminal proceedings relating to the financing or support of terrorist acts, including assistance in obtaining evidence in their possession necessary for the proceedings.

vi) *Cross-Border Movement:* The resolution obliges states a) to deny safe haven to those who finance, plan, support, or commit terrorist acts, or provide safe havens; b) to prevent those who finance, plan, facilitate or commit terrorist acts from using their respective territories for those purposes against other states or their citizens; c) to prevent the movement of terrorists or terrorist groups by effective border controls and controls on the issuance of identity papers and travel documents, and through measures for preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents; and d) to 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 planned, facilitated or participated in the commission of terrorist acts.

vii) *Establishment of a New Committee i.e. Counter-Terrorism Committee (CTC):* The resolution decided to establish, in accordance with rule 28 of its provisional rules of procedure which states that the Council 'may appoint a commission or committee....for a specified question", a Committee of the UNSC, consisting of all the members of the Council, to monitor the implementation of this resolution.

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 192 member states (Kramer and Yetiv 2007:415). The UNSC`s deep involvement in the UN`s counterterrorism effort represents a new development. Before that, the general topic of international terrorism was largely considered an UNGA issue. It is true that the resolution 1373 (2001) did not attempt to define terrorism nor seek to identify specific terrorists. This was done to avoid divisive dead-lock of the resolution getting

passed and to nurture the immediate post-9/11 "one-voice" all states had against terrorism (condemning it), and also urgently the incident needed the UNSC to react. Moreover, the sponsors of Resolution 1373 wanted a resolution that would pass quickly. We have seen that the resolution requires all states to take steps to combat terrorism; it creates uniform obligations for all 192 member states to the UN, thus going beyond the then existing international counterterrorism conventions and protocols that bind only those that have become parties to them. The Council took provisions from a variety of international legal instruments that do not yet have universal support, such as the Terrorism Financing Convention, and incorporated them into a resolution that is binding on all UN member-states. The resolution is quite vast as it spread from blocking terrorist financing to updating laws to bringing terrorists to justice, improving border security and control traffic in arms, cooperating and exchanging information with other states concerning terrorists, providing judicial assistance to other states in criminal proceedings related to terrorism, denying safe havens or shelter or support to terrorists directly or indirectly (Rosand 2003:333-334). A significant outcome of the Resolution is the setting up of the Counter Terrorism Committee (CTC) to oversee that the resolution is fully implemented by all member-states and to help states in implementing the resolution. The CTC is established under Chapter VII of the UN Charter.

3.1. COUNTER TERRORISM COMMITTEE (CTC)

The Counter-Terrorism Committee (CTC) was established by the UN Security Council Resolution 1373 (2001), which was passed under Chapter VII of the UN Charter, to monitor implementation of the Resolution by states by receiving reports from states on the actions they have taken to implement the Resolution (Ward 2003:298). While the ultimate aim of the Committee is to increase the ability of the states to fight terrorism, it is not a sanctions body nor does it maintain a list of terrorist organizations or individuals or prosecute or condemn states. The CTC is the UN's first institutionalized attempt at a coordinated and global counter-terrorism programme. As Edward Luck puts up, the establishment of the CTC was the "principal innovation of the post-September 11 period."(Kramer and Yetiv 2007: 414).

The Committee comprises all 15 members of the Security Council and is divided into three Sub-Committees which are charged with the review of the reports, with the

assistance of a group of experts hired by the UN secretariat on short-term contracts. The CTC and the UN Secretariat have sought to ensure that the composition of the experts group has the proper geographical balance. The CTC Secretariat has offered CTC experts contracts ranging from three months to one year. The Committee is headed by a Chairman and to assist the Chairman and to steer the work of the Sub-Committees created to scrutinize the reports submitted by countries, three posts of vice-chairmen for each three sub-committees were created to be filled by the CTC through election.

Jeremy Greenstock, the United Kingdom's permanent representative, who was elected by the Council as its first chairman, emphasized the technical nature of the CTC. Political assessment of compliance problems would remain in the hands of the Council. In his words, the functions of the CTC "were to monitor, to be analytical and to report facts to the Security Council for consideration". He clarified, "it is not the primary purpose of the Counter Terrorism Committee to get into the politics of what is happening in the short term". The Committee was created "to help the world system to upgrade its capability, to deny space, money, support, haven to terrorism, and to establish a network of information sharing and co- operative executive action (Oudraat 2004: 162). In compiling their reports, states are asked to demonstrate, concisely and clearly, the legislative and executive measures they have in place or contemplate to give effect to Resolution 1373.

States are required to report to the CTC on how they are implementing each paragraph and sub-paragraph of Resolution 1373, including steps being taken by them to enhance international cooperation in the areas covered by the Resolution. States are required, therefore, to report on actions taken in all of the areas covered by Resolution 1373 like counter-terrorism legislation, financial law and practice, customs laws and practice, immigration law and practice, extradition law and practice, police and law enforcement work, illegal arms trafficking, and any other related areas (Ward 2003: 298). In November 2001, perhaps recognising the states' difficulties in meeting the complex requirements of Resolution 1373, the Council extended the CTC's mandate with the adoption of Resolution 1377 to include the facilitation of technical assistance to states and working with international, regional, and sub-regional organizations to

develop technical assistance programs and promote best-practices in the areas covered by Resolution 1373.

Though theoretically non-members could be invited to the CTC meetings, only its members have been attending meetings. The Security Council oversees the work of the Committee and reviews its structure, activities and work programme at three month intervals in closed meetings (Murthy 2007: 4-5). The Committee reports to the Council through the Chair's letters to the President of the Council and through briefings at the open meetings of the Council on threats to international peace and security, and also the Chair notifies the President when a member state's report on its implementation of Resolution 1373 (2001) is received and when the Committee replies to that report (www.un.org/sc/ctc). The Committee reaches decisions by consensus among members, and it is the Chairman's responsibility to facilitate it through consultations. The chairman of the CTC, who is appointed by the Council, presides over meetings. She/he has to be the permanent representative of a member of the Council (Murthy 2007: 5). While the Committee's meetings are closed, implementation of resolution 1373 (2001) and 1624 (2005) is an ongoing process and the Committee seeks to establish a dialogue with all Member States with a view to raising national counter-terrorism capacities and fostering international cooperation between the UN system, states and intergovernmental bodies (www.un.org/sc/ctc).

The way the CTC operates, the role it plays, and its focus on developing relationships with international, regional, and sub regional organizations have largely been shaped by its first chairman Sir Jeremy Greenstock. He worked to divest the Committee of any intrusive, coercive capacity in its monitoring and reporting functions. Targeting of particular states was avoided. In short, the Committee avoided a role of being a policeman, and aimed to become a service provider to countries in need of counter-terrorism capacity development in stages. According to the guidelines adopted by the CTC under S/AC.40/2001/CRP.1, 16 October 2001, the committee would be guided in its work by the principles of co-operation, transparency and even-handedness. It depends on cooperation from member states, although it is within its rights to report to the Council about the non-cooperation from a particular member or members (Murthy 2007: 7). The CTC has sought to engage in dialogue with all member states

concerning the implementation of Resolution 1373, and intends to continue with such dialogue until it is confident that each has taken effective action on all the issues covered by the resolution. The first step in this dialogue was for each member state to submit a report to the CTC detailing the steps it has taken to implement Resolution 1373. Following this submission, the relevant CTC subcommittee, along with its two experts, review the report and draft a letter from the CTC to the relevant state asking a series of follow-up questions, which were to be answered in the state's subsequent report. Before the CTC chairman sends the letter, however, each state is afforded an opportunity to meet with the relevant subcommittee to discuss the draft and to seek clarification (Rosand 2003: 335).

The growing amount of work highlighted the need to further institutionalize the CTC's executive branch instead of depending on temporary and short-term arrangements. During its time as the chair of the committee, Spain piloted revitalization proposals which in essence led to the acceptance in principle of the idea of the Executive Directorate in 2004. After the revitalization in 2004, the structure of the CTC has become three-tiered: i) the Plenary, which is composed of all the 15 UN Security Council member states, ii) the Bureau, and iii) the Counter-Terrorism Executive Directorate (CTED), headed by the Executive Director (Murthy 2007: 5-6).

The first tier of the CTC structure i.e. the Plenary has the following responsibilities:

i) Setting CTC's priorities for promoting and monitoring implementation of Resolution 1373 (2001);

ii) Referring to the Council difficulties in the implementation of the Resolution provisions;

iii) Considering initiatives towards improving technical assistance;

iv) Strengthening contacts and coordination between the CTC and other UN bodies;

v) Intensifying interactions with international regional and sub-regional organizations to improve coordination; and

vi) Approving the CTED's programme of work prepared by the Executive Director.

The second tier i.e. the Bureau consists of the Chair and its three Vice-Chairs. The Bureau has two main responsibilities;

i) To deal promptly with such issues that could be reported to the Plenary later for confirmation, and

ii) To harmonize the work of the Sub-Committees on country reports through setting of guidelines.

Given the breath and long term nature of the CTC`s mandate, the third tier i.e. the Counter-Terrorism Committee Executive Directorate (CTED) was established in March 2004 by the Security Council Resolution 1535 (2004) with an effective, lean and flexible structure designed to enhance the Counter-Terrorism Committee's ability to monitor the implementation of Resolution 1373 (2001), raise the counter-terrorism capacities of Member States by facilitating the provision of technical assistance, ensure the collection of information for monitoring the efforts of member states in their implementation of Resolution 1373 (2001), including through visits with the consent of the state concerned, and promote closer cooperation and coordination with international, regional and sub-regional organizations (S/RES/1535). The decision was an outcome of the fact that relying on state written reports alone was limiting the CTC's ability to assess implementation effort effectively. The CTED was set up as a temporary arrangement for an initial period up to December 2007 to enhance the capacity of the CTC to support member states' compliance with counterterrorism commitments. Manned by 40 officers, the CTED is in a far better position compared to other terrorism related Committees of the Security Council, one on sanctions against the Taliban and proliferation of WMDs to non-state actors (each of the latter two is armed with 8 experts). As the backbone of the CTC, the CTED undertakes the below mentioned activities through two functional wings: the Assessment and Technical Assistant Office, and the Information and Administrative Office (Murthy 2007: 5-6).

The CTED:

i) Provides in-depth analysis of the implementation of Resolution 1373 (2001) by states;

ii) Engages states in a dialogue through letters, direct conversations and visits on a flexible and tailored basis;

iii) Facilitates capacity-building of needy states in the area of technical assistance, compiles information on relevant best practices of international, regional organizations and entities;

iv) Cooperates with other relevant subsidiary bodies of the Council;

v) Keeps in touch with international, regional and sub-regional organizations.

The CTED is headed by an Executive Director at the rank of Assistant Secretary-General, who is appointed by the Secretary General with the approval of the Security Council. The Executive Director:

i) Supports and advises the Plenary and the Chair;

ii) Ensures the comprehensive follow-up of all CTC's decisions;

iii) Monitors their execution and evaluates their results;

iv) Proposes to the Secretary-General the appointment of all assigned staff, in accordance with relevant Articles of the Charter and following the UN staffing rules and regulations;

v) Informs the plenary about the work of the CTED on a monthly basis.

Since its inception, the CTC has produced some modest successes in increasing awareness of the global nature of the threat of terrorism and compiling useful information from the hundreds of country reports that have been submitted. Yet it has failed to become an effective coordinator of non-military capacity-building assistance and has fallen short in its efforts to improve the coordination among the some seventy multilateral bodies now involved in counterterrorism. Therefore, the activities of the CTC have, so far, mixed results, with both achievements and shortcomings.

Achievements of the CTC

i) A remarkable achievement of the CTC is the promotion of greatest possible acceptance of an international framework of norms on counterterrorism. There exists a link between CTC and a realization among states about the need to be part of a multilateral legal framework (Murthy 2006: 8);

ii) The cooperation the CTC has received from member states has been unprecedented, especially on submitting reports to the Committee. The CTC

established a transparent and consensus-based working method and launched an open-ended dialogue with individual member states on each state's implementation of Resolution 1373 (Rosand 2003: 337).

iii) A large number of states have also come to revise their laws in an effort to comply with Resolution 1373 and the pace at which states have become party to the international terrorism conventions and protocols has significantly increased since the CTC's establishment, especially with respect to the *Terrorist Bombings* and *Terrorism Financing Conventions* (Rosand 2003: 337).

iv) Partly as a result of the CTC's outreach to more than 60 organizations, a broad range of international institutions and regional and sub-regional organizations have adopted counterterrorism programs or action plans, and are now actively engaged in the fight against terrorism (Rosand 2003: 337). It also encourages states, regional, sub-regional and functional organizations to coordinate and improve their counterterrorism efforts, with a view to helping their members implement the Security Council-imposed counterterrorism obligations and/or join and implement the international conventions and protocols related to terrorism (Rosand 2007: 410) .

v) As a result of the work of the CTC's assistance experts, there is now a coordinating body to monitor the provision of counterterrorism assistance, prompt new requests for help in areas identified as gaps by the CTC or other organizations, and match needs with donors (Rosand 2003: 338).

vi) As a result of the methodical review of all of the reports submitted by member states, the CTC is providing a roadmap for implementing all parts of Resolution 1373 (Rosand 2003: 338).

vii) As a result of all of the above, the CTC has essentially become the hub of a global, long-term effort to combat terrorism. Such a mechanism did not exist prior to September 11, 2001 (Rosand 2003: 338).

viii) The CTC has helped to sustain political awareness of the importance of non-military measures against terrorism, through adoption by States of new or the

improved implementation of existing international counter-terrorism instruments and the development and implementation of counterterrorism action plans (Rosand 2007: 409-410).

ix)   All 191 Member States submitted reports to the Committee during the first round, though admittedly some were far more candid and detailed than others. This suggests that a substantial number of Member States were reviewing and/or revising their domestic laws and administrative structure to better implement the requirements of Resolution 1373 (Luck 2006: 342-343). The CTC has received and reviewed more than 600 reports from member states and is thus conducting the first worldwide audit of counterterrorism capacities (Rosand 2007: 410).

In the fifth special meeting of the CTC with international, regional and sub-regional organizations on "Prevention of Terrorist Movement and Effective Border Security" in Nairobi (Kenya), from 29 to 31 October 2007, the member-states recognised the relevance and importance of the CTC as a counter-terrorism mechanism and the need to strengthen it. In the joint statement of the meeting, all the member-states reminded themselves of the need to fully implement Resolution 1373 (2001) and extend cooperation to CTC. They also stress the need for coordination between CTC and other international/regional/sub-regional organizations in combating international terrorism.

