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François LAFONT

**FROM PROMOTING PEACE TO FIGHTING
TERRORISM: A REVIEW OF THE UNITED
NATIONS SECURITY COUNCIL CHAPTER VII
RESOLUTIONS TO MAINTAIN PEACE FROM
1990 TO 2015**

Year 2017-2018

« Policies and Practices in International Organizations »

Under the supervision of Franck PETITEVILLE

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Abstract

Under Chapter VII of the Charter of the United Nations, the Security Council has legally binding decisions on Member States using Article 39, if there is any “*threat to the peace, breach of peace, or act of aggression.*” After forty-five years of deadlock due to the veto of one of the P5 members, the post Cold War era represents the boom of the UNSC until 2015. After giving an overview of the international environment, this paper seeks to describe the increase in the use of Chapter VII Resolutions by the Council to show its rebound by adjusting itself to the contemporary challenges. The comeback shows two trends. The first one is the promotion of peace through peacekeeping operations, international criminal courts or even with targeted sanctions. In 1999, after the failure of promoting peace at all costs, the fight against terrorism became the new hobby horse of the Security Council. Thus, it tried to deliver an international legal framework on counter-terrorism by adopting several Resolutions, despite the absence of a clear definition of terrorism. The growing popularity of Chapter VII Resolutions is scrutinized here by taking into account its mitigated balance.

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Introduction

“In every democratic country, if someone has stolen your property, an independent court will restore justice, in order to protect your rights, and punish the offender. However, we must recognize that in the 21st century our organization lacks an effective instrument to bring to justice an aggressor country that has stolen the territory of another sovereign state”¹

Petro Poroshenko, *Kyiv Post*, 2005

Those words, coming from the mouth of Ukrainian President Petro Poroshenko in 2015, while giving a speech in front of the United Nations General Assembly to criticize the Russian annexation of Crimea, summarize the flow of critics against the efficiency of the United Nations.

There are countless examples of academics papers criticizing the role and the efficiency of the United Nations (UN) and more specifically the United Nations Security Council (UNSC). The 2011 war in Syria remains the best case study of the powerlessness of the UNSC according to opponents who advocate for a reform of the well known body of the UN. Many possibilities have been explored by academics or NGOs defending Human Rights. In its annual report in 2015, Amnesty International called *“for the UN Security Council to adopt a code of conduct agreeing to voluntarily refrain from using the veto in a way which would block Security Council action in situations of genocide, war crimes and crimes against humanity.”*² More drastic solutions like the end of the UNSC with all its powers entrusted to the United Nations General Assembly have been envisaged. Against this backdrop of vehement criticism, it is important to recall that in the case of a dead-locked Security Council, the United Nations General Assembly Resolution 377, created the mechanism of "emergency special sessions" (ESS). These can be summoned either following a procedural vote in the Security Council, or within twenty-four hours of a request by a majority of UN Members

¹ Alyona Zhuk, “Experts praise Poroshenko’s call for restrictions on UN Security Council veto powers”, *Kyiv Post*, October 2015, <https://www.kyivpost.com/article/content/kyiv-post-plus/experts-praise-poroshenkos-call-for-restrictions-on-un-security-council-veto-powers-399497.html>

² Amnesty International, Annual Report 2014/2015, <https://www.amnesty.org/en/latest/research/2015/02/annual-report-201415/>

being received by the Secretary-General.³ This procedure has only been used ten times during the seventy past years but should not be overlooked for the future.

This paper does not seek to cover the entire role and history of the UNSC since its creation in 1945. Nevertheless, it is important to recall what this body is entitled to do and tools at its disposal within the framework of its mandate. The United Nations Security Council is designed “*to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security.*”⁴ In order to fulfil his duty, the United Nations Security Council can resolve international disputes under Chapter VI of the UN Charter, which authorizes the council to call on parties to seek arbitration, or peaceful solutions.⁵ Under this chapter, not legally binding, the UNSC can use negotiation and also mediation. The latter is experiencing renewed interest at the UN, and in 2012 the Secretary-General launched the UN Guidance for Effective Mediation,⁶ to provide guidance and tools to Member States. However, Bernardino León, UN special envoy for reconciliation in Libya, has wrecked the attempt of the UN to go further in this direction, as in 2015 it has been disclosed that the mediator was in fact dealing with United Arab States, state involved in the conflict, to get a job to promote the UAE’s foreign policy.⁷

The most well known tool used by the UNSC, are all the Resolutions deployed under the Chapter VII of the UN Charter. It gives power to the UN body to take assertive actions when confronted with “*threats to the peace, breaches of the peace, and acts of aggression.*”⁸ Peacekeeping missions and UN blue helmets are the flagship examples that can be taken under Chapter VII. Nevertheless, the UNSC can also use sanctions such as travel bans, embargo, the freezing of assets or even the severance of diplomatic relations (article 41). Article 42 of the Chapter VII is by far the most interesting one as it gives the go ahead for

³ UNGA Resolution 377, <http://www.un-documents.net/a5r377.htm>

⁴ Charter of the United Nations signed on 26 June 1945, in San Francisco, Chapter VI, article 24.1 <http://www.un.org/en/sections/un-charter/chapter-v/index.html>

⁵ CFR staff, *The UN Security Council*, Council on Foreign Relations, September 2017 <https://www.cfr.org/background/un-security-council>

⁶ United Nations Guidance for Effective Mediation, September 2012, https://peacemaker.un.org/sites/peacemaker.un.org/files/GuidanceEffectiveMediation_UNDPA2012%28english%29_0.pdf

⁷ Revelations have been raised by newspapers that Bernardino León while still mediating for the conflict, was indeed in close contact with the United Arab Emirates for a position in order to train UAE’s diplomat for £35.000 per month. Major concerns have been noted and accusations suggested that the UAE have violated the United Nations’ arms embargo in Libya which put Bernardino León in a major conflict of interest situation.

