

**United Nations Global Counter-Terrorism Strategy
and Non-proliferation of Weapons of Mass
Destruction: A Study of the Role of 1540
Committee**

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RANADE AKSHAY SHRIPAD



International Organizations
Centre for International Politics, Organization and Disarmament
School of International Studies
JAWAHARLAL NEHRU UNIVERSITY
New Delhi-110067

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DECLARATION

I declare that the dissertation titled "United Nations Global Counter-Terrorism Strategy and Non-proliferation of Weapons of Mass Destruction: A Study of the Role of 1540 Committee" submitted by me in partial fulfilment of the requirements 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.

Ranade Akshay Shripad

CERTIFICATE

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

Prof. C. S. R. Murthy

Chairperson, CIPOD



Chairperson
Centre for International Politics,
Organization and Disarmament
School of International Studies
Jawaharlal Nehru University
New Delhi-110067

Prof. Yeshi Choedon

Supervisor



Centre for International Politics,
Organization and Disarmament
School of International Studies
Jawaharlal Nehru University
New Delhi-110067

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LIST OF ABBREVIATIONS

APEC – Asia Pacific Economic Co-Operation

ARF – ASEAN Regional Forum

ASEAN- Association for Southeast Asian Nations

AU – African Union

BW – Biological Weapons

BTWC - Biological and (Toxin) Weapons Convention (also known as BWC)

CARICOM- Caribbean Community

CIA- Central Investigation Agency (USA)

CTAG – Counter-Terrorism Action Group

CTC- Counter-Terrorism Committee

CTED- Counter-Terrorism Executive Directorate

CTITF- Counter-Terrorism Implementation Task Force

CWC - Chemical Weapons Convention

EC- European Community

EU- European Union

FATF - Financial Action Task Force

GTD- Global Terrorism Database

IAEA – International Atomic Energy Agency

ICAO – International Civil Aviation Organisation

ICPAT – IGAD Capacity Building Program against Terrorism

IGAD – Inter-governmental Authority on Development

IMF - International Monetary Fund

IMO – International Maritime Organisation

INTERPOL – International Criminal Police Organisation

MSC – Maritime Safety Committee

NAM – Non Aligned Movement

NATO – North Atlantic Treaty Organisation

NBC - Nuclear, Biological, and Chemical

NSG - Nuclear Suppliers Group

NGO- Non-Governmental Organisation

OAS – Organisation of American States

OAU –Organisation of African Unity

OPCW – Organisation for the Prohibition of Chemical Weapons

OSCE – Organisation for Security Co-Operation in Europe

PLO – Palestine Liberation Organisation

PSI – Proliferation Security Initiative

RATS – Regional Anti-Terrorism Structure (SCO)

SAARC – South Asian Association for Regional Co-operation

SCO – Shanghai Co-Operation Organisation

SEARCCT – Southeast Asian Regional Centre for Counter-Terrorism

SR – Special Recommendation (on Terrorism Financing) (FATF)

TPB- Terrorism Prevention Branch

TSCTI – Trans Saharan Counter-Terrorism Initiative

UN – United Nations

UNDP – United National Development Program

UNODA – United Nations Office on Disarmament Affairs

UNODC- United Nations Office on Drugs and Crime

UNSCR - UN Security Council Resolution

WCO –World Customs Organisation

WB – World Bank

WMD – Weapons of Mass Destruction

Chapter 1

Introduction

The proliferation of Weapons of Mass Destruction (WMD) among the non-state actors is one of the latest security concerns of the international community. The United Nations Global Counter-Terrorism Strategy has a specific provision on prevention of such proliferation, and Counter-Terrorism Implementation Task Force (CTITF) has a working group to look into the implementation of that provision. However, it is the UN Security Council Resolution 1540 (2004) that imposes binding obligations on all States to take action to combat the proliferation of WMD among the terrorists. 1540 Committee has the responsibility to oversee the compliance of the requirements and to facilitate the provision of technical assistance and to enhance cooperation with relevant international organisations.

The proposed study intends to examine the broad framework the Global Counter- Terrorism Strategy and the concern of the proliferation of WMD to non-state actors. The main focus of the study is to analyse the role of 1540 Committee in tackling the issue of proliferation of WMD to non-state actors.

Background

Terrorism is essentially a historical phenomenon, and it has plagued the civilizations for centuries. The historians of terrorism have pointed that power has more often than not been wielded through terror—that is, by inciting fear. *Terrere*, which means ‘to make tremble’ in Latin, has been used as an instrument to create empires and then preserve it (Chaliand & Blin, 2007). Under the nation-state system, terror as a policy is considered to be a product of French Revolution associated with Reign of Terror. Later, the terror as a tactic for political violence got associated with the anarchist groups who 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 McKinley 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 as means, for example, killing of Tsar Alexander II in 1881 (Gearson, 2004). In the post- World War I period the terror got associated

with the anti-colonial, independence movements. Those under colonial rule, however, attached political legitimacy to these movements calling them 'wars of national liberation' and did not see them as terrorist acts, but wholly legitimate armed struggles.

In the Cold War period, terrorism internationally 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 use of terrorist organisations by the certain state as tools of foreign policy. This period also saw the emergence of terror organisations like Al Qaida and related outfits who sought to spread their area of influence by connecting with different outfits across the countries. 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, facilitated by globalisation and a revolution in information technology and communication, transportation, easy accessibility of weapons. The terrorism has become world-wide phenomenon with the multifarious avenues available for the proliferation of the extremist ideologies. The targets, nature, the rhetoric and the capacity to inflict harm, all have substantially changed in the post-Cold War era. The events like 9/11 have shown that even the most powerful are not immune to the threat from the terrorists. The incident resulted in the active involvement of the great power like the US, the UK in global counter-terrorism efforts and consequently, the activity in UN increased substantially.

Historically, there is a precedent for multilateral efforts to deal with the issue of terrorism before the United Nations. For instance, following the October killings in Marsellis in 1934, French petitioned the League of Nations to draft a convention against terrorism. An expert committee was set up by the League, and it came up with a draft convention in 1937 on terrorism. Though it never came into force, it is regarded as an important document since it delved upon various aspects of terrorism and set a precedent for multilateral action against terrorism Romaniuk (2010:28)

The United Nations began to deal with terrorism by building a set of global anti-terrorism norms in the early 1970s. These norms essentially were the product of various conventions related to terrorism which identified particular forms of outlawed action like taking hostages, high jacking, financing terrorist activities, among others.

At present, there are thirteen UN conventions related to terrorism. The Comprehensive Convention on International Terrorism, which was introduced by India in 1996, aimed at creating a single comprehensive convention that would criminalise all forms of terrorism and deny terrorists access to funds, arms, and safe havens. Instead of the different sectoral conventions which have been passed at different times for different purposes, this convention sought to address all forms in a single convention. The convention is still awaiting consensus due to the deadlock in the negotiations as there is no agreement among countries over the definition of terrorism and how to decide the scope of application of the Convention (Hmoud, 2006).

Some of the early measures taken by the UN Security Council with regards to terrorism were imposing economic and diplomatic sanctions on states. This was seen in relation to Libya in 1993 (in response to the Lockerbie bombing) and Sudan in 1996 (in response to the prescient Sudanese government support for Ben Laden and acts of terrorism). By 1999, the threat from Al-Qaeda and Taliban regime in Afghanistan led the Security Council to issue its most stringent response in Resolution 1267. This resolution also established for the first time a Security Council sanctions committee to monitor states' compliance. The Security Council's activities on terrorism further gain momentum in post 9/11 phase when it passed two important resolutions. The Security Council Resolution 1373 in 2001 obliged all countries to legislate on the prohibition of financing and other support to terrorism (UN Doc. 2001). The other one was Resolution 1540 which again obliged states to legislate in order to ensure that non-state actors do not acquire (UN Doc. 2004). Both the resolutions have provisions for creating monitoring mechanism to ensure implementation of the resolutions. Under the first resolution, Counter-Terrorism Committee is created and for the latter, 1540 committee.

The adoption of UN Global Counter-Terrorism Strategy by the General Assembly in 2006 was viewed as a much-required breakthrough in UN's effort to tackle terrorism. The Strategy sought to create a holistic framework to address terrorism, focusing on non-military tools, emphasising elements such as capacity building and law enforcement cooperation, and dealing with the underlying societal and political conditions that are conducive to the spread of terrorism. The strategy also reflects the growing concern of proliferation of WMD among the terrorists.

Section II, paragraph 17 of the Strategy urged the United Nations to improve coordination in planning a response to a terrorist attack using nuclear, chemical, biological or radiological weapons or materials. In its plan of action, the resolution called to “strengthen coordination and cooperation among States in combating crimes that might be connected with terrorism, including... smuggling of nuclear, chemical, biological, radiological and smuggling of nuclear, chemical, biological, radiological and other potentially deadly materials” (UN Doc. 2006) However, on the issue of checking proliferation of WMD among non-state actors, UN Security Council Resolution 1540 is much more effective. This resolution is not only legally binding on all the members of the United Nations but also has a mechanism in the form of 1540 Committee to ensure compliance.

This study focuses on proliferation of WMD to non-state actors in the broader framework of UN Global Counter-Terrorism Strategy and examine the role played by the 1540 Committee to address the issue.

Literature Review

The Literature Review is divided into four themes. The first theme deals with United Nations counter-terrorism efforts where literature pertaining to the creation of norms, strategies, tools and institutional mechanisms by the United Nations is reviewed. The second theme of review pertains to the United Nations Global Counterterrorism Strategy. In this section, the literature relating to the evolution and content of Strategy is reviewed. It also highlights how the CTITF tries to implement the Strategy. The third theme reviews the literature on Non-proliferation treaties and their mechanisms and how they are similar or differ from that of the Resolution 1540 and its Committee. The last section reviews the literature on Resolution 1540 and the committee.

United Nations and Counter-Terrorism

Naurman (2004) has argued that the UN system as a whole has taken a sustained interest in developing a multilateral legal response to acts of terrorism as incidents and diverse forms of terrorism have gained prominence. This response has been in the form of conventions, Security Council Resolutions and work of various specialised agencies. Boulden (2004), Weiss (2004), Cordesman, (2002), Peterson (2004), Luck (2006) have observed that during the politically charged Cold War years, the UN

General Assembly approached the issue as a general international problem rather than one relating to specific events or conflicts. They discuss that General Assembly had tried to address the issue of terrorism mainly by developing a normative and legal framework. This development of framework is involved passing series of conventions on terrorism dealing with, for example, acts like high-jacking, financing of terrorist activities, taking hostages among others. Romaniuk (2010:63), Norman (2004) have discussed how General Assembly's work on terrorism has faced with various practical limitations. The most prominent being the rate of ratification of the conventions passed has been low, and implementation did not always follow even those ratified conventions. Also, the lack of agreed upon definition of terrorism gave states the flexibility to interpret multi-lateral measures in line with their own preference.

Luck (2006), Krame and Yetiv (2007) have analysed the role the UN Security Council has played in countering terrorism. They maintain that the Security Council's role in tackling terrorism is essentially a post- Cold-War phenomenon. They identify factors that contribute to Security Council's activism such as decreased of political confronting in Security Council after the end of Cold War, major powers like the US becoming the centre of terrorist attacks and emerging consensus among the permanent members regarding the threat of terrorism after 9/11. These authors also discuss the measures Security Council has adopted like Sanctions and passing binding resolutions such as 1373, 1267, 1540 among others, which obligate states to take effective measures through domestic legislations and policies in tackling terror. They have pointed out how these measures led to the institutionalisation of counter-terrorism measures in the form of Counter-Terrorism Committee and its Executive Directorate, Committee 1267, 1540 Committee which are working to implement the mandate of the resolutions. This institutionalisation provided a great impetus to monitor the counter-terrorism activities.

Romaniuk (2010) and Stiles (2006) have critically analysed the role of powerful states in the United Nations on counter-terrorism efforts. They maintain that the powerful states have tended to use the institutions and the procedures to suit their interests. Kendall has shown how the major powers' active involvement and interest have resulted in shifts in the course taken by the UN in counter-terrorism approach. The shift is reflected in increased Security Council activity after the end of Cold War-like adopting stronger resolutions 1373, 1540 passed under Chapter VII of the UN

Charter, which has binding obligations on the state to take effective actions. Similarly, Romaniuk (2010) has argued that the powerful states tend to use the institutions as 'swords' to influence the process for the desired result. The author is referring to increased use of the Security Council for anti-terrorism measures which are a direct reflection of interest of powers like the US.

Martínez (2008) argued that Security Council increasingly has acquired a more legislative role which implies that Security Council has established rules of general scope that oblige the Member States of the United Nations to adopt legislation and administrative acts in their internal legal system. The author argues that this legislative activity of the SC has aroused a great deal of controversy both among scholars and the States since there is a feeling that it revealed a new form of creating international norms, where even the domestic policies and laws were to be made according to the Security Council resolutions.

Authors like Hudson (2004) and Flitzpatric (2003) have highlighted the concerns regarding the neglect of Human Rights in Security Council's Counter Terrorism policies. Looking at the working of committees formed by Security Council, the authors maintain that the policies often lead to procedural unfairness which directly impacts human rights. They have argued that counter-terrorism activities of the Council have often led to the marginalisation of human rights norms.

Foot (2007) and Kfir (2014) have explained how the Security Council and its related committees have evolved over time and how they give greater considerations to the human rights issues related to counter-terrorism. While Foot has shown how institutional adaption has taken place over the years in the Security Council committee to incorporate the human rights norms into the functioning, Kfir (2014) has comparatively studied the role of General Assembly and Security Council to look the impact of Human Rights norms. He further argues that a more holistic approach to counter-terrorism can be built.

United Nations' Global Counter-Terrorism Strategy

Authors like Khoury (2012), Weiss and Ramesh (2010:150) argue that through the adoption of the Global Counter-Terrorism Strategy, the UN Member States for the first time were able to agree on a common global strategic approach to address the threat of terrorism. Khoury further explains how the Strategy represents a roadmap guiding countries through enforceable effective measures, focusing on key areas in the Plan of Action which consists of both preventive and combative measures. The authors have pointed out that the Strategy was in many ways the manifestations of the will of many UN member states who wanted a comprehensive, long-term and a sustaining framework that incorporates all the major concerns regarding the counter-terrorism efforts.

Authors like Rosand, Millar, and Ipe (2008) regard UN Strategy a breakthrough in UN counter-terrorism efforts as it broadened support for the UN counter-terrorism program to include the entire UN membership. - They highlight that adoption of this strategy indicates not only shift the focus from the UN Security Council but also moving beyond the Council's emphasis on law enforcement and other security measures.

Cockayne (2012), Millar (2012) and Cortwright (2012) have explained how the Strategy represents a more holistic approach to countering terrorism, focusing on non-military tools, emphasizing elements such as capacity building and law enforcement cooperation, and dealing with the underlying societal and political conditions that are conducive to the spread of terrorism. It not only reaffirms that counterterrorism efforts must respect human rights and the rule of law but declares that the promotion of those principles in their own right is a critical element in effectively addressing terrorism. This is particularly significant in the light of growing criticism and also apprehension regarding the increased role of Security Council after 9/11 in counter-terrorism efforts where neglect to concerns of human rights was expressed.

The fear of proliferation of WMD to terrorists has been posited for years, and the Strategy has provision for addressing this issue. Section II, paragraph 17 of the Strategy calls for the "United Nations to improve coordination in planning a response to a terrorist attack using nuclear, chemical, biological or radiological weapons or materials, in particular by reviewing and improving the effectiveness of the existing

inter-agency coordination mechanisms for assistance delivery, relief operations and victim support, so that all States can receive adequate assistance.” It also asks the General Assembly and the Security Council to develop guidelines for the necessary cooperation and assistance in the event of a terrorist attack using weapons of mass destruction. (UN Doc. 2006)

Rosnand (2008), Ape (2008) and Healey (2008) have identified the role of Regional and Sub-Regional organisations in implementing the Strategy. They maintain that Regional and Sub-Regional Organisations have a central role to play in identifying the region specific and relevant strategies to for implementation of UN Global Counterterrorism Strategy along with their respective members. Broadly identifying the delivery of peace and security as a regional public good, authors maintain that Strategy has laid the groundwork for an emerging regional-global paradigm as an implementation framework of the Strategy. Similarly, Xiaohui (2009) maintain that regional organisations should be given more voice in design and implementation of the Strategy related program relevant to their work. By envisaging a more entrenched partnership of UN with the regional organisation, the authors have suggested how to strengthen the implementation of Strategy by creating a network of agencies among, national, regional and international level.

Romaniuk (2010:88) discusses some of the apprehensions expressed about the Global Strategy. The author maintains that according to some critics, the Strategy failed by not resolving the political issues that had long divided the states in the UN fora. More specifically, the issues such as that of state terrorism, the right to self-determination, especially for national liberation movements, and fuller account of causes of terrorism ought to have been included more directly. The author, therefore, argues that Strategy was largely repetitive of the existing measures, with some original proposals. The remarkable breadth of the strategy, framing a broad swath of multilateral action as ‘counter-terrorism’ measures were necessary to ensure that symbolic consensus could be achieved, even of deep substantive disagreements remained between the member states.

There are a number of UN entities that have stake in UN counter-terrorism activities who work as per their mandate, and scholar like Rosnand (2009) have pointed out how time and again there have been demands to create and institution that

would look after the entire range of UN counter terrorism activities. One of the early steps in that direction was the formation of Counter-Terrorism Implementation Task Force (CTITF) by Secretary General. Romaniuk (2010: 100) highlighted that the formation and subsequent institutionalisation of the Task Force had provided a great impetus in co-ordinating the UN's counter-terrorism activities in general and the efforts of implementing the Global counter-terrorism strategy in particular. He also discusses the immense utility of initiatives taken by the task force like that of creating the UN Counter-Terrorism Online Handbook which summarizes the actions of the entities that comprise CTITF and demonstrates the degree at which counter-terrorism has been institutionalised across the UN system.

Similarly, authors like Cockayne (2012), Cortright (2012) and Millar (2012) have argued that the creation of the CTITF allowed a more inclusive approach by involving a wider array of actors. Further, the creation of working groups within the CTITF provided a unique informal bridge among the Security Council, the UN Secretariat, other UN entities, and the General Assembly by allowing CTITF member entities that responded to both the council and the assembly to work together on projects without being hampered by the limitations of their own mandates and governance. Romanik (2010:100) has discussed how CTITF have carried out co-ordination by creating working groups on certain thematic issues around the deliverables identified by the Strategy. He argued that these working groups brought together the different entities participating in Task Force and it provided a major platform for exchange and discussion among these entities about the working and progress of their activities. He elaborates by the examples of how organisations like 1540, OPCW, and IAEA participate in Task Force given their relevance of work and this co-operation has been essential for sharing of information, technical assistance and also working methods.

Considering the grave threat proliferation of WMD to terrorist poses to international peace and security, the task force has a working group specifically dealing with concern. The Working Group on Preventing and Responding to WMD Attacks was established to strengthen the exchange of information and knowledge among relevant UN entities and international organisations related to response to WMD terrorist attacks (CTITF, 2016)

Hegeman (2011) has discussed the various landmarks in institutionalising CTITF and making it operational. In that connection, the author has focussed on the role of the Secretary General and Chair of CTITF in particular. After its institutionalisation, the author argues, the CTITF Office attempted to take a more operational approach and connect to national focal points outside New York to increase knowledge of the Strategy and facilitate various entities in implementing Strategy. The author maintains that despite many challenges faced by the Task Force; it has a great potential to emerge as a major forum for co-ordinating UN's diverse activities relating to counter-terrorism and eventually emerge as an operational bridge linking intergovernmental political decisions to their implementation at the technical, trans-governmental level.

Rosnand (2009) has highlighted the institutional issues that hamper the effective functioning of the Task Force. The major issue is the reliance on the voluntary funding contributions from member states and a small secretariat staffed by junior officials and has operated without a full-time coordinator. He also argues that although the Task Force includes representatives from those parts of the system focused on softer counter-terrorism issues (e.g., UNDP and UNESCO), often without the counter-terrorism label. These non-traditional counterterrorism actors have been reluctant to participate actively in its work giving the perception in many circles that the council continues to be the main counterterrorism actor within UN system and that Strategy implementation efforts are therefore primarily focused on its law enforcement and other security-related aspects (Rosnand, 2009). Similarly, Stoffer (2013) and Millar (2010) have tried to bring to notice some of the practical limitations for CTITF in co-ordinating as almost every CTITF representative takes instructions from his or her superiors in headquarters, with limited room to manoeuvre. Further, each CTITF member can only devote limited time and energy to the task force due to his or her pre-existing full-time job responsibilities.

Existing Regimes for Non- Proliferation of WMD

Authors like Flowerree (1992) Taylor (1993), and Robinson (1996) have examined the context and significance of Chemical Weapon Convention and explain how the convention aims to eliminate an entire category of weapons of mass destruction by prohibiting the development, production, acquisition, stockpiling, retention, transfer

or use of chemical weapons by States Parties. They also explain how States Party to the convention are supposed to take the steps necessary to enforce that prohibition. Flowerree (1992) and Walker (2010) have explained the role and functions Organization for Prohibition of Chemical Weapons (OPCW) plays in the implementation of the Convention which includes managing the reporting function required by the convention, organising routine and challenge inspection and supervising the inspectorate.

Tucker (2007) and Robinson (2008) has pointed out major challenges in the structure of the convention. They maintain that the CWC does not provide for the international monitoring of compliance with several important treaty obligations. These include the prohibition on providing technical or financial assistance to a chemical weapons program, the ban on exports certain specified chemicals, and the requirement to obtain an end-use certificate for exports to non-parties. Robinson (2008) specifically studies the implementation of the convention by studying the role of Organization for Prohibition of Chemical Weapons (OPCW) and seeks to characterise the main challenge the convention faces. He majorly highlights technological and political factors that pose a major challenge to the treaty. In first he discusses the changes in the technology that could devise the Chemical Weapons, and necessary measures are absent to keep track on these developments. In The political factors, the authors maintain the attitude of states and considerations of their national interests are driving factors that at times lead to reluctant state behaviour.

Authors like Keeny (1995), Kimball (2008) maintain that the NPT has been a critical instrument for checking the proliferation of Nuclear Weapons. Authors argues Non-proliferation Treaty (NPT) has established an in a dispensable yet imperfect set of interlocking non-proliferation and disarmament obligations and standards. Rather than the dozens of nuclear-armed states that were forecast before the NPT was opened for signature in July 1968, only four additional countries beyond the original five possessors have nuclear weapons today. While several states have abandoned nuclear weapons program. Thus, conceding that the Treaty has several problems, the authors identify the utility of the treaty and maintains it has relevance for non-proliferation efforts. Authors like Vanaik (1986), Bajia (1997) and Jayaprakash (2008) on the other hand argued that NPT is highly unequal treaty, and the self-defeating clauses in the treaty have only militated against the aim of global disarmament and that it is clear the

NPT as a treaty that was proposed by the major powers has turned out to be a con game. The author maintains that the discriminatory treaty has neither resulted in substantial disarmament nor has it helped to curb nuclear proliferation, either horizontal (which it was supposed to) or vertical.

Authors like Dunn (1995), Weiss and Thakur (2010) have explained IAEA has been instrumental in filling the institutional gap with regards to proliferation of nuclear weapons. Authors argue that to achieve the objectives, the IAEA pursues a three-pronged strategy to combat nuclear risks which are preventing the illicit and military use of nuclear material; detecting any efforts to use nuclear material for military purposes in a timely fashion, and making swift and decisive recommendations to the Security Council when nuclear risks are apparent. It also has three main areas of work: verifying safeguards that nuclear material and activities are not used for military purposes, protecting people and the environment from radiation and developing and promoting peaceful applications for nuclear energy. Similarly, Findlay (2014) has explained the crucial role IAEA has played in Nuclear Security Diplomacy. The author here explains that the Agency has participated in nuclear diplomacy by engendering support for treaty-making, hosting and assisting in treaty negotiations, and in the convening review and amendment conferences for existing treaties. This role of the Agency in supporting the Nuclear Security Diplomacy and providing the forum for the deliberations is one of the important function apart from the operational ones which includes monitoring of the states with regards to nuclear proliferation.

Weitz (2011) and Weiss and Thakur (2010) have pointed out how despite being an influential organisation, it has several times faced difficulties in properly implementing its mandate and he attributes states interests as one of the major factors in this. He argues that strengthening the role and authority of the Agency has been difficult since countries vigorously defend their nuclear autonomy. Many developing countries fear that developed members' concern about nuclear weapons proliferation leads them to demand excessive safety and security requirements for the transfer of any peaceful nuclear technologies. Weiss and Thakur (2010) have emphasised out how IAEA has become an institutional expression of a double standard on proliferation that seems to serve the interests of the five NPT nuclear powers and to be unable to deliver on the NPT non-nuclear weapons states' rights to civilian nuclear

assistance. By explaining the functioning of the IAEA, they maintain that the Agency has been selective in its approach and this has been heavily guided by the interest of the interest of these states

Tucker (2008) has looked at the major regimes like NPT and CWC and analysed them to consider their implications for terrorism. He maintains that the regimes, though dealing directly with the states, can play a valuable role in preventing WMD terrorism by making it harder for non-state actors to acquire the materials, equipment, and know-how needed to produce these weapons. He, however, maintains that the treaty regimes have yet to achieve their full potential because of gaps and shortcomings in their implementation at the national level. He further argues that the UNSCR 1540 was a major step ahead in the direction of non-proliferation of WMD, however, maintains that no single measure can prevent terrorists from acquiring WMD and that various arms control mechanism should be integrated with other tools of non-proliferation and counterterrorism to achieve valuable results.

Ham and Bosch (2004) have explained how the UNSCR 1540 is different from the existing regimes of non-proliferation. They explain that for the first time with resolution 1540 the focus is non-state actors, while in previous regimes the consideration for the non-state actor was secondary. Also, another significance of the Resolution 150, compared to other treaties of non-proliferation is that Resolution 1540 is the only measure that explicitly integrates proliferation concerns about delivery means with those about nuclear, chemical, and biological agents. Authors also point out that the emphasis of the resolution is essentially on enforcement. Its adoption under the UN Charter's Chapter VII opens up for consideration the possibility of a range of sanctions in case of non-compliance of these requirements by the member states.