Shortcomings and Challenges of the CTC

Many scholars have given similar and different shortcomings and challenges of the CTC. Here, some of them are discussed upon:

The first and foremost shortcoming is the absence of an agreed definition of terrorism among UN member states. Despite a general declaratory consensus to combat terrorism, states continue to have widely divergent views on the definition of terrorism. As Rosand (2003:339) argues that one reason why the CTC has maintained broad support from member states is that it has been able to avoid dealing with the divisive issue of the definition of "terrorism". Also, Resolution 1373 does not include a single definition; rather, it allows each member state to define terrorism under its domestic system. As Rosand rightly points out that it is possible that the CTC could run into a situation where a state is not prosecuting an individual or group for acts that the

majority of countries on the CTC believe are terrorist acts, but that the country in question does not.

The second is in relation to fighting terrorism and protecting human rights. The CTC could no longer escape from the issue of protecting human rights while combating terrorism, as many UN General Assembly Resolutions, the 2005 World Summit and the UN Global Counter-Terrorism Strategy recognises. Oudraat (2004:162) brings out that Resolution 1373 laid down very general prohibitions that were often difficult to implement in ways that respected basic human rights. In a like manner, Rosand (2003: 340) points out the challenge that concerns the interplay between efforts to combat terrorism and the protection of human rights. In other words, there is concern that implementation of Resolution 1373 should not be used as an excuse to infringe on human rights. Murthy (2007: 10) also point out that in the name of combating terrorism, governments have trampled on individual and social rights threatening basic liberties. The United Nations Human Rights Council (UNHRC) and other human rights organizations such as Amnesty International will continue to press the CTC to focus more attention on human rights issues so long as the fight against terrorism continues. The violation of human rights may in turn lead the victims towards terrorism. Therefore, as the CTC progresses with its work, it must remain aware of the crucial relationship between counter-terrorism and the protection of human rights while not losing sight of its main goal i.e. to raise the capacity of all 192 members of the UN to fight terrorism.

A third shortcoming is the lack of resources. Expectations from the CTC are many but the means to achieve them remain few. Enormous and unexpected financial burden have been placed on the UN Secretariat. Rosand (2003:338) argues that there were times when lack of resources prevented the CTC from being able to have the reports translated in all the six official UN languages in a timely fashion. So is the case of interpretation of all meetings of the CTC and its subcommittees. Also, a number of experts have been hired to support the CTC. All these come at a time when the UN is trying to cut costs. So far, the General Assembly has provided the CTC with the necessary resources. Oudraat (2004:163) also argues that the CTC, with a staff of a dozen and no independent budget, is waging a heroic but losing battle. Without sufficient resources, it will not be able to provide the assistance that is needed. It is true

that initially there was an effort to set up an assistance trust fund but unfortunately it was vetoed by the US which preferred to have monies for assistance provided through bilateral channels. This is in fact to control the CTC in its functioning as states are still reluctant to make the CTC function autonomously or independently. To make the CTC effective, separate and sufficient resources must be made available to it.

The fourth is the problem of different interpretation of key terms, as pointed out by Oudraat (2004: 162). For instance, the financing of terrorist activities and groups was frequently equated with money-laundering and was dealt with within that legislative context. However, money used to finance terrorism is not necessarily generated by illegal business transactions but on the contrary, much of this money is legal and has been acquired by legitimate means. Similarly, he points out that there was frequent confusion about the meaning of freezing, seizing, confiscating, or suspending accounts.

Fifthly, many states dealt with terrorist activities in their own territories, yet many were silent with respect to terrorist acts carried out by their nationals elsewhere (Oudraat 2004: 162).

Sixthly, criminalizing the financing of terrorism was easier said than done. The UN group monitoring sanctions on the Taliban and Al Qaida reported in September 2002 that Al Qaida continued to have access to considerable financial and other economic resources. It concluded that "Al Qaida is by all accounts 'fit and well' and poised to strike again at its leisure."(Oudraat 2004: 162).

Seventhly, Oudraat (2004:163) argues that the safe haven provisions of Resolution 1373 were similarly hampered by implementation problems. Border controls were and are weak in many countries. Many countries often do not have enough capacity to effectively police their territories.

Lastly, there is disagreement among states on what to do with states that do not comply with Resolution 1373. The CTC has wisely declined to get involved in making judgements about political compliance. In paragraph 8 of Resolution 1373, the Council "express 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." However, these steps are not spelled out. In theory, the Security Council has

an entire range of coercive instruments at its disposal to deal with non-compliance. In practice, there is a risk that the assessment of compliance and the response to non-compliance will be taken by individual states without reference to the Council. For instance, Washington's letter to the Council detailing its actions against Al Qaida and the Taliban hinted that action might be taken against other targets. Similarly, in its September 2002 letter to the Council and other international organizations, Russia claimed that Georgia was not complying with Resolution 1373 and that Moscow could therefore invoke its right to individual self-defence (Oudraat 2004: 163).

As such, since their establishment, the CTC and CTED have made significant contributions to the global counterterrorism campaign, primarily through norm setting and institution building and by keeping terrorism on the political agenda while engaging in dialogue with, and stimulating the activities of, state and multilateral bodies. They have succeeded to a great extent in gathering unprecedented amounts of information from states on their efforts to implement their obligations; making some of that information public through their respective websites; establishing ongoing interactive dialogues with states on counterterrorism; helping to identify and fill some of the capacity gaps; engaging with a wide-range of international, regional, and sub-regional bodies; and more broadly, highlighting the importance of international cooperation in the global counterterrorism campaign.

Yet, the committees and their expert groups have also faced a range of challenges that have limited their effectiveness to a degree. The CTC and CTED have to confront the perceived illegitimacy and under-representation of the Council in this field and the growing sense in the wider UN membership and beyond that it is no longer appropriate for a Council body operating under Chapter VII of the UN Charter to be at the centre of global counterterrorism capacity-building activities (Rosand, Miller & Ipe 2007: 1). While many of the CTC's shortcomings are attributable to its lacklustre performance, given the limited representation on the committee, even a properly functioning CTC would lack the broad representation necessary to maintain international support over the long run. A number of member states, including Costa Rica, Lichtenstein, Pakistan, and Switzerland, have voiced concerns about having the fifteen-member CTC play a coordinating role in the global counterterrorism effort,

believing that neither it nor its parent body is sufficiently representative to play this role effectively over the long run. Many of the member states not on the Council at the time of the adoption of Resolution 1373 and not involved in the formulation of CTC policies would continue to feel excluded from the Council's counterterrorism program. Therefore, even if it were to operate more effectively, these countries would continue to lack a sense of ownership in the program, and this would likely affect their readiness to cooperate with the CTC and other parts of the Council's counterterrorism framework (Rosand 2007: 16).

In the light of the growing complex nature of international terrorism, there arises the question of whether it is time to think about a more effective counter-terrorism institution agreeable to a cross section of the world opinion. If the current arrangement continues, the CTC, as well as the other Council counterterrorism bodies will likely find it increasingly difficult to maintain cooperation from the broader UN membership. This particularly goes for countries from the global south, which will continue to grow frustrated with a set of Council bodies that place a growing number of demands on under-resourced bureaucracies. This may lead to increased calls for a more representative and "legitimate" body, e.g., the UN General Assembly, to take over these core counterterrorism functions from the fifteen-member CTC.

The lack of effective coordination and cooperation has almost come to define the UN's post-September 11 response, leading countries such as Switzerland and Costa Rica to call, as early as in 2004, for the establishment of a office of high commissioner on terrorism. Fourteen others who formed the 'Group of Friends' endorsed this idea in 2005 and the G8 heads of state called for a more coherent UN counterterrorism program and response to the threat in their July 2006 summit statement. The fourteen-country Group of Friends are Algeria, Australia, Canada, Chile, Colombia, Germany, Japan, Kenya, New Zealand, Netherlands, Pakistan, Spain, Singapore and Sweden (Rosand 2007: 16). Saudi Arabia has mobilized the Organization of Islamic Countries in favour of its brainchild, a centre on counter-terrorism. Others have suggested an agency with more of an information-sharing role, along the lines of the UN Environment Programme. The U.S. Council on Foreign Relations "task Force on Enhancing U.S.

Leadership at the UN" recommended in a November 2002 report that consideration be given to the need for an independent body to carry out the CTC's functions over the long term. Taking cue from this position, some have suggested a more robust arrangement similar to the IAEA. Given the global character of counter-terrorism project, it may not be desirable to push for an institutional set-up outside of the UN. This does not mean that the Security Council's control on CTC is sacrosanct. The trends in the General Assembly in the recent few years point to a preference for an institution more open and participatory (Murthy 2007: 11-13).

Rosand outlines three possible scenarios. The first refers to an agreement on creation of a new organization within or outside the UN. The second scenario concerns the consolidation of the counter-terrorism mechanisms within the UN with a built-in option of doing it at intergovernmental or administrative levels. Finally, the status-quo marked by the continuation of the current arrangement as it exists with renewal of the mandate for the CTED/CTC for a certain period. Many small and less developed countries have favoured merger of the committees set up by the Security Council to deal with different aspects of terrorism. However, some countries have reservations. India and the U.S, among others, have viewed the proposals for merger of the three Security Council terrorism-related committees with scepticism.

The U.S., India and others have found useful the Al-Qaida Committee and would be wary of letting it lose its speciality of focus in the larger entity, wherein the CTC would gain (Murthy 2007: 12-13). Murthy asserts that the swift creation of a mirror-reflection of the Security Council in the form of a Counter-Terrorism Committee in the aftermath of the 9/11 attacks should be seen against the backdrop of gradual evolution of the UN approach to the problem of international terrorism over decades with a stress on cooperation rather than coercion. In the past six years, three overlapping phases characterize the CTC's functional orientation. In the first phase up to 2004, the CTC concentrated on information-gathering from mainly member-states about the legislative, executive and administrative capacities with a view to understanding their preparedness and problems in counter terrorism. The Committee showed patience in persevering with delays involving nearly 40 countries in submitting their reports or

answering queries on the reports already submitted. The second phase (2004-06) spelled a clear shift in focus from the assessment of reports received by member countries to assisting them in enhancing their legislative and administrative infrastructure. The CTC also sought to diversify its sources of information beyond states by roping in international, regional and sub-regional organizations and by organizing visits to selected countries for on-the-spot appreciation. The third phase which seems to have begun in 2006 looks for institutional renewal and reinforcement by restoring primacy of political over technical. In this phase, the key development is that the growing role of the General Assembly coincided with efforts to build better multilateral institutions for counterterrorism. In spite of its shortcomings, as Eric Rosand (2007: 409) points out, the CTC has received priority attention as the 'center of global efforts to fight terrorism'.

Apart from the establishment of CTC, going forward, the UNSC recognise the need to enhance and support the continuing international effort to broaden the understanding among civilizations, to combat terrorism (S/RES/1377/2001). This was an effort of the UNSC to show that civilizations can co-exist peacefully and terrorism does not necessarily links to antagonisms of civilizations as many claims. This was easy to refute with the detention of many Muslims for interrogation in the post 9/11 in the US especially and in many countries.

On October 12, 2002, a car bomb exploded outside the Sari Club Discotheque in Bali, Indonesia, killing 202 persons and wounding many others. Al Qaida claimed responsibility for the act. Reacting to this act, the UNSC adopted resolution 1438 on 14 October, 2002 (S/RES/1438/2002), strongly condemn the terrorist act and reminded states to combat international terrorism by all means and to help one another in the effort.

On 23 October 2002, in Moscow, about 40 to 50 armed Chechen separatist rebel fighters seized a crowded Moscow theatre and took around 850 hostages demanding independent of Chechnya. This Moscow theatre hostage crisis was also known as the 2002 Nord-Ost Siege. Around 33 rebels and 129 hostages died during the raid or in the following days. As a reaction to this incident, the UNSC adopted Resolution 1440 on 24

October, 2002 (S/RES/1440/2002) condemning the act in the strongest terms as a threat to international peace and security like any other terrorist acts.

Going further, the UNSC, in the meeting at the level of Ministers of Foreign Affairs on 20 January 2003, adopted Resolution 1456 (2003) recognising that terrorism can only be defeated, in accordance with the Charter of the United Nations and international law, by a sustained comprehensive approach involving the active participation and collaboration of all states, international and regional organizations, and by redoubled efforts at the national level.

On February 7, 2003 a car bomb exploded outside a night club in Bogota, Colombia, killing 32 persons and wounding 160. Condemning the act, the UNSC adopted Resolution 1465 on 13 February 2003. On November 15, 2003 two suicide truck bombs exploded outside the Neve Shalom and Beth Israel synagogues in Istanbul (Turkey) killing 25 persons and wounding around 300 more. Again on November 20, 2003 two more suicide truck bombings devastated the British HSBC Bank and the British Consulate General in Istanbul killing 27 persons and wounding around 450. The UNSC also condemned these terrorist acts through Resolution 1516 of 20th November 2003 and urged all states, under resolution 1373 (2001), to cooperate in bringing the culprits, sponsors and organizers to justice. The UNSC, through Resolution 1530 (2004), also condemned the terrorist train bombings attack of 11 March 2004 in Madrid, Spain (also known as 11/3) which killed 191 people and wounded around 1,755 people, in the strongest terms.

On September 1, 2004, in the town of Beslan (Russia), a group of Chechen armed rebels took more than 1,100 schoolchildren and adults hostage. In the resultant fight between the Russian army and the rebels, around 334 hostages were killed, including 186 children. Hundreds more were wounded. This incident is popularly known as Beslan Massacre or Beslan School Siege. The UNSC's response to this incident was emblematic of its broader efforts to address the threat of terrorism. Despite recognizing that the Council's three existing terrorism-related committees were having difficulty co-coordinating, and that the Council's counterterrorism programme needed to be rationalized, the Council established yet another terrorism-related committee (at

the persuasion of the Russian Federation), the working group established by Resolution 1566 (2004) which was also passed under Chapter VII.

The 1566 Working Group had the mandate: i) to consider practical measures to be imposed upon individuals, groups or entities involved in or associated with terrorist activities, other than those on the Al Qaida/Taliban consolidated list, and ii) to look into the possibility of creating an international fund for the victims of terrorism. Many individual Council members objected both to the notion of an expanded UN list of terrorists absent a UN definition of terrorism and to the idea of an international fund for terrorist victims. The differences among Council members that were subsumed during the negotiations of Resolution 1566 surfaced during the meetings of the working group, which has rarely met and has been unable to reach consensus on any meaningful recommendations. Discussion on whether and how to expand the list beyond Al Qaida and the Taliban got nowhere, running into the same road-blocks that have prevented the UNGA from agreeing on a global definition of terrorism. This impasse served as a further reminder of the difficulties the UN will face trying to maintain international counterterrorism cooperation against groups other than Al Qaida or its associates (Rosand 2007: 413-414).