⁸ Charter of the United Nations signed on 26 June 1945, in San Francisco, Chapter VII <http://www.un.org/en/sections/un-charter/chapter-vii/index.html>

Member States “*to use sea, air or land forces if necessarily to maintain or restore international peace.*” Two examples of such actions are Resolutions 1368 and 1373, following the 9/11 attacks. Under these Resolutions, the UNSC called upon Member States to take all necessary measures to combat all forms of terrorism. Even though these terms are very broad, it gave the legal framework for the UN Member States to use armed forces on the Afghanistan soil to fight Al-Qaida.

This very short introduction of the UNSC gives at least an overview of what the United Nations Security Council is entitled to do and what tools it has in its possession in order to maintain peace with the help of Member States.

I have decided to narrow my focus down to the period between 1990 and 2015. The UNSC has been the first victim of the cold war. Indeed, from 1945 to 1990, the Security Council was a dead body with a multiplication of vetoes on Resolutions from the United States of America and USSR. In other words, between these two key dates, the UNSC was the stage of a battle between the two super powers. Conflicts of this era almost always featured parties assisted by both or either one of these two dominant forces. Using the database of the UN website,⁹ it is not surprising to outline the fact the Soviet Union and the United States have used their veto power the most, with respectively 90 veto raised by USSR and 73 by the United States of America. The additional presence of 44 vetoes by two countries associated with the Western Block (U.K. and France) buttresses the findings.

⁹ Dag Hammarskjöld Library, Security Council Veto list, <http://research.un.org/en/docs/sc/quick/veto>

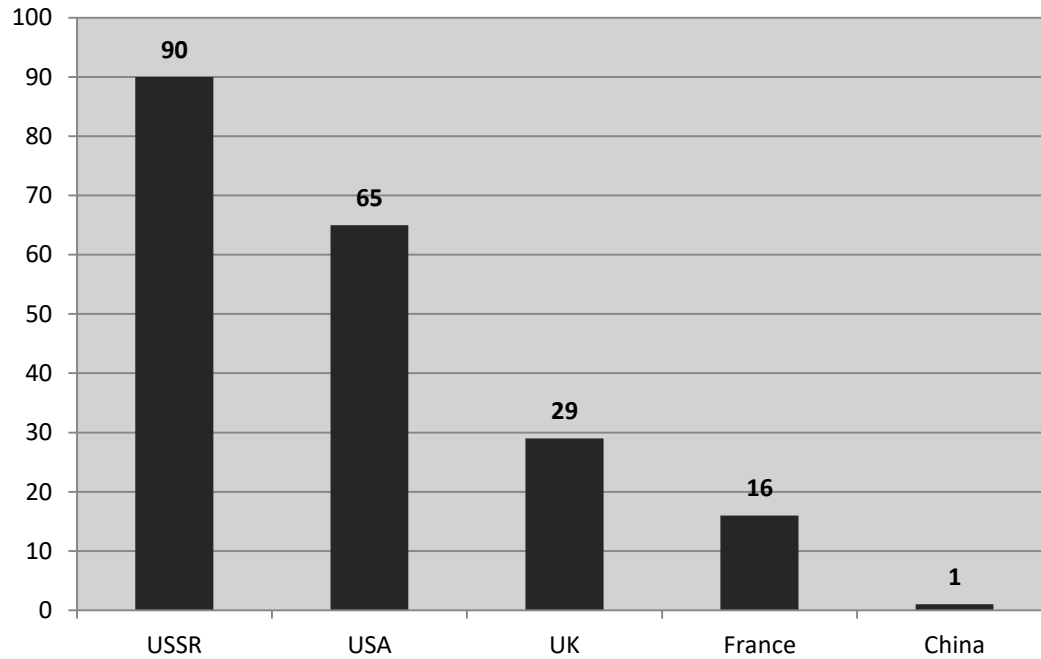


Figure 1- Vetoed Resolutions at the United Nations Security Council from 1945 to 1990 by the 5 permanent countries of the Council¹⁰

As an example, from 1978 to 1988 peacekeeping missions were discontinued, mainly due to the Reagan administration’s unwillingness to cooperate with the UN as it was regarded as a “*bastion of Third World nationalism and procommunist.*”¹¹

Since the beginning of the 1990s, the revitalization of the Security Council (SC) has resulted in an extraordinary increase in its activity. This can be seen as a rebirth after 45 wasted years. Through the UNSC Resolutions, we can easily figure out the guideline of the Council after the Cold War. To make up for lost years, in the aftermath of the fall of the Soviet Union, there has been a multiplication of Resolutions. For example, between 1990 and October 1993, the adoption of more than 185 Resolutions is a testament to the euphoria of the Council at the time. It is a huge increase in comparison with the 680 adopted in the 46 years prior.¹² During this eventful period, many peacekeeping missions were launched by the UNSC as it was easier to find a consensus within the political arena. Congruent with the increase in Resolutions, the number of peacekeeping missions reached the number of 15

¹⁰ See annex 1

¹¹ Weiss, T., Forsythe, D. and R. Coate (1994), “The Reality of UN Security Efforts During the Cold War”, *The United Nations and Changing World Politics* (Boulder: Westview).