Resolution 1540 and the Committee

Authors like Ham and Bosch (2004) and Huepel (2007) have examined the strategic context in which the resolution 1540 has been passed. They maintain that resolution 1540 was a departure from the governance led model of the United Nations (UN) as the resolution here emphasises enforcement and its adoption under the UN Charter's Chapter VII open for the possibility for the punitive actions like sanctions in case of non-compliance. Authors also pointed out how the resolution 1540 is different from

the previous the attempts. The focus is for the first time on non-state actors and that it was the first time since 1945 Security Council invoked Chapter VII for functional rather than general state specific threat to international peace and security.

Scheinman (2008) explains that, though the resolution was passed unanimously there were contestations expressed by various member-states which included countries like Brazil, India among others along with certain organisations during the negotiations, specifically with regards to the passing of a resolution under Chapter VII of the UN Charter. Ham and Bosch (2004) explained how several countries expressed concern that the proposed resolution might serve as a basis for imposing economic, and even military, sanctions against states that were deemed in 'non-compliance'. They stated that through the process of the negotiations, states were eventually convinced that resolution 1540 was a corrective step in filling the void in the international systems for controlling the proliferation of WMD.

Manley (2007) and Woodward (2007) have tried to establish the link between the existing controls, organisations, and treaties regarding the proliferation of WMD and UNSCR 1540 and the areas where their activities may overlap. The focus has been to identify the areas in which the mechanism can coordinate to implement the respective mandates more effectively. Authors are of the view that the UNSCR 1540 serves to strengthen the normative and legal framework by requiring states to adopt specific national measures to prohibit non-state actors' acquisition of WMD which in effect strengthens the overall efforts to address the problem of proliferation of WMD and therefore the co-operation between various efforts is a useful mechanism.

Masterson (2012) has explained how the mandate and role of UNSCR 1540 have been extended over the years. He explains how UN Security Council unanimously voted to extend UNSCR 1540's mandate, first for two years in 2006 under resolution 1673, then for another three years in 2008 under resolution 1810. In April 2011, the UN Security Council passed resolution 1977, extending the mandate a third time, for a period of ten years. UNSCR 1977 reaffirmed the Security Council's commitment to resolution 1540, and further emphasised cooperation with international, regional, and sub-regional organisations. It also addressed existing concerns among Council members regarding equal regional representation within the 1540 Committee. This according to the author was an indication of the significance

the world community attached to the problem of non-proliferation of WMD to the non-state actor in general and the utility of the resolution in particular.

Crail (2006) and Huepel (2008) have analysed the role of the 1540 committee which was established under the resolution to monitor its implementation. The authors maintain that the most important work done by the committee, which comprises of 15 members of the UNSC and supported by a group of governmental experts, is to review national reports submitted by states on their efforts to implement 1540 and to evaluate them to identify which measures each reporting state has fulfilled and indicates to states the obligations left to be carried out. Apart from this, the authors pointed out that the committee also works to facilitate capacity building and provision of assistance to the States for the implementation of the resolution as many states lack the technical and legal expertise and sufficient financial and human resources to implement Resolution 1540 without outside assistance. Various working methods like conducting workshops, country visits, training personal, etc. are used by the committee to facilitate the process of the implementation.

Authors like Huepel (2007), Hamilton (2012) and Scheinman (2008) have argued for greater interaction of 1540 committee with regional and sub-regional organisations to share the work and increase the effectiveness of the implementation of the resolution. They maintain that regional and sub-regional organisations tend to have a high degree of political legitimacy and enjoy a high level of confidence among their members. These organisations consist of states that have voluntarily joined on the basis of shared values, interests, history, experience and objectives, thus offering a greater prospect of achieving agreement and consistency regarding how to address, implement and sustain a mandate in resolution 1540 that is binding on all.

Authors like Herz (2008), White (2008), and Bergenas (2008) have studied the role of various regional organisations like Organisation of American States, ASEAN, and other African Regional Organizations in implementing the resolution 1540. The major emphasis of their work has been on the way the regional organisations have responded to the issues mandated by the resolution 1540 and how they have tried to increase the knowledge, increase the State capacity in implementing the provisions required in resolution 1540. These regional and sub-regional organisations, authors maintain are of immense help, and the committee should utilise the comparative

advantages offered by these regional and sub-regional organisation in implementing the resolution 1540.

While there is general agreement among various experts regarding the significance and role of the 1540 committee in addressing the issues of proliferation of WMDs among the non-state actors which has direct implications for global counterterrorism efforts, there are authors who have critically viewed the working of 1540 committee. Authors like Cupit (2012), Bianchi (2006) and Rosnand (2009) have talked about the issues that affect the proper implementation of the resolution by 1540 committee. Broadly, they have identified the issues such as State capacities, especially the capacity of the small states with limited resources to carry out the desired work, the capacity of the committee with its limited resources, the lack of political will among many states as major ones affecting the implementation. While they agree that initial framework led down by the resolution and the subsequent developments, have tried to address these issues, but there are still problems associated with the regards to effective implementation.

While there is enough literature existing on counter-terrorism in general, there is not enough literature on the role of institutions like 1540 Committee in addressing the issue proliferation of WMD to terrorists. The emphasis of this study, therefore, will be to look into the proliferation of WMD to the terrorists as a major concern in counter-terrorism and how the Resolution 1540 and the Committee intends to address this issue under the broader framework of UN Global Counter Terrorism Strategy.

Definition, Rationale and Scope

There is no single, commonly accepted definition of terrorism. In fact, it is one of the most contested issues in the world today which remains unsolved. So much is the incongruence that Kushner notes that “here are as many definitions for the word terrorism as there are methods of executing it; the term means different things to different people, and trying to define or classify terrorism to everyone’s satisfaction proves impossible” Kushner (2003:23). This study uses a widely-used definition of terrorism of Yonah Alexander, who defines it as, "the use of violence against random civilian targets in order to intimidate or to create general pervasive fear for the purpose of achieving political goal” Alexander (1976:14).

The phrase weapon of mass destruction (WMD) is a collective term used for denoting nuclear, chemical, and biological weapons. There is no single commonly agreed definition for the WMDs. This study adopts the definition of WMD given by John Pitchel who defines WMD as “as one that can kill or injure large numbers of people and/or cause serious damage to man made structures, natural structures, or the environment in general” Pitchel (2011:14).

The Global Counter-Terrorism Strategy is considered to be a unique instrument to enhance national, regional and international efforts to counter terrorism. Although the General Assembly has stressed that the primary responsibility for implementing the Strategy rests with the member states, it has recognised the important role of the UN in facilitating coherence in the implementation of the strategy and in providing assistance, especially in the area of capacity-building of the states to implement this strategy. The study of the Strategy and the ways in which UN has tried to implement the strategy is of critical importance in UN counter-terrorism activities.

Among all the act of terrorism, the fear of terrorists getting access to WMD has been paramount. The fear of proliferation of WMD to terrorists has become the major concern since the early 2000s, especially in 2003 after the revelations of A.Q Khan’s global smuggling network for nuclear weapon–related technologies. It was against this background the Security Council in April 2004 passed Resolution 1540 to address the issue of proliferation of WMD to non-state actors. The Resolution was seen as a major step in filling the legal gaps in the existing non-proliferation regimes that address the issue of proliferation of WMD. The similar concern was reflected in the Strategy as well where it explicitly mentions in its Plan of Action for the Measures to Prevent and to combat terrorism and called for strengthening the coordination and cooperation among States in combating crimes that might be connected with terrorism including the smuggling of nuclear, chemical, biological, radiological and other potentially deadly material.

The study of the role of 1540 Committee, therefore, gains significance as it is not only a major step to address the issue proliferation of WMD but also has direct implication for counter-terrorism addressing the grave issue of proliferation of WMD to a terrorist. It is for this reason that Expert Group of 1540 Committee is part of

CTITF and participates in two major Working Groups – the first one of Preventing and Responding to WMD Terrorist Attack and the other one on Border Management and Law Enforcement Relating to counter-terrorism. This Study, therefore enquires into the role of 1540 Committee in addressing the issue of proliferation of WMD to terrorist and how it co-ordinates with relevant institutions to achieve its objectives.

As the study mainly focuses on the role of 1540 Committee in tackling the issue of proliferation of WMD to non -state actors, the scope of the study is from 2004 to 2016. The year 2004 is taken as in this year Security Council adopted the UNSCR 1540 which led to establish the 1540 Committee.

Research Questions

1. What has been the United Nations role in addressing the terrorism and how has the role evolved over the years?
2. What are the major issues during the negotiations of the Strategy?
3. Why is the adoption of Global Counter-Terrorism Strategy significant for tackling terrorism?
4. Under what circumstance the UN Security Council adopted Resolution 1540?
5. How does Resolution 1540 bridge the legal gap in existing non-proliferation regimes to address the issue of non-proliferation of WMD?
6. How does 1540 Committee carry out its capacity building role?
7. How does 1540 Committee co-ordinate with other relevant institutions within CTITF to deal with the proliferation of WMD?
8. What are the major challenges faced by the 1540 Committee in carrying out its mandated tasks?

Hypotheses

1. Adoption of UN Global Counter-Terrorism Strategy has led to increased co-ordination between various entities involved in counter-terrorism
2. Adoption of UNSCR 1540 has strengthened the international legal framework to deal with the proliferation of WMD
3. Lack of institutional capacity in terms of funding and adequate resources has impacted the proper functioning of the committee.

Research Methods

The research has primarily employed qualitative research technique. The research consulted both primary well as secondary sources. The primary sources include the UN documents and documents of the various entities working with CTITF and relevant government documents. The secondary sources include books, articles in

academic journals, reports published by various research centres and organisations and other relevant internet sources.

Chapter Scheme:

The study consists of five chapters. The first chapter introduces the concept and traces the background of the study. It also consists of research design such as literature review, rationale, scope, research questions, hypotheses and research methods. The second chapter, “United Nations and Counter-Terrorism” studies the role of UN in addressing the issue of terrorism and looks at how the role has evolved over years. The chapter first briefly traces the pattern of terrorism and how the methods and the design of the terrorist have evolved over years. The chapter then looks at how the international community before the UN tried to address terrorism in which primarily how the issue came up in the League of Nations and how it was addressed is seen. The second part of the chapter in detail looks at the role of United Nations in dealing with terrorism. The study is separately done for pre cold-war and post cold-war period where emphasis was to understand how UN, given all its constraints, tackled the problem of terrorism. General Assembly and the Security Council both are studied and the attempt was to understand how different were the approach of both the institutions and how has it impacted the overall UN’s counter-terrorism efforts. The chapter then analyses what have been major short-comings and impediments faced by UN is comprehensively tackling terrorism and summarises the major findings of the study in conclusion.

The Thirds chapter is Global Counter-Terrorism Strategy: Non-Proliferation of WMD. The chapter begins with a short introduction on how UN tried to deal with terrorism up until 2006 i.e. before the adoption of Global Counter-Terrorism Strategy. In that, the chapter mainly highlights what were the major concerns raised in the way UN addressed the issue of Terrorism and why the adoption of Strategy was considered a major breakthrough. The chapter then dealt with the context and evolution of the Strategy where focus was on the issues that prominently impacted the making of the Strategy was studied. Further, this segment also critically studied the content of the Strategy and how States and other institutions viewed the adoption of the Strategy. The next segment studied various activities undertaken by the United Nations to implement the Strategy were studied. In that special focus was on the role

of Counter-Terrorism Implementation Task Force and its activities to support the implementation. Further the role of other actors like Regional and Sub-regional Organisations and also the Civil Society Organisations was looked at to understand how they can contribute in implementing the Strategy. The Chapter lastly looked at the concern of proliferation of WMD as expressed in the Strategy and how the role of UNSCR 1540 and its committee is crucial to implement the non-proliferation component of the Strategy.

The fourth Chapter, “Resolution 1540 and the Committee” first discussed how the proliferation of WMD to terrorist became a major concern and how international community reacted to it. It then briefly mentioned the existing institutions dealing with the issue of proliferation of WMD. The chapter then in detailed studied the evolution and making of the Strategy. The part focussed on how the international community reacted to the draft UNSCR 1540 and what were the major concerns that were raised during the negotiations of the Resolution and what factor eventually contributed to the adoption of the Resolution. The Chapter in details studies the provisions of the Resolution to understand the significance of the Resolution and compared it with the existing mechanism. The chapter then studied the role of 1540 Committee in implementing the Resolution. The part focussed on various activities and programs devised by the committee to monitor the implementation and assist states in their efforts at implementing the Strategy. The chapter then also studied how the 1540 Committee interacts with other relevant organisation in the Task Force to collectively implement the non-proliferation aspect of the Strategy. The chapter then briefly reviewed the current status of implementation and concluded with major difficulties faced by the Committee in implementing the Resolution and other major findings.

The last chapter is Conclusion which basically summarises major findings of the study. This chapter also indicate how answers research questions were answered and also indicate tests the validity of how the hypotheses, whether they have been substantiated, modified or nullified.

Chapter 2

United Nations and Counter-Terrorism

Introduction

Terrorism is essentially a historical phenomenon, and it has plagued the civilizations for centuries. The historians of terrorism have pointed that power has mostly been wielded through terror. *Terrere*, which means 'to make tremble' in Latin, has been used as an instrument to forge empires and then sustain them (Chaliand & Blin, 2007). Under the nation-state system, terror as a policy is considered to be a product of French Revolution associated with Reign of Terror. Later, the terror as a tactic for political violence got associated with the anarchist groups who 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 McKinley 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 as means, for example, killing of Tsar Alexander II in 1881 (Gearson, 2004). In the post- World War I period the terror got associated with the anti-colonial, independence movements. Those under colonial rule, however, attached political legitimacy to these movements calling them 'wars of national liberation' and did not see them as terrorist acts, but wholly legitimate armed struggles.

Later on, terrorism came to be identified through the activities such as aircraft hijackings and hostage-takings and the alleged used of terrorist organizations by certain state sponsors as tools of foreign policy (Gearson 2004:160). Scholars like John Deutch (1997:11) have traced 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. 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 extremism, and the emergence of suicide terrorism in Lebanon following the Israeli invasion of 1982 (Chaliand & Blin, 2007)

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 assisted by the process of globalization and development of new information technology and communication, transportation, weaponry, and so on. One of the major incidences that shook the world was a terrorist attack in March 1995, in Tokyo, when the Japanese cult *Aum Shinrikyo* killed 12 people and affected 5,000 people with Sarin gas. It brought to light the grave danger of terrorists' possessing biochemical weapons and other weapons of mass destruction (WMD) with great destructive potential. 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 the new phase of terrorism was more sophisticated and complex and equipped with WMD and prepared to use them (Gearson, 2004:151-164).

The 9/11 attack on the US was manifestation of their ability to inflict harm on a large scale any where in the world. The groups like Al Qaida, Taliban, Boko Haram, and the most feared one of the recent times ISIS and the continuing attacks on the major cities in Europe in recent times show that they have not only cross-continent presence but have also means to expand and grow with increased means to proliferate. Considering the truly international nature of contemporary terrorism, concerted international efforts are imperative in dealing with them. UN thus gains a lot of importance in driving the states efforts and resources in tackling this common threat.

UN has dealt the problem of terrorism for years now. This chapter focuses on the way UN has addressed the issue of terrorism to provide background to the subsequent chapters. First, the chapter discusses the difficulties of conceptualization and why there is no commonly accepted definition of terrorism. Then the chapter discusses the efforts made multilaterally to deal with terrorism before the establishment of United Nations. The major section of this chapter is on discussion of norms and standards of dealing with terrorisms and mechanisms established at international. It examines the role played by the UN General Assembly and Security Council in devising the regime on counter-terrorism.

Definitional Ambiguity

Schmid and Jongman, enlisted as many as 109 different definitions of terrorism in their review of the research on terrorism (Jongman, *Political Terrorism*, 1988). There is no consensus on the conceptualization of terrorism. The multiplicity of opinions that the terrorism tends to inspire shows the number of variables that must be studied to comprehensively understand the phenomenon of terrorism. Scholars tend to agree of general attributes associated with ‘terrorists’, like deliberate use of violence against non-combatant civilians. However there is yet to emerge a definition acceptable everywhere. There are prominently two reasons for this variance. First reason behind the incongruity of the opinions is the differentiated approach applied by the individuals while understanding the notion of ‘violence’. Terrorism is fundamentally a type of violence aimed at the desired result. Craig Stapley explains that “the terrorism is essentially a sub-classification of political violence which in turn is a sub-classification of violence in a broader sense”. Now political violence can be explained by use of force, or threat of use of force to attain a political objective or make a political point. To that extent, terrorism is a kind of political violence. However, not all terrorist acts can be termed as political violence. Much depends therefore on the way violence is perceived by the different individuals. Not all agree that violence is bad, unjust by itself and rather tend to focus on the intent of resorting to violence. These scholars try to locate the violence in the consequentialist ethical framework where an act is solely judged by its consequences. Kai Nelson, for instance, approaches the questions of political violence and terrorism primarily by understanding the utility of the outcome such violence intends to bring. There is no categorical abstention for the use of violence as long as the outcome is politically worthwhile. Nelson thus maintains that use of violence can be justified when “they are politically effective weapons in revolutionary struggle, and there are sound reasons for believing that by the use of violence there would be less injustice, suffering and degradation in the world than would otherwise have been the case”. The killing of innocents in the process of ‘revolutionary struggle’ may be condoned by such a line of reasoning insofar the end achieved is worth achieving. On the similar lines, Michael Walzer presents ‘supreme emergency’ exemption for the use of violence. Walzer argues that in cases of supreme emergency, resorting to violence even to the extent of causing innocent casualties is justified. He explains supreme

emergency as an “ultimate threat to everything decent in our lives, an ideology and a practice of domination so murderous, so degrading even to those who might survive, that the consequences of its final victory were literally beyond calculation, immeasurably awful” (Walzer.2000:12). It is noteworthy that Walzer otherwise is a strong proponent of morality in wars and civilian immunity, but here he justifies the violence to the extent of innocent casualties by qualifying his argument of ‘supreme emergency’.

Contrary to consequentialist approaches, traditions like that of Kantian ones, for instance, would a priori disapprove of any form of violence, and especially the ones resulting in the killing of innocent victims. These non-consequentialist positions prominently impose an infeasible prohibition against the use of violence and killing of innocents, irrespective of consequences. They invoke the principle of natural rights that every individual must have regardless of the consequences or the circumstances. To devise a definition that would satisfy these two diametrically opposite standpoints is a difficult task indeed and thus is one of the predicaments for agreed definition.

The incongruity in the ideas that would best define the terrorism was reflected in the international discourses as well and it was best seen in the inability of the world body like UN to come up with a single universally accepted definition of terrorism. The UN’s efforts to come up with a single definition from the beginning were severely constrained by a sharp difference of opinions among the developed ‘western’ countries and the developing countries. One of the major contentions of the developing nation in the early 1970s, when the exercise to define terrorism took momentum in the UN, was the separate identification of freedom fighters from the terrorists. As many of these developing countries were newly independent, they wanted that the legitimate efforts from freedom struggle should not be scuttled in the name of terrorism. And the second major concern of the developing world was to address the ‘root causes’ of terrorism, which they saw in “poverty, colonial occupation and racism” (Perera, 1997). These differences have remained in the core discourse regarding terrorism in UN and have come to surface whenever there has been a major issue to be discussed or deliberated. For instance, India’s efforts to come up with a Comprehensive Convention on International Terrorism, which was introduced in 1996, has faced similar problems due to lack of consensus on terrorism. To discuss the convention, The UNGA Sixth Committee formed an Ad Hoc

Committee, which in turn created a Working Group to conduct negotiations on the draft. The incongruity of opinions was once again reflected over the definition of terrorism. This draft CCIT attempted “to *broaden* the definition of terrorism to include all types of internal challenges, and *narrow* it to exclude states as perpetrators of terrorism”. (SASIKUMAR, 2010). The CCIT is comprehensive in that it is meant to fill in the gaps in the existing sectoral conventions which addressed partially aspects of terrorism. One comprehensive convention which includes all the major aspects such as the issue of safe haven, financing of terrorism, nuclear terrorism would provide a better tool. The convention is yet to be adopted since there is no consensus over the various issues, the primary being the definition.

The definitional ambiguity thus has been a major factor that has hindered the international efforts to counter-terrorism to a great extent. The most significant step, the Global Counter-terrorism Strategy doesn't even specify one definition for terrorism. In absence of one definition, the course taken by international community is to build on co-operation on the issues where co-operation can be achieved and let not the differences hinder the working.

International Efforts before UN

The phenomenon of terrorism had long plagued the world, and there are evidence of multilateral efforts to combat this menace. In the late 1880s for instances, the anarchist groups and their activities had created a problem in Europe. It reached its dangerous height when Empress Elizabeth was killed by Italian anarchist in 1890 in Geneva. This incident led to one of the first multilateral conference to address the growing concern. The conference was held on 24th November 1898 with 54 delegates from 21 countries, which included diplomats, policemen, and other officials attended the conference. In a conference that lasted almost for a month, the issues that were deliberated were the definition of anarchism, the development of an international agreement on the treatment of anarchists and elaboration of technical arrangements to co-ordinate anti-anarchist activities among states (Romaniuk, 2010: 20). The similar anti-anarchist protocol was signed in St. Petersburg by ten countries which included Germany, Russia as their main drivers. The protocol set out the procedures to expel anarchist as well as had provisions for creating a central anti-anarchist offices in each

country and regular communication among countries regarding their activities. (Jensen, 2009)

Similarly, even in the League of Nations, the concern of terrorism was briefly touched upon. Terrorism 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 treaties 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 Article 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 treaties 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).

The international co-operation against terrorism before UN did not move beyond convening meetings and drafting conventions. In fact the major conventions framed by the League as discussed above never came into force. The political factors and instability in the world, which was no doubt affecting the League as well, may have been the major causes as to why not much effort were made regarding terrorism. But what is noteworthy is the fact that there was recognition among the international community that a threat like this should be handled with collaborated international efforts. The efforts made by the international community to come together to build on co-operative efforts to deal with terrorism is the reflection of the fact that there was will to have cohesive international efforts and institutions like League of Nations was used for the same purpose. However, the efforts did not really gain much of the results.

UN and Counter-Terrorism

Terrorism has always existed in some form or the other and has been a major concern. International efforts to some extent were made even before the establishment of the United Nations, but with little success. UN, which was formed after the devastating World War II, has one major purpose of maintaining international peace and security. When UN was formed, what is noteworthy is the fact that UN Charter makes no direct reference to terrorism in the Charter. One of the reasons of this could be the fact that world was still grappling with aftermath of WWII and the priorities of the newly formed organisations was to create a structure so that the factors that led to WWII are not repeated and that the world should be free from major war henceforth. The first reference to terrorism in UN is made in Security Council (SC) in 1948. The Security Council here used the forum to condemn the assassination of a UN mediator in Palestine, Count Folke Bernadotte, by Jewish extremist (Romaniuk, 2010: 32). Later on, there were cursory references to terrorism while drafting the “Code on Offences against Peace and Security of Mankind by International Law Commission” or debates surrounding the definition of ‘aggression’ which began in the late 1950s (Maxwell, 1976). Until 1960s, Terrorism was not a major matter of discussion as the United Nations was preoccupied with the challenges of the Cold War politics. It was only in the late 1960s when the series of aircraft hijackings lead to the terrorism being viewed as a major concern and was taken as an agenda by the international community. As UN takes up the issue of terrorism, it was purely concentrated in the General Assembly. Security Council taking up the issue of terrorism is purely a cold-war phenomenon. In this discussion, we will look at the UN’s counter-terrorism efforts in two-phases, the pre-cold war and post-cold war phase. The pre-cold war phase is where General Assembly is solely looking at the issue of the Terrorism and the post-cold war phase is where the SC takes the lead in UN’s counter-terrorism efforts.

Counter-Terrorism in pre Cold-war

During the entire Cold-War period the issue of terrorism was solely dealt by General Assembly. 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, this forum was extremely crucial for deliberating this issue. Also, the discussions here reflected the general view of the world as to how they saw the

problem of terrorism as a whole. In dealing with terrorism, the General Assembly adopted mainly two ways – one, by developing a normative framework through various sectoral conventions that attempted to address a specific issue relating to terrorism and second by becoming the forum for discussions and by encouraging government action to develop more particular international legal rules for dealing with terrorists. The later part was essentially done in three ways as explained by Peterson. First, it convened *ad hoc* committees on terrorism, composed of delegates of member states, to work out more specific measures; secondly, it 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, 2004:175).

With regards to terrorism, the UNGA first addressed terrorism as a distinct problem in September 1972 as a response to 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. It was Secretary-General Kurt Waldheim who proposed that terrorism should be considered by the General Assembly. He also 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” (Gal-Or, 1985:83). However, coalition of developing and new independent states, China and the Soviet bloc steered the assembly’s discussion towards addressing the rights of those involved in liberation movements or fighting against colonial regimes and other such forms of domination, condemning such regimes for their repression of national liberation movements, and emphasizing that root cause of terrorism should first be addressed as they are the provoking elements. The coalition’s efforts were so effective that it led to 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 for discussion, the preferences of the larger developing world 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 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.” (Peterson, 2004:178) This was the first manifestation of the ideological and conceptual divide on the understanding of terrorism between the states which was effectively reflected in incongruence of opinions in the UN’s effort of defining the terrorism, which persists even today.

The 80s saw a crucial development where Soviet Block tries to introduce the topic of ‘State terrorism’ into the General Assembly. This was first introduced and discussed in First Committee (Disarmament and International Security). It was seen to be an attempt to bring to notice at the international stage the use of force by the U.S, Israel and South Africa against revolutionary movements, anti-apartheid activists, the Palestinians. 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 (Romaniuk, 2010: 44). This was again a manifestation of Cold War competition getting into the discourse of terrorism. This Cold War competition, no doubt impacted the functioning of the General Assembly. However, despite that the GA was able to pass two major conventions along with few resolutions that directly addressed the issue of terrorism. The two major Conventions which were adopted by the GA during the Cold War were –

1) *Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons (1973)*

This Convention was adopted by the UNGA 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)]

2) *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 “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 General Assembly in the Cold-War thus responded to the terrorism slowly, yet with all the institutional constraints and also the ones imposed by the cold war competition. One prominent feature of this period was the Assembly in initial phase tries to work towards consensus building among member states on the issues relating to different aspects of terrorism. The end of Cold War infused in the UN a new energy in general as the major power rivalry which affected the functioning of UN ceased to be true. This also reflected in the way UN deals with terrorism in the pos Cold-War period. The next section will deal with the role GA played in the post-Cold-War period in addressing the terrorism.

