

The United Nations' Response to 9/11

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The United Nations has been at the forefront of the global campaign against terrorism after the events of September 11, 2001, giving the campaign legitimacy and universality. The Security Council acted with remarkable speed with its Resolution 1373 and set up the Counter Terrorism Committee with extensive powers. Its UK Chairman provided able leadership but reservations over human rights issues, lack of funding for assistance, and the danger of duplicating the work of other UN bodies with specific mandates have been revealed as deficiencies. The General assembly condemned the events of 9/11 and held debates on the subject later. The Secretary-General's views were expressed by several eloquent statements of the Secretary-General and in a policy working group report that advocated a tripartite strategy of "discussion-denial-cooperation" and made 31 recommendations. Counter terrorism is only one tool in tackling terrorism. Human rights concerns must be addressed. A separate, functional commission under the Economic and Social Council is recommended to provide the international community with a universal forum for a focused discussion on terrorism.

Introduction

The terrorist attacks in the United States on 11 September 2001, by their unexpected boldness, their diabolically elaborate intercontinental planning and the tragic scale of the death and destruction they wrought, are now widely regarded as a watershed in the global history of terrorism and political violence. This does not minimize the impact of terrorism in other countries prior to 9/11. Nor does it trivialize the importance of the twelve international treaties and conventions on terrorism adopted well before the events of 11 September. It is, however, a realistic assessment of the repercussions of a terrorist attack on the nerve centres of the sole superpower in the world and the global reaction to it. Nothing after 9/11 will be as it was before. A wounded superpower has not only been driven to act globally on the issue of terrorism but the entire world has responded to what is being seen as a global campaign against terrorism. The United Nations, as the only universal global body empowered by its 191 member states to maintain international peace and security, has been at the forefront of this renewed effort to combat the scourge of terrorism. This has helped to provide legitimacy and universality to the campaign as well to establish forums to discuss some of its drawbacks and omissions.

Beyond the formal condemnations of the events of 11 September 2001 adopted both by the Security Council one day afterwards (S/RES/1368(2001)) and by the UN General Assembly on 18 September (A/RES/56/10) the United Nations moved swiftly to adopt practical and effective measures through international cooperation

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to prevent future acts of terrorism. In this connection UN Secretary-General Kofi Annan underlined three important principles when he addressed the opening of the fifty-sixth session of the UN General Assembly one day after the tragic events and again on 1 October. These principles are as follows:

- (1) 'Terrorist acts are never justified no matter what considerations may be invoked'. At the same time the counterterrorist campaign should not distract from action on other UN principles and purposes, the achievement of which could by itself reduce and eliminate terrorism.
- (2) The adoption of preventive measures to be undertaken on a cooperative basis should be 'in accordance with the Charter and other relevant provisions of international law'.
- (3) The search for legal precision must be subordinated to 'moral clarity' on the subject of terrorism.

This approach ensured that the UN reaction was not one of revenge or retribution but based, as to be expected in a norm-based organization, on legal concepts and values. It also placed the action to be taken in the context of the antiterrorism conventions already adopted within the UN framework. Moreover the secretary-general focused on the protection of civilians – a vital theme in the UN – pointing significantly to the indiscriminate nature of terrorist attacks.

The Security Council

The Security Council, vested with 'primary responsibility for the maintenance of international peace and security' under Article 24 of the UN Charter, moved within three weeks of 9/11 to adopt Resolution 1373 unanimously. In a body that has been accused of fractious and dilatory behaviour the speed and sweep of this resolution was truly remarkable, surprising many member states who had hoped that the General Assembly could have acted more decisively on the subject before the Security Council did. There is no doubt that politically, the Security Council with the five permanent members (P5) dominating its decision-making, had wrested the initiative and was going to be in the driving seat in the prevention and countering of terrorism. It was in an aggressive mode since all the P5 members, to a greater or lesser degree, had their own domestic and foreign policy reasons for providing the Security Council with the powers to pursue terrorists wherever they may be.

The range of actions required of member states by Security Council Resolution 1373 was extensive and detailed. From the very specific prohibitions regarding the financing of terrorism through the recruitment of terrorists and supplies of weapons to them, to the actual exchange of information in tracking the activities of terrorist groups, the resolution had the cumulative impact of setting rigorous barriers against global terrorism under Chapter VII of the charter which are mandatory for all member states to observe. Operative paragraph 6 of the resolution was perhaps the most important in practical terms because it set up a committee—later to be called the Counter Terrorism Committee (CTC)—which was to ensure and monitor the implementation of Resolution 1373. A specific timetable was recommended for member states to report to the committee and for the committee to submit a work programme to the Security Council.

The CTC has now been in existence for over two years and for a greater part of this period it has been ably led by Sir Jeremy Greenstock, the permanent

representative of the United Kingdom to the UN in New York, as its chairman. The decision on the chairmanship of the CTC was a departure from the well-established convention that representatives of the P5 countries do not chair Security Council committees. It is still to be seen whether Sir Jeremy Greenstock's successor, the permanent representative of Spain—a non-permanent member of the Security Council—will be as effective and dynamic. The influence and energy generated by the CTC is not only because of the personal leadership of the chairman but also to the fact that his country is one of the P5 members. An elaborate programme of activities, an infrastructure of support staff and a weighty documentation output that has strained the UN's resources are among the CTC's achievements. On the latter issue the secretary-general has been constrained to note on 18 January 2002 that 'We are currently using more than 25 per cent of our resources allocated to documentation to processing the national reports submitted to the committee by member states, in order to facilitate the committee's review of them. This is an unprecedented effort, which I fear cannot be sustained for long when those very same resources are being reduced by the General Assembly'. Not being a Sanctions Committee, the CTC has had to work on the basis of a broad mandate to strengthen the capacity of member states against terrorism. The reporting required from governments on their national legislation and implementation machinery and process enables the committee to assess what assistance is needed in individual countries with regard to their counterterrorism efforts. A ministerial level meeting of the Security Council on 20 January 2003 gave further impetus to the CTC by calling for all countries to take urgent action to prevent and suppress all active and passive support for terrorism, as well as by stressing the importance of complying fully with the council's resolutions in this regard.

Concerns voiced over the maintenance of human rights in the counterterrorism campaign have resulted in the High Commissioner for Human Rights (HCHR) addressing the Security Council on this issue. Links, on a continuous basis, for cooperation and information exchange have also been established between the Office of the HCHR and the CTC. In addition, a website has been designed to function as a 'one stop shop' for states looking for support in their efforts to fight terrorism, especially through the Directory of Counter Terrorism Information and Sources of Assistance. The CTC is not without its deficiencies. Two of them could be seen as a result of the experience of the period of the committee's existence. They are:

- (a) The CTC itself cannot provide assistance. It can only put member states in contact with potential donors or providers of assistance.
- (b) The CTC runs the grave risk of becoming an operational arm of the UN duplicating or overlapping the work of the UN Office on Drugs and Crime located in Vienna or other components of the UN system that are already mandated to work on different aspects of terrorism.

Nonetheless the CTC claims credit for member states upgrading their domestic laws, encouraging states to ratify the twelve international conventions and protocols relating to terrorism as well as offering guidelines and models for adoption and implementation of the existing legal instruments. A significant development was the CTC meeting held in March 2003 with representatives of several international, regional and subregional organizations. Opened by the UN secretary-general, the meeting was designed, he said, to consolidate global cooperation against terrorism with a rational division of labour based on comparative advantages of