¹² UNSC Website, <http://www.un.org/en/sc/documents/Resolutions/>

within three years (1990-1993) as opposed to the 13 missions launched during the Cold War.¹³ And this was only a prelude of the future role of the Council.

9/11 was not only a turning point for the entire world in the fight against terrorism, but also for the UN which needs to adapt update the very basic international legal framework to the fight against terrorist groups. Following the attack in the US, the Security Council voted a plethora Resolution to give some guidelines to Member States. Taking into account that terrorist attacks are no longer considered to be domestic issues that affect only the state targeted, the Council started to focus on counter-terrorism issues in 1999. Following the approval in 2002 of a strengthened programme of activities, UNODC's Terrorism Prevention Branch (TPB) was mandated to provide, upon request, technical assistance to Member States in the fight against terrorism.¹⁴

This activity of the SC in the post Cold War period has led to a big shift in its line of work. While for 10 years, the main activity of the Council was to promote peace at all costs, the aftermath of 9/11 dramatically transformed the role of the legislative body into being the international figurehead in the fight against terrorism neglecting the rest including the promotion of peace.

Has the SC only been the victim of the hope of Member States to use negotiations and peace talks to resolve conflicts in the post Cold War era, in vain? Did countries consider that mediation was not the right tool anymore? Has the SC been reminded of reality by the 9/11 attacks? Has the SC action been impeded from the lack of consensus about a definition of terrorism? This paper tries to answer these questions by analyzing several databases to understand the international environment and legislative activity of the Security Council trying to face the environmental factors of its time.

After this short analysis, we observe that the SC tried to adapt itself as much as possible to its changing environment even by neglecting some of its apanage.

¹³ UN Peacekeeping Website, <https://peacekeeping.un.org/en/list-of-past-peacekeeping-operations>

¹⁴ UNODC Website, <https://www.unodc.org/unodc/en/terrorism/>

Part I: Understanding the changing international environment through different trends

1. A steady trend of conflict ongoing over the past 25 years

The UNSC experienced significant dynamic fluctuations since the end of the Cold War. Understanding this period and comparing it to the Cold War period cannot be reduced to just looking up Resolutions or decisions raised by the UNSC. For this purpose, different tendencies have been chosen to represent the international environment background. The number of conflicts per year provides a good overview to understand the situation worldwide. The Uppsala Conflict Data Program (UCDP) defines an armed conflict as “*a contested incompatibility that concerns government and/or territory where the use of armed force between two parties, of which at least one is the government of a state, results in at least 25 battle-related deaths in one calendar year.*”¹⁵ In short, it captures situations when a state is involved against another state or against a rebel group in a conflict.

Numerous scholars and researchers argue the world has never been safer than it is now. Their main argument revolves around the number of deaths due to armed conflicts per year in the world. Indeed, the absolute number of war deaths has been declining since 1946. Just after the Second World War, in 1946, around half a million people died because of war’s violence. It has been declining since 1946 to reach the number of 87,432 deaths in 2008.¹⁶ Are these numbers reliable to those with have nowadays, when it takes into account several important wars such as the Korean War in the 1950s, the Vietnam War in the 1970s and the Iran-Iraq and Afghanistan wars in the 1980s?

¹⁵ The Uppsala Conflict Data Program, Department of Peace and Conflict Research, <https://www.pcr.uu.se/research/ucdp/about-ucdp/>

The Uppsala Conflict Data Program (UCDP) is the world’s main provider of data on organized violence and the oldest ongoing data collection project for civil war, with a history of almost 40 years. Its definition of armed conflict has become the global standard of how conflicts are systematically defined and studied.

¹⁶ The Peace Research Institute Oslo, The Battle Deaths Dataset version 3.0, <https://www.prio.org/Data/Armed-Conflict/Battle-Deaths/The-Battle-Deaths-Dataset-version-30/>

Taking the opposite view by investigating the database of the number of armed conflict per year instead of the death toll per year,¹⁷ I discovered a very steady trend in the last 40 years, especially in the post Cold War era.