In another incident, on 7 July 2005, a series of coordinated bomb blasts planned by terrorists hit London's public transport system during the morning rush hour killing 52 commuters, the 4 suicide bombers and injuring around 700 people. This series of suicide-bomb explosions is so far the largest and deadliest terrorist attack on London in its history. This incident is also known as 7/7 bombings. To this act, the UNSC immediately adopted Resolution 1611 on 7 July 2005 strongly condemning the act like other terrorist acts which are threats to peace and security.

The UNSC adopted Resolution 1526 on 30 January 2004 (S/RES/1526/2004), under Chapter VII, to improve the implementation of the measures imposed by Resolution 1267 (1999), and Resolution 1333 (2000) with respect to Osama bin Laden, members of the Al-Qaida organization and the Taliban and other individuals, groups, undertakings and entities associated with them and in order to assist 'The 1267 Committee' in the fulfilment of its mandate, decided to establish for a period of 18

months a New York-based 'Analytical Support and Sanctions Monitoring Team' under the direction of the Committee with the responsibilities to i) collate, assess, monitor and report on and make recommendations regarding implementation of the measures; to pursue case studies, as appropriate; and to explore in depth any other relevant issues as directed by the Committee; ii) submit a comprehensive programme of work to the Committee for its approval and review, as necessary, in which the Monitoring Team should detail the activities envisaged in order to fulfil its responsibilities, including proposed travel; iii) analyse reports submitted pursuant to Resolution 1455 (2003) and any subsequent written responses provided by states to the Committee; iv) work closely and share information with CTC experts to identify areas of convergence and to help facilitate concrete coordination between the two Committees (The 1267 Committee and CTC); v) consult with states in advance of travel to selected states, based on its programme of work approved by the Committee; vi) consult with states, including through engaging in regular dialogue with representatives in New York and in capitals, taking into account comments from states, especially regarding any issues that might be contained in the Monitoring Team's reports. vii) report to the Committee, on a regular basis or when the Committee so requests, through oral and/or written briefings on the work of the Monitoring Team, including on its visits to States and its activities; viii) assist the Committee in preparing its oral and written assessments to the Council; ix) any other responsibility identified by the Committee.

Motivated partly by a heightened sensitivity to nuclear security after the revelations in February 2004 of the nuclear black market run by A.Q. Khan (Pakistani nuclear scientist) and following the precedent of Resolution 1373, the Council adopted Resolution 1540 on 28th April, 2004, which requires all states to prevent weapons of mass destruction and their means of delivery from getting into the hands of terrorists, under Chapter VII of the UN Charter, thereby, making it mandatory for all member states (Rosand 2007: 411). The Resolution demands all States to refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery; to adopt and enforce appropriate effective laws, in accordance with their national procedures, 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, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them; and to take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery.

Significantly, Resolution 1540 (2004) also set up a committee called the "**1540 Committee**", a Committee of the Security Council consisting of all members of the Council, to oversee the implementation of the Resolution, initially for a two year term. This was a significant step for the UNSC in the efforts to combat international terrorism as this broadened the Council's arm to the nuclear non-proliferation area and was the first such Resolution under Chapter VII. This was in response to the apprehension that terrorists may get hold of nuclear devices or materials which used anywhere can cause unimaginable loss of life. However, on 27th April 2006, the Security Council extended the mandate of the 1540 Committee for a further two years, with the continued assistance of experts, through the adoption of Resolution 1673 (2006), which reiterated the objectives of Resolution 1540 (2001), expressed the interest of the Security Council in intensifying its efforts to promote full implementation of the Resolution, and obliged the 1540 Committee to report again by April 2008. On the ground that the proliferation of nuclear, chemical and biological weapons and their delivery means continues to pose a threat to international peace and security, adopting Resolution 1810 (2008) the UNSC on 25th April, 2008 under the Charter's Chapter VII extended the mandate of the Committee for three years. The Committee was asked to submit a report to the UNSC by 24 April 2011 on compliance with resolution 1540 (2004).

(http://www.un.org/News/Press/docs//2008/sc9310.doc.htm).

4. ASSESSMENT OF THE UNSC IN COMBATING INTERNATIONAL TERRORISM:

Though the Council has succeeded in developing a broad counterterrorism legal framework, the counterterrorism-related subsidiary bodies created by the Council to oversee implementation of its Resolutions have often hastily been established in response to specific crises.

The inability to agree on a definition of terrorism continues to haunt and pose a great challenge for the UNSC, as to the UNGA, in combating international terrorism. The resulting proliferation of Council programs and initiatives has produced overlapping mandates, duplication of work, multiple and sometimes confusing reporting requirements for states and continuing tension between the Council and the UN Secretariat. In general, information sharing and other forms of cooperation between and among these groups have been inadequate and often redundant, which has inhibited the overall Council effort. In fact, the Council has repeatedly called for improvements in numerous Resolutions and presidential statements, but has yet to take the steps needed to improve the situation. In general, the Council's approach has been narrow in focus. It has had difficulties addressing the broad range of security issues that often intersect with terrorism and in developing and implementing a meaningful human rights policy that would help ensure that all counterterrorism measures are consistent with international human right norms.

Although the CTC now has a mandate to address terrorists recruitment and incitement and "enhance dialogue and broaden understanding between civilizations" in its interactions with states, it has so far had limited success doing so. With a combined budget of $13-14 million and some thirty-six experts, the largely under-resourced mechanisms the Council established to prod and encourage states to implement its counterterrorism framework were generally part of the Council's reaction to particular terrorist attacks, at which times the politics of the moment trumped the need to develop an effective and coherent Council counterterrorism program. Despite pockets of success, the Council has failed to develop a coherent and effective program capable of implementing the far-reaching legal mandate it gave itself in this area and has proven unable to coordinate global counterterrorism capacity-building efforts effectively. Having established a series of subsidiary bodies which generally meet once or twice a month at the expert level to focus on the implementation of generally technical mandates, the Council itself has made only limited ongoing contributions to the global counterterrorism effort. Apart from broadly overseeing the work of its different committees and their expert groups which includes convening periodic open Council meetings to solicit the views of the wider UN membership, and adopting short, standardized resolutions or presidential statements, or issuing a press statement

following a major terrorist attack, the Council has tended to focus its attention on other threats to international peace and security (Rosand 2007: 414).

With the committees generally focussing on technical issues and becoming process-oriented, paper-producing bodies, Council member ambassadors have shown less and less interest in the Committee's day-to-day work. They have tended to become engaged only when there is a crisis in one of the committees or when a mandate needs to be renewed by the Council. This lack of ambassadorial-level interest has led to diminishing attention from capitals, which in turn has led at times to a lack of political direction in the committees themselves (Rosand:2007: 14-18). In addition, the political, administrative, and budgetary challenges of operating within the UN system have thwarted attempts by the Council's main counterterrorism body, the CTC, to effectively coordinate global capacity-building efforts and the work of the dozens of multilateral institutional actors on the counterterrorism stage. The decision-making processes of the Council's counterterrorism committees have also presented serious challenges.

Rosand (2007:15) argues that the practice of taking all decisions by consensus has significantly impeded their ability to take action in a timely fashion and at times diluted their work. In order to maintain its relevance and effectiveness, the leading multilateral counterterrorism body needs to be able to act quickly and decisively on matters that are often technical in nature; it ought to avoid getting bogged down in seemingly endless political debates. The same consensus-based practice has made it difficult for any of the Council's counterterrorism-related bodies to identify non-performers (name and shame) or even to agree on a set of standards against which to measure performance. On a number of occasions, one or two committee members, including the one representing the region in which a targeted country is located, have successfully blocked any efforts to exert meaningful pressure on a particular country. In practice, the consensus approach has meant that the political and legal power of the different Council resolutions on terrorism adopted under Chapter VII of the UN Charter, which authorizes the Council to impose far reaching legal obligations and sanctions on states, and the subsidiary bodies that were created using this same authority, are significantly weakened in practice. He goes on to argue to that the Council is generally focussed on responding to specific, time-related threats to international peace and

security. Thus, it responds quickly and forcefully to a discrete terrorist incident, meeting at night or on the weekend to adopt the necessary resolution or presidential statement. It had found it difficult, however, to sustain the momentum of its long- term counterterrorism capacity-building program and the multitude of tasks that are involved.

There is problem of over-politicization of technical issues in the CTC, and this very problem is exacerbated by the fact that the representatives on the CTC and other Council counterterrorism-related bodies are usually political officers (regular diplomats or generalists), often with little or no background in the technical field of counterterrorism. As a result, rather than focussing on concrete country, regional, or thematic issues, the bodies, in particular the CTC, have tended to become unnecessarily consumed in negotiating process-oriented papers and focussing on the political rather than the technical aspects of a particular issue. This is in contrast to technical organizations such as the IAEA, ICAO, Interpol, where member state delegations generally include domestic experts in the relevant field (Rosand 2007:15).

There also tends to be problem of overlapping mandates among the multiple counterterrorism bodies. And in this regard, the Secretary-General even recommended in March 2006 that the Council consider consolidating them into a single committee with a single staff body.

Rosand, Miller and Ipe (2007: 7-20) assess some shortcomings and accomplishments of the Council's counterterrorism effort in a number of different areas, which are listed below:

i) *Norm-Setting*: Although not traditionally seen as being within its powers, the Council has succeeded in establishing an ambitious counterterrorism legal framework. In doing so it had both filled normative gaps at the global level and helped put terrorism on the international agenda. Yet, already being perceived by many as under-representative and in need of expansion, the Council's use of its Chapter VII authority to impose obligations on all UN member states and thus circumvent the traditional international lawmaking process, which is still based on the consent of states, has proven to be controversial. Many believe that this general norm-setting role belongs to the more representative General Assembly

and that having the Council, a fifteen-member body unaccountable to the other UN organs, use this tool threatens to disrupt the balance of power between the Council and General Assembly as set forth in the UN Charter. Excluded from the decision-making process, and from participation in the monitoring mechanisms created by the Council, many states have not felt any real ownership of the Counterterrorism commitments imposed by the Council and counterterrorism initiatives launched under its authority. This, in turn, has led to difficulties in getting states to take the steps necessary to implement the Council's normative framework (Rosand, Miller and Ipe 2007: 7-8).

ii) *Monitoring Implementation:* Perhaps one of the Council's most significant contributions to international efforts to combat terrorism has been its creation of a number of intergovernmental mechanisms to monitor state implementation of the global counterterrorism legal framework. With the limitation of relying exclusively on written reports as an assessment tool, the CTC, through its CTED, start conducting site visits to consenting states to engage in detailed discussions on the implementation of Resolution 1373. As of July 2007, the CTED had visited eighteen countries but their returns do not seem to match the CTED's heavy investment of time and resources in planning and conducting them. In considering whether and how to expand the CTC/CTED visit options, the Council should look at the approach the *Al Qaida/Taliban Sanctions Committee Monitoring Team* has taken in this area. Unlike the CTED site visits, which the CTC pushes to ensure appropriate geographic balance and are thus not always able to focus on where the CTED might add the most value, the Monitoring Team trips have focused on states which face a high level of threat, have particular knowledge of the threat, or are deemed vulnerable to the threat. To further enhance the CTC/CTED's monitoring function, in March 2006 the CTC approved the CTED's use of a new analytical tool, the "Preliminary Implementation Assessment" (PIA), to assess each state's implementation efforts. It is intended to replace the seemingly never-ending paper-driven exercise that has characterized much of the CTC's work since it was established in 2001. Instead of reports and letter writing, the PIA will be a living document to be shared with the relevant state in order to give it a sense of

where it stands vis-a-vis the implementation of Resolution 1373, and also now Resolution 1624 in its entirety (Rosand, Miller and Ipe 2007: 8-9).

iii) **Enforcement Assessing Compliance:** Despite being charged with monitoring a series of obligations that are binding on all UN member states, the Council's counterterrorism-related committees have had difficulty using the information gathered to move towards assessing compliance or even developing common standards to help measure state implementation performance. None of the committees has ever referred a single state to the Council for non-compliance. This partly arises from the general reluctance of UN members to single out one of their colleagues, particularly where Chapter VII is involved, and the consensus-based practice under which these committees operate. In practice, the consensus approach has significantly weakened the political and legal power of the various Security Council resolutions on terrorism adopted, and the counterterrorism-related subsidiary bodies created under chapter VII. This tends to be exacerbated by the fundamental political problem that these committees, like established by resolution 1373 and 1540, continue to face as a result of the Council's use of its questionable "legislative" authority and the lack of ownership that the wider UN membership continues to have in these processes (Rosand, Miller and Ipe 2007: 10).

iv) **Capacity-Building and Technical Assistance Facilitation:** While the CTED has shown remarkable improvement in helping the CTC fulfil its technical assistance facilitation mandate, much work remains to be done. This was highlighted by the CTC's comprehensive review of CTED at the end of 2006, which listed technical assistance facilitation as one of the two areas in which the CTED has not made sufficient progress. However, it fails to mention how difficult a task it is for an organization to succeed in showing concrete progress in facilitating the delivery of technical assistance when it is provided neither a mandate nor resources to actually provide assistance. Therefore, while conducting its own analysis of the capacity gaps, the CTED must rely on donors both to share updated and accurate information on their capacity-building programs and seek its help in linking a state in need with available assistance. Donors in turn need to be able to rely on

the CTED's analysis of gaps and priorities. Finally, lacking a mandate to provide technical assistance, the CTED needs to find some way out. At present, states are being asked to invest considerable time and resources to cooperate with the CTED without receiving anything tangible in return. To address this issue, the CTC/CTED should not only recommit to improving donor coordination, but also convene meetings in relevant regions and sub-regions with potential donors, and consider establishing a trust fund that would allow donors to provide money for capacity-building that could be maintained as a bilateral contribution to individual or shared projects that will better enable recipient states to address needs related to the implementation of Resolution 1373 (Rosand, Miller and Ipe 2007: 10-11).

v) **Engaging with States, the UN system and Other Stakeholders:** Among the core tasks of each of the Council's counterterrorism-related committees has been to engage with UN member states, other parts of the UN system, and other stakeholders, both in New York and out in the field, with a view to raising awareness of the various Council counterterrorism initiatives and promoting the importance of international cooperation and coordination in the global counterterrorism campaign. Often burdened with having to produce written reports to satisfy the CTC, the CTED experts have had less time to devote to cultivate relationship with government and other experts outside of New York. Therefore, in addition to reducing the frequency of CTC meetings and the number of reports requested of the CTED, consideration should be given to relocating a number of the CTED experts to different regions around the globe. Having a field presence of its own could allow the CTED to take a more hands-on approach in its work with states, improve its follow-up and enable it to establish itself as a field-based organization able to interact more effectively not only with national experts, but also with representatives from UN country and regional teams, relevant regional and sub-regional organizations, and, where appropriate, civil society. This would allow the CTED to take regional and local cultural and political perspectives more fully into account and to be seen as less imposing, which could help build relationships and strengthen ongoing dialogues with states and other stakeholders locally, rather than from a distance in New York (Rosand, Miller and Ipe 2007:11-13).