UN's Counter-Terrorism in Post Cold War

The end of Cold War was seen by many as a beginning of new era of reduced conflicts and it was thought that the problems like the conflicts supported by the either power blocks, arms race, civil wars and also terrorism would slowly disappear, paving the way for a stable world. However, the end of cold war period saw increased conflicts within and also among states, civil wars, genocides among other things. This period also saw the new face of terrorism emerging which was far more advanced and capable of inflicting greater harm. This was reflected in the Assembly discussions as well. One of the most critical components that was seen in the post cold-war dealing of General Assembly was that the ‘individuals’ involved in or affected by terrorism became a more significant element of the discussion. The direct implication of this was that a major thrust of resolutions passed in this time had ‘human rights’

component in it. 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).

Another major development during the post-Cold-War era was the approach taken by the General Assembly in dealing with the terrorism. This change of approach can be seen by the way resolutions were titled. From 1972 through 1989, issues of terrorism was majorly seen as a general problem as was assigned primarily to its Sixth Committee (Legal). The issue was discussed under title beginning "measures to prevent international terrorism", and this phrase was used in resolution titles as well. The phrase 'to prevent' implied there were underlying causes to the terrorism that needed to be addressed first to tackle terrorism. Such formulation was there with the insistence of the Third World block backed by the powerful Soviet bloc. Though the issue was still with the Sixth Committee majorly, one of the marked difference was the Resolution were now mostly titled under the name 'Measure to eliminate terrorism' – this shift from prevention to elimination implied terrorism was now considered purely a criminal activity and just cause justification did not was semed to be overlooked (Krieken 2002:115). The 1991 Resolution is a straight reflection of the same which was titled simply 'Measures to eliminate international terrorism'. However even in that the self-determination and the struggle of national liberation movements got included in it. (UN Doc. 1991). That difference was subsequently diluted as the 1994 Resolution these references to liberation movements were omitted and also the issue of state terrorism was avoided (UN Doc 1994). Thus terrorism was purely seen as a form of transnational crime, unlike in the previous phase where the emphasis was specifically on the factors that led to terrorism.

An important outcome of the work of the Assembly during this time is the *Declaration on Measures to Eliminate International Terrorism* (1996). The Declaration had a major emphasis on "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 and determination to eliminate international terrorism in all its forms and manifestations” (UN Doc 1994). The supplement resolution passed in 1996 re-emphasized “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” (UN Doc 1996). Apart from this, several multilateral conventions were adopted in this period to combat terrorism by states under the auspices of different specialised agencies. Some of them are –

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

The Convention 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”. According to this Convention, each party is supposed to take necessary measures to prevent and to prohibit the manufacture of unmarked plastic explosives {Art. 2}; and also to prevent the movement of unmarked plastic explosives into or out of its territory (Art.3).

2) *International Convention for the Suppression of Terrorist Bombings (1997)*

Convention was adopted in 1997 by the General Assembly. The Convention targeted the ‘safe havens’ which is given to persons wanted for terrorist bombings. The Convention obligates each state party to prosecute such within its territory or explore the possibilities of extradition. This Convention also 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”.

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

This Convention, adopted by the General Assembly in 1999, aims at addressing the financial avenues used by the terrorists to commit the act of terror. States part to this Convention are obliged to prosecute those accused of funding terrorist activities. The Convention also mentions that the banks within the states should enact the necessary measures to identify suspicious transactions. One of the major targets of the convention was to arrest the avenues of the terrorist financing and so the Convention

mentioned that the states should take all the necessary actions to identify the direct or indirect ways used by the terrorist to finance their activities. 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 General Assembly in 1996 establish an Ad Hoc Committee through a resolution to elaborate an International Convention for the suppression of terrorist bombings. Further, the Ad Ho committee took up to decide upon other terrorist related activities, like terrorist financing and also the issue of nuclear terrorism. The purpose of the committee was to ensure and create a framework that would complement the existing structure. Since its establishment, the Ad Hoc Committee has negotiated several texts resulting in the adoption of three treaties: (UN Doc 1996).

- 1) *“International Convention for the Suppression of Terrorist Bombings* adopted by the General Assembly in resolution 52/164 of 15 December 1997
- 2) *International Convention for the Suppression of the Financing of Terrorism* adopted by the General Assembly in resolution 54/109 of 9 December 1999
- 3) *International Convention for the Suppression of Acts of Nuclear Terrorism* adopted by the General Assembly in resolution 59/290 of 13 April 2005.”

The Comprehensive Convention on International Terrorism was introduced by India in 1996, aimed at creating a single comprehensive convention that would look at the problem of terrorism through a holistic perspective. The purpose was to have just one Convention where the issues like criminalization of terrorist acts, the financing of terrorism, issue of safe havens and tacit support to terrorists by states etc are comprehensively covered. Instead of the different sectoral conventions which have been passed at different times for different purposes, this convention sought to address all forms in a single convention. The convention is still awaiting consensus due to the deadlock in the negotiations as there is no agreement among countries over

the definition of terrorism and how to decide the scope of application of such a Convention (Hmoud, 2006).

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. These attacks change the course taken by the UN in tackling terrorism. Though the immediate effect of the attack was seen in the Security Council more prominently than the General Assembly, and that part will be dealt in the next section, but General Assembly continues to be a norm builder. And one of the most significant achievement of General Assembly in the post 9/11 phase was the adoption of Global Counter-Terrorism Strategy in 2006. The adoption of UN Global Counter-Terrorism Strategy by the General Assembly was viewed as a much-required breakthrough in UN's effort to tackle terrorism. The Strategy sought to create a holistic framework to address terrorism, "focusing on non-military tools, emphasising elements such as capacity building and law enforcement cooperation, and dealing with the underlying societal and political conditions that are conducive to the spread of terrorism" (UN Doc 2006) . One of the major achievement of the General Assembly was that the Strategy was adopted unanimously and it created a framework, agreed by all the member-states, which would be guiding document for future counter-terrorism activities. This was for the first time that all the member states of the UN agreed on a single strategic framework to base their future counter-terrorism activities. The Strategy was also significant in the sense that it integrated the preventive and combative aspect of counter-terrorism along with human rights and rule of law considerations which makes it a comprehensive strategic framework on which counter-terrorism efforts of UN should build. Though the primary responsibility of implementing this Strategy was on States, the UN and its agencies were seen to be major actors who would facilitate the implementation of the Strategy. In other words Strategy sought to create a roadmap on which the collaboration of national and international efforts to counter-terrorism would proceed that would seek to address the menace comprehensively.

The General Assembly in post cold-war is seen to be adapting to the necessities of the changing realities. Though there are certain practical constraints which the Assembly faces, nonetheless it continued to be a major forum for discussion of the critical aspects of global counter-terrorism efforts and also as forum to build new

norms, like the Global Strategy, that became truly international in character. Yet there were some major shortcomings which the Assembly faced in its efforts to deal with terrorism. The most prominent of the weaknesses has been the inability to come up with an agreed definition of terrorism. Though there is general agreement on the need to have collective efforts address the problem of terrorism, there still exists disagreement over certain issues which remains the main stumbling block for the UN in taking a comprehensive approach towards terrorism. Also, the ratification rate of the conventions passed by the General Assembly has been very low implying that the conventions have mostly been ignored by the majority of the member states (Feinberg, 2016: 43). Despite this however, scholars still keep faith in the institution and its ability to fight terrorism by taking all nations together. As Ozgercin has argued that "though the General Assembly 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" Ozgercin (2004:10).

The defining feature of the post-cold-war UN counter-terrorism however was the activation of the Security Council in the issue of counter-terrorism. The next section will try to understand how the Security Council reacted to the threat of terrorism and what factors led to the evolution of that role.

Security Council and Counter-Terrorism

The primary responsibility of the Security Council is of maintaining international peace and security. Under Article 39, it has broad authority to determine whether threats to the international peace exist and under Chapter VII and to decide on appropriate responses. The terms of the Article 39 are not so well defined as to give the Security Council the space and flexibility to respond to the new threats as and when they emerge. Also, under Article 29, there is provision for the Security Council where it "may establish such subsidiary organs as it deems necessary for the performance of its functions." Thus, the SC is intelligibly the most powerful organ of the UN, and its role, therefore, is crucial in UN's counter-terrorism activities. Yet, up until cold-war, the council was almost entirely silent on the issue of terrorism. It gets activated only after the end of cold-war. One of the main reasons for this is the end of

cold war rivalry due to the disintegration of Soviet bloc that sort of re-invigorated the council. Consequently, we see the major powers, especially the US, consistently using the council to deal with the matters of terrorism. A lot of activity, therefore, shifts from General Assembly to Security Council in post-cold-war period. This section will deal with the role SC played in dealing with terrorism.

Terrorism was first took on by the Security Council in the early 1990s. On January 31st 1991 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 emphasised the need for the international community to deal effectively with all such acts" (Oudraat, 2004: 152). The UNSC Resolutions on terrorism in the pre-911 period essentially begin with its Resolution 635 (1989). 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" (UN Doc 1989). Krame and Yetiv (2007:413) argue that the Resolution established the UN and the Security Council as a primary institution to deal with terrorism and also laid the groundwork for the UNSC's future counter-terrorism activities. Apart from this some of the early measures taken by the Security Council with regards to terrorism were imposing economic and diplomatic sanctions on states. This was seen in relation "to Libya in 1993 (in response to the Lockerbie bombing) and Sudan in 1996 (in response to Sudanese government support for Al Qaida and their terrorist activities)".

By 1999, increasing influence of the Al-Qaeda-Taliban regime in Afghanistan and their impending threat led the Security Council to issue its most decisive response in the form of the Resolution 1267. The SC further adopted Resolution 1363 on 30 July 2001, which was built on the earlier Resolution and the situation in Afghanistan became worse. The Resolution, going a step further in its effort to deal with the Taliban and terrorism, established a monitoring mechanism, the 1267 Committee, to monitor the implementation of all the provisions imposed by the Resolutions 1267 (1999). It also had provisions to assists States bordering the territory of Afghanistan, to increase their capacity regarding the implementation of the Resolutions 1267 (1999), and "to collate, assess, verify wherever possible, report and make

recommendations on information regarding violations of the measures imposed by Resolution 1267” (Oudraat, 2004). The Resolution also established a Sanction Enforcement Support Team, under the coordination of the 15 Member Monitoring Group.

The most decisive turn in the role of Security Council, however, comes after the 9/11 attacks. 9/11 incident was of such severity that it shook the conscience of the entire international community and consequently it became a defining incident that decided the future course the international counter-terrorism efforts. The immediate effect of the attack was the outright condemnation of the act by both General Assembly and by the Security Council. After that, there were array of resolutions passed concerning the incident. The first one was Resolution 1368 (2001) which “recognised the right to self-defence against terrorism”. And the other one was Resolution 1373 (2001) which represents a unique and what is seen by many as an “intrusive” way to fight terrorism unseen before in the history of UN. The Resolution 1373, passed under the Chapter VII, became the cornerstone of the UN's counterterrorism effort and also represents a departure from the conventional practice. It was a departure in the sense that first time SC took a rather legislative role where states had an obligation to make provisions in their domestic laws to counter terrorism as per the Resolution provisions (Kramer and Yetiv 2007:415). The obligations were of binding nature, and the countries were supposed to report the SC on the developments. In contrast to the previous conventions on terrorism adopted in the General Assembly which are binding only on those states that ratify them, Resolution 1373 established a set of uniform obligations for all the member states. This was probably for the first time the Security Council took up such an action relating to terrorism. Another significant outcome of the Resolution was the setting up of the Counter-Terrorism Committee (CTC) to look after the implementation of the resolution by the member-states and also to assist states in their efforts to implement the resolution.

The primary purpose of the Counter-Terrorism Committee (CTC) was to monitor the implementation of the Resolution by states. It did so by asking for the reports from states on the actions they have taken to implement the Resolution. It was not a sanction body, like the previous committees like that of 1267 and also it didn't maintain a list of terrorist organizations or individuals and has no prosecution power.

The Committee was primarily concerned about the role of individual state in dealing with terrorism and how to enhance and increase this ability to fight terrorism. The CTC thus amounted to be the first institutionalized attempt of the UN in its global counter-terrorism efforts. The Committee comprises of all the 15 members of the Security Council. Within the committee there are three Sub-Committees looking after the review of the reports sent by the States. The committee also has group of experts that assist the committee. States are supposed to send regular reports to the CTC on their implementation programs and efforts of Resolution 1373. These reports are generally dealing with the actions taken by the states in the areas like the domestic legislations regarding counter-terrorism, customs and immigration laws, legal mechanism against illicit arms trafficking, financing of such measures and any other area that has implication for terrorist activities. These reports also include the steps the states are taking in order to support their international commitment in fighting terrorism (Ward 2003: 298). One of the major issues that have been found with the Committee however is that only the members have been attending meetings despite the fact that there is provision for the non-members to be invited to the CTC meetings. The work of committee is monitored by Security which reviews its structure, activities and work programme after every three months in close-door meeting (Murthy 2007).

Considering the nature of the resolution and the amount of the work needed to be carried out by the committee, the Security Council created the Counter-Terrorism Committee Executive Directorate (CTED) in March 2004 through the Resolution 1535 (2004). CTED, the third component of the Resolution, was primarily designed to enhance the Counter-Terrorism Committee's ability to monitor the implementation of Resolution 1373 (2001). Scholars have pointed out that the CTED, which has 40 members working in it, is well equipped and is better structured than the other terrorism-related Committees of the Security Council, the prominent being Sanctions committee and 1540 Committee dealing with proliferation of WMDs to non-state actors (Murthy 2007:12). The CTED is extremely crucial is overall success of the CTC and its institutionalization has really provided a boost to the overall implementation of the resolution. The passing of the Resolution 1373 and subsequent institutionalisation of the committee were the major landmarks in UN's effort in fighting terrorism. This institutionalisation further gave impetus to overall UN's counter-terrorism activities.

Along with 1373, there was another significant development that was pioneered by the Security Council. This time it was regarding the major concern of proliferation of Weapons of Mass Destruction (WMDs) to non-state actors.

The fear that terrorist would acquire the WMD has been expressed by the scholars as well as by the policy makers since decades. The fear of such a proliferation became an immediate concern in early 2000s, especially in 2003 after the revelations of A.Q Khan's global network for nuclear weapon-related technologies. It was against this background the Security Council in April 2004 passed Resolution 1540 to address the inadequacies in the existing non-proliferation regimes and to fill the legal gap to build a framework for states to address the issue of proliferation of WMDs to non-state actors. The resolution, passed under Chapter VII of the United Nations Charter, imposed binding obligations on States to address the proliferation of WMD to non-state actors. The resolution also created a committee, Committee 1540, to look after the implementation of the resolution and assigned an expert group to look after the work. The UNSCR 1540 was seen to be an exceptional multilateral response to a pressing issue which had direct implications for the international peace and security (Ham & Olivia, 2004). It was also the first time that Security Council used Chapter VII explicitly for non-state actors. With its emphasis on non-state actors, Resolution 1540 and its committee was seen as a major institution within the UN framework to tackle the menace of terrorism.

In more recent times, the Security Council also passed a Resolution 2253 in 2015 which was adopted unanimously, to expand the framework of sanctions to include ISIS in it. The Resolution passed under Chapter VII on UN Charter and which was co-sponsored by US and Russia has powers to exercise "asset freeze, travel ban, arms embargo and listing criteria for ISIL, Al-Qaida and associated individuals, groups, undertaking and entities". The Council also decided that "the 1267/1989 Al-Qaida Sanctions Committee would be known as the '1267/1989/2253 ISIL (Da'esh) and Al-Qaida Sanctions Committee', while the Al-Qaida Sanctions List would be known as the 'ISIL (Da'esh) and Al-Qaida Sanctions List'" (UN Doc 2015).

The Security Council's role in tackling terrorism thus is extremely crucial in the sense that in post-cold war, the most visible and powerful tools are devised by the Council. This activity of Councils becomes even more prominent in the aftermath of

9/11 attacks. Kramer and Yetiv (2007: 415-422) compare and bring out the differences of the UNSC role in combating terrorism in the post-9/11 from the pre-9/11. They observe the following four stark differences. Firstly they observe that before 9/11, the UNSC had passed only 13 resolutions that dealt with the issue of terrorism with an average of one per year. That figure jumps drastically after 9/11, where almost 20 resolutions are passed just by the end of 2005 amounting to an average of 4 to 5 resolutions a year. Secondly, they also observe the change in the voting pattern. 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, before 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 became a central concern for the Security Council in post 9/11 era. Fourthly, before 9/11, very few terrorist attack issues were taken up by the Council. But, in the post 9/11, almost all terrorist attacks have been referred to and condemned by the Council. This stark difference shows the way Security Council becomes active in post 9/11 phase in tackling the terrorism. This again is reflection of a crucial aspect that tackling terrorism is one of those rare issue areas where all the permanent member agree to have a common policy, and therefore the resolutions have been successfully passed. Also, the Council's Resolutions gave rise major institutions like 1267 Sanctions Committee, CTC and CTED and the 1540 Committee who are recognised today as major arms of UN in their fight against terrorism. But as the activity of the Council gained momentum, there were questions being raised on the way it dealt with the issue of counter-terrorism.

Martínez, for instance, has argued that Security Council increasingly has “acquired a more legislative role which implies that Security Council has established rules of general scope that oblige the Member States of the United Nations to adopt legislation and administrative acts in their internal legal system” Martínez (2008:12). This increased legislative functions taken by the Security Council has led to an increased apprehensions and has been a subject of major controversy among the States and also a major debating point among the scholars since such a form of Security Council, where the Council is creating sweeping norms that dictate even the domestic legislative activities, was never seen before. Authors like Hudson (2004)

and Flitzpatric (2003) have highlighted the concerns regarding the neglect of Human Rights in Security Council's Counter Terrorism policies. Looking at the working of committees formed by Security Council, the authors maintain that the policies often lead to procedural unfairness which directly impacts human rights. They have argued that counter-terrorism activities of the Council have often led to the marginalization of human rights norms. Thus Security Council's counter-terrorism efforts invited controversy and were being critically scrutinised.

The adoption Global Counter-Terrorism Strategy is considered to be a significant development, especially when seen with this background. First, the Strategy was adopted unanimously in General Assembly which gave it the sense of legitimacy it required. Secondly, it integrated all the aspects of counter-terrorism, the preventive and combative along with human rights and rule of law concerns which were seen to be ignored in the way Council dealt with it. And thirdly, it sought to engage all the states and other organisations to collectively deal with terrorism by leveraging each other's capabilities and strengths. The Strategy thus tried to strike a balance between legislative role of SC and the accommodative role of General Assembly and created a global strategic framework agreeable to all. With the Strategy, the General Assembly was back on the international scene for counter-terrorism at a time when all the activity was covered by the Council. The Strategy thus is very crucial to study how the UN's counter-terrorism efforts shaped after its adoption.

Conclusion

Terrorism is a global threat and it requires a global solution. Given the nature and composition of UN as being the truly universal organisation dealing with the issues of peace and security, there is no doubt that it has a critical role to play in the fight against terrorism. UN took up the issue of terrorism in early 1970s and since then it has come a long way in his approach. One of the first things that come out of the study of the role UN has played in addressing the issue of terrorism is that it has been adaptive and responsive to the changing global realities. The tools, avenues and resources made available by the UN to address terrorism have substantially increased, and it has travelled a long way till here. In so far General Assembly is concerned given its constraints and powers, it has tried to tackle the issue essentially by creating

norms and making the forum available for the discussions. At times it has also proved to be a vital forum to debate contentious issues like that of concerns of human rights in fighting terrorism. Given the nature and composition of General Assembly, it is quite intelligible that it enjoys a sense of legitimacy, something which lacks in SC which is considered to be quite exclusive, and so the outcomes of the General Assembly have a special significance. Despite this, there have been several shortcomings in the way General Assembly dealt with terrorism.

One of the most glaring weaknesses of the General Assembly has been the inability to come up with an agreed definition of terrorism. There is no definition of terrorism that has been agreed upon and the Comprehensive Convention still awaits its adoption. This aspect thus remains a main stumbling block for the UN in taking a comprehensive approach towards terrorism. The sectoral conventions which the Assembly adopted has not attracted majority of ratifications implying the lack of interest of majority of states in them. Despite this however, the relevance of Assembly cannot be doubted. It still remains a forum where all the states can voice their concern regarding terrorism and use it for critical discussions. The adoption of Global Strategy is an example of how collective will of states can manifest through the Assembly. Even in future the role of Assembly is going to be critical as issues relating to global counter terrorism are going to be discussed in this forum along with all the states. Ozgercin thus rightly argues that “though the General Assembly 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 General Assembly has an important role to perform in addressing future threats and challenges to international peace and security” Ozgercin (2004:10).

The Security Council becomes active in counter terrorism only after the cold-war. The role of Security Council in tackling terrorism had two major components – one that it in most of the cases saw terrorism as threat to international peace and security as is evident by the fact that the crucial resolutions were passed under Chapter VII. The second that it took for itself the legislative role by which it created a norm for general application of all states and through its Resolutions mandated states to make appropriate legal provisions complying with the resolution to tackle terrorism. There never was an attempt to create a separate organisation nor were the

institutions that were created by the respective resolutions given a heavy operational role. What the Council sought to do was that it made mandatory provisions through resolution by which states themselves would make necessary arrangements to deal with terrorism. The role it granted to UN was thus of assisting and monitoring the compliance by the state. In this process the Security Council also created the necessary institutions, like CTC, CTED, 150 Committee and the Sanctions committee, which are involved in different aspects of counter-terrorism and are today identified as cornerstone of UN's counter-terrorism network. These institutions work along with the states and other relevant organisations to implement the provisions of their respective resolutions.

As the Security Council got actively involved in counter-terrorism, there were questions raised in the way SC dealt with the terrorism. States and scholars alike saw the increasingly legislative role of SC as intrusive of domestic legal space. These increased legislative functions taken by the Security Council has led to an increased apprehensions and has been a subject of major controversy among the States and also a major debating point among the scholars since such a form of Security Council, where the Council is creating sweeping norms that dictate even the domestic legislative activities, was never seen before. There were also concerns regarding the neglect of Human Rights in Security Council's Counter Terrorism policies. It is a feeling that the policies and process adopted by the Council often lead to procedural unfairness which directly impacts human rights.

So, on one hand when the Assembly was seen to be lacking in getting the required consensus among states on crucial issues and was seen faltering on making substantial efforts in UN's counter-terrorism efforts, Security Council though becoming active and taking the issue fervently within its domain, was seen to be intrusive and was criticised for the neglect of human rights and rule of law principles. It is under this background that the adoption of Global Counter-Terrorism Strategy in the General Assembly is considered to be a breakthrough . Firstly, it enjoys the legitimacy as it was passed unanimously and also it seeks to integrate all the major concerns like the human rights and the rule of law while tackling terrorism and forms a guiding document to deal with terrorism. Thus the study of Global Strategy is extremely important in understanding how the UN counter-terrorism effort shaped after the adoption. In the next chapter, the Strategy will be discussed in

detail to understand the way it intends to address terrorism and how different entities work to implement it.

Chapter 3

Global Counter-Terrorism Strategy: Non-Proliferation of WMD

Introduction

Terrorism is considered as bane of the century. As discussed in the previous chapter, the UN has tried to address the issue since early 70s and the way it addressed has evolved over the years. In so far General Assembly is concerned, given its constraints and powers, it has tried to tackle the issue essentially by creating norms and making the forum available for the discussions. At times it has also proved to be a vital forum to debate contentious issues like that of concerns of human rights in fighting terrorism. Given the nature and composition of General Assembly, it is quite intelligible that it enjoys a sense of legitimacy, something which SC lacks and at times is considered to be quite exclusive, and so the outcomes of the General Assembly have a special significance. Despite this there have been several shortcomings in the way General Assembly dealt with terrorism. Most prominent among them being inability to come up with agreed definition of terrorism. The rate of ratifications of the conventions has also been low reflecting lack of interest among the states in those conventions. Even in the light of these shortcomings, there are scholars who have faith in the organization's capabilities and believe that the role of Assembly is crucial in tackling future challenges and threats coming from terrorism Ozgercin (2004:10).

Insofar the Security Council is concerned; it becomes active in the matters of terrorism only after the end of cold war. But the major shift comes after the devastating attacks of 9/11 which shook the entire world. The most significant step taken by the Security Council post 9/11 was the UNSCR 1373. Through the resolution main thrust of the Security Council's response was two-fold - to criminalize terrorism at the domestic level and to mobilize all states' resources in the global fight against terrorism. The structure which was created to fight terrorism by the Council was state-centric structure where UN had limited operational role. There were no attempts to

create a separate inter-governmental organization to deal with terrorism and new institutions that were created had role of facilitator. The most distinguishing characteristics of the UN's counter-terrorism program are its decentralized structure where the emphasis was on states to carry implementation work. There was no global centralised structure within the UN that could comprehensively address the issue of terrorism. Beyond that, there were questions been raised in the way SC dealt with the terrorism. There was growing apprehension among member states that SC was acquiring more and more legislative role and was intruding in the domestic spaces of the states (Martínez 2008). The concern of marginalisation of human rights norms while tackling terrorism was also a major issue that was raised as SC acquired a more legislative and intrusive role. With lack of a global structure that could address the issue of terrorism comprehensively, no universally accepted framework to deal with terrorism and questions being raised with the existing institutions, UN's counter-terrorism efforts were seen to be lacking on many counts.

The adoption of Global Counter-Terrorism Strategy was seen as a major breakthrough in UN's approach to counter-terrorism. One of the most significant outcomes of the Strategy was that, for the first time all the member-states of UN agreed on a common global framework to collectively address the menace of terrorism. The Strategy thus has a sense of legitimacy, which at times was not there with Security Council measures. The Strategy also integrated major issues like the human rights and rule of law concerns while tackling terrorism and became a guiding document for future counter-terrorism efforts. The adoption of Global Counter-Terrorism Strategy therefore is a major step towards forming a comprehensive approach in dealing terrorism. This chapter in detail studies the Strategy and understands the way it intends to address terrorism and the concern. The chapter will first try to understand reasons behind the lack of a global structure to address terrorism. Then the chapter will look at the evolution and making of Strategy where the major issues that were discussed in making Strategy will be studied. The Chapter will then look at the implementation of Strategy where various activities of UN in implementing the Strategy will be discussed. Lastly, the chapter will look at how the Strategy expresses the concern of proliferation of WMD to terrorists.