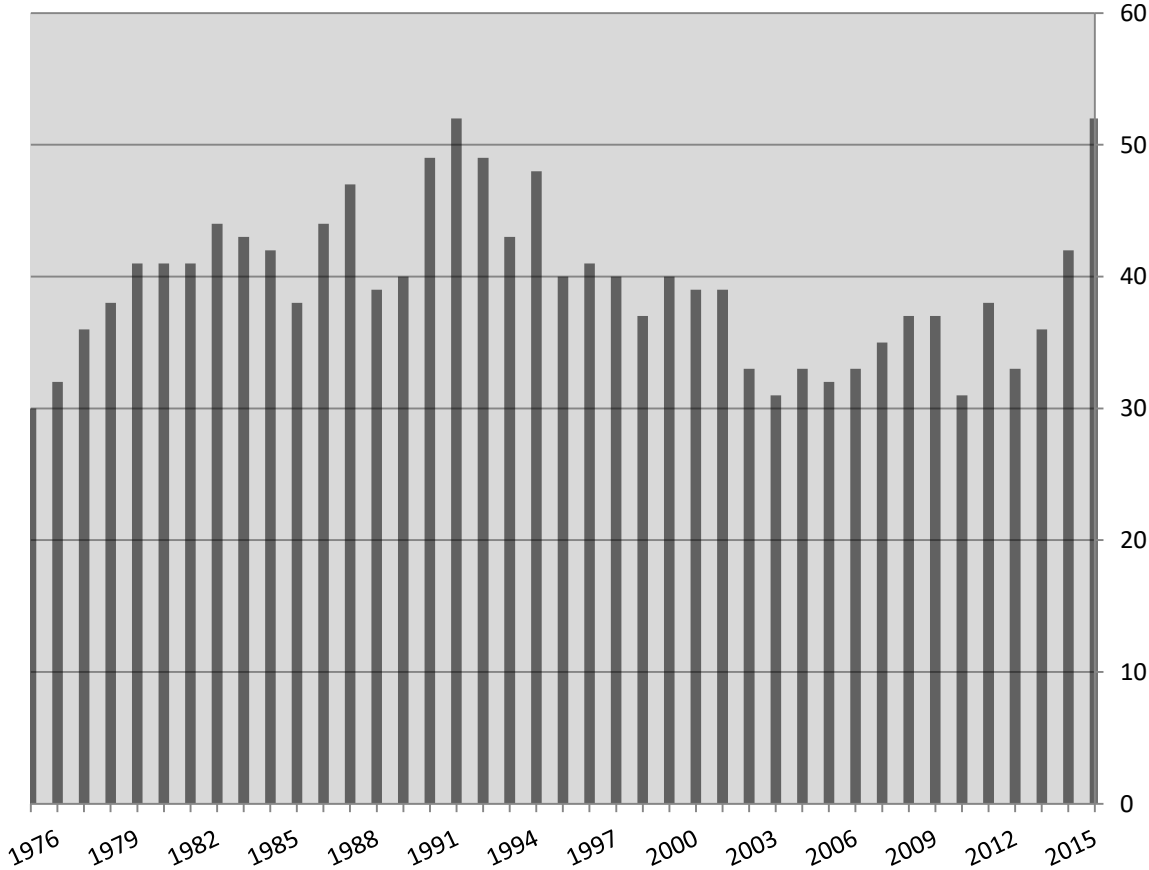


Figure 2 - Ongoing conflicts in the world, per year, from 1975 to 2015¹⁸

People might die less from armed conflict than in the aftermath of World War II, but it does not shield them from conflict in general. After the Cold War, there were even more conflicts than before as per the Uppsala Conflict Data Program. For example, whereas there were only 39 and 40 armed conflicts for the year 1988 and 1989, the value rises to 49 and 52 for the years 1990 and 1991. It needs to be emphasized that it is in a trend downward and dropped to 31 in 2003. Moreover, it seems incompatible to compare armed conflicts during the Cold War and the ones after 1990. Indeed, “at the beginning of the 21st century, warfare and armed conflict get messier and more chaotic than ever before.”¹⁹ The rise of non-state armed actors, from armed militias to terrorists groups to private military have overtaken the

¹⁷ The Uppsala Conflict Data Program, Department of Peace and Conflict Research, <http://ucdp.uu.se/?id=1>

¹⁸ See Annex 2

¹⁹ Philipp Schweers(2009), “The changing nature of war and its impacts on International Humanitarian Law”, Munich, GRIN Verlag

inter-state conflicts which are constantly decreasing and less likely to appear than during the 20th century. Nevertheless, the dynamic seems to go up after this drop to reach out the number of 52 armed conflicts in 2015. The phenomenon of transnational terrorism does challenge the international security structure since 2001 and is responsible of these high numbers. Trying to understand this relative “safer period” requires studying other dynamics to corroborate it. A focus on peace agreements, for instance, might help.

2. The post Cold War failure of peace agreements on the long run?

The noble ambitions of the drafters of the United Nations (UN) Charter to promote peace and an environment free of wars may have reached its climax in the post Cold War era.²⁰ Buried into 50 years of reluctance from P5 members of the Security Council to enter peace talks for several armed conflicts, this peace period was the stage of the achievement of well-known agreements. Most prominent among these major peace agreements is the Oslo Accords in 1993 - which unfortunately did not last very long but remains a true symbol of countries’ commitment to peace at all cost. During this period, the UNSC tried to speed up the process of promoting peace around the world, through innovative frameworks such as the International Criminal Tribunals for the Former Yugoslavia in 1993 and Rwanda in 1994.