vi) **Coordination and Cooperation with International, Regional, and Subregional Bodies:** The CTED has succeeded in establishing contacts with a wide range of intergovernmental bodies, which have been selected for their ability to use their geographic, political, technical, and financial leverage in support of state's implementation of resolution 1373. However, it has had difficulty having sustained interaction with regional and sub-regional bodies where capacity is often lacking both at the institutional level and among their members, and thus where the need for more active CTED involvement is greatest. Therefore, transforming the CTED into a field-based body with a small staff in New York to engage with the CTC would certainly help as it would allow the CTED experts to engage more easily and regularly with the often under-resourced bodies in Africa and Southeast Asia, where Resolution 1373 implementation needs are often the greatest (Rosand, Miller and Ipe 2007: 13-14).

vii) **Coherence of the Council's Effort:** Having each of the Council's counterterrorism-related committees engage in outreach activities with many of the same set of often under-resourced organizations is an example of the overlapping mandates and duplication of effort that is both symptomatic of the overall Council response and an impediment to its effectiveness. The proliferation of Council counterterrorism programs and initiatives has produced overlapping mandates, turf battle between and among committees and experts groups, duplication of work, and multiple and sometime confusing reporting requirements for states. In general, information sharing and other forms of cooperation between and among these groups have been inadequate and often redundant, which has inhibited the overall Council effort. The Secretary-General's March 2006 report, "Mandating and Delivering: Analysis and Recommendations to Facilitate the Review of Mandates," provides an overview of some of the limitations of the Council's counterterrorism effort as currently structured. It finds the Council-led effort to be too diffuse, lacking sufficient coordination to be effective. The report offers a number of possible ways to improve the situation, which include streamlining or consolidating the disparate parts of the Council's program into a more unified and coherent structure (Rosand, Miller and Ipe 2007: 14-15).

viii) **Human Rights:** One of the hallmarks of the Security Council's response to terrorism since 9/11 has been the initial reluctance and still cautious approach to integrating human rights considerations and the work being done by relevant human rights actors in the UN system into the work of the Council's Al Qaida/Taliban Sanctions Committee and the CTC. These committees that impose sanctions on individuals have attracted significant attention from governments and non-governmental organizations concerned about the human rights implications of these regimes. As the UN High Commissioner for Human Rights has stated, in March 2007 that while the system of targeted sanctions represents an important improvement over the former system of comprehensive sanctions, it nonetheless continues to pose a number of serious human rights concerns related to the lack of transparency and due process in listing and delisting procedures. In its early days, the CTC's position was that while it does take human rights seriously and has engaged in a dialogue with the OHCHR, the task of monitoring adherence to human rights obligations in the fight against terrorism falls outside of the CTC's mandate. Rather, it was argued that monitoring should be left to human rights bodies and institutions. By early 2003, as a result of the language included in the annex to Resolution 1456, the CTC included a paragraph in all of its letters to states providing that they must ensure that any measure taken to combat terrorism comply with all their obligations under international law in particular international human rights, refugee, and humanitarian law. Going further, in March 2005, the CTC agreed to allow its newly expanded staff body, the CTED, to hire the first ever human rights expert to advise the CTC. With the adoption of the General Assembly's Global Counterterrorism Strategy, which underlies the mutually reinforcing relationship between the promotion and protection of human rights and effective counterterrorism measures, and prioritizes respect for human rights and the rule of law as essential to all its aspects, it will be difficult for the CTC and its CTED to maintain its cautious approach that has yet to fully integrate the human rights perspective into its work (Rosand, Miller and Ipe 2007:15-17).

With the assessment of the shortcomings of the functioning of the Security Council and its counterterrorism bodies in combating terrorism, mainly the CTC and CTED, Rosand, Miller and Ipe (2007: 1-2) also give some recommendations to enhance the Council's effectiveness in combating terrorism.

i) The Security Council needs to identify its comparative advantages in the global counterterrorism campaign, be it in norm-setting, facilitating technical assistance, focussing political attention, information sharing, monitoring the implementation of norms, liaising with international, regional and sub-regional bodies, or monitoring/enforcing compliance. The Council should reflect upon the contributions it has made to global counterterrorism efforts in the past and ensure that its current and future initiatives are aimed at addressing the current and future manifestations of the threat.

ii) The Security Council should help promote and clarify its relationship to the General Assembly's UN Global Counterterrorism Strategy. It should situate the work of its counterterrorism-related committees within the existing mandates of the Assembly's Strategy in the context of its widely accepted nature, and also encourage all of their expert bodies to actively participate in all relevant UN Counterterrorism Implementation Task Force working groups.

iii) The Security Council, the CTC, and the CTED should improve communication with the broader UN community and other stakeholders. It should reform and streamline procedures for CTED site visits and CTC/CTED communication with states, place greater emphasis on making the CTC/CTED's work transparent and accessible to the wider UN community, as well as to experts in national capitals, multilateral bodies, academic and research communities, and civil society organizations.

Oudraat (2004: 164-166), while appreciating the act of the UN Security Council adopting measures to combat terrorism, under Chapter VII of the UN Charter, thereby making those measures mandatory for all member states, also lists out five sets of problems that remain to be addressed. They are:

136

Firstly, although a consensus exists at the declaratory level on the importance of outlawing terror, states continue to have widely divergent views on the exact nature of these threats. They also have different ideas about the most appropriate responses.

Secondly, the long-term implications of the Council's actions with respect to the use of force are problematic. Resolution 1368 legitimizes the unilateral use of force against terrorist attacks. The U.S. appears to think of this Resolution as a blank check. In its letter to the Security Council informing it of its action against Al Qaida and the Taliban, as it was required to do by Art.51 of the UN Charter, the U.S hinted that action might be taken against other targets too (organizations/states). Indeed, in the absence of any international agreement on a definition of terrorism, the possibilities for abuse are obvious and dangerous. In addition, U.S argued that terrorist threats require pre-emptive and possibly covert military actions. This further complicates the issue of using military force for self-dense. Do imminent threats of attack always justify a military response? What constitutes an appropriate response?

Thirdly, who will have the authority to determine if Security Council resolutions are being violated and who will have the authority to determine what the appropriate response to non-compliance will be? The U.S and Russia believe that the authority to determine non-compliance with Council resolutions belongs largely, but not exclusively, with the Security Council itself. They also argued that non-compliance with resolution 1373 would allow them to exercise their right to self-defence. Unilateral responses to non-compliance with Council resolutions are highly problematic. They set dangerous precedents, and in fact, will endanger international peace and security in a sense and also security of sovereign states. Kramer and Yetiv (2007:426), also sharing the view, point out that the UNSC does not have any enforcement mechanisms with which to 'punish' those countries that do not comply with the obligations of Resolution 1373 (2001) is a setback in the field of combating international terrorism effectively. Also that, the driving force role of the US in getting the Council to play a more active role in combating international terrorism leads some members of the Council to think that the preponderance of the US power may lead to difficult choices of whether to maximize the fight against terrorism or attempt to balance against US power and

dominance. This got reflected, in some measure, in the UNSC split over the use of force in Iraq case in 2003.

Fourthly, implementation of the UN`s counterterrorist measures will continue to be difficult. The financial and safe haven measures of Resolution 1373 require monitoring and enforcement capabilities at the national level that most countries do not posses and that may be too expensive to acquire. The Council`s response has been inadequate. Without ample resources, the CTC is able to provide only minimal technical assistance. Thus, most of this assistance will have to come through bilateral channels. It will hence be ad hoc and selective. To minimize this problem, the CTC should be given more financial support. The Council should also push for the establishment of a UN mechanism that could help finance programs in states without adequate counterterrorism capacity. If the Council members are serious in their determination to fight terrorism, they should provide the resources that will help states implement counterterrorist measures. Transforming the CTC into a CTO (Counter-Terrorism organization), an independent UN agency that can address this type of technical and implementation issues should be considered (though the decision to establish such an organization would be a General Assembly decision, as it alone has the power of the purse) (Oudraat 2004:166&172).

Fifthly, the fight against terrorism is a long-term fight against the root causes of terrorism. This involves broader societal problems viz. poverty, disease, social disorder, the lack of democracy, and poor governance. The capacities of the UN in these areas should be enhanced. Investing in social and development programs will help in combating terrorism. Terrorism is not just a military problem but requires a wide range of policy responses.

The Report of the Secretary-General`s High-level Panel on Threats, Challenges and Change (2004) also contains suggestions to enhance the effectiveness of the UN Security Council in dealing with state(s) that do not comply with its decisions:

i) On the issue of using sanction as a tool by the Council against state(s) or individual(s) to make them comply with its decisions, the report acknowledged the importance and usefulness of sanctions as a necessary middle ground between

war and words when nations, individuals and rebel groups violate international norms, and where a failure to respond would weaken those norms, embolden other transgressors or be interpreted as consent. Targeted sanctions (financial, travel, aviation or arms embargoes) are useful for putting pressure on leaders and elites with minimal humanitarian consequences, provide a less costly alternative to other options and can be tailored to specific circumstances. By isolating violators of international law, even modest sanctions measures (including sports embargoes) can serve an important symbolic purpose. The threat of sanctions can be powerful means of deterrence and prevention.

ii) The Council must ensure that sanctions are effectively implemented and enforced; When the Council imposes a sanctions regime, including arm embargoes, it should routinely establish monitoring mechanisms and provide them with the necessary authority and capacity to carry out high-quality, in-depth investigations. Adequate budgetary provisions must be made to implement those mechanisms;

iii) The Council sanctions committees should improve procedures for providing humanitarian exemptions and routinely conduct assessments of the humanitarian impact of sanctions. The Council should continue to strive to mitigate the humanitarian consequences of sanctions.

iv) When sanctions involve lists of individuals or entities, sanctions committees should establish procedures to review the cases of those claiming to have been incorrectly placed or retained on such lists.

Having discussed the accomplishments, weaknesses, shortcomings and challenges of the UNSC and its counterterrorism mechanisms in their fight against international terrorism, there is an urgent need of reforming the UNSC. This demand is not new as such. But, since it is necessary to make the UNSC effective in its fight against international terrorism, reforming the UNSC is a crucial unavoidable solution.

5. THE UNSC REFORM

The issue of international terrorism is a burning international issue confronting the UN in the 21st century. The UN has not been able to effectively demonstrate its relevance to these problems. And there has been talk of reforming the UN, especially the UNSC, to make it more effective, efficient and relevant to the changing times. As Edward Luck noted that "the quest for reform, for improving the functioning of the United Nations, has been an integral part of the world body since its earliest days." (Morphet 2007: 147).

The UNSC membership structure still reflects the post 1945 power relations, but today, there have been lots of changes. Many new countries have emerged powerful. The UNSC is the main organ responsible to maintain international peace and security, under which the issue of international terrorism comes in, therefore, there is need to reform the UNSC in order to make it more effective and more legitimize. Of course, the UNSC has legitimacy but many states still see it in want of it. There are many countries whose continents or regions are not even represented in the UNSC permanent memberships. Broader and democratic representation in the UNSC can add more active and enthusiastic participation of larger number of states as it does give a sense of belongingness. Terrorism is not a single facet-issue but many facet-issues interlink with many other issues, which also has been discussed properly in the first chapter. Therefore, the reform of the UNSC is also needed to be discussed in relation to combating international terrorism. This is felt by all states, but the member-states remains divided on the nature of the reform. The challenge for any reform is to increase both the effectiveness and the credibility of the Council and to enhance its capacity and willingness to act in the face of threats. To reform the Council, amendments to the Charter are necessary. The procedure to amend the Charter is mentioned in Art. 108 of Chapter XVIII of the UN Charter. Art. 108 says, "amendments to the present Charter shall come into force for all members of the United Nations when they have been adopted by a vote of two thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by two-thirds of the Members of the United Nations, including all the permanent members of the Security Council."

Of all the issues on the UN reform agenda, none is as urgent or as controversial as Security Council reform. The last and only reform of the Council was in 1963 (enforced in 1965) when the number of non-permanent members was increased from 6 to 10. It was possible because the addition of any new permanent members was essentially excluded from negotiations (Weiss 2005: 7,8,&11).

The Millennium Declaration (2000) reflected the view, long held by the majority, that a change in the Council's composition is needed to make it more broadly representative of the international community as a whole, as well as of the geopolitical realities of today, and thereby more legitimate in the eyes of the world. Its working methods also need to be made more efficient and transparent.

According to the report of *the Secretary-General's High-level Panel on Threats, Challenges and Change (2004)*, the reform of the Security Council should meet the following principles, which was also reiterated in *"In Larger Freedom: towards development, security and human rights for all"* which was a Secretary-General's report (2005).

i)   They should, in honouring Art. 23 of the Charter, increase the involvement in decision-making of those who contribute most to the United Nations financially, militarily and diplomatically, specifically in terms of contributions to United Nations assessed budgets, participation in mandated peace operations, contributions to voluntary activities of the United Nations in the areas of security and development, and diplomatic activities in support of United Nations objectives and mandates. Among developed countries, achieving or making substantial progress towards the internationally agreed level of 0.7 per cent of GNP for ODA should be considered an important criterion of contribution;

ii) They should bring into the decision-making process countries more representative of the broader membership, especially of the developing world;

iii) They should not impair the effectiveness of the Security Council;

iv) They should increase the democratic and accountable nature of the body.

The report also presents two models for the Council reforms viz. Model A and Model B.