Lack of Global Structure

One of the major encumbrances for a collective action of UN to counter terrorism was a lack of global structure. Historically, UN dealt with terrorism through General Assembly by adopting sectoral conventions that addressed part of terrorist issues as and when they came. These conventions addressed a part of the problem and not the terrorism comprehensively as an issue. The Comprehensive Convention which was drafted by India and presented to General Assembly is yet to be adopted due to fundamental differences like that on definition. The Security Council, though taking a more stringent position, more or less followed the same pattern immediately after cold-war. In three cases, for Sudan, Libya and Afghanistan, Security Council imposed economic sanctions for supporting terrorists. The most prominent of those measures, 1267 Resolution, was passed by the SC was to address the threat emanating from the advent and rise of AL Qaida and Taliban regime in Afghanistan. It imposed the Sanctions on those who were found supporting the regime and created a committee to oversee the sanctions. It was unusually a stringent response, due to its imposition of sanctions, yet it did not address the problem of terrorism as a 'world issue' entirely, but only pertaining to threat coming from the particular state/regime. Even in that case, the results achieved were limited as there lacked international will to impose sanctions and many states did not have appropriate domestic legislative provisions in place comply with the provisions of Security Council (Millar and Rosnand, 2007:58).

The 9/11 attacks, though results in drastic changes in the way UN handled terrorism, was again following the same pattern with slight differences. A significant among them was brought in due to adoption of 1373 Resolution which affirmed that terrorism was not just a localised issue but can emanate from anywhere and therefore every state must take all the measures so that it is not becoming an occasion for terrorist outburst or not even supporting it. The thrust of 1373 Resolution was to make all states criminalise terrorism and to adopt new laws and make appropriate domestic legal mechanism and supplement it by appropriate institutions that would enforce these legal measures domestically. In order words, Security Council was directing states to make necessary legal arrangement within their domestic spaces to fight terrorism. Passed under Chapter VII made it binding for all and also gave avenue for punitive action in case of non-compliance. The subsidiary institutions which were created by the Resolution, the Counter-Terrorism Committee and the Counter-

Terrorism Executive Directorate (CTED), were there to help states comply with provisions of the Resolution. These institutions were also to co-ordinate with other organisations that were in some way working in counter-terrorism activities. Thus, what we see was a follow up of a decentralised, state-centric system where states were to individually take measures to counter terrorism and UN was to play the role of a facilitator and at times also assisting states in their efforts. Though the severity and scope of Resolution varied, the fundamental characteristic of entire UN's counter-terrorism program did not really change.

One of the most prominent reasons for not having a centralised organisation or institution directly dedicated to counter-terrorism was major states feared that such an organisation may directly affect the interest of states. Messmer and Yordan argue that “from the standpoint of the Security Council's members, especially its permanent representatives, there was little interest in augmenting the UN's authority (to create a new organisation) as they felt that a new intergovernmental body could interfere with their own strategies to combat terrorism” (Messmer and Yordan 2010:174). Council members therefore created a structure in which states were asked to make necessary domestic provisions according to the adopted Resolution and accorded limited operational role for UN and its subsidiary institutions. This had a two-fold consequence, first it retained the supremacy of states to work out their own way to fight terrorism, something which major powers wanted, and the second was that through Security Council Resolutions all the states were mandated to make necessary domestic legislations to fight terrorism. Thus institutions like CTC and CTED were created with a role of facilitator where they would facilitate the implementation of resolution by monitoring the implementation of the resolution by the states and also helping them when needed. These institutions worked along with the states and other organizations in creating and disseminating new norms and eventually helping states to strengthen their capabilities to fight terrorism. This resulted in creation of network of states and organizations working at same level to fight terrorism and such an arrangement was preferred because these networks were seen to be more efficient and effective than supranational bodies “because they can encourage the creation of new rules and their dissemination, without undermining a state's ability to manage its own affairs”

Adoption of Global Counter-Terrorism Strategy is significant in this aspect as well. The Strategy first and foremost represented the will of the member states to commit to a common global strategic framework on which future counter-terrorism efforts could be based upon. The Strategy also integrated the critical issues, like that of rule of law and human rights, along with preventive and combative measures which made it a comprehensive approach in dealing terrorism. Though the primary responsibility of implementing the Strategy was on states, the Strategy called on all the different entities having stake in counter-terrorism to come together to collectively implement the Strategy. Thus, it sought to integrate all the different entities and institution and leverage their potential to address a common threat. The formation and institutionalisation of the Task Force further gave impetus to this objective and it became an important forum to bring about the co-ordination among different entities to fight terrorism based on common strategic framework of the Strategy. Thus, though the Strategy retained the state-centric approach, it may well be considered as an important step forward towards collective and co-ordinated global efforts to tackle terrorism.

Global Counter-Terrorism Strategy

As discussed above, the nature of the UN's counter-terrorism program was highly decentralized, where emphasis was on state to carry out counter-terrorism works and UN took up the facilitating role in state's efforts to counter-terrorism. The idea that United Nations should more actively be involved in global anti-terrorism activities with a more comprehensive approach was first officially voiced in the report of the Working Group, established in 2001 by the Secretary General named as "Policy Working Group on the UN and Terrorism". The Working Group, which comprised members from varied backgrounds including senior civil servants and other experts, was chaired by Kieran Prendergast, the then Under-Secretary-General for Political Affairs. The working group had mandate "to identify the longer term implications and broad policy dimensions of the terrorism for the UN to formulate recommendations on the steps that the UN system might take to address the issue" (UN Doc 2002).

In the report of the Working Group, submitted in 2002, it was highlighted that the main anti-terrorism work is carried out "through bilateral and multilateral cooperation among national agencies devoted to law enforcement, intelligence and security. By and large, such measures do not require the Organization's involvement"

(UN Doc 2002). Thus, we see the UN was consciously allotted a limited ‘operational role’ in the counter-terrorism efforts. However, it identified the places where UN has a comparative advantage in the counter-terrorism activities and urged that the UN should leverage this advantage. This advantage was especially identified in the activities like capacity-building measures in the implementation of the provisions of Security Council resolution 1373 (2001). This report of the Working Group however was relatively less effective and had limited application in the sense that it did not directly result in any policy changes. The report however was instrumental in creating framework for and started a discourse within the UN that a comprehensive approach to the UN’s effort to counter terrorism is required.

The next major development was the recommendation of the “High-Level Panel on Threats, Challenges and Change”, which submitted its report in 2004. Among other thing, the Panel discussed terrorism and suggested several operational reforms in the way UN conducted the counter-terrorism operations. The Panel observed that the of the role of UN in counter-terrorism needs to be enhanced and argued for a “global strategy of fighting terrorism that addresses root causes and strengthens the responsible states and the rule of law and fundamental human rights. What is required is a comprehensive strategy that incorporates but is broader than coercive measures” (UN Doc 2004).

Secretary General took up the cognizance of the recommendation of the Panel Report and worked on it and came out with his own re-formulation of the strategy which he elaborated it in his speech at “International Summit on Democracy, Terrorism and Security in Madrid” in 2005. In the speech, he detailed the five basic pillars of what he termed as a “principled, comprehensive strategy to fight terrorism globally and which came to be known as 5-D”. They are:

- Dissuade disaffected groups from choosing terrorism as a tactic to achieve their goals;
- Deny terrorists the means to carry out their attacks;
- Deter States from supporting terrorists;
- Develop State capacity to prevent terrorism
- Defend human rights in the struggle against terrorism. (UN, 2005)

The Secretary General (SG) outlined the same proposal in his 'In Larger Freedom' Report (UN Doc 2005). One of the major things which Secretary General attempted in it was to balance the views of States on contentious issues relating to terrorism which would help in forming a comprehensive strategic framework. For instance, Romaniuk argues that "SG did not refer to the social, political and economic factors in discussing the root causes of terrorism (as the panel had done)". He was not particularly seemed concerned about the issue of 'state terrorism', maintaining that there are other avenues in the international law by which the states could be held accountable. He also was insistent on passing the "comprehensive convention and incorporation of human rights standards in counter- terrorism activities" (Romaniuk, 2010). The purpose of the 5-D strategy was therefore clear: The Secretary General wanted to strike a middle ground, which would seek to accommodate contending viewpoints of various states with regards to counter-terrorism which would help in forging a consensus for a comprehensive strategic framework to deal with terrorism.

In 2006, Secretary-General Kofi Annan presented a report to the General Assembly: "Uniting against terrorism: recommendations for a global counter-terrorism strategy". In presenting the report, the Secretary-General said he hoped "for a collective global effort to fight terrorism -- an effort bringing together Governments, the United Nations and other international organisations, civil society and the private sector -- each using their comparative advantage to supplement the others' efforts" (UN Doc 2006). This report once again elaborated the 5-D strategy , however along with few modifications. For instance, the report dropped the 'root causes' term and instead used the term "condition conducive to exploitation by terrorist". This report led to series of negotiations steered by the then Secretary General and the President of General Assembly, the Swedish Foreign Minister, Jan Eliasson as well as the ambassadors of Singapore and Spain, which eventually culminated into Global Counter-Terrorism Strategy (Rosand & Einsiedel, 2010).

The UN Global Counter-Terrorism Strategy was adopted by the UN General Assembly on September 8, 2006 in the form of a resolution and an annexed plan of action. This was seen as a unique document intending to enhance "national, regional and international efforts to counter terrorism". It's significance lies in the fact that it is for the first time that all member States of the United Nations have agreed to a common strategic approach to deal with terrorism. The adoption of this strategy

was in a way achievement for the world as it stood to the commitment made by world leaders at the 2005 September summit. The Strategy was heavily influenced by the elements proposed by the Secretary General in his May 2, 2006 report entitled “Uniting against Terrorism: Recommendations for a Global Counter-Terrorism Strategy”. Its adoption had two fold implications – first it was declaration by the world leader that terrorism, in any form, was unacceptable and the second was that world leader agreed that entire international community should take practical steps in order to combat and also to prevent the menace of terrorism. These steps that are needed to be taken included various aspects, right from capacity building of the states to counter terrorist threats to better the coordination among United Nations system’s counter-terrorism activities. The Global Counter-Terrorism Strategy organized these efforts in it’s of 4 pillars approach which included:

- 1) Addressing the conditions conducive to the spread of terrorism
- 2) Measures to prevent and combat terrorism
- 3) Measures to build states’ capacity to prevent and combat terrorism and to strengthen the role of the United Nations system in that regard
- 4) Measures to ensure respect for human rights for all and the rule of law as the fundamental basis for the fight against terrorism.

One of the most prominent features of the Strategy is that it was passed unanimously which gave it a sense of legitimacy. Also, Strategy was conceived as a guiding document for all the future international efforts in countering terrorism. For many, the adoption of the Strategy represented a shift in the global response, and most distinctive aspect of it was its comprehensiveness. The Strategy included not only tougher law enforcement and other security measures, but also “measures to address real and perceived grievances and underlying social, economic, and political conditions” (Rosnand, 2009:124). However, there were few delegations who expressed their concerns regarding the Global Strategy. For instance, the South African delegation maintained that despite the adoption of the strategy they “continue to have concerns regarding the failure of the strategy which we have adopted to address fully State terrorism, extrajudicial killings, extraordinary renditions and illegal detention.” Similarly, the Sudanese delegation lamented that “document is weak and fails to refer to matters without which no counterterrorism strategy can be

developed. For example, the document contains no definition of the term terrorism”. The delegation further asserted that the “crucial issues like foreign occupation and State terrorism are not convincingly dealt with, and lack of definition aggravates the matters”. The delegation, therefore, maintained that the “resolution was adopted in haste, implying without paying enough attention to the crucial factors”. (UN Doc 2006).

Libyan delegation also pointed out “that significant factors have not been dealt with clearly, most important among which are agreement on a definition of terrorism, drawing a distinction between terrorism and the struggle of peoples for freedom and self-determination, and defining State terrorism in the same way as terrorism committed by individuals or groups”. Similar concerns were raised by the delegations of Pakistan, Venezuela, Lebanon and few others. Syrian in fact called the Strategy as “unbalanced and riddled with faults and shortcomings” (UN Doc 2006). It was clear that the Strategy was not able to form consensus on all the contentious issues like the “definition of terrorism”, “the issue of foreign occupation and State terrorism and also the issue of the right to self-determination” as many delegations felt it should have been. Also, many scholars argued that the content wise, the Strategy did not bring anything new to the table. It was more or less the compilation of various issues discussed and negotiated before but compiled in one document.

But the fact that despite the reservations it was passed unanimously was unseen in history of UN. This consensus, despite the expressed reservations by various member states, can be seen as a reflection of the desire among the member states to have a comprehensive strategic framework that would inspire a collective action to deal with terrorism. One of the major reasons for such faith in the Strategy is that the Strategy in many ways, as argued by various scholars, “manifests a balanced approach to counterterrorism efforts. It combines robust operational measures to prevent and combat terrorism with soft power tools to address conditions conducive to the spread of terrorism while also affirming the centrality of human rights and the rule of law in the effort to suppress terrorism” (Fink, Romaniuk, Millar, & Ipe, 2014) . The Strategy was sought be a “living document” as it was decided that the member states would undertake its review every two years. This gave Strategy, as Romaniuk has argued, “the effect of redressing the perceived imbalance between the principal organs of the UN as to who should set the agenda” (Romaniuk, 2010: 90).

The UN's Global Counter-Terrorism Strategy's major achievement was that it was for the first time all the member states agreed upon a common framework to deal with terrorism. Strategy also sought to improve the coherence and efficiency of counterterrorism assistance mechanism given to states so that all states can effectively be involved in counter-terrorism. The Strategy, by becoming a guiding document through its four pillar mechanism called on all the institutions having direct or indirect stake in counter-terrorism to work collectively to address the menace of terrorism. In particular, the Strategy recognized the "role of regional and sub-regional organizations to utilize their resources and expertise to strengthen counter-terrorism mechanisms, improve border and customs control, increase information-sharing at the national, regional and international levels and share best practices in counter-terrorism capacity building" (Xiaohui,2009:87). The Strategy in its Plan of Action touched upon all the crucial aspects that are directly linked with terrorism, "right from addressing the threat of bioterrorism by establishing a single comprehensive database on biological incidents to the issue of financing of terrorism and other illicit activities" (UN Doc 2006). The thrust of the Strategy was to deal with terrorism comprehensively and the way the Strategy sought to achieve that was to bring all the counter-terrorism aspects under one fundamental document. The implementation of the Strategy therefore has critical importance in the overall UN's efforts in countering-terrorism.

Implementing the Strategy

The primary responsibility of implementing the Strategy is of the state. The Strategy and the subsequent reviews reiterated that the primary responsibility of implementation is on the state. The Strategy however recognised the important role UN can play in implementing the Strategy. The UN was seen to be well-equipped for this given its resources, capabilities and various existing entities working in the areas related to counter-terrorism. While there are a number of entities working in some way of the other in counter-terrorism activities, they worked largely on their own while co-ordination among them was not necessarily seen. One of the major outcomes of the Strategy has been the gradual consolidation of UN's various counter-terrorism activities undertaken by various agencies. As discussed earlier, the Strategy maintains that the primary responsibility of implementation of Strategy is of state. To that end, it calls upon all the states, "to implement all General Assembly resolutions on measures

to eliminate international terrorism, and relevant General Assembly resolutions on the protection of human rights and fundamental freedoms while countering terrorism” and also “to implement all Security Council resolutions related to international terrorism and to cooperate fully with the counter-terrorism subsidiary bodies of the Security Council in the fulfilment of their tasks, recognizing that many States continue to require assistance in implementing these resolutions” (UN Doc 2006). Thus, the Strategy makes it clear that existing norms and structures are the integral components of UN’s counter-terrorism activities and that States have to adhere to them and ensure their implementation. But along with that, Strategy also identifies that there are other institutions that are crucial in implementing the Strategy. For instance, in its plan of action it specifically calls for “regional and sub-regional organizations to collectively work to create or strengthen counter-terrorism mechanisms or centres. Should they require cooperation and assistance to this end, we encourage the United Nations Counter-Terrorism Committee and its Executive Directorate and, where consistent with their existing mandates, the United Nations Office of Drugs and Crime and the International Criminal Police Organization, to facilitate its provision” (UN Doc 2006).

It is thus clear that the implementation of Strategy requires a cooperative approach of variety of actors working in tandem along with the states in their counter-terrorism efforts. The work of UN and its agencies in facilitating the implementation is therefore critical. This section of the chapter will deal with the various activities taken by the UN in implementing the Strategy. It will mainly focus on the role of The Counter-Terrorism Implementation Task Force (CTITF) in the implementation of the Strategy and will also look at the role of Regional and Sub-Regional Organisations and the Civil Society Groups and how has UN interacted with them in implementing the Strategy.

Counter-Terrorism Implementation Task Force

One of the most important developments in terms of implementation of the various UN initiatives on terrorism was the gradual institutionalisation and increased significance of the Secretary General’s Counter-Terrorism Implementation Task Force (CTITF). CTITF was established by the Secretary-General in 2005 and was subsequently endorsed by the General Assembly through the United Nations Global

Counter-Terrorism Strategy. The mandate of the CTITF is “to strengthen coordination and coherence of counter-terrorism efforts of the United Nations system”. Today, the Task Force consists of 38 international entities which have some stake in counter-terrorism efforts. Each entity makes contribution consistent with its own mandate and responsibilities. The primary goal of CTITF is “to maximise each entity’s comparative advantage by delivering as one to help Member States implement the four pillars of the Global Strategy”. Task Force today is seen as one of the major institution that is facilitating the implementation of the Strategy.

One of the primary purposes of establishing the Task Force was to have a co-ordinated approach in tackling terrorism. Given the nature of terrorism, to address it requires a multifaceted approach. Formulation of the strategy emphatically explains that dealing with terrorism must have all the preventive as well as combative elements. There are various entities, within and outside the UN, who by nature of their work have a direct stake in the counter-terrorism activities. But the way they functioned was scattered, and there was no mechanism to bring about the desired co-ordination among them. The establishment of the Task Force and its stage by stage institutionalisation was seen as a major step in that direction. The Task Force, which began in 2005, today has 38 entities (See the Table 1). Under-Secretary-General for Political Affairs is the Chair of the CTITF and his primary concern is to ensure that the Task Force effectively discharges its functions; the most important among them is to have “balanced implementation of all four pillars of the Strategy”.

The Task Force mainly functions in two ways. First, it acts as a forum for the exchange of information and discussion among the agencies of UN and others who have a stake in counter-terrorism activities. The Task Force also maintains UN Counter-Terrorism Online Handbook, which essentially is a repository of the information regarding UN’s activities. It was first released in 2007. The main purpose of this handbook is “to summarise the actions of the entities of the Task Force and demonstrate the degree to which counter terrorism has been institutionalised across the UN system” (UN Doc 2008).

(Table 1) CTITF Members Entities			
Agencies/Programs/Funds	Secretariat	Security Council	Observers
IAEA	Sexual Violence in Conflict	CTED	DESA
ICAO	Special Advisor on PoG	1540 Committee	UNHCR
IMF	DPA	1267 Committee	UNAOC
IMO	DPI		OCHA
INTERPOL	DPKO		IOM
OPCW	DSS		
UNDP	EOSG		
UNESCO	ODA		
UNCRI	OHCHR		
UN WOMEN	OICT		
UNWTO	OLA		
WCO	RoI Unit		
WHO	UNODC		
World Bank	UNOSAA		
	Youth Envoy		
*Compiled from CTITF Website			

The second way in which Task Force attempts to bring about the co-ordination is through the Working Groups created on the thematic grounds. These working groups have relevant entities within them and they, according to their mandate, collectively work towards the related areas of counter-terrorism. There are currently 12 thematic working groups in place:

- 1) Border Management and Law Enforcement relating to Counter-Terrorism
- 2) Countering the Financing of Terrorism
- 3) Foreign Terrorist Fighters (FTF)
- 4) National and Regional Counter-Terrorism Strategies
- 5) Preventing and Responding to WMD Terrorist Attacks
- 6) Preventing Violent Extremism and Conditions Conducive to the Spread of Terrorism
- 7) Promoting and Protecting Human Rights and the Rule of Law While Countering Terrorism
- 8) Protection of Critical Infrastructure Including Internet, Vulnerable Targets and Tourism Security
- 9) Supporting and Highlighting Victims of Terrorism
- 10) Legal and Criminal Justice Responses to Terrorism

11) Gender Sensitive Approach to Preventing and Countering Terrorism

12) Working Group on Communications

The Working Groups forms the basis for relevant entities to jointly discuss the issue and share knowledge about each other's activities. Further, several of these working groups often come out with the reports which are then shared with rest of the entities thereby helping them to make decision regarding the joint action. For instance, the Working group on Countering the Finance of Terrorism "conducted a series of roundtable meetings with stakeholders (banking, regulatory, national security intelligence, financial intelligence, law enforcement, and criminal justice experts) from various regions. The meetings served as part of its stock-taking exercise on the implementation of international standards for combating the financing of terrorism". The findings from the research and analysis as well as the roundtable discussions were compiled in a report which "identifies methods of terrorist financing, measures are taken to mitigate it, challenges to these measures, new approaches to the issue and forward-looking recommendations". The report contains 36 findings and 45 recommendations which could be used by the Member States to increase the effectiveness of efforts to combat the financing of terrorism. Five areas were covered in the report which was submitted: "(a) the criminalization of terrorist financing; (b) the enhancement of domestic and international cooperation; (c) value transfer systems; (d) non-profit organisations; and (e) the freezing of assets" (CTTITF Report 2009). These reports can then be used by the relevant organizations for their work. International Monetary Fund (IMF), for instance, used the report's findings to prepare an Action Plan which contained the proposals for implementation which could be considered by the members of the Working Group. Most of the entities participating in the Working Group have "integrated elements of the recommendations into their own work programmes" (CTITF, 2017).

There are also few Working Groups where all the entities of the CTITF participate. Such Working Groups are essentially for looking after the implementation of a general issue relevant to all the entities. For instance, the Working Group of Foreign Terrorist Fighters has all the entities of the Task Force in it. The adoption of UNSCR 2178 (2014) brought the issue of Foreign Terrorist Fighters to the forefront of the international agenda. This resolution had major impact as the

international community stressed on need undertake measures with respect to FTFs as the advent of terrorist organizations like Islamic State and other groups affiliated with Al-Qaida was seen as a major threat. It also recognised that “the underlying factors must also be addressed in a comprehensive manner, including by preventing radicalization, stemming recruitment of FTFs, inhibiting FTFs’ travel and disrupting their financial support” UN Doc (2014). In order to coordinate UN collective efforts on the issue of Foreign Terrorist Fighters (FTFs), the CTITF established an ad hoc Inter-Agency Working Group. This Working Group is “in charge of operationalising the implementation plan requested by the Security Council in Resolution 2178 (2014), setting out capacity building and technical assistance projects to be carried out over the next years in a coherent manner” (UN Doc 2014).

Similar exercises exist with all the different Working Groups. The result of such co-ordinated work was, Romaniuk argues that they brought together the different “entities participating in Task Force who took up membership in one or more of the groups” (Romaniuk, 2010: 101). Similarly, authors have also argued that the creation of the CTITF allowed a more inclusive approach by involving a wider array of actors. Further, the creation of working groups within the CTITF “provided a unique informal bridge among the Security Council, the UN Secretariat, other UN entities, and the General Assembly by allowing CTITF member entities that responded to both the council and the assembly to work together on projects without being hampered by the limitations of their own mandates and governance” Cockayne (2012), Cortright (2012) and Millar (2012).

Another important initiative of the Task Force is the Integrated Assistance for Countering Terrorism initiative. This initiative works at bringing together a number of United Nations entities to facilitate their coordination in their capacity-building assistance programs to the Member States. So far there are two pilot projects working in the Mali and Nigeria. The 2016 Global Counter-Terrorism Strategy Review explains “that the United Nations Counter-Terrorism Centre has initiated planning to expand its Integrated Assistance for Countering Terrorism initiative to some West African countries, at their request, as called for by the Security Council in its resolution 2195 (2014) and in the statement by the President of the Security Council of 8 December 2015” (UN Doc 2016).

The Task Force is, therefore, a critical institution which is working for co-ordinated approach towards tackling terrorism by bringing together various entities having a stake in counter-terrorism activities and thereby facilitates the implementation of the Strategy. The Task Force, however, has its own institutional limitations. Rosnand (2009) has highlighted the institutional issues that hamper the effective functioning of the Task Force. The major issue “is the reliance on the voluntary funding contributions from member states and a small secretariat staffed by junior officials and has operated without a full-time coordinator”. Similarly, Stoffer (2013) and Millar (2010) have tried to bring to notice some of the practical limitations for CTITF in co-ordinating. They argue that “almost every CTITF representative takes instructions from his or her superiors in headquarters”. Further, there is also limited time that each member entity in the CTITF can devote to the Task Force only due to their pre-existing work responsibilities. Despite this, however, there is no doubt that the role of Task Force is crucial in implementing Strategy in a more co-ordinated manner.

Role of Regional and Sub-Regional Organisations

Although the primary responsibility for implementation of the UN Global Counter-Terrorism Strategy rests with UN member states, the role of regional and sub-regional organization is well recognized for a more effective implementation. Both the Strategy and resolution adopted by the General Assembly in September 2008 following its first formal review recognize “the need to enhance the role of RSRs (as well as other stakeholders)” (UN Doc 2008). The most crucial aspect of such RSRs is that they enjoy some crucial comparative advantages over the UN which can be utilized for an effective implementation of the Strategy. Rosnand (2008), Ape (2008) and Healey (2008) have identified some of these comparative advantages which are summarized as follows -

- RSRs are huge repositories of the knowledge and ground realities. They are also equipped with the local issue expertise that makes them well-suited to develop approaches that take into account cultural and other contextual issues and thereby “undertake region- or sub-region-specific initiatives or other actions that complement and build on global counterterrorism objectives.”

- RSRs can serve as bridge between the Global and Regional by transferring the information two way – i.e. by disseminating the global norms at the regional level and also bringing to the global level the regional contexts and specificities that would further help the implementation of the Strategy
- They can act as facilitator in the exchange of information among governmental and non-governmental experts, and can help in “sharing of good national practices and lessons learned from national implementation among the countries of the region or subregion”.
- They can also develop frameworks of regional or subregional cooperation among relevant experts and institutions dealing with different aspects of the UN Strategy.
- RSRs have been “involved in work that is related to Strategy implementation—in areas such as capacity building, adopting their own counterterrorism conventions and action plans, and promoting respect for human rights—since well before the adoption of the Strategy”. The UN and its related entities involved in the implementation of Strategy may use this expertise to further improve the implementation.