The new database of the United Nations on peace agreements called “Peacemaker” gives a good idea of the trend of agreements.²¹ A peace agreement is “*a formal agreement between warring parties, which addresses the disputed incompatibility, either by settling all or part of it, or by clearly outlining a process for how the warring parties plan to regulate the*

²⁰ United Nations Charter, preamble. “*We the peoples of the United Nations determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and to promote social progress and better standards of life in larger freedom, and for these ends to practice tolerance and live together in peace with one another as good neighbours, and to unite our strength to maintain international peace and security, and to ensure, by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest, and to employ international machinery for the promotion of the economic and social advancement of all peoples, have resolved to combine our efforts to accomplish these aims.*”

²¹ UN Peacemaker Database, <https://peacemaker.un.org/document-search>

incompatibility.”²² This tool provided by the UN allowed researchers to look into more than 800 peace agreements to understand the trend over the years. Bearing in mind the post-Cold War developments, it is not surprising to see that since 1945, over the 823 agreements qualified as peace agreements by the UN, 730 happened from 1990 to 2017.²³ Six out of the ten most important years in terms of peace agreements took place during the post cold war environment. The most prolific year is 1994 with more than 50 agreements.²⁴

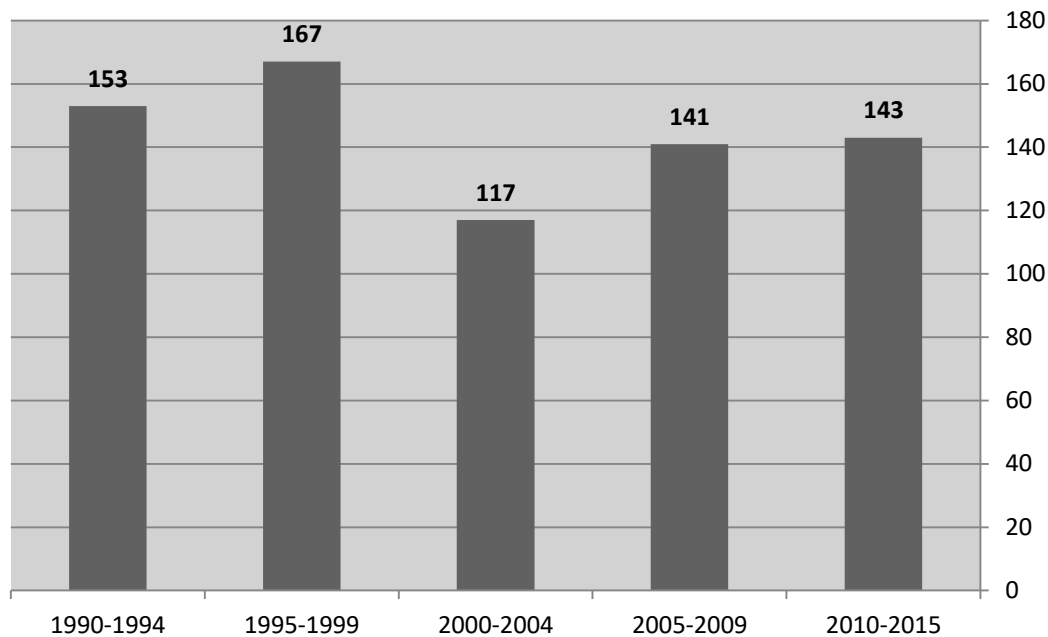


Figure 3. Peace Agreements from 1990 to 2015²⁵

Once again, echoing the increase of ongoing conflicts per year at the beginning of the 21st century, the terrorism phenomena can be considered as one of the causes of the significant reduction of the number of peace agreements from 2000 to 2004. Within this period of time, the international community started facing a new type of terror. The world went from dreading regional terrorism to coping with the threat of worldwide terrorism. The

²² The Uppsala Conflict Data Program, Department of Peace and Conflict Research, <https://www.pcr.uu.se/research/ucdp/about-ucdp/>

The Uppsala Conflict Data Program (UCDP) is the world’s main provider of data on organized violence and the oldest ongoing data collection project for civil war, with a history of almost 40 years. Its definition of armed conflict has become the global standard of how conflicts are systematically defined and studied.

²³ See annex 3

²⁴ See annex 3

²⁵ See annex 3

9/11 attacks in New York,²⁶ followed a year later by the attack in Indonesia are the starting point of the international terrorism by well trained and armed groups.²⁷ The UN and Member States were already struggling to find an agreement between two or parties in inter-state or intra-state conflict. The task proved even harder when the fight turned to non state actors and terrorists groups. The absence of legal representatives and the reluctance to compromise and sign any agreement hindered the UN's mission. Peace is not an option for terrorist organizations. Negotiation and mediation were therefore made impractical and readymade category was created for terrorism. It is defined as a threat against international peace and therefore falls within the scope of Article 51 under Chapter VII of the UN Charter.²⁸

3. From exception to the rule: the growing number of Chapter VII Resolutions by the United Nations Security Council

Under Chapter VII of the Charter of the United Nations, the Security Council has a unique authority to make decisions that are legally binding on Member States. This part describes and analyses the increase in the use of the Chapter VII during the post Cold War era.²⁹ This escalation goes hand in hand with a dramatic rise in the activity of the Council. Following the frustration of 45 years of deadlock, the Council started using some of its power on a more regular basis rather than as the exception it should be. Chapter VII exemplifies this new proclivity. Before analyzing and getting deep into the increase to understand the reasons, it seems that due to this huge increase, the “value” of the Chapter may have decreased and lost some of credibility.

²⁶ Until now, it stays the most deathful terrorist attack with more than 2,996 deaths, <https://www.history.com/topics/9-11-attacks>

²⁷ Took the life of 202 people and well-known as the first attack against occidental citizens abroad, https://web.archive.org/web/20090504201848/http://afp.gov.au/international/operations/previous_operations/bali_bombings_2002

²⁸ United Nations Charter, Article 51, Chapter VII, <http://www.un.org/en/sections/un-charter/chapter-vii/index.html>, “Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.”