Model A provides for six new permanent seats, with no veto being created, and three new two-year term non-permanent seats, divided among the major regional areas as follows:

Regional area	Number of States	Permanent Seats (existing)	Proposed new permanent seats	Proposed two-year seats (non-renewable)	Total
Africa	53	0	2	4	6
Asia and Pacific	56	1	2	3	6
Europe	47	3	1	2	6
Americas	35	1	1	4	6
	191	5	6	13	24

Model B provides for no new permanent seats but creates a new category of eight four-year renewable-term seats and one new two-year non-permanent (and non-renewable) seat, divided among the major regional areas as follows:

Regional area	Number of States	Permanent Seats(existing)	Proposed four-year renewable seats	Proposed two-year seats (non-renewable)	Total
Africa	53	0	2	4	6
Asia and Pacific	56	1	2	3	6
Europe	47	3	2	1	6
Americas	35	1	2	3	6
	191	5	8	11	24

These models are found mentioned in the report of the Secretary-General's report *"In Larger Freedom: Towards Development, Security and Human Rights for All* (2005)". As seen, neither model involves any expansion of the veto or any charter modification of the Security Council's existing powers. On the issue of veto power for the new permanent members, some are against veto power for new permanent members; others would limit it to Chapter VII decisions; still others would grant veto power as the existing P5 enjoys; others for elimination of the veto entirely on the grounds as it is undemocratic (Karns and Mingst 2005:139-140). A majority of states, within the General Assembly, want to abolish or curtail the right of the veto. But the P5 are absolutely rejecting this proposal. Prominent among those aspiring for permanent seats are the four states namely Japan, Germany, India and Brazil. But they are not without opposition. Italy, Spain etc. are against new permanent seats. Pakistan is against India's candidature; China, South Korea and North Korea against Japan's candidature while the US supports it. A group called Coffee Club was formed to oppose new permanent seats. In other words, states are divided not just over the nature of the Council reforms but also over the candidature to be included in the new proposed reform of the Council.

On December 3, 1993, the UNGA decided to establish an Open-Ended Working Group (OEWG) to consider all aspects of the question of an increase in the membership of the UNSC and other matters related to the UNSC. The group in its report to 1994 session of the UNGA revealed differences on almost every aspect of the matter. As said already, the question is no longer whether to enlarge the Council membership, but on what basis and in what form (Choedon 2007: 24-25). The Malaysian diplomat, Razali, suggested in 1997 that the UNSC reform depends on the ability of the P5 to make the necessary adjustments not to abuse use of the veto, at least by voluntary constraint. He thinks that the UN needs to transform itself from an organization serving the interests of states to an organization serving the interests of people in an interdependent and global society. Edward Luck suggests that the current reform drive has been poorly conceived, arguing that 'it has been the most ahistorical and apolitical effort to date" (Morphet 2007: 147-148).

As the discussion and debate on the UNSC reform increases on, different emerging countries from different region have started to campaign to get a berth in the UNSC reform especially in the permanent membership. Among these contesting countries, India, as a rapidly emerging country in the 21st century, is one of the highly contesting candidates.

India and the UNSC

India was a founding member of the UN and played a pioneering role in the conceptualization and operation of the UN peacekeeping system. Over the years, India has provided around 75,000 troops and police forces to around 33 UN peacekeeping operations. India ranks around fourth largest contributors of troops to the UN peacekeeping operations.

In 1997, the then Prime Minister stated that "India's claim to a permanent Security Council seat is based on the strength and global reach of our foreign policy, our commitment to the UN processes, including peacekeeping operations, and on the strength of our conviction in the democratic functioning of multilateral arrangements." India also claims it on the ground of not only its population and size of its economy, but also its status as a responsible nuclear weapon state. In its attempt to rally the support of the P5, India has received varying responses. The US displayed its indifferences to the recent attempts to enlarge the UNSC membership, whereas the Russian and Chinese response was vague and muted at the initial stage. It was only U.K and France which openly support the expansion of both the categories of members in the Council. In fact, France was one of the sponsoring members of the G-4 resolution before the UNGA (Choedon 2007:15-43). India has been campaigning with other like- minded countries like Germany, Japan and Brazil (G4). Countries are Initially, India has been for permanent seat with veto power, but with most countries opposing it, India is ready to compromise its stand and postpone the discussion on veto power for some years. Not going into detail, we can understand by now that different countries have been worried over who will become stronger and who will remain behind or same. It has been more of power struggle as getting a permanent seat will increase one's status, prestige, power and greater role in international politics or issues.

The Security Council continues to be seen as the most authoritative body within the UN and to retain considerable legitimacy in spite of its obvious unrepresentative composition and in spite of the 2003 Iraq crisis. The power the Council wields over the strong comes not from its ability to block their military adventures, which it is not empowered to do, but rather from the fact that the Council is generally seen as legitimate. This legitimacy is derived from the fact that it is the executive organ of the UN to maintain international peace and security, as set out in the UN Charter. Also, Art. 24 of the UN Charter mentions that the UN member states confer on the Security Council primary responsibility for the maintenance of international peace and security. And Art. 25 says that member states agree to accept and carry out the decisions of the Security Council in accordance with the present Charter. This privilege is enjoyed by no other organs of the UN or any other organizations or institutions, as widely by the UN Security Council. Yet to maintain its legitimacy, the Council will have to be reformed (Karns and Mingst 2005:142). No reform of the United Nations would be complete without reform of the Security Council. The Security Council must be broadly representative of the realities of power in today's world.

The Security Council established primarily to maintain international peace and security, which is the foremost and firstly mentioned purpose of the UN as mentioned in Art. 1(1) of the UN Charter has come a long way in trying to maintain international peace and security since its birth in 1945. The Cold War politics had made it inactive during that period. As such, the issue of terrorism was hardly touched upon by the Council, and it was the General Assembly that was dealing with the issue of terrorism. But with the end of the cold war, better relationship among the states, especially the great powers/P5, developed. As the issue of terrorism developed, the Council too began to focus seriously on it. The impact of globalization and rapid advancement of technology and communication has made terrorism global in a real sense in its operations. But it was not until 9/11 events that the Security Council accorded real consideration to terrorism, as a threat to international peace and security. Thereafter, it adopted many resolutions and set up committees to oversee their implementation. The post-9/11 Council efforts, such as acknowledgement of self-defence as a state's

legitimate response to terrorism, the binding obligations of Resolution 1373 (2001) on all member-states, and the formation of and response to the CTC are all firsts in the UNSC in particular and in general the UN history (Kramer and Yetiv 20017:429).

The Security Council, no doubt, continues to face enormous challenges in its struggles against international terrorism, starting with the inability to come together on the definition of terrorism among the UN member states to the need to reform itself to reflect the changing time and reality. Some of the challenges and shortcomings have been outlined already in the assessment part of this chapter. But the Security Council has become more active than ever before. The P5 have also narrowed down their suspicious nature with each other which prevailed during the Cold War. A concrete example of the growing Security Council is that ninety three percent of all Chapter VII resolutions passed from 1946 to 2002 have been adopted since the end of the cold war. Even after 2002, especially post-9/11, many resolutions were adopted under Chapter VII of the UN Charter. The Council is more cooperative now than before and it is making serious decisions, more deeply involved in the issues on its agenda. The General Assembly is now overshadowed by the Council whereas during much of the Cold War, it was the other way around.

We have seen the different phases of the UNSC in combating international terrorism, and its increasing role in dealing with the issue. At present, the UNSC is the leading international actor that is leading the fight against international terrorism. NATO and other international organizations are also involved in the fight against international terrorism but they do not enjoy the extent of legitimacy and scope that the UN enjoys. It is true that it still has weaknesses, but these are attributable to the individual members who, guided by their narrow interest, cannot come together as one in defining terrorism. In the following, concluding chapter, we shall see how international terrorism being a global issue can only be dealt effectively through global effort. The next chapter promotes the perspective of neo-liberal institutionalism and argues that cooperation among the UN member-states is possible and that they have more to gain by cooperating than not in combating the global threat of international terrorism.

CHAPTER -V

CONCLUSION

Terrorism is no longer a domestic issue like it used to be; today it is international phenomenon that concerns everyone or the world as a whole. In the post-Cold War era, terrorism has become internationalized with the rapid advancement and development in science and technology. The post Cold War period has also brought a new perspective of terrorism, that is, fundamentalist religious terrorists. It is also true that the post Cold War terrorists have broader and vaguer demands in comparison to their predecessors of the Cold War era. Terrorists in this period are open to the use of a wide range of weapons, from the smallest like knives/pistols/rifles to weapons of mass destruction and nuclear weapons. Today's terrorists are hi-tech and well-equipped, well-informed and well-trained – even much more than many state armies. This has created more fear and insecurity worldwide because of the capacity to cause unimaginable death and destruction. Although not the first incident of international terrorism, 9/11 refashioned the problem of terrorism as a problem that concerns international peace and security.

The UN which was established primarily for maintaining international peace and security cannot be far removed from the issue of international terrorism. Since the 1970s, the UN has been dealing with the problem of terrorism, through its General Assembly. The UN General Assembly (UNGA) has the power to discuss any matter that it thinks is an international issue and also the right to bring such issue before the UN Security Council (UNSC) for further actions. The UNGA first dealt with the issue of international terrorism in 1972, when the incident of kidnapping and killing of Israeli players during the Munich Olympics took place. The UNGA has adopted numerous Resolutions that reflect the views of the international community because of the broad-based nature of its membership, and established ad hoc committees in relation to international terrorism. The UNGA was more active than its counterpart, the UNSC, primarily because the UNSC was overshadowed by Cold War politics, especially the 'Permanent 5' (P5).

However, with end of the Cold War, a new era began for the UN and the UNSC became more active than ever before in all matters and in relation to international terrorism in particular. The UNSC is the organ of the UN that is primarily responsible for maintaining international peace and security. With the end of the Cold War, there were better relations between the P5, which enhanced the effectiveness of the Council. Faced with a renewed scale and nature of terrorism, the UNSC started to take actions in the form of Resolutions and sanctions. The UNSC imposed sanctions against countries that were harbouring and supporting terrorists in the 1990s. This period also saw the establishment of

an anti-terrorism committee by the UNSC. The 9/11 incidents brought about a total change in the UNSC. As an immediate reaction, the UNSC passed Resolution 1368 (2001) which recognized the right to self-defence, and Resolution 1373 (2001) passed under Chapter VII of the UN Charter, which established a counter-terrorism mechanism called the *Counter-Terrorism Committee* (CTC) to oversee the implementation of the Resolution and also to assist member-states in building up their capability in combating international terrorism. The focus area of international terrorism has also widened in the post-Cold War era, as under this issue is now included the field of nuclear energy/weapons, WMDs, and other non-conventional means. The majority of the Resolutions passed by the UNSC under Chapter VII belong to the post Cold War era, indicating its active interest in and recognition of the urgency of the problem of international terrorism.

Although terrorism has presented a threat to international peace and security for centuries, for most of the history of the UN, states have treated terrorism as a matter of national concern and have decided not to bring it to the attention of the UN. This started to change in the late 1980s and 1990s (Kramer and Yetiv 2007: 411) and underwent a dramatic change post-9/11. As of June 2001, 59 states had signed and only 27 ratified the *International Convention for the Suppression of Terrorist Bombings* (1997), but after 9/11, 118 more states ratified the Convention bringing the total to 145 as of December 2005. And, as of June 2001, 43 states had signed and only 4 had ratified the *International Convention for the Suppression of the Financing of Terrorism* (1999), but after 9/11, 147 more states have acceded to it (Kramer and Yetiv 2007: 415). Thus, 9/11 marked a clear recognition accorded by the international community to the global nature of the problem of terrorism.

The 9/11 terrorist attacks brought a huge change not just in the policies of the US but worldwide. The US response to the 9/11 attack took the shape of the US declaration of the 'war on terror' and a call to the states of the world to take a stand and be "with us or against us". This was followed by the invasion of Afghanistan in 2001, the UNSC recognition of the right to self-defence under Art. 51 of the UN Charter in its Resolution 1368 (2001), thus, legitimizing the use of force and the US justification of 'pre-emptive strike' as self-defence under Art. 51. There was also a renewed debate over several aspects of international law such as Art.1 (1) of the UN Charter [suppression of aggression or breach of peace], Art.2 (1) [sovereign equality of all its members] and Art. 2 (4) [prohibition on the use of force].

Neo-Liberal Institutionalism (Multilateralism), Neo-Realism (Unilateralism) and International Terrorism

The debate between Neo-liberal Institutionalism and Neo-realism is a classic and dominant theoretical debate in international politics. Steven Lamy (2008: 126) states that they are more than theories; they are paradigms or conceptual frameworks that define a field of study, and define an agenda for research and policy-making. The 9/11 terrorist incidents brought them to a new platform, bringing up the debate over why multilateralism is better suited than unilateralism to deal with a global issue like international terrorism. Multilateralism is defined by John Ruggie as "an institutional form (including norms, regimes, and formal multilateral organizations) that coordinates relations among three or more states on the basis of generalized principles of conduct". In contrast, unilateral actions are those that are taken individually or not in accordance with a rule-based principle or that do not involve adjustments in policy preferences (Monten 2007: 121).

The neo-liberals view not just states but also non-state actors as prominent players in international politics. This view found reflection in the 9/11 incidents, when international terrorism (non-state actor) emerged as an entity, posing a challenge to the realists. In fact, the 9/11 incidents highlighted that non-state actors can be even more important (or more dangerous) players than many states not just in 'low politics' (non-security areas) but also in 'high politics' (security related areas). The realist argues that states continue to be the dominant players guided by their national interests. As Henry Kissinger put it, 'a nation's survival is its first and ultimate responsibility: it cannot be compromised or put to risk.' The realists would argue that the post-9/11 scenario strengthened the realist view as states got more focused on survival and security issues, national interest, harder border checking and the unilateralist US policy of 'war on terror'. In fact, realists such as John Gray and Kenneth Waltz do not view 9/11 as the beginning of a new era in world politics. To Waltz, the continuities in the structural imbalance of power in the system and the distribution of nuclear weapons matter most. Crises are to be expected because the logic of self-help generates periodic crises. According to realists, 9/11 was not going to trigger a new era in governance and they were sceptical of the 'coalition of the willing' that was formed in the immediate post 9/11 time (Tim Dunne and Brian Schmidt 2008: 104).

Robert Keohane suggested that one result of the 9/11 terrorist attacks on the US was the creation of a very broad coalition against terrorism, involving a large number of states and key global and regional institutions. Neo-liberals support cooperative multilateralism and are generally critical of the pre-emptive and unilateral use of force as condoned in the 2002 Bush Doctrine (Lamy 2008: 132-134). Neo-liberal institutionalists see "institutions" as the mediator and the means to achieve cooperation among actors in the system. As neo-liberal institutionalism asserts, institutions play a great role in managing the process of globalization. States have come to realize that acting unilaterally or limiting cooperative behaviour will not lead to the resolution or management of the issue of international terrorism. The neo-liberal institutional perspective is more relevant in issue-areas where states have mutual interests, such as that of international terrorism, which transcends borders and where all states have mutual interests. States have a common interest in cooperating with each other in this area.