Xiaohui maintains that regional organisations “should be given more voice in design and implementation of the Strategy related program relevant to their work” Xiaohui (2009:28). By envisaging a more entrenched partnership of UN with the regional organisation, he maintains that the implementation of the Strategy can be facilitated by creating a “network of agencies among, national, regional and international level”. Thus there indeed exists a strong case for RSR to be actively involved in implementing the Strategy. There is already some Strategy level engagement of the UN with various RSRs.

For instance, some Task Force entities have established or in process of establishing formal or informal networks with RSRs. Most importantly, the three Council counterterrorism-related expert groups (the Counter Terrorism Executive Directorate (CTED), the Al-Qaida/ Taliban Sanctions Committee Monitoring Team, and the 1540 Committee Group of Experts) continue to do so separately. Among the main tasks assigned to the CTC/CTED “was to reach out to international, regional, and subregional bodies to encourage them to become more involved in the global counterterrorism campaign by developing counterterrorism action plans, best

practices, capacity-building programs, units within their secretariats, and urging their members to join the international terrorism-related treaties and to implement Resolution 1373” (UN Doc 2004). The CTED has succeeded in interacting “with a wide range of RSRs, a few of which have participated in the CTED site visits to member states.” Similarly even the Al-Qaida/Taliban Sanctions Committee, with the help of its Monitoring Team, has reached out to different RSRs to get “their technical and/or political support for member state implementation of the sanctions regime.” The list of regional and subregional bodies that the Monitoring Team has tried to establish some links include the AU, the EU, the OSCE, CARICOM, ASEAN, the OAS and the SCO. (Rosand, Millar, Ipe, & Healey, 2008). On the same line even The 1540 Committee, along with its group of experts, have established links with the UN Office of Disarmament Affairs (UNODA) to reach out to RSRs to promote implementation of Resolution 1540. Their main focus is to bring about the required awareness and commitment among member states to implement resolution. As a result of its interaction with different regional bodies, the members of the “ASEAN Regional Forum, the OAS, and the OSCE have all committed themselves to preparing national action plans for implementing Resolution 1540” (Scheinman, 2008).

The UN, also directly attempts to engage itself in various outreach activities that are dealing with certain specific issues and activities. For instance, on 7 and 8 April 2016, the Secretary-General co-chaired the Geneva Conference on “Preventing Violent Extremism: the Way Forward” with the Government of Switzerland. This included a total number of 745 participants coming from 125 Member States among which 26 were directly United Nations entities and also there were 23 international and regional organisations along with as 67 civil society organisations (UN Doc 2016). Much of this co-operation, however, happens on ad hoc basis and on a more on the individual entities’ initiatives. These interactions are facilitated by the joint working mechanism of the Task Force. There is no concrete plan of action or guidelines provided by the UN for a more entrenched partnership. Such a framework on a routine basis could actually provide further impetus to the implementation of the Strategy.

Role of Civil Society Organizations (CSOs)

The Civil Society Organisations, by being at the grassroots level, are a repository of the ground realities and are therefore important for information gathering and also for generating awareness. Even in the Global Strategy, the role of CSO was recognised when in the Strategy it called on states to “encourage non-governmental organisations and civil society to engage, as appropriate, on how to enhance efforts to implement the Strategy” (UN Doc 2006). However, beyond recognising the need of the CSO in implementing the Strategy, there is little information in the Strategy on how to utilise this role of CSO. This lack of clarity is the main reason why the CSO are not so visibly seen to be an important factor in the implementation of Strategy, despite already being involved in some or the other aspect of counter-terrorism. Consequently, we do not see much of the formal activities from the CSOs with the entities. For instance, neither of the two major Security Council’s institutions - CTC/CTED or Al-Qaida/Taliban Sanctions Committee has attempted to tag in with local NGOs. There are certain organizations with global presence such as Amnesty International and Human Rights Watch, which attempt to have a dialogue with the Council to ensure its counterterrorism measures are consistent international human rights norms. This interaction however is extremely limited. The general trend visible is that CSOs have generally not got actively involved in the Council’s working nor there have been any direct attempts from the Council either.

CSOs however have been working on various other fronts in counter-terrorism activities. For instance, CSOs are increasingly contributing to building state capacity on various security matters through programs such as “Intergovernmental Authority on Developments (IGAD) Capacity Building Program against Terrorism.” The IGAD Capacity Building Program against Terrorism (ICPAT) program, launched in June 2006, is an example of an “innovative partnership between civil society (the Pretoria-based Institute for Security Studies [ISS]) and government on counterterrorism capacity building”. Among other activities, the ICPAT works “on its stated goals to improve border control, step up legal support; enhance interdepartmental involvement, providing training to educate regarding terrorism and to provide alternative co-operative method solving” (ICPAT, 2015). In the field of Human Rights, the work on CSOs has been most prominent. The major actors in this field are the Amnesty International, The International Society on Red Cross among others who

have been working on the Human Right standards in the individual countries and how to access states in this regards. There are also organizations which specifically work in the field of terrorism. For example, in 2005, the International Commission of Jurists launched the Eminent Jurists' Panel on Terrorism, Counter- Terrorism, and Human Rights "to consider the nature of today's human rights". The main focus of the panel, which consisted of eight members, was on exploring how "counter-terrorism measures and policies can produce effective results while also assuring the necessary respect for human rights and the rule of law". This panel has been meeting occasionally and has initiated various discussions on the issues directly related to global counter-terrorism efforts and have comes up with literature of study which can be used by organizations and member states for improving their efforts. One of the major such document was the report of the Eminent Jurists Panel on Terrorism, Counter-terrorism and Human Rights titled "Assessing Damage, Urging Action". This report was based on "extensive surveys by the panel to access the impact of state's response to 9/11 on counter-terrorism and human rights and how it changed the legal landscape of the world" (Jurists, 2009). These and many similar CSOs, who are working independently consistent with their mandates and area of expertise in the field of counter-terrorism, can prove as a great asset for UN in implementing the Strategy.

There are also few organisations and entities within the Task Force who have tried to engage with the CSOs in their activities. United Nations Office on Drugs and Crime's (UNODC) Terrorism Prevention Branch (TPB), for instance, which assists countries with the "drafting and implementation of their counterterrorism legal framework, often via national and regional training workshops, has made attempts to tag in with CSOs in its work. One of the main reasons for this was some of these CSO have technical expertise in the related field which could be utilized (Rosnand and Ipe 2008). Even the 1540 Committee along with its expert group have made attempts to reach out to the CSOs. One of such attempts was in July 2007, when the Committee chairman asked UNODA to convene a meeting with the several NGOs for information gathering and sharing expertise. The NGOs invited included only those "with well-established programs that directly foster the implementation of Resolution 1540 by states, such as through training programs, sharing expertise, providing funding, or conducting education and awareness-raising activities". The purpose of

the meeting was to examine and get the necessary feedback on how better this interaction with the NGO can be done that would help in an effective implementation of the resolution (Rosnand and Ipe 2008).

The role CSOs in countering terrorism has been acknowledged by various international agencies apart from the UN and they have been playing crucial role in their relevant areas. Even within the UN framework, there has been some amount of work within the framework of the Strategy. However, even today the participation is limited. A more co-operative work is needed to be done in this regard. Given the nature and work of CSOs they can prove to be a valuable asset in fight against terrorism.

Global Counter-Terrorism Strategy relate to Proliferation of WMD

The fear that terrorist would acquire the Weapons of Mass Destruction (WMD) has long been expressed by scholars and analysts. It is often being expressed as ‘sum of all fears’. This fear, i.e. the proliferation of nuclear, chemical, and biological weapons was declared a threat to international peace and security at the heads of state summit of the Security Council on January 31, 1992 (Bosch & Ham, 2004). This was however just a statement and had not legal implication to it. The fear, however, became pertinent with the Ayub Khan’s illicit nuclear market network coming in light. This became the major issue of discussion and even in the framing of Global Counter-Terrorism Strategy, this fear is reflected. The Global Counter-Terrorism Strategy’s Plan of Action explicitly reflects this concern. The Second Pillar of the Strategy, which deals with measures to prevent and control terrorism, mentions:

“To strengthen coordination and cooperation among States in combating crimes that might be connected with terrorism, including drug trafficking in all its aspects, illicit arms trade, in particular of small arms and light weapons, including man-portable air defence systems , money laundering and smuggling of nuclear, chemical, biological, radiological and other potentially deadly materials.”

Similarly, it invites

- “United Nations system to develop, together with the Member States, a single comprehensive database on biological incidents, ensuring that it is complementary to the International Criminal Police Organization’s contemplated Bio-crimes Database. We also encourage the Secretary-General to update the roster of experts and laboratories, as well as the technical guidelines and procedures, available to him for the timely and efficient

investigation of alleged use. In addition, we note the importance of the proposal of the Secretary-General to bring together, within the framework of the United Nations, the major biotechnology stakeholders, including industry, scientific community, civil society and governments, into a common programme aimed at ensuring that biotechnology's advances are not used for terrorist or other criminal purposes but for the public good, with due respect to the basic international norms on intellectual property rights". (UN Doc 2006)

And point seventeen says –

- “To invite the United Nations to improve co-ordination in planning a response to a terrorist attack using nuclear, chemical, biological or radiological weapons or materials, in particular by reviewing and improving the effectiveness of the existing inter-agency co-ordination mechanisms for assistance delivery, relief operations and victim support, so that all States can receive adequate assistance. In this regard, we invite the General Assembly and the Security Council to develop guidelines for the necessary co-operation and assistance in the event of a terrorist attack using weapons of mass destruction” (UN Doc 2006).

The concern of proliferation of WMDs to terrorists, therefore, is manifested in the Strategy as well. As a guiding document for future counter terrorism activities, the Strategy also calls for a co-ordinated approach towards a common goal. There are already a number of UN agencies and other organisations who are working directly in the area of WMD and its proliferation, the most notable being the International Atomic Energy Agency (IAEA), Organization for Prohibition of Chemical Weapons (OPCW), UN office on Disarmament Affairs (ODA), UN Office on Drug and Crime (UNODC) among others. However, none of them directly deal with the issue of terrorism per se.

The UNSCR 1540 was adopted by the Security Council primarily to deal with this issue of proliferation of WMD to non –state actors. It was first formal action of the Security Council that directly addressed the issue of proliferation of WMD. Passed under Chapter VII of UN Charter, it is binding on all states and has far reaching obligations that seeks to address the issue of proliferation of WMD and their means of delivery. Given its emphasis on non-state actors, it has direct implication of counter-terrorism and therefore is an important instrument in the global fight against terrorism. The Resolution also created a committee, the 1540 committee, which was to oversee the implementation of resolution and also assist states in their efforts to implement the resolution. Given its structure, its role and implications to counter-terrorism, the implementation of the 1540 Resolution has great significance to the

Global Strategy as well, as the proliferation of WMD is a major concern explicitly expressed in the Strategy. This fact is well recognised and thus 1540 Committee and its Expert Group is also a part of CTITF, which is primary institution facilitating the implementation of the Strategy. The 1540 Committee is also part of two important working groups that directly deal with the issue of proliferation of WMD – the first is “Preventing and Responding to WMD Attacks” and the second is “Border Management and Law Enforcement Relating to Counter-Terrorism” where the committee works with relevant institutions with an aim collectively to implement the mandate of the Strategy relevant to them.

One of the major goals of the Strategy is to synergise efforts of different UN entities who are working in counter-terrorism activities by collectively working towards the same goal. Considering the gravity of the issue of proliferation of WMD and the crucial role the UNSCR 1540 and its committee has to play to address, a dedicated study of the same is warranted. The next chapter deals with the role of 1540 committee in implementing the Resolution 1540 which has great significance for addressing the issue on proliferation of WMD to non-state actor.

Conclusion

The adoption of the United Nations Global Counter-Terrorism Strategy by the General Assembly in September 2006 marked a paradigm shift in the fight against terrorism. It was for the first time in the history of UN counter-terrorism efforts that the Member States committed themselves to a one comprehensive plan of action contained in the Strategy’s four pillars: “addressing conditions conducive to the spread of terrorism, combating and preventing terrorism, building national capacities to counter terrorism and upholding the principles of human rights and the rule of law while countering terrorism”. Since then, the States along with the various organisations having a stake in the counter-terrorism activities have made considerable progress in implementing the Strategy. Also, the implementation has been adaptive with the changing realities and nature of the threat. The increase in a number of the Task Force entities, the expanding Working Groups, joint working all have had a considerable impact on the way Strategy is being implemented.

One of the most important development since the adoption of the Strategy was the institutionalisation and expansion of the Counter-Terrorism Implementation Task

Force. The Task Force has been instrumental in co-ordinating among various UN entities having a stake in counter-terrorism and collectively working towards implementation of the Strategy. The Task Force faces some critical institutional lacunae, yet as Hegeman has argued, “ despite many challenges face by the at Task Force, it has a great potential to emerge as a major forum for co-ordinating UN’s diverse activities relating to counter-terrorism and eventually emerge as an operational bridge linking intergovernmental political decisions to their implementation at the technical, trans-governmental level”.

The role of Regional and Sub-Regional Organisation in the implementation of the Strategy is also very crucial. As discussed in the chapter, these organisations have been involved in the counter-terrorism related activities even before the adoption of the Strategy. Their comparative advantages over the UN in their regional spaces make them extremely crucial in implementing the Strategy. This has been recognised in subsequent reviews of the Strategy as well as in numerous other proceedings. There also exist various mechanisms within the UN where such a partnership is established. These mechanisms have been used by the relevant entities to disseminate the norm into the specific areas and have tried to build a working relationship for the collective implementation of Strategy. RSRs, on their own too have been playing an active role in it. However, a more institutionalised and entrenched partnership with these regional bodies, could be an effective mechanism for the implementation of the Strategy.

The role of Civil Society Organizations is also seen to be crucial in the effective implementation of the Strategy. However, the amount of participation which should be there of the CSO with the UN is missing. Even the Review documents are more or less silent on the role of CSO, except for some customary references to them as having some role to play. Various factors can be contributing to this limited participation. For instance, often states themselves are reluctant to admit CSO as at the time they serve adversarial relations with the state. Even, the huge number and diversity of CSOs existing today in all spheres makes it difficult to identify and chose who to work with. Yet, there could be an effective mechanism that can be utilised along with Regional Organization to maximise the utility of these organisation.

One of the major concerns of the world today is the proliferation of WMD to terrorists. This concern is explicitly expressed in the Strategy as well. There are

number of organisations who are working for the non-proliferation of WMD, however the most critical tools emerged in 2004 to address this specific issue of proliferation of WMD to non-state actors in UNSCR 1540. Adopted in 2004, the Resolution makes binding obligation to states to ensure that there are enough domestic mechanisms to prevent non-state actors acquiring WMD. The 1540 Committee, which was created by the Resolution, looks after the implementation of the Resolution and helps state implement its provision. The Committee is also one of entities of the Task Force where it is part of two crucial working groups. The role of the Resolution 1540 and its committee is indeed crucial in implementing the non-proliferation aspect of the Strategy. The next chapter in detail will study the Resolution 1540 and the role of 1540 committee in addressing the issue of proliferation of WMD to non-state actors.

The scope and the implications of the Strategy are large and numerous. It will require an array of institutions, state as well as non-state, to effectively look at its implementation. It is, therefore, necessary to evolve mechanisms and institutions to that would create a working network of these various organisations and utilise them to their full potential to implement the ambitious aims of the Global Counter-Terrorism Strategy.

Chapter 4

Resolution 1540 and the Committee

Introduction

One of the major challenges the international community took up with the advent of new century was how to deal with the entrenched networks of terrorist organizations which have increased tremendously in the reach with increased means of communications and other avenues offered by the globalized world. Terrorism presents a far more dangerous picture in the contemporary times as their methods turned far more sophisticated, their ability to harm and create havoc multiplied many times and their cross border diffused nature makes it difficult to identify the source to directly address them. Over the years, their ways to inflict terror have evolved and the nature terrorism has acquired today presents an alarming picture. The 9/11 attack on US was a prominent manifestation of the acquired capabilities by the terrorist organization to inflict harm on large scale. Apart from being financially sound and technologically equipped, they were now able to cause harm in the places of their choice and their network spanned across the counties. The groups like Al Qaida, Talibam, Boko Haram, and the most feared one of the recent times ISIS and the continuing attacks on the major cities across the continents show that they have not only cross-continent presence but have means to expand and grow with increased means to proliferate. Considering the true international nature of contemporary terrorism, concerted international efforts are imperative in dealing with them. UN, thus gains a lot of importance in driving the state's efforts and resources in tackling this common threat.

As the threat of terrorism grew, there were allied problems like the state sponsoring of terrorism, the issue of state terrorism itself which were major point of discussion. Among them, one of the scariest scenarios is that of the terrorists acquiring the Weapons of Mass Destruction (WMD). The fear, often dubbed as “sum of all fears”, was expressed time to time and the major challenge before the

international community was to devise effective legal mechanisms to prevent weapons of mass destruction (WMD) proliferating to the terrorist groups. This concern however became an immediate one and caused panic with the discovery of the Abdul Qadeer Khan nuclear proliferation network in 2004 (Oosthuizen and Wilmshurst 2004:06). That and the September 11 attacks in 2001 together triggered the international community to act to address this pressing need and the outcome of this was the slew of resolutions coming after that from the Security Council, some of the crucial ones being passed under Chapter VII, that directly dealt with terrorism. Resolution 1540 is the product of the same exercise. On April 28, 2004, the UN Security Council unanimously enacted Resolution 1540, a binding legal instrument to deal with pressing threat of proliferation of WMD. Resolution 1540 was aimed at being a supplement to already existing institutions that dealt with the similar aspects but were lacking in some grounds. The rationale of the resolution was not to replace but to complement the existing mechanisms. The Resolution explicitly states that “none of its obligations alter or conflict with the rights and obligations of parties under the nuclear Non-proliferation Treaty, the Chemical Weapons Convention, or the Biological Weapons Convention or alter the responsibilities of the International Atomic Energy Agency and the Organisation for the Prohibition of Chemical Weapons” (UN Doc 2004).

WMD, traditionally have been regulated by treaties on the non-proliferation or prohibition of the relevant category of weapons. These treaties included 1968 Nuclear Non- Proliferation Treaty (NPT), the 1972 Biological Weapons Convention (BWC) and the 1993 Chemical Weapons Convention (CWC). These treaties outlined the norms that were to be ideally adhered by all the states, yet there was no binding obligation to all the states as a whole. Despite this however, they have been adhered to by the vast majority of states (Asada 2009:305). NPT for years has been seen by many as a critical instrument for checking the proliferation of Nuclear Weapons. Keeny has argued that “the Non-proliferation Treaty (NPT) has established an indispensable yet imperfect set of interlocking non-proliferation and disarmament obligations and standards. Rather than the dozens of nuclear-armed states that were forecast before the NPT was opened for signature in July 1968, only four additional countries beyond the original five possessors have nuclear weapons today and several states have abandoned nuclear weapons program” Keeny (1995). Despite having some problems,

states have used treaty to some good and its utility is not entirely ignored. There are others who argue that such a treaty is, by design, highly unequal and also the “self-defeating clauses in the treaty have only militated against the aim of global disarmament” (Vanaik 1986:1825). The Treaty is often criticised for its discriminatory nature and that it has “neither resulted in substantial disarmament nor has it helped to curb nuclear proliferation, either horizontal (which it was supposed to) or vertical” (Jayaprakash 2008:44)

Another significant instrument in this regard is Chemical Weapon Convention which aims “to eliminate an entire category of such weapons of mass destruction by prohibiting the development, production, acquisition, stockpiling, retention, transfer or use of chemical weapons by States Parties”. States Party to this convention are supposed to take the steps necessary to enforce that prohibition. Considered widely to be an important convention related to a category of WMD, CWC has also been credited for achieving descent level of success (Walker 2010). The issue with the CWC however is that there is no monitoring of compliance with several other treaty obligations. The role of Organization for Prohibition of Chemical Weapons (OPCW), which was created to oversee the implementation of the convention, is often praised. Among other things, OPCW was charged to manage “the reporting function required by the convention, organizing routine and challenge inspection and supervising the inspectorate”. Despite its descent success however, the political and technical factors have come in the way of successful implementation of this Convention. For instance Robinson points out that “changes in the technology that could devise the Chemical Weapons and necessary measures to deal with them are absent in the treaty” (Robinson 2008). The existing institutions and regimes therefore have dealt with the aspect of proliferation of WMD, however their impact was partial and all had certain lacunae in it. There needed an instrument that could fill in this void, and the UNSCR 1540 was so designed that it would fill that gap.

UNSCR 1540, which was passed in April 2004, was aimed at creating a structure that could address the issue of proliferation of WMD. UNSCR however is different than the existing non-proliferation measures in many ways. First, it is for the first time that the focus is non-state actors. There was mention of non-state actors in the previous regimes too, but it was secondary. Another significance aspect of the Resolution 1540 compared to other treaties of non-proliferation is that, Resolution

1540 explicitly attempts to integrate proliferation concerns about delivery means with all - nuclear, chemical, and biological agents. Also its adoption under the UN Charter's Chapter VII makes this instrument extremely strong than the previous ones as this gives avenues for further punitive measures like sanctions in case on non-compliance. But the major aspect of the 1540 Resolution is that given that the focus is on non-state actors, it is clear that the Resolution has direct implication for counter-terrorism activities. Thus considering the nature of Resolution 1540 and its utility in global the counter-terrorism activities, the study of the implementation of resolution 1540 is an important segment in the broader study of the implementation of the Global Counter-Terrorism Strategy. This Chapter will deal with the study of the UNSCR 1540 and the role of 1540 Committee in the implementation of the Resolution. The Chapter first will briefly study the context and evolution of the resolution followed by the study of its provisions. The Chapter will then study the role of 1540 Committee and how it works with the relevant actors to implement provisions of the Resolution which has implications for the implementation of the Strategy as well.

Context, Making and Provisions of the Resolution 1540

The Security Council adopted the Resolution 1540 in April 2004 in order to create a legal framework that would deal with potential proliferation of WMD to non-state actors. Though, there existed regimes that dealt with non-proliferation in general, the intentional focus of 1540 was on non-state actors, which makes it important tool in counter-terrorism efforts. Passed under Chapter VII of the UN Charter, it comes with binding obligations for all the states. Thus, it is not only a strong mechanism but also it fills the legal gap in the existing framework and integrates the non-proliferation of WMD aspect with that of counter-terrorism. It is beyond doubt that if implemented properly; the Resolution can be a major step is addressing a critical concern regarding the global terrorism. This section will deal with the context and making of Resolution 1540 and will study the provisions of the Resolutions.

As discussed earlier in the chapter, the threat that the non-state actors would eventually acquire WMD has been expressed several times in past before adoption of the Resolution. The idea of such a resolution however was first enunciated by U.S President George Bush in his address to General Assembly in September 2003. In his

speech he asked UN Security Council to “to adopt a new anti-proliferation resolution. This resolution should call on all members of the U.N. to criminalize the proliferation of weapons -- weapons of mass destruction, to enact strict export controls consistent with international standards, and to secure any and all sensitive materials within their own borders. The United States stands ready to help any nation draft these new laws, and to assist in their enforcement.” Later on the same proposal was endorsed by the foreign secretary of the United Kingdom Jack Straw in his address to General Assembly. He specifically called on the Security Council to look into this major issue of proliferation of WMD to non-state actors.

In following weeks, the permanent member of the Security Council became active with regards to this issue. First, both the US and the UK drafted an initial draft which was then circulated among the permanent members of the Security Council. Later on even Russia produced its version of draft which was circulated with the members of the Council. This kicked up a long process of negotiations and discussion which was to last for almost seven months. The process of negotiations brought to the light the concerns of various countries regarding such a resolution. One of the major concerns expressed during the negotiation was the proposed legislative nature of the Resolution and the amount of powers that were vested in it. For instance, the Indian representative voiced this apprehension quite firmly as he maintained that “our recognition of the time imperative in seeking recourse through the Security Council does not, however, obscure our more basic concerns over the increasing tendency of the Council in recent years to assume new and wider powers of legislation on behalf of the international community, with its resolutions binding on all States. In the present instance, the Council seeks to both define the non-proliferation regime and monitor its implementation. But who will monitor the monitors? We are concerned that the exercise of legislative functions by the Council, combined with recourse to Chapter VII mandates, could disrupt the balance of power between the General Assembly and the Security Council, as enshrined in the Charter” (UN DOC 2004). The Indian delegation even warned about the legitimacy and efficiency of such a resolution which is passed under such sweeping powers might be in question and cautioned that “the issue goes beyond a mere legal consideration of the Council’s allocated powers under the Charter. The credibility and even respect that the Security Council can garner depend on its actions being the product of internal cohesion and

universal acceptability” (UN DOC 2004). He further questioned the potential of such an arrangement giving out any substantial results. Sighting the experience of the previous resolutions he argued that “the limitations in their implementation underscore the need for caution on the Security Council being used as a route to short circuit the process of creating an international consensus. Exhaustive and excessive reporting obligations resulting from resolutions 1267 (1999) and 1373 (2001) have led to repetitive reporting exercises and burdensome bureaucratic structures without commensurate results on the ground.” (UN Doc 2004).

The delegation of Pakistan raised similar apprehensions and questioned the rationale of passing of the Resolution under Chapter VII. The Delegation argued that, “there is no justification for the adoption of this resolution under Chapter VII of the Charter. The threat of WMD proliferation by non-State actors may be real, but it is not imminent. It is not a threat to peace within the meaning of Article 39 of the United Nations Charter”. Further, the delegation also expressed the fears so much powers in the Resolution can lead to resorting to the use of force is ensuring the compliance. The delegation maintained that “a legitimate fear arises that when one sees the draft resolution under Chapter VII, with language such as that used — to combat by all means — an authorization is being sought which could justify coercive actions envisaged in Articles 41 and 42 of the Charter, including the use of force.” (UN Doc 2004)

There were other countries who lamented the fact that in Resolution 1540 the disarmament provisions are not sufficiently filled in which makes it rather weak and counts as a failure to recognise the link between non-proliferation and disarmament. For instance the delegation of South Africa maintained that “the threat posed by weapons of mass destruction can be effectively addressed only if we use all the instruments at our disposal, in the fields of both non-proliferation and disarmament. The attempt to establish a mechanism in the Security Council that is isolated from the Biological Weapons Convention, the Chemical Weapons Convention and the Nuclear Non-Proliferation Treaty is a weakness that may impact on the effectiveness of the measures being considered in the draft resolution”. The Delegation further emphasized that “it is South Africa’s belief that universal adherence to and compliance with international agreements on weapons of mass destruction and the complete elimination of those weapons provide the international community with the

only guarantee against the threat or use of those weapons.” (UN Doc 2004). Similar concerns were raised by other countries like Cuba, Iran, and Argentina among others.