²⁹ Johansson, Patrik (2009), “The Humdrum Use of Ultimate Authority: Defining and Analysing Chapter VII Resolutions.” *Nordic Journal of International Law* 78(3):309–342

Of the 691 Chapter VII Resolutions, only 21 were adopted before the 1990, and 670 have been adopted since the Cold War ended and until 2015. It shows very simply the dramatic use of the Chapter VII by the Security Council as a new routine.³⁰

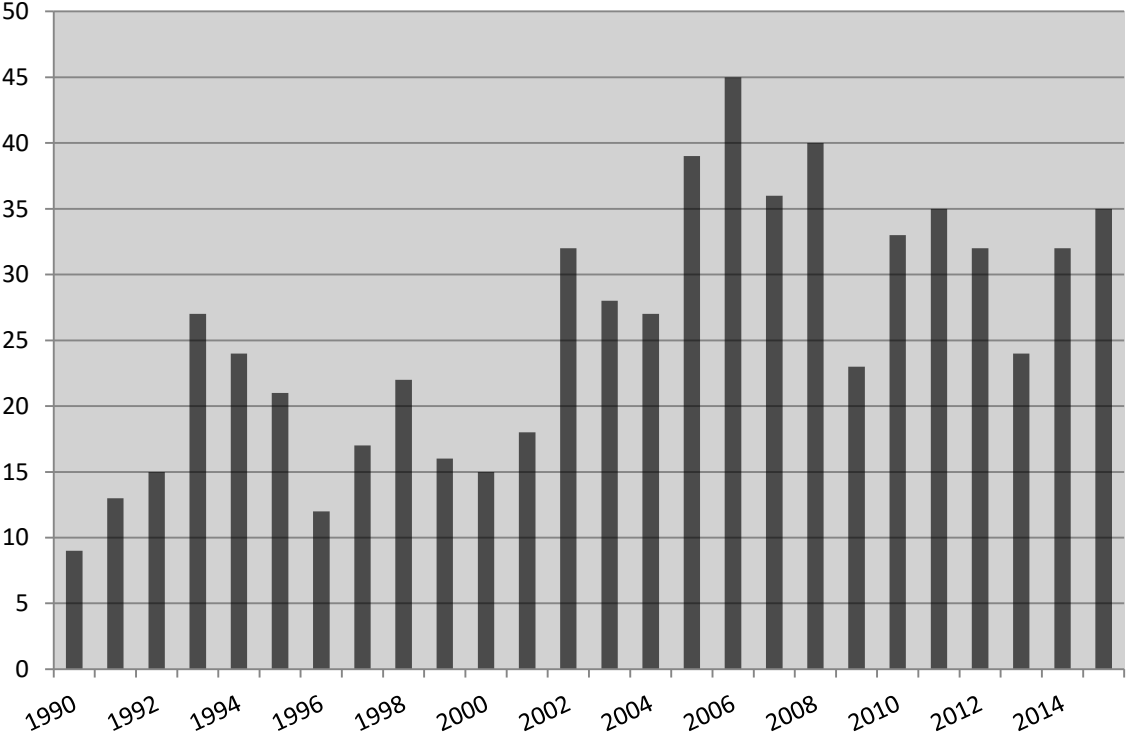


Figure 4 - Chapter VII Resolutions adopted by the United Nations Security Council from 1990 to 2015³¹

In 2015, the Council adopted 35 Chapter VII Resolutions. This number seems very high but it pales in comparison to the 45 Resolutions voted in 2006. However, in 2015, Chapter VII Resolutions constituted more than half of the share (54%) of all Security Council Resolutions adopted.³² The total number of Security Council Resolutions during the period 1990-2015 is 2259.³³

The share of the number of Resolutions adopted under Chapter VII remained steady from 1990 to 2000. Chapter VII Resolutions represented between 20 and 30 per cent of all Security Council Resolutions. The tendency change (see figure below) appears in 2001, in the

³⁰ Malone, David, 1954- & International Peace Academy (2004). *The UN Security Council: from the Cold War to the 21st century*. Lynne Rienner, Boulder, Co

³¹ See annex 4

³² United Nations, Highlights of Security Council Practice 2015, <https://unite.un.org/sites/unite.un.org/files/app-schighlights-2015/index.html>

³³ UNSC Resolutions website, <http://www.un.org/en/sc/documents/Resolutions/>

aftermath of the 9/11 terrorist attacks. In 2001, Chapter VII Resolutions reached the number of 35% of the overall Resolutions adopted by the Council. During the earliest years of the 21st Century (2002, 2003 and 2004) the figure shows an average of 45 per cent, and it keeps increasing to reach the very number of 64% for the year 2007. After this peak, the average fluctuates between 50 and 60 per cent.