The realists/neo-realists argue that cooperation in the area of security is hard to attend and sustain. This may be true for the states in their inter-state relations. But the issue of international terrorism is not inter-state as such, even though the aspect of state support of terrorism may come into the picture. Obtaining cooperation among the states, through establishment of institutions, can benefit the states more than benefiting through combating terrorism unilaterally or benefiting without cooperation. A common problem that concerns all directly or indirectly needs the common efforts or cooperation. One big reason why states need to cooperate in the issue of international terrorism is its cross-border characteristics and implications. Despite the integration caused by globalization, a state cannot just enter another sovereign state's territory in the name of pursuing terrorists that may have crossed the border after terrorist attacks. A powerful individual state may effectively combat terrorism in its home country but outside it, it is necessarily faced with limitations. The proverb "United we stand, divided we fall" is applicable in the area of combating international terrorism. Divisions among the states in the area of combating international terrorism are boost of strengths for the terrorists and their acts and help to sustain their aims and acts.

On the other hand, realists/neo-realists have argued that cooperation is possible under anarchy, but that is harder to achieve, more difficult to maintain, and more dependent on state power than is argued by the institutionalist tradition. Even in the context of international terrorism, realists/neo-realists would hold a sceptical view on successful

cooperation among the states in combating international terrorism. Realists also point out the possibility of cheating and relative gains out of cooperation in which states are never certain that other states are being sincere or fully cooperating while a state believes and fully cooperates, like in sharing information. Then the other states obtaining more gains may become more powerful which is not in the interest of the cooperating states. However, neo-liberal institutionalists argue that international institutions make cheating less profitable and cooperation more attractive. Neo-liberal institutionalists accept realism's view that anarchy inhibits cooperation but they argue that institutions can alleviate the inhibitory effects of anarchy on the willingness of states to work together when they share common interest (Joseph M. Grieco 1993: 302-303). One such common interest is the issue of international terrorism.

Terrorism affects one and all directly or indirectly, even if not at the present time, one day it may, as it has happen to many states that had claimed to be unaffected by terrorism but are now affected. At the present time, there is more danger and fear that terrorists may acquire nuclear weapons, biological weapons or WMD which may cause unimaginable destruction to life and property. This would make the problem of international terrorism more complicated to deal with. And terrorists would not hesitate to proliferate the weapons to other non-state actors or like-minded groups or even to states. Even a weak state, if possessing nuclear weapons, can be a dangerous one and can even stand up to confront any other more powerful state. Such a situation may even lead to a Third World War.

The world worries over nuclear proliferations (among states) and thus we have the International Atomic Energy Agency (IAEA) and other international obligations or laws concerning nuclear proliferations. But, there is a more acute danger of terrorists possessing nuclear weapons than states possessing nuclear weapons as terrorists are not bound by any international laws or norms (inter-states) unlike states. Moreover, terrorist are always in hiding without boundaries and hard to apprehend unlike a state government. It is also true that there can be proliferation of WMD from state to terrorist or vice-versa, which means that it is more complicated. Therefore, the issue of international terrorism should not be taken as somebody's problem and not mine but as a global serious concern of all peace-loving states. As such, the argument that the issue of terrorism is not a global and thus not a threat to international peace and security is difficult to sustain. Of course, recognition of the issue of international terrorism by UNGA (which represents almost all states in the

world) and the UNSC (on behalf of member-states) as threatening international peace and security is recognition by the world.

States seem to take an active interest in the issue of international terrorism only after it has been a victim of terrorist attacks, as was the US and many others. Therefore, states should not wait to be a victim of terrorist attacks first, and then to react. Why wait for another 9/11 or another London, Madrid or Bali incidents? States should cooperate with each other leaving aside their ideological differences or their narrow outlooks. Terrorism is a problem of one and all.

Terrorism remains a complex phenomenon in which violence is used to obtain political power to redress grievances that may have become more acute through the process of globalization. Globalization has improved the technical capabilities of terrorists and given them global reach, but has not altered the fundamental fact that terrorism represents the extreme views of a minority of the global population. In other words, globalization has changed the scope of terrorism but not its nature. Of course, the benefits that globalization provides terrorists is neither one-sided nor absolute. The same technologies and process also enable more effective means for states to combat terrorism. Terrorist and counter-terrorist campaigns are characterized by a prolonged struggle to maintain advantages in legitimacy domestically and internationally. A big challenge for the global community is utilizing its advantages to win the war of ideas that motivates and sustains those responsible for the current wave of terrorist violence (Kiras 2008: 384).

The former UNSG Kofi Annan has rightly pointed out in 2001 that "The fight against terrorism cannot be used as an excuse for slackening efforts to put an end to conflicts and defeat poverty and disease. Nor can it be an excuse for undermining the bases of the rule of law, good governance, respect for human rights and fundamental freedoms. The long-term war on terrorism requires us to fight on all these fronts. Indeed, the best defence against these despicable acts is the establishment of a global society based on the common values of solidarity, social justice and respect for human rights" (Boulden and Weiss 2004: 3).

As already seen, the UN has come a long way towards embracing the struggle against terrorism. More could be done, as already suggested, to enhance the UN's efforts in combating international terrorism. There are also real institutional and political limits to what the UN can or should do in this area, regardless of American attitudes and policies.

The challenge for the UN is to do the best it can within its circumcised sphere of action, one that is bound to be more normative than operational (Luck 2006: 352). As governments around the world re-evaluate their capacities to take action against terrorism they have to face up to their own weaknesses and those of other states. Political will and capacity must be raised to effectively implement the measures outlined by the UNSC Resolution 1373 (2001). In the light of this, states must take actions in a spirit of co-operation and willingness to assist each other to ensure global anti-terrorism capacity is raised to a desirable level of effectiveness in combating terrorism. The course of action launched by the Resolution, and other Resolutions as well must be sustained (Ward 2003: 305).

The realists may well argue that post 9/11 reflects the realist world, especially seeing the US unilateral actions in Iraq especially and in Afghanistan to some extent, but it is worth remembering that it is the US unilateral policy which is a big hindrance in combating international terrorism as it prevents all states from coming together. Many states, even its allies such as the European states, have criticized the US unilateral actions and view them as a means to strengthen its economic and military power in the name of universal values. It is also a fact that the US and its allies tried to source their actions on Afghanistan and Iraq to the Art.51 of the UN Charter (Right to Self-Defence) and other UN Resolutions, which reveals that the US does care about getting legitimacy from the UN. It is interesting to note also that even the realists, like John J. Mearsheimer, were against the US action in Iraq, but of course for different reasons. The value of legitimacy cannot be discarded. The UN is the only organization at present that can give legitimacy to a state or group of states to militarily act against other state(s) outside its borders. This legitimacy brings cooperation and help from other states. It is worth remembering that many states criticized and did not take part in the US actions in Iraq mainly because it did not get authorization (legitimacy) from the UN.

Audrey Kurth Cronin (2002-03: 30) rightly argues that the increasing threat of globalized terrorism must be met with flexible, multifaceted responses that deliberately and effectively exploit avenues of globalization. Rosand (2007: 7) also adds that given the complexity and evolving nature of the threat, as well as the diversity of conditions conducive to the spread of terrorism, combating international terrorism requires a comprehensive, multifaceted response at the global, regional, and local levels. To be effective, the response must be enduring and sustainable and include a significant non-

military component. Monten (2007: 128) also notes that the joint gains captured in the presence of institutionalized cooperation create incentives for states to reduce their policy autonomy, as states that can credibly commit to limiting their options will be better positioned to capture joint gains from cooperation. As such, individual states may successfully or fruitfully combat domestic terrorism but combating international terrorism can never be successfully achieved without cooperating with each other. Therefore, the UN provides the best platform for the member-states to come and work together towards combating international terrorism.

Terrorism is still viewed differently by different people and states. Nobody supports terrorism but everybody, even the UN as incorporated in its Charter, supports freedom movements. The problem is how one differentiates a freedom fighter from a terrorist. A freedom fighter, unlike a terrorist, would never kill or murder 'systematically' and 'intentionally' innocent people or civilians. A freedom movement is borne out of people's love for self-determination of their life and land. But, a terrorist's aim may be more diffused, with no territorial demarcation and even aim to defeat their so-called enemy. A freedom fighter uses violence only at state forces, state symbolisms like buildings, or informers but a terrorist does not differentiate as such. Freedom movements work directly against the colonizers, but terrorists often use civilian or innocent people to further or convey their message to their targeted state/government. But the line of distinction is very thin and transparent. The issue of terrorism is a very complicated one and understanding the underlying causes of terrorism is essential for bringing a lasting-solution to the problem of terrorism.

The UNGA, as already discussed, has been engaging in combating international terrorism since 1972 and was the leading UN organ in the fight against international terrorism during the Cold War as the UNSC was paralysed by the Cold War politics. The UNGA passed many Resolutions besides Declarations, Protocols and Conventions against international terrorism which reflected the concerns the world had on the issue of international terrorism. Till date, it has adopted 13 conventions relating to terrorism. We have also seen that the UNGA continued to be haunted by the inability to bring its member-states to agreement on definition of terrorism. This has been the greatest weakness of the UN in general and the UNGA in particular till date, though the effort to bring consensus among the member-states on the definition of terrorism continues. The UNGA has been criticized by many as a talking shop. At the same time, member-states continue to

be guided by their narrow-interests, unready to accept the other's perspective into account or to have a global outlook. But the UNGA has striven to perform at its best in spite of its weaknesses. The universality of its membership gives it legitimacy, and getting such legitimacy enhances cooperation from member-states. The establishing of the *Counter-Terrorism Implementation Task Force* (CTITF) in July 2005 to ensure overall coordination and coherence among the entities throughout the UN system involved in counterterrorism efforts and the adopting of the *Global Counter-Terrorism Strategy* (GCTS) in 2006 by the UNGA are positive steps that reflect the seriousness of the UNGA on the issue. The UNGA is the mirror of the UN. The developing countries may want the UNGA to lead while the P5 will want the UNSC to lead which may produce conflicts between them in the struggle for power. Both the organs should stick to their roles and functions as laid out in the Charter, but work hand-in-hand in solving the issue.

The UNSC, as the primary organ for maintaining international peace and security, failed to be active in combating international terrorism during the Cold War due to Cold War politics. However, with the end of the Cold War and the easing of tensions and suspicions among the P5, the UNSC saw many Resolutions passed thereafter. In fact, in the 1990s itself, we saw the UNSC imposing sanctions against some countries like Afghanistan, Sudan, Syria for supporting terrorists. Even before the 9/11 incident, the UNSC had imposed sanctions against Al Qaida and Taliban members and their associates, and to this end established a committee called '*The Al Qaida and Taliban Sanction Committee*' or '*The 1267 Committee.*' The 9/11 (2001) incident was a turning point for the UNSC in combating international terrorism. Immediately, the UNSC recognized states' right to self-defence by passing Resolution 1368 (2001) which later became the basis of the US attack on Afghanistan. And after a few days, in a historic step, the UNSC adopted Resolution 1373 (2001), under Chapter VII, making mandatory for all member-states to refrain from harbouring, supporting or financing or providing any type of help to terrorists. It also established a counter-terrorism mechanism i.e. the CTC to oversee the implementation of the Resolution and also to help member-states in building up their capability to combat international terrorism.

However, the Council, like the Assembly, continues to be haunted by inability of the member-states to agree on the definition of terrorism. The issue continues to be over-politicized by one or the other for one or other reasons. At the same time, as Rosand (2007: 414) has rightfully argued, the Council, despite some success, lacks a coherent and

effective program capable of implementing the far-reaching legal mandate it gave itself in this area and has proven unable to coordinate global counterterrorism capacity-building efforts effectively. However, we have also seen in Chapter 4 the successes of the UNSC's effort in the face of its weaknesses. Member-states are closer to each other than ever before in dealing with terrorism. The good response the CTC got from the member-states was appreciable. No other organ or body other than the UNSC in the world is recognized and accepted as primarily responsible for maintaining international peace and security and to take steps (non-military and military) towards fulfilling this duty. The UNSC has labelled international terrorism as a threat to international peace and security. Therefore, the UNSC should also act responsibly and bravely according to the UN Charter and other international norms and principles so that it does not lose the confidence of member-states. Member-states should also fully cooperate with the UNSC in dealing with the issue. The present form of the UNSC is unsuitable to reflect the present 21st century and, thus, needs reform. Reforming the UNSC would strengthen its effectiveness not just in combating international terrorism but also in other areas of its work.

The problem of international terrorism is becoming more and more complex and it is only possible to combat international terrorism effectively through cooperation. To this end, the UN provides the best umbrella to deal with the issue. It should be proper to conclude with the argument of Jane Boulden and Thomas G. Weiss that "*Global security problem requires global solutions. It is beyond the capacity of any actor, even the remaining superpower, to tackle problems by going it alone. Transnational security problems require multilateralism.*"

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ANNEXURES

ANNEXURE I

1. The below given are some of the important *UNGA resolutions* on international terrorism in brief taken during the Cold War era:

S.No	Resolution(s)	Title(s)	Content(s)
1	A/RES/3034(1972)	"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"	i) express concern over the growing acts of international terrorism; ii) urges states to find just and peaceful solutions to the underlying causes which gave rise to such acts of violence; iii) establish an Ad Hoc Committee on International Terrorism consisting of 35 members, to recommend for speedy elimination of terrorism; iv) urges states to become parties to the existing international conventions which relates to various aspects of the problem of international terrorism; v) reaffirms the alienable right to self-determination and independence of all people under colonial and racist regimes and other forms of alien domination and uphold their legitimacy of their struggle.
2	A/RES/34/145(1979)	"Measures to prevent international terrorism..."	i) adopted the recommendations of the Ad Hoc Committee on International Terrorism submitted to the GA for practical speedy elimination of the problem of international terrorism; ii) unequivocally condemns all acts of international terrorism which endanger or take human lives or jeopardize fundamental freedom; iii) calls upon all states to fulfil their obligations under international law to refrain from organizing, instigating, assisting or participating in acts of civil strife or terrorist acts in another state; iv) recommends to the appropriate specialized agencies and regional organizations to consider measures to prevent and combat international terrorism within their respective spheres of responsibility and regions; v) urges all states to cooperate with one another more closely, especially through the exchange of

			vi)	relevant information concerning the prevention and combating of international terrorism; the GA and SC to pay special attention to all such factors that contribute to the elimination of the causes and problem of international terrorism.
3	A/RES/42/159(1987)	"Measures to prevent international terrorism..."	i) ii) iii)	acknowledge the need to define terrorism and to differentiate it from the struggle of people for national liberation, after which only the struggle against terrorism could be enhanced; to take appropriate steps to prevent terrorist attacks against various forms of public transport; request the other relevant specialized agencies and intergovernmental organizations, in particular the Universal Postal Union, the World Tourism Organization and the IAEA, within their respective spheres of competence, to consider what further measures can successfully be taken to combat and eliminate terrorism.
4	A/RES/44/29(1989)	"Measures to prevent international terrorism..."	i) ii)	express concern over the growing and dangerous links between terrorist groups, drug traffickers and their paramilitary gangs, which have resorted to all types of violence, thus endangering the constitutional order of states and violating basic human rights; take all necessary steps to implement the existing international conventions to which they are parties, including the harmonization of their domestic legislation with those conventions.