In response to these apprehensions, mainly coming from the developing nations, the sponsors and the makers of the draft tried to argue their case. For instance The UK confirmed “that the draft resolution is not about coercion or enforcement. Many delegations have raised questions about the Chapter VII legal base for the draft resolution and about what that implies. What this draft resolution does not do is authorize enforcement action against states or against non-state actors in the territory of another country. The draft resolution makes clear that it will be the Council that will monitor its implementation. Any enforcement action would require a new Council decision” (UN Doc 2004). Similarly the delegation of the US, after having explained why Chapter VII should be invoked, said that” the draft resolution ‘is not about enforcement”. Germany too noted that “in case of non-implementation the resolution does not foresee any unilateral enforcement measures. If necessary, such measures must be subject to specific further decisions, to be adopted by the Security Council as a whole under paragraph 11 of the resolution and in conformity with the United Nations Charter” (UN Doc 2004). It was clear that the concerns regarding invocation of Chapter VII and the legislative provisions of the Resolution had created a divide among the world community. The task therefore was to bridge this divide and form a common ground to address this grave issue of proliferation of WMD to non-state actors.

After due deliberation and negotiations, there were some changes made before it was finally put to vote. The most crucial change which was brought about due to insistence of China was the “the replacement of the phrase interdict illicit (WMD) trafficking”. China’s concern was that the resolution 1540 is not used for legitimising the Proliferation Security Initiative (PSI), regarding which China always had grave apprehensions. China has since beginning maintained that PSI, an US initiated mechanism to stop illicit trafficking of WMD, was “in violation of International Maritime Law” and thought that Resolution 1540 may be used to give PSI a sense of legitimacy. The replacement of this phrase was indeed significant since many analysts believed that it was indeed US’s intent to make PSI legitimate through Resolution 1540 (White 2016: 142). After the due deliberations and necessary reformations the

draft resolution was unanimously passed on 28th April 2004 under the Chapter VII of the UN Charter.

Provisions of UNSCR 1540

The main intent of the UNSCR 1540 is to make states criminalize the proliferation of WMD to non-state actors and to that end they should implement the necessary provisions through their domestic legislations and also through other institutions. The main requirements of the resolution are set out in the operative clauses 2, 3 (a), 3 (b), 3 (c) and 3 (d). The specifications are as follows –

- “States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them”. (OP. Clause 2)
- “States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall - develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport” (OP. Clause 3-a)
- “Develop and maintain appropriate effective physical protection measures;” (Op. Clause 3-b)
- “Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law” (OP. Clause 3-c)
- “Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations” (OP. Clause 3-d)

Resolution 1540 is significant for various reasons; the important among them is that it fills the legal void in the international system for controlling the proliferation of WMDs. Also, given its main target as non-state actors, it is also unique and has major implication for counter-terrorism along with non-proliferation. Various scholars have tried to explain the significance of such a Resolution. Some of those points are summarized as follows -

- First, - the focus on non-state actor makes it extremely crucial. All the other existing mechanism, mainly The NPT, CWC and the BTWC, have established norms and standard that apply to States alone, assuming that State alone can acquire the WMD. The 1540 Resolution fills this gap and focuses on non-state actor as well which is a major development.
- The Resolution 1540 also requires all the states, irrespective to whether they are party to it or not, to adhere to the specification of the Resolution. Since passed under Chapter VII, it is binding on all the States. Such was not the case with the previous mechanism. In that way, it is truly a universal measure.
- Resolution 1540 for the first time integrates all the categories of WMD and addresses them as one. This makes it as an single document dealing with all the major categories of WMD
- The Resolution also expresses concern and requires state to take necessary actions regarding the financial aspects along with the other such as security of the borders, and export controls among others.
- Resolution, since passed under Chapter VII, not only makes it mandatory for all but also opens up the possibility for the punitive actions like sanctions in case of non-compliance.

The Resolution also established a committee, the 1540 Committee to oversee the implementation of the resolution. The committee composed of 5 permanent members and ten non-permanent members assisted by the group of experts. The main work of the committee is “to evaluate the national reports and assess the progress of the implementation”. Apart from it, the committee plays a major role in “raising the awareness of the Resolution among member states by outreach programs and dialogue with the member states”. It also plays a co-ordination role with other related organizations such as IAEA, OPCW as well as with other regional and sub-regional organizations. The committee and the expert group

meets regularly to discuss programs and ways that can be devised for the thorough implementation of the Resolution (Oosthuizen & Wilmshurst, 2004).

UNSCR 1540 and Counter-Terrorism

Though primarily a non-proliferation measure, the UNSCR 1540 can be seen as part UN resolutions directly dealing with counter-terrorism. There are prominently three Security Council Resolutions which directly deal with Counter-terrorism. Looking at the structure and pattern of those resolution, it is observed the 1540 is created on the same lines. The first one was the UNSCR 1267 passed in 1999 which was created specifically for the individuals and groups that were found to assisting in anyway the Taliban or Al-Qaeda groups and their terrorist activities. Resolution 1267 also created a committee, the Sanctions Committee which was a subsidiary body of the Security Council. The Committee was tasked with work of maintaining a list of individuals and also entities against which sanctions are applied; and also to check if the sanctions are effectively applied by the states or not.

The other Resolution which is directly concerned with counter-terrorism is the UNSCR 1373 passed in the September 2001 in the aftermath of the 9/11 terrorist attacks Ham and Bosch argued that the “Resolution 1373 requires all UN member states to take steps to combat terrorism, with the UN serving as a focal point for building the networks and professional capacity to do so at the global level. This was the first time since its inception in 1945 that the Security Council had invoked Chapter VII to legislate on a functional rather than usually state-specific threat to international peace and security” Ham and Bosch (2004). The resolution also created a committee, the Counter-Terrorism Committee (CTC) to oversee the implementation of the resolution and to help states in implementing the requirements of the resolutions and also to keep track of their implementation records by reviewing their reports.

The UNSCR 1540 was also framed on the similar grounds. Firstly, it was passed under Chapter VII, thus making it legally binding. Its focus on non-state actor was clearly aimed at the possible proliferation to the terrorist. The Resolution also has legislative provisions with regards to the proliferation of WMD that that states are supposed to follow and incorporate. Alike the previous two Resolution, even this one

created a Committee, the 1540 Committee which was to look after the implementation of the resolution and also to co-ordinate with States and other related agencies who are working in the similar field. The impact of the earlier resolution on the 1540 is therefore quite clear. There are also frequent interactions and co-ordination among these three major counter-terrorism bodies which was intentionally encouraged by the Security Council. In particular, resolution 1810 (2008) “reiterates the need to enhance ongoing cooperation between the 1540 Committee and these other subsidiary bodies, including through enhanced information sharing, coordination on visits to countries, within their respective mandates, technical assistance and other issues of relevance to all three committees”. (UN Doc 2008) The Committees are also supposed to “deliver periodic joint briefings to the Security Council in order provide opportunities for States to comment on the work of the Committees and the development of cooperation among them.” The 1540 Committee has also established a Working Group which looks after the issues relating to cooperation with the other Security Council Committees relating to counter-terrorism in order to have a more impactful implementation.

Implementing Resolution 1540

On 28 April 2004, the United Nations Security Council unanimously adopted Resolution 1540 (2004) under Chapter VII of the United Nations Charter, implying that the proliferation of WMD is a threat to international peace and security. The resolution imposes binding obligations on the states “to refrain from supporting by any means non-State actors from developing, acquiring, manufacturing, possessing, transporting, transferring or using nuclear, chemical or biological weapons and their delivery systems” (UN Doc 2004). It also imposes “binding obligations on all States to make necessary domestic provisions through legal and other means to prevent the proliferation these weapons along with their means of delivery”. Further it also obligates to establish appropriate domestic controls to prevent its illegal trafficking. The Resolution 1540 thus comes with a far reaching and an ambitious mandate. As discussed earlier, the Resolution is also unique in character which integrates non-proliferation and counter-terrorism aspects and seeks to address all categories of WMD in one single tool. The aim of the Resolution is to build on to existing non-proliferation structure, rather than being a stand-alone mechanism. It becomes clear when the resolution “affirms support for the multilateral treaties whose

aim is to eliminate or prevent the proliferation of WMDs and the importance for all States to implement them fully”; it reiterates that “none of the obligations in resolution 1540 (2004) shall conflict with or alter the rights and obligations of States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, the Chemical Weapons Convention, or the Biological Weapons Convention or alter the responsibilities of the IAEA and OPCW” (UN Doc 2004). Thus it is clear that the role of the Resolution 1540 is to supplement the existing mechanism regarding proliferation of WMD and not to replace it. Implementation of the Resolution is therefore of critical importance. To look after the implementation of such a far reaching resolution is task of 1540 Committee. The proper implementation of the resolution therefore largely depends on the way the Committee discharges its functions. The next section will deal with role of 1540 Committee is facilitating the implementation of Resolution 1540.

The Role of 1540 Committee

The 1540 Committee was established by the Resolution 1540 to look after the implementation of the Resolution. Comprised of the council’s 15 members and assisted by a panel of experts (currently 9), the 1540 Committee is tasked with “providing awareness of the resolution and its requirements, matching assistance requests with offers, and assessing the status of implementation”. Alike CTC, even in this case, States are supposed to provide a detailed report the Committee on the activities they have undertaken or intend to take in future to implement the resolution. Initially the mandate of the committee was for two years On 27 April 2006 with the adoption of Resolution 1673 the Security Council extended the mandate of the 1540 Committee for two more years expressing “the interest of the Security Council in intensifying its efforts to promote full implementation of the resolution (UN Doc 2006). On 25 April 2008, the Security Council adopted Resolution 1810, which again extended the mandate of the 1540 Committee - this time for three years. On 20 April 2011, the Security Council adopted Resolution 1977, which reaffirmed “that the proliferation of WMD and their means of delivery is a threat to international peace and security and extended the mandate of the 1540 Committee for a period of ten years to 2021” (UN Doc 2011). These improvisations and subsequent developments imply that there is recognition among members of the Council that the role of Resolution 1540 is crucial instrument and that the realization of the target is a long

term task. The Resolution also mandates the committee to “continue to strengthen its role to facilitate the provision of technical assistance and to enhance cooperation with relevant international organizations”. The Committee is also mandated “to continue to refine its outreach efforts and to continue to institute transparency measures”. Considering the need for more resources, especially in terms of expert needed to review the reports and assist the states, the Security Council on 29 June 2012 adopted Resolution 2055 (2012), which enlarged the number of experts in the Committee to nine (9) experts (UN, 2017). Thus there was also recognition among the members that the role of Committee too is crucial in implementing the Resolution. The work of Committee in implementing the resolution is essentially done by reviewing country reports and also assisting countries who require assistance in implementing the provision of Resolution. The Committee mainly carries out its work through two major mechanisms – the National Implementation and Assistance provision.

1) National Implementation

The Resolution 1540 calls upon all States to present a detailed report on steps they have taken to implement the resolution and submit it to 1540 Committee for the review. These reports are then reviewed by the Committee assisted by the group of experts. According to the committee report, most States have filed their first reports (UN Doc 2016). Further to that, the resolution 1977 (2011) asked States to provide with information regarding other steps, like institutional mechanism for instance, taken in order on to implementation of resolution 1540 (2004). Even in that, the recent reports states that more than half of the Member States have so far submitted additional information (UN Doc 2016). Other aspect of the national implementation is regarding the plan of action which states are suppose to prepare voluntarily which would list out the priorities of state for implementing key aspects of the resolution. Even in that, the report mentions a considerable number of States are currently in the process of preparing their national action plans (UN, 2017). The 1540 Committee thus majorly looks into review of the steps taken by states in their attempts at implementing the resolution. This is monitoring aspect of the implementation. The second crucial component which the committee looks after is regarding the assistance in capacity building of the state.

2) Assistance

UNSC Resolution 1540 recognizes that some States may require help in implementing the resolution 1540. The Security Council has therefore urged states to make such requests to the committee. Following the request, the 1540 then acts as a “clearinghouse” which then facilitates assistance by others who are willing to help in this regards. The Committee provides the information of those who are willing to provide assistance. This information can be accessed through the website where both the ‘summary assistance request’ and “a list of states and organizations offering assistance”. This facilitates the interaction between those who need the assistance and those who are willing to provide. In other words, 1540 committee is acts as node through which these transactions can be done. In 2010, the 1540 Committee adopted revised procedures “to rationalize, improve and accelerate response to assistance requests and facilitate match-making”. Another significant aspect of this assistance provision is the follow-up done in which the Committee experts brief the Committee every two months on efforts taken to facilitate this assistance, and the 1540 Committee Chairman in return sends the a letter to the requesting state to inquire on whether the request had been me fairly attended.

Apart from these main functions, The 1540 Committee has devised a tool called 1540 Committee Matrix. It is used by the 1540 Committee to record the steps taken by the States or intend to take to implement the obligations of the resolution. This matrix is prepared by collecting the information from states as well as from the organisations. By the glance at the Matrix, it can be identified which of the areas have been covered through implementation, which ones are absent and what is needed to be further done about it. The Matrix is used by the 1540 Committee and its experts for dialogue and assistance.

Committee also organises and participates in outreach events which offer a forum to participating States to share their experiences and other relevant aspects in implementing resolution 1540. The current review explains that since the last review which was in 2011, the Committee and its group of experts have “participated in 343 outreach events (41 in 2011, 47 in 2012, 88 in 2013, 83 in 2014, 64 in 2015 and 20 in 2016” out of which about 49 per cent of the events were organized, co-organized by various other international organizations and arrangements” (UN Doc 2016). These outreach programs covered all the major thematic areas of resolution 1540. The participation of the representatives of other organizations and arrangements in 1540

committee outreach events provides opportunities to raise the awareness of States with regard to their common objectives in the areas of non-proliferation and international cooperation.

Another major program which Committee engages itself in is in establishing co-operation with major regional and sub-regional organizations and also other relevant international organizations to implement its mandate. Tagging with regional organizations offers a greater prospect on deciding common action and roadmap to implement the mandate of resolution 1540 that is binding on all. Consistent with this aim the 1540 Committee has built working relationships with various international and regional organisations “by creating more formal and informal cooperative arrangements to facilitate the sharing of information on effective practices and lessons learned development and implementation of standards, and identification of assistance requirements and programmes” Hamilton (2012). The 1540 Committee, along with its group of experts, have also established links with the UN Office of Disarmament Affairs (UNODA) to reach out to RSRs to promote implementation of Resolution 1540. Their main focus is to bring about the required awareness and commitment among member states to implement resolution. As a result of its interaction with different regional bodies, the members of the “ASEAN Regional Forum, the OAS, and the OSCE have all committed themselves to preparing national action plans for implementing Resolution 1540” (Scheinman, 2008). Such arrangements have resulted in number of these organisations either adopting the resolution directly, or calling all their members states to work collectively to implement Resolution. There are some international bodies that “have developed new protocols, guidance, or recommendations specifically designed to reflect obligations of the resolution, while several have incorporated implementation of Resolution 1540 into their work programs” (Cupitt, 2012). The recent review notes that, “currently there is also one subregional organization (CARICOM) that has an active regional coordinator. And organisations such as OSCE and the African Union have taken a different approach and designated responsibility for implementation of resolution 1540 to a unit in their organization rather than a specific person appointed as a full-time coordinator (UN Doc 2016). The 1540 Committee also has established a Working Group specifically to cooperate with other international organisations including the Security Council Committees established pursuant to resolutions 1267 (1999) and 1373 (2001). As a

part of their joint mechanism, the three committees give periodic joint briefings to the Security Council and brief about the co-operative actions taken by the committees specifically in the field of counter-terrorism. Since 2011, i.e. since last review, there have been 10 such joint briefings (UN Doc 2016).

The Committee and its expert group are part of Counter-Terrorism Implementation Task Force. Task Force is a nodal institution that brings about the co-ordination of various entities who are engaged in counter-terrorism to collectively facilitate the implementation of the Global Counter-Terrorism Strategy. As a part of Counter-terrorism Implementation Task Force, 1540 Committee is a crucial for non-proliferation aspect of the Strategy. Within the Task Force, the Expert Group of 1540 Committee works with the relevant organizations to collectively implement the aspects of the Strategy relevant to their mandate. The Task Force has organized itself in the Working Groups and the entities work according to the working group methods. The Working Groups develop “best practices and capacity-building projects in areas where cooperation among UN system actors can add value to the implementation of the Strategy”. The 1540 Committee is part of two working groups directly related to its mandate –

1) Border Management and Law Enforcement Relating to Counter-Terrorism

The objective of the Working Group on Border Management related to Counter-Terrorism (Border WG) is “to provide guidance and assistance to Member States in their efforts to implement a comprehensive and coordinated approach to address the threat of terrorism in the context of cross-border activities, by combining the contributions of specialized international organizations and United Nations entities with border management and control mandates or relevance.” These working groups carry out different outreach programs; work on joint projects and share experiences to collectively work on the desired area. One of the major projects which this working group is currently working on is regarding the compilation of all relevant “international conventions, standards and best practices in an implementable and user-friendly format to help interested States build the institutional and procedural mechanisms for an effective border management system” (CTITF 2017).

2) Preventing and Responding to WMD Terror Attacks

The CTITF Working Group on Preventing and Responding to WMD Attacks was “established to strengthen the exchange of information and knowledge among relevant UN entities and international organisations related to response to WMD terrorist attacks”. Among other things, the Working Group regularly conducts the workshops and similar outreach programs in order to share the knowledge and experiences to collectively work towards shared objective. One such example is in 2011, the Working Group produced a work plan on the “UN’s engagement internally and with key international organizations on responses to a terrorist attack where chemical, biological, radiological or nuclear weapons or materials were used, and the level of coordination among them.”

2016 Global Counter –Terrorism Review mentions how various entities of the 1540 Committee and its expert group along with the other entities of Task Force like “UNCCT, CTED, ODA, INTERPOL, OPCW, UNODC have continued to work to deliver capacity-building initiatives and knowledge-building undertakings. As part of the growing focus on stemming the flow of FTFs, the United Nations has launched or expanded major initiatives on building capacity of border officials and financial regulators” (UN Doc 2016). Apart from that, 1540 Committee along with the UN Office of Disarmament (ODA) together have enhanced “their engagement with Member States and their implementation efforts. Over 60 events in this regard have been held during the last two years. These activities have led to 21 Member States submitting voluntary national implementation action plans as encouraged by Resolution 1977 (2011)” (UN Doc 2016).

The role of 1540 Committee has been instrumental in assisting the implementation of the Resolution 1540. The committee has evolved various mechanism, developed new tools, expanded their co-operation to different organisations and have tried to establish working relationship with variety of other organisation which has led to dissemination of the goals and objectives of the Resolution to a great extent. This will be evident in the next section where brief review status of the implementation of the Resolution is done.

Status of Implementation

The most recent review of the implementation of 1540 Resolution was done in December 2016. The Committee found that, “since 2011, the number of legally

binding measures taken by States has increased, especially with regard to the prohibition of activities of non-State actors related to nuclear, chemical and biological weapons and their means of delivery.” The Committee acknowledged that though “a lot of progress has also been made in relation to measures to account for, secure and protect relevant materials and to export controls, it is clear that, for many States, gaps in these areas remain”. There also has been an increase in the number of first national reports submitted, but there still remain 17 States that have yet to submit theirs, and there has been an increase in additional reports by States. There also has been increase in the Committee visits to States and the notification of points of contact. The submission of voluntary national implementation action plans has increased considerably. (UN Doc 2016)

A comparison of the measures adopted by the states from the previous year’s review is presented in the following two tables. These tables deal with the Operative Paragraphs 2 and 3(a) and 3 (b) as they detail the necessary obligations states must follow in implementing the resolution. These tables are compiled from the previous three comprehensive reviews done and the compilation is done year-wise to understand better the rise in adoption of the implementation of the necessary requirements. In the table, first number in all the columns represents number of states with legislative framework for each provision and the second number represents the number of states that have enforcement mechanism to punish the violators. The most noticeable aspect comes out after the study of the table is that more states have drafted the legal measures but lack on the front of having enforcement mechanism. The Table A is the compilation for Operative Clause 2 and Table B is for Operative Clause 3(a) and 3 (b). The Table A compares number of states with national legal framework in place for prohibition of non-state WMD activities and enforcement measures in place for punishing non-state WMD activities. Year wise, there has been substantial increase in all the categories since 2008, the year in which the first comprehensive review was done. The Obligation regarding Manufacturing and Production and regarding the financing activities has shown the most prominent increase while the issue of Means of Delivery has shown the slowest growth.

Table B Shows the number of states with legal framework for in place to account for, store and physically protect material related to nuclear, chemical and biological weapons and those that have provisions for penalizing the one who fail to

comply. Here once again, there is gap between the legal measures taken and enforcement mechanism. But once again, there is been substantial rise in number of states having the mechanism in place since 2008, which indeed is a positive sign.

Obligation	Nuclear Weapons			Chemical Weapons			Biological Weapons		
Year	2008	2011	2016	2008	2011	2016	2008	2011	2016
Manufacture/produce	97/76	115/92	146/117	105/96	135/123	161/142	86/83	112/95	129/105
Acquire	93/77	112/88	142/109	99/90	138/121	158/133	84/80	112/95	124/96
Possess	68/82	80/95	135/122	74/88	101/116	151/141	61/74	72/87	116/103
Stockpile/Store	42/55	52/57	107/85	101/81	134/103	150/121	81/69	103/70	119/88
Develop	41/49	45/47	82/63	96/71	129/95	142/113	76/61	98/65	118/83
Transport	47/68	60/84	110/104	36/61	50/76	106/106	38/58	52/69	97/95
Transfer	76/71	75/83	124/117	101/91	140/122	159/143	86/73	104/89	123/102
Use	66/85	105/112	151/139	108/104	150/140	175/159	65/91	115/121	152/135
Means of Delivery	30/35	39/37	41/37	46/45	54/48	116/93	77/45	90/43	105/68
Accomplice	58/72	98/102	145/139	69/84	116/119	159/154	64/78	106/110	146/140
Assist	67/74	103/102	148/139	97/88	140/125	166/156	75/79	115/110	146/138
Financing	66/78	124/120	158/155	71/87	128/122	166/161	64/75	121/114	164/156

Obligation	Nuclear Weapons			Chemical Weapons			Biological Weapons		
Year	2008	2011	2016	2008	2011	2016	2008	2011	2016
Accounting									
Production	154/150	164/73	179/108	68/53	97/89	104/101	39/36	61/62	52/47
Use	155/53	165/73	179/108	67/82	96/86	104/99	39/38	62/63	52/48
Storage	154/49	165/71	178/106	64/53	97/92	106/102	38/38	61/61	50/46
Transport	58/44	78/72	111/101	49/38	78/73	85/78	39/35	60/57	65/58
Securing									
Production	62/56	81/72	97/90	60/45	74/69	69/64	53/44	60/62	53/45
Use	72/64	90/81	105/100	62/49	73/72	70/63	55/43	64/67	58/74
Storage	73/68	89/90	104/100	69/56	81/78	76/71	60/50	68/72	55/48
Transport	91/82	101/100	110/104	69/65	80/81	75/71	68/69	73/78	69/66
Physical Protection									
Protect	61/48	74/61	94/83	37/27	53/45	55/52	39/45	46/35	50/44

Regarding the implementation of obligations under operative paragraphs 3 (c) and 3(d), there is no tabular information provided in the latest review, however the

Committee notes that the “figure for measures recorded for border and export control obligations contained in paragraph 3 (c) and (d) of resolution 1540 (2004) was 5 per cent higher in absolute terms than in 2011. Of a total of 30,108 possible measures, the measures recorded in the 2016 matrices were 12,825 (43 per cent)”. Of this value, the nuclear weapons had 44 per cent, chemical weapons 44 per cent and biological weapons 40 per cent. “Increases in measures by comparison with 2011 were nuclear weapons (7 per cent), chemical weapons (5 per cent) and biological weapons (3 per cent)” (UN Doc 2016).

The information shows that there has been substantial development since the Resolution has been adopted in terms of states trying to establish domestic measures to implement the Resolution. States have been submitting reports of their efforts and the number has been subsequently increasing by the years. Even the numbers of those who have submitted voluntary national action plans have increased to 23 in this Review and more are coming through Committee interactions and also through the route of the regional organisations. While it is true that there has been considerable progress in number of states making new legislative framework and devising punitive mechanisms, there are several problems with the Committee that affects the functioning of the committee.

For instance Tanya White argues that Committee’s “summary reports do not distinguish between long standing legislation that state claims covers WMD prohibitions, that are dating back decades and legislation that has been specifically drafted with the goal of prohibiting and punishing the illicit WMD activities of non-state actors” (White 2016:152). Scholars have also raised the issues such as “State capacities, especially the capacity of the small states with limited resources to carry out the desired work, the capacity of the committee with its limited resources, the lack of political will among many states” are the major ones affecting the implementation Bianchi (2006:901).

One of the major problems noticed with the working of the Committee was the resources made available to them are not adequate enough to commensurate with the growing work of the committee. As discussed earlier, the Security Council has kept on extending the mandate of the Committee through subsequent resolutions and along with the task assigned to it as also been increased. Even committee has devised

various tools and programs to better work with other stake holders in implementing the Resolution. However the resources that are allocated to them have remained low and inadequate. Further Cupitt argues has also pointed out that the number of experts appointed to the committee is not adequate to cope with continuously increasing mandate and work of the committee (Cupitt 2012). This crunch of resources is also one of the major issues that affecting the functioning of the committee. Yet given its resources and constraint, the committee seems to have evolved over years and is doing substantial work that has helped in taking the implementation of the Resolution this far. Given that the mandate is till 2021 and the committee is expanding its work though different ways, there is scope for big expectations in coming future.

Conclusion

The possibility that the terrorists would acquire WMD poses a grave threat to international peace and security. There is evidence that the non-state actors are seeking these weapons and existence of such market became eminent after A.Q.Khan's revelation came out. The traditional tools of deterrence or assured destruction are no way to deter them should they acquire these deadly weapons. The consequences would be devastating and therefore it is of paramount importance that such attempts are thwarted effectively.