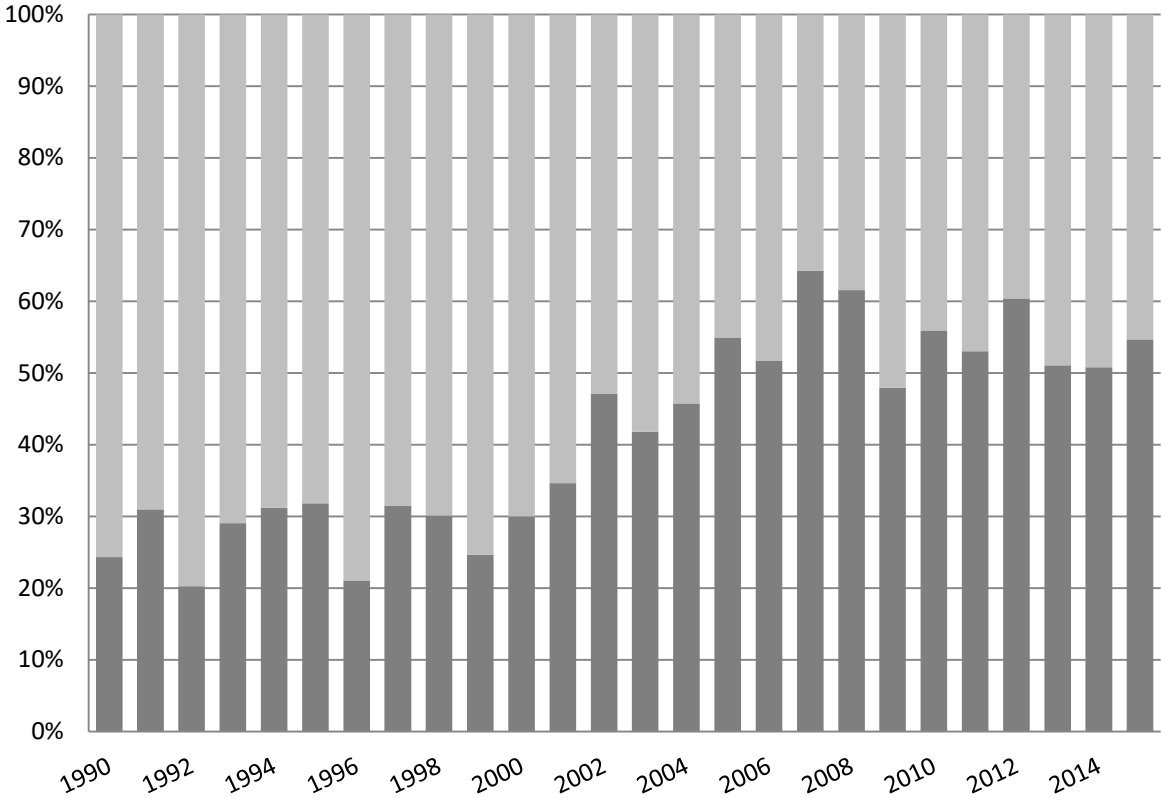


Figure 5. Share of Chapter VII Resolutions within the overall United Nations Security Council Resolutions adopted from 1990 to 2015³⁴

This growing number is attributable to the fact that the Council does not even bother to motivate their decisions by pointing to breaches of peace as they used to do in the post Cold War era. Terrorism considerably altered the legal paradigm of these Resolutions.

³⁴ See annex 5

4. From 1990 to 2015, UNSC Chapter VII Resolutions at all cost

Patrick Johansson in his paper,³⁵ called “*Equivocal Resolve? Toward a Definition of Chapter VII Resolutions*”, gives a definition and overview of the core of Chapter VII Resolution. Indeed, according to Johansson, a binding Resolution such as a Chapter VII one contains two major elements to justify legal action against Member States. Chapter VII Resolutions need to fulfill two criteria: the first one which is called the “*trigger*” by Jean-Pierre Cot to justify the breach of peace which is closely related to Article 39 of the Charter.³⁶ The second one is the “*explicit statement that the Security Council is acting under Chapter VII of the Charter in the adoption of one or more operative paragraphs.*”³⁷

Article 39 can be recalled by the Security Council when it determines “*the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.*”³⁸ The war in Libya in 2011 was the object of numerous Resolutions by the Security Council. Resolution 1973 (2011),³⁹ is one of the perfect examples of the use of Article 39 to justify an armed offensive. The Resolution states “*that the situation in the Libyan Arab Jamahiriya continues to constitute a threat to international peace and security.*” And few lines below, we can read the statement that the Council is acting under Chapter VII.⁴⁰ Other Chapter VII Resolutions use Article 39 in an implicit way leaving some interrogations with respect to the lawfulness of the Resolution.

Nevertheless, it can be argued that there is a loophole since there is no definition of a threat of peace, breach of peace or even act of aggression in the UN Charter. Those concepts have been left at the discretion of the Security Council.⁴¹ In his paper, David

³⁵ Johansson, P. (2008). *Equivocal Resolve?: Toward a Definition of Chapter VII Resolutions* (Umeå Working Papers in Peace and Conflict Studies). Umeå: Statsvetenskap.

³⁶ Jean-Pierre Cot et Alain Pellet (1991), *La Charte des Nations unies. Commentaire article par article*, Paris, Economica, 2^e éd., p. 237-435

³⁷ Johansson, Patrik. (2009). “The Humdrum Use of Ultimate Authority: Defining and Analysing Chapter VII Resolutions.” *Nordic Journal of International Law* 78(3):309–342

³⁸ United Nations Charter, Chapter VII, Article 39, United Nations Website, <http://www.un.org/en/sections/un-charter/chapter-vii/index.html>

³⁹ UNSC Resolution 1973, [https://undocs.org/en/S/RES/1973\(2011\)](https://undocs.org/en/S/RES/1973(2011))

⁴⁰ Ibid.