Source: www.un.org/

I (A). The below given are some of the important UNGA resolutions on terrorism in brief taken in the post Cold War pre-9/11 era:

S.No	Resolution(s)	Title(s)	Content(s)
1	A/RES/46/51(1991)	Measures to eliminate international terrorism.	i) For the first time, the word "eliminate" instead of "prevent" was used by the Assembly; ii) need to enhance the role of the UN and the relevant specialized agencies in combating international terrorism; iii) all states to take effective measures for the speedy and final elimination of international terrorism;
2	A/RES/48/122(1993)	Human rights and terrorism.	i) states, in accordance with international standards of human rights, to take all necessary and effective measures to prevent, combat and eliminate terrorism; ii) urges the international community to enhance cooperation in the fight against the threat of terrorism at national, regional and international levels. iii) concern over the growing connection between the terrorist groups and the illegal traffic in arms and drugs.
3	A/RES/49/60(1994)	Measures to eliminate international terrorism.	i) adopted the Declaration on Measures to Eliminate International Terrorism, to contribute in the combat against international terrorism; ii) every efforts to be made to observed and implement the declaration in full.
4	A/RES/50/53(1995)	Measures to eliminate international terrorism	i) strongly condemns all acts, methods and practices of terrorism as criminal and unjustifiable; ii) further need to strengthen international cooperation to prevent, combat and eliminate terrorism in all its forms and manifestation; iii) all states to strengthen cooperation with one another to ensure that those who participate in terrorist activities, whatever the nature of their participation, find no safe haven anywhere.
5	A/RES/50/186(1995)	Human rights and terrorism	i) reaffirms that all measures to counter terrorism must be in strict conformity with international human rights standards; ii) condemns the acts, methods, and practices of terrorism as activities aimed at the destruction of human rights, fundamental freedoms and democracy,

			threatening the territorial integrity and security of states, destabilizing legitimately constituted governments, undermining pluralistic civil society and having adverse consequences on the economic and social development of states. iii) condemns incitement of ethnic hatred, violence and terrorism; iv) international community to enhance cooperation at regional and international levels in the fight against terrorism in accordance with relevant international instruments, including those relating to human rights, with the aim of its eradication.
6	A/RES/51/210(1996)	Measures to eliminate international terrorism	i) criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes are in any circumstance unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or other nature that may be invoke to justify them; ii) establish an Ad Hoc Committee open to all state members to elaborate an international convention for the suppression of terrorist bombings and, subsequently, an international convention for the suppression of acts of nuclear terrorism, to supplement related existing international instruments, and thereafter to address means of further developing a comprehensive legal framework of conventions dealing with international terrorism; iii) adopts the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism.
7	A/RES/52/133(1997)	Human rights and terrorism	i) condemns the violations of the right to live free from fear and of the right to life, liberty and security; ii) express solidarity with the victims of terrorism;
8	A/RES/52/165(1997)	Measures to eliminate international terrorism	i) all states to refrain from financing, encouraging, providing training for or otherwise supporting terrorist activities; ii) urges all states, that have not yet done so, to become parties to relevant conventions and protocols.
9		Measures to eliminate	i) the need to enhance the role of the UN and the relevant specialized agencies in combating international terrorism; ii) take notes of the measures aimed at

	A/RES/53/108(1998)	international terrorism	strengthening the capacity of the Centre for International Crime Prevention of the Secretariat to enhance international cooperation and improve the response of governments to terrorism in all its forms and manifestations.
10	A/RES/54/109(1999)	International convention for the suppression of the financing of terrorism	i) It has been dealt separately in this chapter; ii) It consists of a preamble and 28 articles, which speaks of various means to contain the financing of terrorism, as without finance, terrorists would not function effectively, thereby, a means of combating international terrorism.
11	A/RES/55/2(2000)	United Nations Millennium Declaration	i) strengthen respect for the rule of law in international as in national affairs; ii) making the UN more effective in maintaining peace an security by giving it the necessary resources and tools; iii) take concerted action against international terrorism, and to accede as soon as possible to all the relevant international conventions; iv) intensify efforts to fight transnational crime, trafficking and smuggling in human beings and money laundering; v) strive for the elimination of WMD particularly nuclear weapons. vi) reaffirm the central position of the GA as the chief deliberative, policy-making and representative organ of the UN, and to enable it to play that role effectively.
12	A/RES/55/158(2000)	Measures to eliminate international terrorism	i) express confidence over the Assembly's effort, to eliminate terrorism, as the universal organ having the competence to do so; ii) recalled the UN Millennium Declaration adopted under resolution 55/2 (2000).

Source:ww.un.org/terrorism/resolutions.

I (B). The below given are some of the important UNGA resolutions on terrorism in brief taken in the post-9/11 era:

S.No	Resolution(s)	Title(s)	Content(s)
1	A/RES/56/1(2001)	Condemnation of terrorist attacks in the United States of America.	i) acting swiftly, right after the next day of the September 11 incidents, the Council strongly condemns the heinous acts of terrorism of September 11 attacks which caused enormous loss of human lives and destructions; ii) urgently calls for international cooperation to bring to justice the perpetrators, organizers and sponsors of the outrages of 11 September 11; iii) Urgently calls for international cooperation to prevent and eradicate acts of terrorism, and stresses that those responsible for aiding, supporting or harbouring the perpetrators, organizers and sponsors of such acts will be held accountable.
2	A/RES/56/88(2001)	Measures to eliminate international terrorism	i) importance of the consideration of measures to eliminate international terrorism by the General Assembly as the universal organ having the competence to do so; ii) strongly condemns all acts, methods, and practices of terrorism as criminal and unjustifiable, wherever and by whomever committed; iii) all states to refrain from financing, encouraging, providing training for or otherwise supporting terrorist activities; iv) international cooperation as well as actions by states to combat terrorism should be conducted in conformity with the principle of the Charter, international law and relevant international conventions.
3	A/RES/56/160(2001)	Human rights and terrorism	i) urges the international community to enhance cooperation at the regional and international levels in the fight against terrorism, in accordance with the relevant international instruments, including those relating to human rights, with the aim of its eradication;

			ii) states to deny safe haven to terrorists.
4	A/RES/57/83(2002)	Measures to prevent terrorists from acquiring weapons of mass destruction.	i) all member states to support international efforts to prevent terrorists from acquiring weapons of mass destruction and their means of delivery; ii) all member states to take and strengthen national measures, as appropriate, to prevent terrorists from acquiring weapons of mass destruction, their means of delivery and materials and technologies related to their manufacturer. iii) encourages cooperation among and between member states and relevant regional and international organizations for strengthening national capacities in this regard.
5	A/RES/57/219(2002)	Protection of human rights and fundamental freedoms while countering terrorism.	i) recalled that states are under obligation to protect all human rights and fundamental freedoms of all people; ii) states to ensure that any measures taken to combat terrorism complies with their obligations under international law, in particular international human rights, refugee and humanitarian law; iii) while countering terrorism, states to take into account relevant UN resolutions and decisions on human rights, and to consider the recommendations of the special procedures and mechanisms of the commission on Human Rights and the relevant comments and view of UN human right treaty bodies; iv) the UNHCHR to examine and to make general recommendations concerning the obligation of states to promote and protect human rights and fundamental freedoms while taking actions to counter terrorism, and to provide assistance in this regards.
			i) hostage-taking, wherever and whomever committed, is a serious offence aimed at the destruction of human rights and is, under any circumstances, unjustifiable; ii) all hostages be released immediately and without any

6	A/RES/57/220(2002)	Hostage-taking		conditions; iii) states to take all necessary measures, in accordance with relevant provisions of international and international human rights standards, to prevent, combat and punish acts of hostage-taking, including strengthening international cooperation in this field.
7	A/RES/58/81(2003)	Measures to eliminate international terrorism	i)	urged all states and the Secretary-General, in their effort to prevent international terrorism, to make the best use of the existing institutions of the UN.
8	A/RES/58/174(2003)	Human rights and terrorism.	I)	express concern over the growing connections between terrorist groups and other criminal organizations engaged in the illegal traffic in arms and drugs at the national and international levels, as well as the consequent commission of serious crimes such as murder, extortion, kidnapping, assault, the taking of hostages and robbery, and requests the relevant UN bodies to continue to give special attention to this question.
9	A/RES/59/191(2004)	Protection of human rights and fundamental freedoms while countering terrorism.	i)	Welcomes the ongoing dialogue established in the context of the fight against terrorism between the Security Council and its Counter-Terrorism Committee and the relevant bodies for the promotion and protection of human rights, and encourages the Security Council and its Counter-Terrorism Committee to strengthen the links and to continue to develop cooperation with relevant human rights bodies, in particular with the Office of the UNCHR, giving due regard to the promotion and protection of human rights in the ongoing work pursuant to relevant Security Council resolutions relating to terrorism.
10	A/RES/59/290(2005)	International Convention for the Suppression of Acts of Nuclear terrorism	i)	adopts the International Convention for the Suppression of Acts of Nuclear Terrorism. This Convention has been dealt separately in this Chapter.
			i)	concern over increasing international terrorist activities

11	A/RES/60/73(2005)	Preventing the risk of radiological terrorism.	ii)	with latest modern hi-tech advancement; the need to have effective control over the radiological materials and sources, as the world cannot take risk of slipping the materials in the hand of terrorist, for it may prove the gravest danger not only for international peace and security but also for the very survival of the human race. This resolution is the first kind of itself ever adopted by the UNGA.
12	A/RES/60/228(2005)	Measures to eliminate international terrorism: Report of the Secretary-General.	i) ii)	it is a report that has been prepared pursuant to A/RES/50/53(1995). It contains information submitted by states and international organizations, describing their activities relating to the prevention and suppression of international terrorism (Section II), among many others.

Source:ww.un.org/terrorism/resolutions.

ANNEXURE II

I. The below given are some of the important *UNSC resolutions* on international terrorism in brief taken in the post Cold War pre-9/11 era:

S.No.	RESOLUTIONS	CONTENTS
1	S/RES/ 635/(1989)	i) , express conscious implications of acts of terrorism for international security; ii) acknowledged and detect that plastic or sheet explosives can be used in acts of terrorism with little risk of detection; iii) condemns all acts of unlawful interference against international civil aviation; iv) urged all states to cooperate in devising and implementing measures to prevent all acts of terrorism, including those involving explosives.
2	S/RES/731(1992)	i) acknowledged the worldwide persistence of acts of international terrorism in all its forms, including those in which states are directly or indirectly involved, which endanger or takes innocent lives, have disastrous effect on international relations and jeopardize the security of states; ii) condemns the destruction of Pam Am flight 103 and Union de transports Aeriens flight 772 and the resultant loss of hundreds of lives; iii) urged Libya to fully cooperate with the Council regarding implication of Libyan government officials in the destruction of the two flights; iv) affirm the right of all states, in accordance with the UN Charter and relevant principles of international law, to protect their nationals from acts of international terrorism and constitute threats to international peace and security; v) determined to eliminate international terrorism.
3	S/RES/748(1992)	i) convinced that suppression of acts of international terrorism including those in which states are directly or indirectly involved, is essential for the maintenance of international peace and security; ii) assert that the failure by Libyan government to demonstrate by concrete actions its renunciation of terrorism and particularly its continued failure to respond fully to the requests made in the Res.731(1992) constitute a threat to international peace and security; iii) acting under Chapter VII of the UN Charter, Libya is asked to comply fully without delay to the request made in the Res.731(1992); iv) Libyan government to cease all form of terrorist action and all assistance to terrorist groups and that it must, by concrete actions, demonstrate the renunciation of terrorism;
4	S/RES/1044(1996)	i) condemned the terrorist assassination attempt on the life of the president of the Arab Republic of Egypt in Addis Ababa, Ethiopia, on 26th June 1995; ii) asked Sudan to desist from engaging in activities of assisting, supporting and facilitating terrorist activities and from giving shelter and sanctuaries to terrorists, and act cooperatively with others in tune with the Charter of the UN and with the Charter of the OAU, and to extradicate suspected persons, to be involved in 26th June 1995 incident, to Ethiopia for prosecution;
5	S/RES/1054(1996)	i) determined to eliminate international terrorism and to ensure effective implementation of resolution 1044(1996); ii) acting under chapter VII of the UN Charter, Sudan is asked to comply without further delay with the requests set out in Res.1044(1996); boycott actions against Sudan, like all international organizations and regional organizations not to convene any conference in Sudan.
6	S/RES/1189(1998)	i) condemned the acts of international terrorism that took place on 7th August 1998 in Nairobi, Kenya and Dar-es-Salaam, Tanzania, which affects in international terrorism and jeopardize the security of

		states; ii) asked states, in accordance with international law, to adopt measures to prevent such acts of terrorism and to prosecute and punish their perpetrators;
7	S/RES/1214(1998)	i) demand that the Taliban stop providing sanctuary and training for international terrorists and their organizations and that all Afghan factions cooperate with efforts to bring indicated terrorists to justice; ii) demand that Taliban and others to halt the cultivation, production and trafficking of illegal drugs.
8	S/RES/1267(1999)	Under Chapter VII of the UN Charter; i) asked the Taliban to comply promptly with its previous resolutions and particularly cease providing sanctuary and training for international terrorists and their organizations and bring indicted terrorist to justice; ii) asked Taliban to hand over Usama bin Laden to appropriate authorities in a country where he has been indicted to bring him to justice; iii) freeze funds and any other financial resources relating to the Talibans; iv) all states must deny permission for any Taliban's aircraft to take off from or land in their territory.
9	S/RES/1269(1999)	i) condemns all acts of terrorism, irrespective of motive, wherever and by whomever committed, as criminal and unjustifiable particularly those which could threaten international peace and security; ii) states to take appropriate measures in conformity with the relevant provisions of national and international law, including international standard of human rights, before grating refugee status to ensure that all asylum-seeker has not participated in terrorist acts;
10	S/RES/1333(2000)	Under Chapter VII of the UN Charter; i) asked Taliban to close all camps where terrorists are trained within their territory; ii) all member-states to boycott direct or indirect supply, sale and transfer of all types of military equipments, weapons, ammunition or parts to Taliban's controlled area of Afghanistan; iii) all member-states to close immediately and completely all Taliban offices in their territory and all offices of Ariana Afghan Airlines in their territory; iv) all member-states to freeze funds and other financial assets of Usama bin Laden and other associated, and Al-Qaida organization; v) · asked Taliban and others to halt all illegal drugs activities and eliminate the illicit cultivation of opium poppy, which finance Taliban and terrorist activities;
11	S/RES/1363(2001)	i) the situation in Afghanistan constitutes a threat to international peace and security; Under chapter VII of the UN Charter, ii) established a monitoring mechanism to monitor the implementation of all the measures imposed by resolutions 1267(1999) and 1333(2000), including in the fields of arms embargo, counter-terrorism and related legislation, purchase of arms, financing of terrorism, money laundering, financial transactions and drug trafficking; iii) establish a Sanction Enforcement Support Team under the coordination of the Monitoring group of up o 15 members with expertise in areas such as customs, border security and counter-terrorism; and all states to fully cooperate with it.