To address this concern of proliferation of WMD to non-state actors Security Council adopted Resolution 1540. The Resolution was so crafted that it would fill in the gaps in international legal system to fight proliferation of WMD. While traditionally the non-proliferation regime focused on state, 1540 focus was on the non-state actors such as terrorists and illicit networks. Also, its applicability is universal and does not distinguish between states party to it or any other multilateral arrangement or not. Moreover, the Resolution, since passed under Chapter VII, gives it the binding nature along with the space for punitive action. Furthermore as Crail argues, "it brings together the entire range of multilateral WMD obligations and controls, including prohibitions for proliferation, material protection and physical security, and border and export controls, all in one package" (Crail, 2006). The Resolution 1540 therefore was a powerful tool that created a universal norm and mechanism to deal with the problem of proliferation of WMD to non-State actor. The Resolution can also be seen a part of the architecture created by the Security Council

for its counter-terrorism activities – other prominent ones are the UNSCR 1267 and UNSCR 1373. Together they form the most powerful tools in UN’s counter-terrorism structure. Intelligibly the role of UNSCR 1540 in implementing the Global Counter-Terrorism Strategy is a crucial, considering the fact that Strategy has explicitly voiced the concern of WMD proliferation and calls for addressing the issue and that UNSCR 1540 is the only non-proliferation tool that directly addresses proliferation to non-state actors. The implementation of the Resolution is therefore extremely crucial.

The Resolution also created 1540 committee to look after the implementation of the Resolution. The Task assigned by the Resolution 1540 to the committee was a daunting one – to review the reports submitted by the states, to help states implement the provisions and also to co-ordinate with relevant institutions that would facilitate the implementation of the Resolution. Thus the role of 1540 Committee in its effort to implement the resolution has been indeed significant. The 1540 Committee has developed new mechanism and built up standards and practices that have helped to disseminate the information about the Resolution 1540 at State level. It is because of this that “more than 90 percent of UN member states have submitted national reports detailing measures that they have taken or plan to take to implement the resolution’s requirements”. Even its co-ordination with other organisations has been crucial and “some 170 states and 50 international and regional organizations have participated in regional events designed to raise awareness of WMD-related problems and solutions, exchange best practices, and invigorate networking among the resolution’s stakeholders” (Khripunov, 2014). A voluntary fund is also been set up with the help of donor countries, like the European Union, whose mandate is to speed up the implementation of the Resolution and increase the cooperation that has been established to further facilitate the implementation. The Committee also works within the framework of the Task Force to co-ordinate with relevant institutions in implementing the aspect of the Global Strategy dealing with the proliferation concerns. Another major thing which the committee does is working with the other Security Council subsidiary bodies like CTC to strengthen the Councils counter-terrorism efforts and also collectively implement the Strategy. The work of Committee hence has been crucial in implementing the Resolution and it has attained considerable results to show

There are however various problems which are faced by the Committee in implementing the Resolution. The financial and the human resource crunch with regards to the amount of work needed to be done is one of the major impediments that affect the functioning of the committee. There are also some procedural issues like segregating the reports of States where the measures taken by the states are prior to adoption of Resolution and the ones which states are doing now is important to understand how much relevant work state are doing to contemporary times. While the initial framework led down by the resolution and the subsequent developments have tried to address these issues, but there are still problems associated with the regards to effective implementation. The reality is that the Committee can work only to the point that states are willing to entirely co-operate. The effectiveness of the committee therefore will largely depend on the will of the States. It is true that world free of WMD is unlikely to be achieved soon and as long as these weapons exist in the international system, the threat of their proliferation to the non-state actors remains a major concern. The focus of the 1540 Committee should therefore be on this fundamental issue: to make implementation of Resolution 1540 sustainable implying it is enough flexible to continue addressing both current threats and new threats which may come in future. Prospects of realizing this ambitious goal primarily depends on whether UN member states seriously rise up to this challenge and shoulder their individual responsibility under the resolution to protect the world from devastating acts of WMD terrorism. The 2016 review pointed it out succinctly when it said that, “while, overall, progress has been made with the implementation of resolution 1540 (2004), there remains more to be done to accomplish the objective of full implementation of the resolution, which is a long-term task that requires continuous efforts at the national, regional and international levels.” (UN Doc 2016)

Chapter 5

Conclusion

Terrorism today is a major threat which affects every nation. It has traversed boundaries and no one can pretend to be immune from this growing threat. It is no longer a domestic issue; its highly internalized character, its penetration in various parts of world, its cross-boundary networks with illicit activities makes it even more difficult to address. This international nature of terrorism thus affects the world as a whole. The post-Cold War era terrorism showed worsening trend, becoming even more diffused and dispersed, acquiring and utilizing the rapid advancement and development in science and technology and thus making it even more frightening. Right from the range of weapons to use, to improved means of telecommunications and avenues available for proliferation of terrorist ideologies, terrorist today are seen to be using all the human advances to further their objectives. Even the possibility of them using the nuclear weapons is not ruled out. This undoubtedly is a major concern in the world today. Given its diffused nature, its international reach, its relentless growth and the vulnerability of entire world to it, it is imperative that international threat like this is addressed through collective international efforts. Being truly an international body, UN thus becomes crucial in leveraging the abilities of states and other organisations to fight this common threat of terrorism.

The UN which was established primarily for maintaining international peace and security becomes an important instrument in global fight against terrorism. UN has been dealing with the problem of terrorism since the early 1970s, though in these years the activity was solely concentrated in General Assembly. The first time General Assembly took up the issue of terrorism was when the incident of kidnapping and killing of Israeli players during the Munich Olympics took place. Since then in dealing with terrorism, the General Assembly adopted mainly two ways – one, by developing a normative framework through various sectoral conventions that attempted to address a specific issue relating to terrorism and second by becoming the forum for discussions and by encouraging concerted government action to develop more particular international and national legal rules for dealing with terrorists. During the cold-war, the General Assembly addressed the terrorism primarily by a

piece-meal approach, implying by addressing certain aspects of terrorism - like hijacking or taking hostages – as and when they arrived through sectoral conventions. There was no single convention or any mechanism that looked at the terrorism as one comprehensive phenomenon. This period also saw a clear divide between the developed western world and the developing world in their understanding of terrorism and the approach they wanted UN to take while addressing it. The western block led by the US and UK wanted UN to take a more combative role in addressing terrorism, the concern of the developing world was more in addressing the root causes of terrorism. This divide has more or less remained constant and was evidently seen in their approaches to define terrorism. The consequence was that the agreed upon definition never got adopted. Assembly's role in this phase was to work towards consensus and try to get it through various means and it tried to achieve it through forming sectoral conventions.

The end of Cold War infused in the UN a new energy as the major power rivalry which affected the functioning of UN ended. This was to some extent reflected in General Assembly too, but was more prominent in Security Council as it gets activated only after the cold-war. This period however saw a new face of terrorism emerging which was far more dangerous and also advanced. There were certain marked differences in the approach of General Assembly in this period. One of the most critical components was that the individuals involved in or affected by terrorism became a more significant element of the discussion. As a natural development to this time was that the discourse of human rights while tackling terrorism got currency in Assembly debates.

Another major change in the approach of General Assembly towards terrorism was reflected in the way General Assembly titled resolution. During the entire cold-war the phrase “measure to prevent terrorism” was most common where the “prevention” implied the priority was given to ‘root causes’ of terrorism which needed to be tackled first. Such formulation was there with the insistence of the Third World block backed by the powerful Soviet Union. Post cold-war formulation majorly saw the framing as “Measure to eliminate terrorism” where the combative aspect of terrorism was given priority. This shift was reflective of changing opinion of world where the terrorism was seen as a form of transnational crime, unlike in the previous phase where the emphasis was on the factors that led to terrorism, and the co-

operation among the states required to deal with it effectively. This period also saw adoption of some crucial conventions like International Convention for the Suppression of Terrorist Bombings (1997), International Convention for the Suppression of the Financing of Terrorism (1999) and also some crucial conventions regarding nuclear terrorism. In 1995, India introduced the Comprehensive Convention on International Terrorism but the fundamental differences regarding the definitions has resulted in ongoing standoff among different opinions and it is yet to be passed. The 9/11 attacks changes the course taken by the UN drastically and the entire activity of UN counter-terrorism shifts to Security Council until the adoption of Global Counter-Terrorism Strategy. The Strategy which was adopted unanimously by the General Assembly was viewed as a much-required breakthrough in UN's effort to tackle terrorism.

Given the nature and composition of General Assembly, it is quite intelligible that it enjoys a sense of legitimacy and so the outcomes of the General Assembly have a special significance. Despite this there have been several short-comings in the way General Assembly dealt with terrorism. The most prominent of the weakness has been the inability to come up with agreed definition of terrorism. Though there is general agreement on the importance of eradicating terrorism among the states, there still exist disagreements over certain issues which remain the main stumbling block for the UN in taking a comprehensive approach towards terrorism. Also the ratification rate of the conventions passed by the General Assembly has been very low implying that the conventions have mostly been ignored by the majority of the member states, thus giving it an image of a mere 'discussion-table'. Adoption of the Strategy gave the Assembly once again the significance in the counter-terrorism efforts and it continues to be an important guiding document for UN's counter-terrorism activities.

Insofar the Security Council is concerned; its role in counter-terrorism is purely a post cold-war phenomenon. In the post cold-war scenario, Security Council took up the role of devising combative measures to deal with the issues of terrorism. In dealing with it, one of the very first steps taken by the council was imposing sanctions against countries that were harbouring and supporting terrorists in the 1990s. The Resolution 1267 was passed as a decisive response to increasing influence of the Al-Qaeda-Taliban regime in Afghanistan. It also established a monitoring mechanism, the 1267 Committee, to monitor the implementation of all the provisions

imposed by the Resolutions 1267 (1999). But the 9/11 attacks turn out to be the major event that changed the way Council functioned. We see a drastic increase in the activity of the Security Council and some of the most important resolutions are passed after 9/11, the most critical being the Resolution 1373 which created the Counter-Terrorism Committee (CTC) and Counter Terrorism Executive Directorate (CTED). The main thrust of the Security Council's response was two-fold - to criminalize terrorism at the domestic level and to mobilize all states' resources in the global struggle against terrorism. The focus area of terrorism has also widened in the post-Cold War era, as under counter-terrorism is now included the financing of terrorism and illicit weapons markets, drug syndicates and the major issue of proliferation of WMD to non-state actors. To address this major concern of proliferation of WMD to terrorist, the Security Council adopted Resolution 1540 and created 1540 committee to look after the implementation of the resolution. Thus, the most powerful instruments of Security Council in its fight against terrorism are three main resolutions, the Resolution 1267, the Resolution 1373, the Resolution 1540 and the respective committees formed by them to look after their implementation. What is noteworthy is the fact that 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 terrorism.

Questions however were been raised on the way SC dealt with the terrorism. For instance, the increasing legislative role of the Security Council was questioned by many scholars and observers. Martínez explained how the Security Council has established rules of general scope that oblige the Member States of the United Nations to adopt legislation in their internal legal system. This legislative activity of the SC has aroused a great deal of controversy both among scholars and the States since there is a feeling that it revealed a new form of creating international norms, where even the domestic policies and laws were to be made according to the Security Council resolutions. Authors like Hudson and Flitzpatric have highlighted the concerns regarding the neglect of Human Rights in Security Council's Counter Terrorism policies. Looking at the working of committees formed by Security Council, the authors maintain that the policies often lead to procedural unfairness which directly impacts human rights. The counter-terrorism activities of the Council have often led to the marginalization of human rights norms. With lack of a universally accepted

framework to deal with terrorism and questions being raised with the existing institutions, UN's counter-terrorism efforts were seen to be lacking on many counts.

The adoption Global Counter Terrorism Strategy by the General Assembly was therefore considered to be a major breakthrough. The adoption of the United Nations Global Counter-Terrorism Strategy by the General Assembly marked a paradigm shift in the fight against terrorism. It was for the first time in the history of UN counter-terrorism efforts that the Member States recognized and committed themselves to a one comprehensive plan of action contained in the Strategy's four pillars: "addressing conditions conducive to the spread of terrorism, combating and preventing terrorism, building national capacities to counter terrorism and upholding the principles of human rights and the rule of law while countering terrorism". It was seen a unanimous acceptance of member state to fight terrorism in all its forms and manifestation and further also resolving to take practical steps, both - individually and collectively - to address the menace of terrorism.

There were concerns regarding the Global Strategy which were expressed by the delegation of various nations during the formation of the Strategy. These concerns were specifically regarding the content of the Strategy like there was no inclusion of an accepted definition. Some believed that the issues of State terrorism, extrajudicial killings and illegal detention were not adequately addressed. There were other few who also lamented that the crucial issues like foreign occupation and State terrorism are not convincingly dealt with, and lack of definition aggravates the matters. But despite these reservations, the Assembly was able to pass the Resolution unanimously and the Strategy was adopted signifies the fact that international community saw in Strategy a document that attempted to comprehensively deal with terrorism. The differences and apprehension were taken over by the prospect of good direction the Strategy can give to UN's counter-terrorism efforts. This aspect of the Strategy therefore is very important and gives it a sense of legitimacy.

Another significant aspect of the Strategy was that it sought to improve the coherence and efficiency of counterterrorism technical assistance delivery so that all states can play their part effectively. The Strategy, by becoming a guiding document through its four pillar mechanism called on all the institutions having direct or indirect stake in counter-terrorism to work collectively to addressing the menace of terrorism.

In particular, the Strategy recognized the role of regional and sub-regional organizations to utilize their resources and expertise to strengthen counter-terrorism mechanisms, improve border and customs control, increase information-sharing at the national, regional and international levels and share best practices in counter-terrorism capacity building. The Strategy in its Plan of Action touched upon all the crucial aspects that are directly linked with terrorism, right from addressing the threat of bioterrorism by establishing a single comprehensive database on biological incidents to the issue of financing of terrorism and other illicit activities. The thrust of the Strategy was to deal with terrorism comprehensively and the way the Strategy sought to achieve that was to bring all the counter-terrorism aspects under one fundamental document.

Since then, the States along with the various organisations having a stake in the counter-terrorism activities have made considerable progress in implementing the Strategy. Also, the implementation has been adaptive with the changing realities and nature of the threat. One of the most important development since the adoption of the Strategy was the institutionalisation and expansion of the Counter-Terrorism Implementation Task Force. The Task Force has been indeed instrumental in co-ordinating among various UN entities having a stake in Counter-terrorism and collectively working towards implementation of the Strategy. The Task Force essentially works to enhance “coordination and cooperation between CTITF Working Group entities on the topic of suppressing the financing of terrorism; technical assistance and capacity building activities, including their coordination; sharing relevant information on other on-going programming related to suppressing the financing of terrorism; organization of relevant workshops and conferences; and development of best practices and guidelines.” Today, with 38 entities, Task Force works to bring about co-ordination among UN entities having direct or indirect implication for counter-terrorism. The working group mechanism evolved by the Task Force has accentuated this process of co-ordination. The 12 Working Groups dedicated to specific aspects of counter-terrorism seeks to bring different entities together and share their experiences, best practices, and working method aims at using the expertise of each organization towards a common goal. The result has been a slow but gradual streamlining of UN’s counter-terrorism activities. The Task Force

mechanism actually helped at concentrating the energies of the various organizations towards single objective.

The Task Force however faces some critical institutional lacunae, the major issue is the reliance on the voluntary funding contributions from member states and a small secretariat staffed by junior officials and has operated without a full-time coordinator. Also Task Force includes representatives from those parts of the system focused on softer counter-terrorism issues often without the counter-terrorism label. There are certain practical limitations for CTITF in co-ordinating as almost every CTITF representative takes instructions from his or her superiors in headquarters, with limited room to manoeuvre. Further, each CTITF member can only devote limited time and energy to the task force due to his or her pre-existing full-time job responsibilities. Despite this the role of Task Force is crucial in implementing Strategy in a more co-ordinated manner. Though there exist these practical lacunae in the working of Task Force, it still has a great potential to emerge as a major forum for co-ordinating UN's diverse activities relating to counter-terrorism and eventually emerge as an operational bridge linking intergovernmental political decisions to their implementation at the technical, trans-governmental level.

As the threat of terrorism grew, there were allied problems like the state sponsoring of terrorism, the issue of state terrorism itself, the nexus of terrorists and other illicit activities etc.. Among them, none is as alarming as the possibility that the terrorism would acquire Weapons of Mass Destruction. That fear has been often dubbed as "sum of all fears". Major challenge before the international community was therefore to devise new legal measures to prevent weapons of mass destruction (WMD) from falling into the hands of non-state actors. The spread of WMD to non-state actor was seen as a major threat to international peace and security and this fear accentuated with the discovery of the Abdul Qadeer Khan nuclear proliferation network in 2004. That and the September 11 attacks in 2001 represented a wake-up call and triggered the international community to act and the result was variety of measures coming in form of various resolution pertaining to terrorism specifically. Resolution 1540 was outcome of the same exercise. On April 28, 2004, the UN Security Council unanimously enacted Resolution 1540, a binding legal instrument to deal with new threats that traditional WMD policies could not adequately address.

Resolution 1540 was significant on various accounts, the most important among them being that the resolution attempted to fill several voids in the international system for controlling WMD proliferation. The most important legal lacuna it intended to fulfil was that it targeted the non-state actors. All the other existing treaties and regimes have targeted the states assuming that states alone can acquire WMD. Also the 1540 Resolution goes a step further where it requires that all states, even those not party to the existing treaties, to criminalize and enforce measures against WMD proliferation to and by non-state actors. This was an important step taken in direction to criminalize and legally empower the international community to address the issue of proliferation of WMD to non-state actors. And given its nature and its target, the resolution had direct implications for counter-terrorism activities. Consequently, the role of UNSCR 1540 is critical for the implementation of the Strategy. The implementation of the resolution therefore is extremely crucial and has far reaching consequences. In this regards, the role of 1540 Committee, which was created to oversee the implementation of the resolution becomes extremely important.

The 1540 Committee in its effort to implement the resolution is significant. The 1540 Committee has mainly uses four ways to ensure the implementation of the Resolution. They are:

- 1) By monitoring the implementation efforts by states by reviewing the reports submitted by them
- 2) By providing assistance to states in their efforts to implement provisions of the Resolution
- 3) By establishing working relation and cooperation with other organisations like RSRS and also with the Security Council Committees established through Resolutions 1267and 1373
- 4) Committee also has outreach programs to spread awareness.

The committee has developed new mechanism and built up standards and practices that have helped to disseminate the information about the Resolution 1540 at state level. It is because of this that more than 90 percent of UN member states have submitted national reports detailing measures that they have taken or plan to take to implement the resolution's requirements. Some 170 states and 50 international and

regional organizations have participated in regional events designed to raise awareness of WMD-related problems and solutions, exchange best practices, and invigorate networking among the resolution's stakeholders. As a part of Counter-terrorism Implementation Task Force, 1540 Committee is a crucial for over all implementation of the Strategy. Within the Task Force, the Expert Group of 1540 Committee is part two major working groups: 1) Preventing and Responding to WMD Attacks and 2) Border Management and Law Enforcement Relating to Counter-Terrorism where the committee works with relevant organizations to collectively implement the aspects of the Strategy relevant to their mandate. The role of the 1540 Committee is therefore crucial for the implementation of the provisions of the

There are however various problems which are faced by the Committee. The Committee is often seen to be overloaded with work and resources are limited. Scholars have also pointed out other issues affecting the functioning of the committee and overall implementation of the Resolution. The issues such as State capacities, especially the capacity of the small states with limited resources to carry out the desired work, the lack of political will among many states are the major ones affecting the implementation. While the initial framework led down by the resolution and the subsequent developments have tried to address these issues, but there are still problems associated with the regards to effective implementation.

The purpose of the study was to understand how UN's Global Counter-Terrorism Strategy has shaped the UN's counter-terrorism activities. Considering the major concern of proliferation of WMD to terrorist group and the similar concern expressed in the Strategy as well, the study focussed on this aspect of the Strategy and the role of UNSCR 1540 and its committee in addressing the issue of proliferation of WMD which is a major issue that must be considered while studying the counter-terrorism efforts.

The detailed study of the Strategy and UN's effort in implementing it showed that one of the major outcomes of the Strategy was it provided a guiding document to the international community on which UN's counter-terrorism activities could be based upon. What is noteworthy is that despite various differences which member states even voiced during the negotiations, the consensus was reached and the Strategy was unanimously adopted. Strategy thus represented the will of member

states to commit themselves to a collectively agreed path way on which future UN's counter-terrorism efforts could be structured. The most significant aspect of the Strategy was that it integrated the preventive, combative and the human rights aspects of the terrorism and created a roadmap for the future counter-terrorism efforts. Though Strategy did not offer something entirely new, but what it did was that it brought together all the necessary issues that must be taken care of to comprehensively address terrorism and was successful in getting approval of all the member states to adopt it. This was a great achievement for the UN. The gradual acceptance and dissemination of the norm of the Strategy in international system is the reflection that the Strategy is relevant document for the contemporary and future counter-terrorism activities.

Another major thrust of the Strategy was to have a co-ordination among various UN entities that are fighting terrorism. The Strategy specially called on various entities, within and outside UN, to have collaboration and co-ordination in fighting terrorism. In that it also included the Regional and Sub-regional organisations and also the Civil Society Organisations. Thus, the Strategy was clear that an international threat like this requires an internally collaborated response which can be achieved through collaborative efforts only. In many ways Strategy was successful in bringing all these different entities to come together to collectively deal with terrorism. This aspect is most visible in the Task Force's activities. The Counter-Terrorism Implementation Task Force (CTITF) was created by Secretary General in 2005 and was subsequently given the mandate to assist UN in implementing the Strategy. Task Force since then has been undertaking various activities to assist the implementation. It has been gradually getting institutionalised and the number of entities in the Task Force also has been increasing. Today it has almost 38 entities that have some take in counter-terrorism activities. The Task Force through its Working Groups, which are arranged on thematic grounds, tries to co-ordinate with various different entities with similar and inter-related mandates to collectively work in their relevant field of counter-terrorism activities. As a result the different organisations are now sharing their expertise and experiences on same platform towards a same goal- i.e. implementation of the Strategy. The Strategy therefore forms the guiding document and Task Force provides the necessary platform and the result has been an increased interaction and co-ordination among the entities those who are working in

some way to fight terrorism. The hypothesis that Adoption of UN Global Counter-Terrorism Strategy has led to increased co-ordination among UN entities working in counter-terrorism activities is substantiated.

One of major concerns in the world today is the regarding the fear of proliferation of WMD to terrorists. The fear was explicitly expressed in the Strategy as well. The UNSCR 1540 was passed in the Security Council essentially to address this major concern. There existed mechanism which tried to address the proliferation concerns, however none of them directly addressed the issue of proliferation to non-state actors. Thus, the international system lacked a legal tool that could directly address the concern of proliferation to non-state actor. Adoption of UNSCR 1540 filled this legal gap and gave the international community a powerful tool through which they can address this major concern. The UNSCR 1540 has in effect strengthened the international legal framework to address the WMD proliferation mainly due to following reasons – first, it is passed under Chapter VII of the UN Charter, which makes it binding on all member states, and also has place for punitive actions in case of non-compliance. This is unlike the previous mechanism where those who are party to that specific treaty/convention had obligations. Second, The UNSCR is not meant to replace the existing mechanisms, but rather it compliments it. Together with existing mechanism, UNSCR forms a legal architecture to comprehensively address the issue of proliferation of WMD. Third, none of the previous mechanism directly focussed non-state actors thus implying that states alone can proliferate. Resolution 1540 once again filled that gap as the direct focus of the Resolution is to address the proliferation to non-state actors. This aspect makes it a significant tool for counter-terrorism activities as well. It is thus clear that UNSCR 1540 is extremely significant tool for non-proliferation concerns and equally so for counter-terrorism. Fourth is that the Resolution also created a committee, the 1540 Committee to look after the implementation of the Resolution. This is sort of a compliance mechanism and it also helps states to implement the provisions of the Resolution. With a powerful mandate and an implementing mechanism in form of a committee makes this really important tool to international community to address the proliferation of WMD concerns. The hypothesis that the adoption of UNSCR 1540 has strengthened the international legal framework to deal with the proliferation of WMD is therefore substantiated.

The 1540 Committee which was created by the Resolution has been working consistent with its mandate of looking after the implementation of the provisions of the Resolution. The Committee, assisted with the group of experts are particularly looking at the reports given by the states on their efforts to implement the Resolution. The review of the reports and national action plans is extremely complicated, not to mention lengthy and time consuming work. Beyond that, the committee also looks after the assistance and capacity building initiatives where states who are finding difficult to implement certain provisions can approach the committee for help and committee finds appropriate ways to solve it. Apart from this there are outreach programs organised by the committee and it also tries to tag in with the Regional and Sub-Regional organizations to work on different aspects of implementing the Resolution. The task before the committee is therefore extremely huge and is expected to take considerable amount of time. Despite this, there has been considerable progress made by the committee in pursuing their mandate. Even Security Council recognised this aspect and therefore it has kept on increasing the mandate of the Committee in subsequent resolutions, the recent one has extended the mandate till 2021. The significance and the amount and nature of work that the committee does therefore is well recognized. Despite this, there certain practical impediments can come in way of the functioning of the committee. The most important being the resource inadequacy in terms of financial and also human resource. There are today nine experts who assist the committee in their work. Given the amount of work needed to be done, the number appears to be insufficient. Similar is the case with financial resources as well which, observers and scholars have pointed out that they are not sufficient for the kind of work is expected from them. With more support in terms of resources could be even more fruitful in terms of actual results. The hypothesis that the lack of institutional capacity in terms of funding and adequate resources has impacted the proper functioning of the committee is substantiated.

Proper implementation of the Strategy is of crucial importance for UN counter-terrorism efforts to be successful. The implementation would require willingness of states to actively take efforts in that direction and similarly for the organisations to work in partnership with states and other relevant organisations to effectively implement the Strategy. Therefore a study in the direction of how to successfully use the existing mechanism more efficiently in implementation of

Strategy would be extremely helpful. More work is expected in the area of how better can regional organisations be used to implement the Strategy as the work of such organisations is extremely crucial. The role of UNSCR 1540 in addressing the critical aspect of proliferation of WMD to non-state actor is very significant. Given its implication to counter-terrorism, the successful implementation of the Resolution is crucial for the implementation of the relevant aspect of the Strategy. Similarly, there are other Security Council Resolutions, like 1373 for instance, which have major implications for the implementation of the Strategy. There is a lot of scope to study how to these institutions are working individually as well as in co-operation with other relevant organization in the implementation of the Strategy.