2. The below given are some of the important UNSC resolutions on international terrorism in brief taken in the post 9/11 (*Source: www.un.org*):

1	S/RES/1368(2001)	i) strongly condemn the terrorist attacks of September 11,2001 in the New York City and other cities of the U.S; ii) recognize the inherent right of individual or collective self-defence in accordance with the charter; iii) determined to combat by all means threat to international peace and security caused by terrorist acts;
2	S/RES/1373(2001)	A landmark UNSC resolution in the effort to combat international terrorism, and also the first UNSC resolution under chapter VII of the UN Charter in the post-9/11. 1. Decides that all States shall: (i) Prevent and suppress the financing of terrorist acts; (ii) Criminalize the wilful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts; (iii) Freeze without delay funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts; of entities owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at the direction of such persons and entities, including funds derived or generated from property owned or controlled directly or indirectly by such persons and associated persons and entities; (iv) Prohibit their nationals or any persons and entities within their territories from making any funds, financial assets or economic resources or financial or other related services available, directly or indirectly, for the benefit of persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts, of entities owned or controlled, directly or indirectly, by such persons and of persons and entities acting on behalf of or at the direction of such persons; (v) Refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts, including by suppressing recruitment of members of terrorist groups and eliminating the supply of weapons to terrorists; (vi) Take the necessary steps to prevent the commission of terrorist acts, including by provision of early warning to other States by exchange of information; (vii) Deny safe haven to those who finance, plan, support, or commit terrorist acts, or provide safe havens; (viii) Prevent those who finance, plan, facilitate or commit terrorist acts from using their respective territories for those purposes against other States or their citizens; (ix) Ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice and ensure that, in addition to any other measures against them, such terrorist acts are established as serious criminal offences in domestic laws and regulations and that the punishment duly reflects the seriousness of such terrorist acts; (x) Afford one another the greatest measure of assistance in connection with criminal investigations or criminal proceedings relating to the financing or support of terrorist acts, including assistance in

		obtaining evidence in their possession necessary for the proceedings; (xi) Prevent the movement of terrorists or terrorist groups by effective border controls and controls on issuance of identity papers and travel documents, and through measures for preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents; (xii) Find ways of intensifying and accelerating the exchange of operational information, especially regarding actions or movements of terrorist persons or networks; forged or falsified travel documents; traffic in arms, explosives or sensitive materials; use of communications technologies by terrorist groups; and the threat posed by the possession of weapons of mass destruction by terrorist groups; (xiii) Exchange information in accordance with international and domestic law and cooperate on administrative and judicial matters to prevent the commission of terrorist acts; (xiv) Cooperate, particularly through bilateral and multilateral arrangements and agreements, to prevent and suppress terrorist attacks and take action against perpetrators of such acts; (xv) Become parties as soon as possible to the relevant international conventions and protocols relating to terrorism, including the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999; (xvi) Increase cooperation and fully implement the relevant international conventions and protocols relating to terrorism and Security Council resolutions 1269 (1999) and 1368 (2001); (xvii) 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 planned, facilitated or participated in the commission of terrorist acts; (xviii) Ensure, in conformity with international law, that refugee status is not abused by the perpetrators, organizers or facilitators of terrorist acts, and that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists; (xix) Concern over the close connection between international terrorism and transnational organized crime, illicit drugs, money-laundering, illegal arms trafficking, and illegal movement of nuclear, chemical, biological and other potentially deadly materials, and in this regard emphasizes the need to enhance coordination of efforts on national, subregional, regional and international levels in order to strengthen a global response to this serious challenge and threat to international security; (xx). establish, in accordance with rule 28 of its provisional rules of procedure, a Committee of the Security Council, consisting of all the members of the Council, to monitor implementation of this resolution, with the assistance of appropriate expertise; (xxi). determine to take all necessary steps in order to ensure the full implementation of this resolution, in accordance with its responsibilities under the Charter;
3	S/RES/1377(2001)	i) recognize that acts of terrorism endanger innocent lives and the dignity and security of human beings everywhere, threaten the social and economic development of all states and undermine global

		stability and prosperity; ii) support the continuing international effort to broaden the understanding among civilizations.
4	S/RES/1438(2002)	Condemns the bomb attack in Bali, Indonesia, on 12th October 2002.
5	S/RES/1440(2002)	Condemns the heinous acts of taking hostages in Moscow on 23rd October 2002, and demand immediate unconditional release of all hostages of this terrorist acts.
6	S/RES/1456(2003)	i) any acts of terrorism are criminal and unjustifiable; ii) Terrorism can only be defeated, in accordance with the charter of the UN and international law, by a sustained comprehensive approach involving the active participation and collaboration of all states, international and regional organizations, and by redoubled efforts at the national level. iii) States must ensure that any measure taken to combat terrorism comply with all their obligations under international law, and should adopt such measures in accordance with international law, in particular international human rights, refugee, and humanitarian law;
7	S/RES/1465(2003)	i) condemns bomb attacks in Colombia on 7th February 2003;
8	S/RES/1516(2003)	i) condemn bomb attacks in Istanbul, Turkey on November 15 and 20, 2003.
9	S/RES/1526(2004)	i) established a New York based Analytical Support and Sanctions Monitoring Team, for a period of 18 months;
10	S/RES/1530(2004)	i) condemn the terrorist bomb attacks in Madrid, Spain on 11th March, 2004.
11	S/RES/1540(2004)	i) proliferation of nuclear, chemical and biological weapons, as well as their means of delivery constitutes a threat to international peace and security; ii) support multilateral treaties to eliminate or prevent nuclear, chemical or biological weapons. iii) under Chapter VII of the UN Charter, states to refrain from providing any form of support to non-state actors that attempt to develop, acquire, manufacture, posses, transport, transfer or use nuclear, chemical or biological weapons, and to adopt measures in this field. iv) established the 1540 Committee.
12	S/RES/1611(2005)	i) condemn without reservation the terrorist attacks in London on 7th July, 2005, and regards any act of terrorism as a threat to peace and security.
13	S/RES/1617(2005)	i) Under chapter VII of the UN Charter; states that acts or activities that an individual, group, undertaking, or entity is "associated with" Al Qaida, Usama bin Laden or the Taliban include: participating in the functioning, planning, facilitating, preparing, perpetrating of acts or activities of; supplying, selling or transferring arms and related materials to; recruiting for; or supporting acts or activities.
14	S/RES/1624(2005)	i) state the essential role of the UN in the global effort to combat terrorism; ii) all states to adopt such measures, in accordance with their obligations under international law to prohibit by law any incitement to commit a terrorist act or acts, prevent such conduct and deny safe haven to any persons on there is credible and relevant information that they have been guilty of such conduct.
15	S/RES/1673(2006)	Under Chapter VII of the UN Charter; i) extend the mandate of the 1540 Committee for a period of two years, with the continued assistance of experts, until 27 April 2008; ii) the 1540 Committee shall intensify its efforts to promote the full implementation by all States of resolution 1540 (2004).

ANNEXURE III

A Table Chart of the 13 *UN Conventions* against the international terrorism:

SL.No	TITLE	YEAR	SALIENT FEATURE(S)
1	Convention on Offences and Certain Other Acts Committed On Board Aircraft. (Aircraft Convention)	1963	i) Applies to acts affecting in-flight safety; ii) Authorizes the aircraft commander to impose reasonable measures, including restraint, on any person he or she has reason to believe has committed or is about to commit such an act, where necessary to protect the safety of the aircraft; iii) Requires contracting States to take custody of offenders and to return control of the aircraft to the lawful commander.
2	Convention for the Suppression of Unlawful Seizure of Aircraft. (Unlawful Seizure Convention)	1970	i) Makes it an offence for any person on board an aircraft in flight to "unlawfully, by force or threat thereof, or any other form of intimidation, to seize or exercise control of that aircraft" or to attempt to do so; ii) Requires parties to the convention to make hijackings punishable by Requires parties to the convention to make hijackings punishable by "severe penalties." iii) Requires parties that have custody of offenders to either extradite the offender or submit the case for prosecution; and iv) Requires parties to assist each other in connection with criminal proceedings brought under the Convention.
3	Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation. (Civil Aviation Convention)	1971	i) Makes it an offence for any person unlawfully and intentionally to perform an act of violence against a person on board an aircraft in flight, if that act is likely to endanger the safety of the aircraft; to place an explosive device on an aircraft; to attempt such acts; or to be an accomplice of a person who performs or attempts to perform such acts; ii) Requires parties to the Convention to make offences punishable by "severe penalties"; and iii) Requires parties that have custody of offenders to either extradite the offender or submit the case for prosecution.
4	Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons (Diplomatic	1973	i) Defines an "internationally protected person" as a Head of State, Minister for Foreign Affairs, representative or official of a State or international organization who is entitled to special protection in a foreign State, and his/her family; and ii) Requires parties to criminalize and make punishable "by appropriate penalties which

	Agents Convention)		take into account their grave nature" the intentional murder, kidnapping or other attack upon the person or liberty of an internationally protected person, a violent attack upon the official premises, the private accommodations, or the means of transport of such person; a threat or attempt to commit such an attack; and an act "constituting participation as an accomplice".
5	International Convention Against the Taking of Hostages. (Hostages Convention)	1979	i) Provides that "any person who seizes or detains and threatens to kill, to injure, or to continue to detain another person in order to compel a third party, namely, a State, an international intergovernmental organization, a natural or juridical person, or a group of persons, to do or abstain from doing any act as an explicit or implicit condition for the release of the hostage commits the offence of taking of hostage within the meaning of this Convention".
6	Convention on the Physical Protection of Nuclear Material. (Nuclear Materials Convention)	1980	i) Criminalizes the unlawful possession, use, transfer or theft of nuclear material and threats to use nuclear material to cause death, serious injury or substantial property damage. *Amendments to the Convention on the Physical Protection of Nuclear Material* ii) Makes it legally binding for States Parties to protect nuclear facilities and material in peaceful domestic use, storage as well as transport; and iii) Provides for expanded cooperation between and among States regarding rapid measures to locate and recover stolen or smuggled nuclear material, mitigate any radiological consequences or sabotage, and prevent and combat related offences.
7	Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation. (Extends and Supplement the Montreal Convention on Air Safety) (Airport Protocol)	1988	Extends the provisions of the Montreal Convention (see No. 3 above) to encompass terrorist acts at airports serving international civil aviation.

8	**Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation. (Maritime Navigation)**	1988	i) Establishes a legal regime applicable to acts against international maritime navigation that is similar to the regimes established for international aviation; and ii) Makes it an offence for a person unlawfully and intentionally to seize or exercise control over a ship by force, threat, or intimidation; to perform an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of the ship; to place a destructive device or substance aboard a ship; and other acts against the safety of ships. *2005 Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation* iii) Criminalizes the use of a ship as a device to further an act of terrorism; iv) Criminalizes the transport on board a ship various materials knowing that they are intended to be used to cause, or in a threat to cause, death or serious injury or damage to further an act of terrorism; v) Criminalizes the transporting on board a ship of persons who have committed an act of terrorism; and Introduces procedures for governing the boarding of a ship believed to have committed an offence under the Convention.
9	**Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf. (Fixed Platform Protocol)**	1988	i) Establishes a legal regime applicable to acts against fixed platforms on the continental shelf that is similar to the regimes established against international aviation. *2005 Protocol to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf* ii) Adapts the changes to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation to the context of fixed platforms located on the continental shelf.

17

10	**Convention on the Marking of Plastic Explosives for the Purpose of Detection. (Plastic Explosive Convention)**	1991	i) Designed to control and limit the use of unmarked and undetectable plastic explosives (negotiated in the aftermath of the 1988 Pan Am flight 103 bombing); ii) Parties are obligated in their respective territories to ensure effective control over Parties are obligated in their respective territories to ensure effective control over "unmarked" iii) Generally speaking, each party must, inter alia, take necessary and effective measures to prohibit and prevent the manufacture of unmarked plastic explosives; prevent the movement of unmarked plastic explosives into or out of its territory; exercise strict and effective control over possession and transfer of unmarked explosives made or imported prior to the entry into force of the Convention; ensure that all stocks of unmarked explosives not held by the military or police are destroyed, consumed, marked, or rendered permanently ineffective within three years; take necessary measures to ensure that unmarked plastic explosives held by the military or police are destroyed, consumed, marked or rendered permanently ineffective within fifteen years; and, ensure the destruction, as soon as possible, of any unmarked explosives manufactured after the date of entry into force of the Convention for that State.
11	**International Convention for the Suppression of Terrorist Bombings. (Terrorist Bombing Convention)**	1997	i) Creates a regime of universal jurisdiction over the unlawful and intentional use of explosives and other lethal devices in, into, or against various defined public places with intent to kill or cause serious bodily injury, or with intent to cause extensive destruction of the public place.
12	**International Convention for the Suppression of the Financing of Terrorism. (Terrorist Financing Convention).**	1999	i) Requires parties to take steps to prevent and counteract the financing of terrorists, whether direct or indirect, through groups claiming to have charitable, social or cultural goals or which also engage in illicit activities such as drug trafficking or gun running; ii) Commits States to hold those who finance terrorism criminally, civilly or administratively liable for such acts; and iii) Provides for the identification, freezing and seizure of funds allocated for terrorist activities, as well as for the sharing of the forfeited funds with other States on a case-by-case basis. Bank secrecy is no longer adequate justification for refusing to cooperate.

| 13 | **International Convention for the Suppression of Acts of Nuclear Terrorism. (Nuclear Terrorism Convention)** | 2005 | i) Covers a broad range of acts and possible targets, including nuclear power plants and nuclear reactors;
ii) Covers threats and attempts to commit such crimes or to participate in them, as an accomplice;
iii) Stipulates that offenders shall be either extradited or prosecuted;
iv) Encourages States to cooperate in preventing terrorist attacks by sharing information and assisting each other in connection with criminal investigations and extradition proceedings; and
v) Deals with both crisis situations (assisting States to solve the situation) and post-crisis situations (rendering nuclear material safe through the International Atomic Energy Agency (IAEA). |

Source: www.untreaty.un.org/English/Terrorism/English