The problem of terrorism is becoming more and more complex and to address it comprehensively requires a sustained international cooperation and collaboration. Cronin rightly argued “that the increasing threat of globalized terrorism must be met with flexible, multifaceted responses that deliberately and effectively exploit avenues of globalization”. Rosand 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. There seems to agreement on this, as is evident by the unanimous adoption of the Global Counter-Terrorism Strategy. But there still are various problems that act as an impediment in addressing this issue collectively. Terrorism is still viewed differently by different people and states: the incongruence in the ideas of terrorism attests this. The UN member states are still seen to be guided by their narrow-interests, unready to accept the other's perspective into account or to have a global outlook. And last but not least, the terrorist are often seen to be helped by some other member states. To defeat this entrenched network of terrorist requires a lasting and determined action of the world as one. The Global Strategy can be seen as a beginning towards that determined goal where a world as one have agreed on a framework to move ahead in fighting terrorism, it however requires a full participation of member states. No single actors, however powerful, can achieve this single goal. No better way to end than with the argument of Jane Boulden and Thomas G. Weiss that where the global problem is asked to be addressed in the best way- *“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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Annexure I

Resolution adopted by the General Assembly on 8 September 2006

60/288. The United Nations Global Counter-Terrorism Strategy

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations, and reaffirming its role under the Charter, including on questions related to international peace and security,

Reiterating its strong condemnation of 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,

Reaffirming the Declaration on Measures to Eliminate International Terrorism, contained in the annex to General Assembly resolution 49/60 of 9 December 1994, the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism, contained in the annex to General Assembly resolution 51/210 of 17 December 1996, and the 2005 World Summit Outcome,¹ in particular its section on terrorism,

Recalling all General Assembly resolutions on measures to eliminate international terrorism, including resolution 46/51 of 9 December 1991, and Security Council resolutions on threats to international peace and security caused by terrorist acts, as well as relevant resolutions of the General Assembly on the protection of human rights and fundamental freedoms while countering terrorism,

Recalling also that, in the 2005 World Summit Outcome, world leaders rededicated themselves to support all efforts to uphold the sovereign equality of all States, respect their territorial integrity and political independence, to refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes and principles of the United Nations, to uphold the resolution of disputes by peaceful means and in conformity with the principles of justice and international law, the right to self-determination of peoples which remain under colonial domination or foreign occupation, non-interference in the internal affairs of States, respect for human rights and fundamental freedoms, respect for the equal rights of all without distinction as to race, sex, language or religion, international cooperation in solving international problems of an economic, social, cultural or humanitarian character, and the fulfilment in good faith of the obligations assumed in accordance with the Charter,

¹ See resolution 60/1.

Recalling further the mandate contained in the 2005 World Summit Outcome that the General Assembly should develop without delay the elements identified by the Secretary-General for a counter-terrorism strategy, with a view to adopting and implementing a strategy to promote comprehensive, coordinated and consistent responses, at the national, regional and international levels, to counter terrorism, which also takes into account the conditions conducive to the spread of terrorism,

Reaffirming that acts, methods and practices of terrorism in all its forms and manifestations are activities aimed at the destruction of human rights, fundamental freedoms and democracy, threatening territorial integrity, security of States and destabilizing legitimately constituted Governments, and that the international community should take the necessary steps to enhance cooperation to prevent and combat terrorism,

Reaffirming also that terrorism cannot and should not be associated with any religion, nationality, civilization or ethnic group,

Reaffirming further Member States' determination to make every effort to reach an agreement on and conclude a comprehensive convention on international terrorism, including by resolving the outstanding issues related to the legal definition and scope of the acts covered by the convention, so that it can serve as an effective instrument to counter terrorism,

Continuing to acknowledge that the question of convening a high-level conference under the auspices of the United Nations to formulate an international response to terrorism in all its forms and manifestations could be considered,

Recognizing that development, peace and security, and human rights are interlinked and mutually reinforcing,

Bearing in mind the need to address the conditions conducive to the spread of terrorism,

Affirming Member States' determination to continue to do all they can to resolve conflict, end foreign occupation, confront oppression, eradicate poverty, promote sustained economic growth, sustainable development, global prosperity, good governance, human rights for all and rule of law, improve intercultural understanding and ensure respect for all religions, religious values, beliefs or cultures,

1. *Expresses its appreciation* for the report entitled "Uniting against terrorism: recommendations for a global counter-terrorism strategy" submitted by the Secretary-General to the General Assembly;²

2. *Adopts* the present resolution and its annex as the United Nations Global Counter-Terrorism Strategy ("the Strategy");

3. *Decides*, without prejudice to the continuation of the discussion in its relevant committees of all their agenda items related to terrorism and counter-terrorism, to undertake the following steps for the effective follow-up of the Strategy:

² A/60/825.

(a) To launch the Strategy at a high-level segment of its sixty-first session;

(b) To examine in two years progress made in the implementation of the Strategy, and to consider updating it to respond to changes, recognizing that many of the measures contained in the Strategy can be achieved immediately, some will require sustained work through the coming few years and some should be treated as long-term objectives;

(c) To invite the Secretary-General to contribute to the future deliberations of the General Assembly on the review of the implementation and updating of the Strategy;

(d) To encourage Member States, the United Nations and other appropriate international, regional and subregional organizations to support the implementation of the Strategy, including through mobilizing resources and expertise;

(e) To further encourage non-governmental organizations and civil society to engage, as appropriate, on how to enhance efforts to implement the Strategy;

4. *Decides* to include in the provisional agenda of its sixty-second session an item entitled “The United Nations Global Counter-Terrorism Strategy”.

*99th plenary meeting
8 September 2006*

Annex

Plan of action

We, the States Members of the United Nations, resolve:

1. To consistently, unequivocally and strongly condemn terrorism in all its forms and manifestations, committed by whomever, wherever and for whatever purposes, as it constitutes one of the most serious threats to international peace and security;

2. To take urgent action to prevent and combat terrorism in all its forms and manifestations and, in particular:

(a) To consider becoming parties without delay to the existing international conventions and protocols against terrorism, and implementing them, and to make every effort to reach an agreement on and conclude a comprehensive convention on international terrorism;

(b) To implement all General Assembly resolutions on measures to eliminate international terrorism and relevant General Assembly resolutions on the protection of human rights and fundamental freedoms while countering terrorism;

(c) To implement all Security Council resolutions related to international terrorism and to cooperate fully with the counter-terrorism subsidiary bodies of the Security Council in the fulfilment of their tasks, recognizing that many States continue to require assistance in implementing these resolutions;

3. To recognize that international cooperation and any measures that we undertake to prevent and combat terrorism must comply with our obligations under international law, including the

Charter of the United Nations and relevant international conventions and protocols, in particular human rights law, refugee law and international humanitarian law.

I. Measures to address the conditions conducive to the spread of terrorism

We resolve to undertake the following measures aimed at addressing the conditions conducive to the spread of terrorism, including but not limited to prolonged unresolved conflicts, dehumanization of victims of terrorism in all its forms and manifestations, lack of the rule of law and violations of human rights, ethnic, national and religious discrimination, political exclusion, socio-economic marginalization and lack of good governance, while recognizing that none of these conditions can excuse or justify acts of terrorism:

1. To continue to strengthen and make best possible use of the capacities of the United Nations in areas such as conflict prevention, negotiation, mediation, conciliation, judicial settlement, rule of law, peacekeeping and peacebuilding, in order to contribute to the successful prevention and peaceful resolution of prolonged unresolved conflicts. We recognize that the peaceful resolution of such conflicts would contribute to strengthening the global fight against terrorism;

2. To continue to arrange under the auspices of the United Nations initiatives and programmes to promote dialogue, tolerance and understanding among civilizations, cultures, peoples and religions, and to promote mutual respect for and prevent the defamation of religions, religious values, beliefs and cultures. In this regard, we welcome the launching by the Secretary-General of the initiative on the Alliance of Civilizations. We also welcome similar initiatives that have been taken in other parts of the world;

3. To promote a culture of peace, justice and human development, ethnic, national and religious tolerance and respect for all religions, religious values, beliefs or cultures by establishing and encouraging, as appropriate, education and public awareness programmes involving all sectors of society. In this regard, we encourage the United Nations Educational, Scientific and Cultural Organization to play a key role, including through inter-faith and intra-faith dialogue and dialogue among civilizations;

4. To continue to work to adopt such measures as may be necessary and appropriate and in accordance with our respective obligations under international law to prohibit by law incitement to commit a terrorist act or acts and prevent such conduct;

5. To reiterate our determination to ensure the timely and full realization of the development goals and objectives agreed at the major United Nations conferences and summits, including the Millennium Development Goals. We reaffirm our commitment to eradicate poverty and promote sustained economic growth, sustainable development and global prosperity for all;

6. To pursue and reinforce development and social inclusion agendas at every level as goals in themselves, recognizing that success in this area, especially on youth unemployment, could reduce marginalization and the subsequent

sense of victimization that propels extremism and the recruitment of terrorists;

7. To encourage the United Nations system as a whole to scale up the cooperation and assistance it is already conducting in the fields of rule of law, human rights and good governance to support sustained economic and social development;

8. To consider putting in place, on a voluntary basis, national systems of assistance that would promote the needs of victims of terrorism and their families and facilitate the normalization of their lives. In this regard, we encourage States to request the relevant United Nations entities to help them to develop such national systems. We will also strive to promote international solidarity in support of victims and foster the involvement of civil society in a global campaign against terrorism and for its condemnation. This could include exploring at the General Assembly the possibility of developing practical mechanisms to provide assistance to victims.

II. Measures to prevent and combat terrorism

We resolve to undertake the following measures to prevent and combat terrorism, in particular by denying terrorists access to the means to carry out their attacks, to their targets and to the desired impact of their attacks:

1. To refrain from organizing, instigating, facilitating, participating in, financing, encouraging or tolerating terrorist activities and to take appropriate practical measures to ensure that our respective territories are not used for terrorist installations or training camps, or for the preparation or organization of terrorist acts intended to be committed against other States or their citizens;

2. To cooperate fully in the fight against terrorism, in accordance with our obligations under international law, in order to find, deny safe haven and bring to justice, on the basis of the principle of extradite or prosecute, any person who supports, facilitates, participates or attempts to participate in the financing, planning, preparation or perpetration of terrorist acts or provides safe havens;

3. To ensure the apprehension and prosecution or extradition of perpetrators of terrorist acts, in accordance with the relevant provisions of national and international law, in particular human rights law, refugee law and international humanitarian law. We will endeavour to conclude and implement to that effect mutual judicial assistance and extradition agreements and to strengthen cooperation between law enforcement agencies;

4. To intensify cooperation, as appropriate, in exchanging timely and accurate information concerning the prevention and combating of terrorism;

5. To strengthen coordination and cooperation among States in combating crimes that might be connected with terrorism, including drug trafficking in all its aspects, illicit arms trade, in particular of small arms and light weapons, including man-portable air defence systems, money-laundering and smuggling of nuclear, chemical, biological, radiological and other potentially deadly materials;

6. To consider becoming parties without delay to the United Nations Convention against Transnational Organized Crime³ and to the three protocols supplementing it,⁴ and implementing them;

7. To take appropriate measures, before granting asylum, for the purpose of ensuring that the asylum-seeker has not engaged in terrorist activities and, after granting asylum, for the purpose of ensuring that the refugee status is not used in a manner contrary to the provisions set out in section II, paragraph 1, above;

8. To encourage relevant regional and subregional organizations to create or strengthen counter-terrorism mechanisms or centres. Should they require cooperation and assistance to this end, we encourage the Counter-Terrorism Committee and its Executive Directorate and, where consistent with their existing mandates, the United Nations Office on Drugs and Crime and the International Criminal Police Organization, to facilitate its provision;

9. To acknowledge that the question of creating an international centre to fight terrorism could be considered, as part of international efforts to enhance the fight against terrorism;

10. To encourage States to implement the comprehensive international standards embodied in the Forty Recommendations on Money-Laundering and Nine Special Recommendations on Terrorist Financing of the Financial Action Task Force, recognizing that States may require assistance in implementing them;

11. To invite the United Nations system to develop, together with Member States, a single comprehensive database on biological incidents, ensuring that it is complementary to the biocrimes database contemplated by the International Criminal Police Organization. We also encourage the Secretary-General to update the roster of experts and laboratories, as well as the technical guidelines and procedures, available to him for the timely and efficient investigation of alleged use. In addition, we note the importance of the proposal of the Secretary-General to bring together, within the framework of the United Nations, the major biotechnology stakeholders, including industry, the scientific community, civil society and Governments, into a common programme aimed at ensuring that biotechnology advances are not used for terrorist or other criminal purposes but for the public good, with due respect for the basic international norms on intellectual property rights;

12. To work with the United Nations with due regard to confidentiality, respecting human rights and in compliance with other obligations under international law, to explore ways and means to:

(a) Coordinate efforts at the international and regional levels to counter terrorism in all its forms and manifestations on the Internet;

³ Resolution 55/25, annex I.

⁴ Resolution 55/25, annexes II and III; and resolution 55/255, annex.

(b) Use the Internet as a tool for countering the spread of terrorism, while recognizing that States may require assistance in this regard;

13. To step up national efforts and bilateral, subregional, regional and international cooperation, as appropriate, to improve border and customs controls in order to prevent and detect the movement of terrorists and prevent and detect the illicit traffic in, inter alia, small arms and light weapons, conventional ammunition and explosives, and nuclear, chemical, biological or radiological weapons and materials, while recognizing that States may require assistance to that effect;

14. To encourage the Counter-Terrorism Committee and its Executive Directorate to continue to work with States, at their request, to facilitate the adoption of legislation and administrative measures to implement the terrorist travel-related obligations and to identify best practices in this area, drawing whenever possible on those developed by technical international organizations, such as the International Civil Aviation Organization, the World Customs Organization and the International Criminal Police Organization;

15. To encourage the Committee established pursuant to Security Council resolution 1267 (1999) to continue to work to strengthen the effectiveness of the travel ban under the United Nations sanctions regime against Al-Qaida and the Taliban and associated individuals and entities, as well as to ensure, as a matter of priority, that fair and transparent procedures exist for placing individuals and entities on its lists, for removing them and for granting humanitarian exceptions. In this regard, we encourage States to share information, including by widely distributing the International Criminal Police Organization/United Nations special notices concerning people subject to this sanctions regime;

16. To step up efforts and cooperation at every level, as appropriate, to improve the security of manufacturing and issuing identity and travel documents and to prevent and detect their alteration or fraudulent use, while recognizing that States may require assistance in doing so. In this regard, we invite the International Criminal Police Organization to enhance its database on stolen and lost travel documents, and we will endeavour to make full use of this tool, as appropriate, in particular by sharing relevant information;

17. To invite the United Nations to improve coordination in planning a response to a terrorist attack using nuclear, chemical, biological or radiological weapons or materials, in particular by reviewing and improving the effectiveness of the existing inter-agency coordination mechanisms for assistance delivery, relief operations and victim support, so that all States can receive adequate assistance. In this regard, we invite the General Assembly and the Security Council to develop guidelines for the necessary cooperation and assistance in the event of a terrorist attack using weapons of mass destruction;

18. To step up all efforts to improve the security and protection of particularly vulnerable targets, such as infrastructure and public places, as well as the response to terrorist attacks and other disasters, in particular in the area of civil protection, while recognizing that States may require assistance to this effect.

III. Measures to build States' capacity to prevent and combat terrorism and to strengthen the role of the United Nations system in this regard

We recognize that capacity-building in all States is a core element of the global counter-terrorism effort, and resolve to undertake the following measures to develop State capacity to prevent and combat terrorism and enhance coordination and coherence within the United Nations system in promoting international cooperation in countering terrorism:

1. To encourage Member States to consider making voluntary contributions to United Nations counter-terrorism cooperation and technical assistance projects, and to explore additional sources of funding in this regard. We also encourage the United Nations to consider reaching out to the private sector for contributions to capacity-building programmes, in particular in the areas of port, maritime and civil aviation security;

2. To take advantage of the framework provided by relevant international, regional and subregional organizations to share best practices in counter-terrorism capacity-building, and to facilitate their contributions to the international community's efforts in this area;

3. To consider establishing appropriate mechanisms to rationalize States' reporting requirements in the field of counter-terrorism and eliminate duplication of reporting requests, taking into account and respecting the different mandates of the General Assembly, the Security Council and its subsidiary bodies that deal with counter-terrorism;

4. To encourage measures, including regular informal meetings, to enhance, as appropriate, more frequent exchanges of information on cooperation and technical assistance among Member States, United Nations bodies dealing with counter-terrorism, relevant specialized agencies, relevant international, regional and subregional organizations and the donor community, to develop States' capacities to implement relevant United Nations resolutions;

5. To welcome the intention of the Secretary-General to institutionalize, within existing resources, the Counter-Terrorism Implementation Task Force within the Secretariat in order to ensure overall coordination and coherence in the counter-terrorism efforts of the United Nations system;

6. To encourage the Counter-Terrorism Committee and its Executive Directorate to continue to improve the coherence and efficiency of technical assistance delivery in the field of counter-terrorism, in particular by strengthening its dialogue with States and relevant international, regional and subregional organizations and working closely, including by sharing information, with all bilateral and multilateral technical assistance providers;

7. To encourage the United Nations Office on Drugs and Crime, including its Terrorism Prevention Branch, to enhance, in close consultation with the Counter-Terrorism Committee and its Executive Directorate, its provision of technical assistance to States, upon request, to facilitate the implementation of the international conventions and protocols related to the prevention

and suppression of terrorism and relevant United Nations resolutions;

8. To encourage the International Monetary Fund, the World Bank, the United Nations Office on Drugs and Crime and the International Criminal Police Organization to enhance cooperation with States to help them to comply fully with international norms and obligations to combat money-laundering and the financing of terrorism;

9. To encourage the International Atomic Energy Agency and the Organization for the Prohibition of Chemical Weapons to continue their efforts, within their respective mandates, in helping States to build capacity to prevent terrorists from accessing nuclear, chemical or radiological materials, to ensure security at related facilities and to respond effectively in the event of an attack using such materials;

10. To encourage the World Health Organization to step up its technical assistance to help States to improve their public health systems to prevent and prepare for biological attacks by terrorists;

11. To continue to work within the United Nations system to support the reform and modernization of border management systems, facilities and institutions at the national, regional and international levels;

12. To encourage the International Maritime Organization, the World Customs Organization and the International Civil Aviation Organization to strengthen their cooperation, work with States to identify any national shortfalls in areas of transport security and provide assistance, upon request, to address them;

13. To encourage the United Nations to work with Member States and relevant international, regional and subregional organizations to identify and share best practices to prevent terrorist attacks on particularly vulnerable targets. We invite the International Criminal Police Organization to work with the Secretary-General so that he can submit proposals to this effect. We also recognize the importance of developing public-private partnerships in this area.

IV. Measures to ensure respect for human rights for all and the rule of law as the fundamental basis of the fight against terrorism

We resolve to undertake the following measures, reaffirming that the promotion and protection of human rights for all and the rule of law is essential to all components of the Strategy, recognizing that effective counter-terrorism measures and the protection of human rights are not conflicting goals, but complementary and mutually reinforcing, and stressing the need to promote and protect the rights of victims of terrorism:

1. To reaffirm that General Assembly resolution 60/158 of 16 December 2005 provides the fundamental framework for the “Protection of human rights and fundamental freedoms while countering terrorism”;

2. To reaffirm that States must ensure that any measures taken to combat terrorism comply with their obligations under

international law, in particular human rights law, refugee law and international humanitarian law;

3. To consider becoming parties without delay to the core international instruments on human rights law, refugee law and international humanitarian law, and implementing them, as well as to consider accepting the competence of international and relevant regional human rights monitoring bodies;

4. To make every effort to develop and maintain an effective and rule of law-based national criminal justice system that can ensure, in accordance with our obligations under international law, that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in support of terrorist acts is brought to justice, on the basis of the principle to extradite or prosecute, with due respect for human rights and fundamental freedoms, and that such terrorist acts are established as serious criminal offences in domestic laws and regulations. We recognize that States may require assistance in developing and maintaining such effective and rule of law-based criminal justice systems, and we encourage them to resort to the technical assistance delivered, inter alia, by the United Nations Office on Drugs and Crime;

5. To reaffirm the important role of the United Nations system in strengthening the international legal architecture by promoting the rule of law, respect for human rights and effective criminal justice systems, which constitute the fundamental basis of our common fight against terrorism;

6. To support the Human Rights Council and to contribute, as it takes shape, to its work on the question of the promotion and protection of human rights for all in the fight against terrorism;

7. To support the strengthening of the operational capacity of the Office of the United Nations High Commissioner for Human Rights, with a particular emphasis on increasing field operations and presences. The Office should continue to play a lead role in examining the question of protecting human rights while countering terrorism, by making general recommendations on the human rights obligations of States and providing them with assistance and advice, in particular in the area of raising awareness of international human rights law among national law-enforcement agencies, at the request of States;

8. To support the role of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism. The Special Rapporteur should continue to support the efforts of States and offer concrete advice by corresponding with Governments, making country visits, liaising with the United Nations and regional organizations and reporting on these issues.

Annexure II

Resolution 1540 (2004)

Adopted by the Security Council at its 4956th meeting, on 28 April 2004

The Security Council,

Affirming that proliferation of nuclear, chemical and biological weapons, as well as their means of delivery,* constitutes a threat to international peace and security,

Reaffirming, in this context, the Statement of its President adopted at the Council's meeting at the level of Heads of State and Government on 31 January 1992 (S/23500), including the need for all Member States to fulfil their obligations in relation to arms control and disarmament and to prevent proliferation in all its aspects of all weapons of mass destruction,

Recalling also that the Statement underlined the need for all Member States to resolve peacefully in accordance with the Charter any problems in that context threatening or disrupting the maintenance of regional and global stability,

Affirming its resolve to take appropriate and effective actions against any threat to international peace and security caused by the proliferation of nuclear, chemical and biological weapons and their means of delivery, in conformity with its primary responsibilities, as provided for in the United Nations Charter,

Affirming its support for the multilateral treaties whose aim is to eliminate or prevent the proliferation of nuclear, chemical or biological weapons and the importance for all States parties to these treaties to implement them fully in order to promote international stability,

Welcoming efforts in this context by multilateral arrangements which contribute to non-proliferation,

Affirming that prevention of proliferation of nuclear, chemical and biological weapons should not hamper international cooperation in materials, equipment and technology for peaceful purposes while goals of peaceful utilization should not be used as a cover for proliferation,

Gravely concerned by the threat of terrorism and the risk that non-State actors* such as those identified in the United Nations

* Definitions for the purpose of this resolution only:

Means of delivery: missiles, rockets and other unmanned systems capable of delivering nuclear, chemical, or biological weapons, that are specially designed for such use.

Non-State actor: individual or entity, not acting under the lawful authority of any State in conducting activities which come within the scope of this resolution.

Related materials: materials, equipment and technology covered by relevant multilateral treaties and arrangements, or included on national control lists, which could be used for the design, development, production or use of nuclear, chemical and biological weapons and their means of delivery.

list established and maintained by the Committee established under Security Council resolution 1267 and those to whom resolution 1373 applies, may acquire, develop, traffic in or use nuclear, chemical and biological weapons and their means of delivery,

Gravely concerned by the threat of illicit trafficking in nuclear, chemical, or biological weapons and their means of delivery, and related materials,* which adds a new dimension to the issue of proliferation of such weapons and also poses a threat to international peace and security,

Recognizing 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,

Recognizing that most States have undertaken binding legal obligations under treaties to which they are parties, or have made other commitments aimed at preventing the proliferation of nuclear, chemical or biological weapons, and have taken effective measures to account for, secure and physically protect sensitive materials, such as those required by the Convention on the Physical Protection of Nuclear Materials and those recommended by the IAEA Code of Conduct on the Safety and Security of Radioactive Sources,

Recognizing further the urgent need for all States to take additional effective measures to prevent the proliferation of nuclear, chemical or biological weapons and their means of delivery,

Encouraging all Member States to implement fully the disarmament treaties and agreements to which they are party,

Reaffirming the need to combat by all means, in accordance with the Charter of the United Nations, threats to international peace and security caused by terrorist acts,

Determined to facilitate henceforth an effective response to global threats in the area of non-proliferation,

Acting under Chapter VII of the Charter of the United Nations,

1. *Decides that* all States shall 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;

2. *Decides also* that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them;

3. *Decides also* that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their

means of delivery, including by establishing appropriate controls over related materials and to this end shall:

(a) Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport;

(b) Develop and maintain appropriate effective physical protection measures;

(c) Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law;

(d) Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations;

4. *Decides* to establish, in accordance with rule 28 of its provisional rules of procedure, for a period of no longer than two years, a Committee of the Security Council, consisting of all members of the Council, which will, calling as appropriate on other expertise, report to the Security Council for its examination, on the implementation of this resolution, and to this end calls upon States to present a first report no later than six months from the adoption of this resolution to the Committee on steps they have taken or intend to take to implement this resolution;

5. *Decides* that none of the obligations set forth in this resolution shall be interpreted so as to conflict with or alter the rights and obligations of State Parties to the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention or alter the responsibilities of the International Atomic Energy Agency or the Organization for the Prohibition of Chemical Weapons;

6. *Recognizes* the utility in implementing this resolution of effective national control lists and calls upon all Member States, when necessary, to pursue at the earliest opportunity the development of such lists;

7. *Recognizes* that some States may require assistance in implementing the provisions of this resolution within their territories and invites States in a position to do so to offer assistance as appropriate in response to specific requests to the States lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the above provisions;

8. *Calls upon* all States:

(a) To promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to

prevent the proliferation of nuclear, biological or chemical weapons;

(b) To adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral non-proliferation treaties;

(c) To renew and fulfil their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes;

(d) To develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws;

9. *Calls upon* all States to promote dialogue and cooperation on non-proliferation so as to address the threat posed by proliferation of nuclear, chemical, or biological weapons, and their means of delivery;

10. Further to counter that threat, *calls upon* all States, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials;

11. *Expresses* its intention to monitor closely the implementation of this resolution and, at the appropriate level, to take further decisions which may be required to this end;

12. *Decides* to remain seized of the matter.