⁴¹ Alain Pellet (2003), *The Charter of the United Nations: A Commentary of Bruno Simma's Commentary*, 25 Mich. J. Int'l L. 135

Schweigman,⁴² raises and defends the idea of a change in the concept of “peace”. Taking into account the Charter was drafted in 1945, the notion of peace is clearly not the same as the one we are defending nowadays. Indeed, since 1990, the UNSC, in many Resolutions, has used the term “*threat to peace*” covering civil wars, violations of human rights and terrorism.⁴³ It is very different from the interpretation the drafters of the Charter had, whose priority was to end world conflicts. The absence of all-out international conflicts since the end of the Cold War introduced an element of subjectivity in selecting the cases worthy of UNSC Resolutions. To reflect these changes in the definition of threats to peace, the Security Council had meetings in April 2007. These meetings discussed whether the impact of climate change qualified as “*threat*” to international peace and security.⁴⁴ Time changes, definitions as well.

Under Chapter VII of the Charter of the United Nations, the Security Council has the unique authority to make decisions that are legally binding on Member States.⁴⁵ Yet, the Security Council’s legitimacy suffers for a major reason. As a result of the rising use of Chapter VII Resolutions as ways to advertise initiative after years of inertness, the Security Council took advantage of the ambiguity in the definition of Article 39 to justify broader use of Chapter VII Resolutions. The broad concept of peace is likely to be subjected to criticism which may even cause Chapter VII Resolutions to be inefficient whether for the promotion of peace or even in the fight against terrorism.

⁴² Schweigman, D. (2001). *The authority of the Security Council under chapter VII of the UN charter : legal limits and the role of the international court of justice*. The Hague: Kluwer law international.

⁴³ Warbrick, C. (1999). Threat to the Peace: The Interpretation by the Security Council of Article 39 of the UN Charter. By Österdahl Inger. *International and Comparative Law Quarterly*, 48(2), 475-475.

⁴⁴ Jared Schott (2008), *Chapter VII as Exception: Security Council Action and the Regulative Ideal of Emergency*, 6 Nw. J. Int'l Hum. Rts. 24

⁴⁵ Johansson, Patrik. (2009). “The Humdrum Use of Ultimate Authority: Defining and Analysing Chapter VII Resolutions.” *Nordic Journal of International Law* 78(3):309–342

Part II: The boom of the promotion of peace in the post Cold War era

1. The End of the Cold War: The Revival of Peacekeeping operations

Peacekeeping operations are one of the most common tools used by the international community to address threats to international peace and security. It may involve the use of civilian or military personnel from the United Nations (UN) to restore peace in an armed conflict. After having had to stand on the side for several conflicts, P5 countries set tensions aside to be more involved in the Resolution of conflict. Indeed, under Article 24 of the UN Charter,⁴⁶ the Security Council is responsible for the “*maintenance of international peace and security*”. Nevertheless, the term “peacekeeping operations” (PKOs) is not mentioned or written in the UN Charter. Although, the maintenance of peace is the primary duty of the UN and especially the SC, it seems that PKOs lie somewhere between Chapter VI (peaceful settlement) and Chapter VII (collective security). Therefore, it is not unusual to see PKOs being labelled as being part of “*Chapter VI and an half*,”⁴⁷ term invented by Dag Hammarskjöld.⁴⁸ Peacekeeping is guided by three central principles: consent, impartiality and the minimum use of force.

It would be false to state that peacekeeping operations (PKOs) started after the 1990’s. They were used with some degree of success during the Cold War as well.⁴⁹ In many Resolutions the UNSC tried to promote PKOs to resolve some conflict during the Cold War. According to the UN Library the first peacekeeping mission was established in 1948 under the name United Nations Truce Supervision Organization in Palestine (UNTSO). It was designed to supervise the very fragile peace agreements between the Arab-Israeli wars. UNSC

⁴⁶ United Nations website, Article 24 , *In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf.* <http://www.un.org/en/sections/un-charter/chapter-v/index.html>

⁴⁷ United Nations Information Service Vienna, <http://www.unis.unvienna.org/unis/en/60yearsPK/index.html>

⁴⁸ Dag Hammarskjöld (1905-1961) was a Swedish economist and diplomat who served as the second Secretary-General of the United Nations. Hammarskjöld was the youngest person to have held the post, at an age of 47 years upon his appointment. His second term was cut short when he was killed in an airplane crash while en route to cease-fire negotiations during the Congo Crisis. He is one of only four people to be awarded a posthumous Nobel Prize.

⁴⁹ Courtney Smith (2008), *The Need for Effective Peacekeeping*, Democratic Global Governance, School of Diplomacy and International Relations, Seton Hall University, South Orange, New Jersey

Resolution 50,⁵⁰ despite calling for a cessation of hostilities in Palestine, threatened counterparts of the conflict to use Chapter VII of the Charter. The biggest peacekeeping operation while the Soviet and the USA were fighting was the launch of the United Nations Emergency Force (UNEF 1) to be deployed during the Suez Crisis in 1956. This operation under the banner of the UN was mandated by the Security Council and its Resolution 118.

Nevertheless, the explosion of new internal conflicts led to a boom in UN peacekeeping missions in the 1990s.⁵¹ The increase in POKs is due in majority to the failed states which emerged from the collapse of the Soviet Union. During the 1990s, in a period of only 3 years (1991-1994), the organization created a range of seventeen new POKs with a variety of tasks and responsibilities.⁵² In comparison, the UN set up only 13 peacekeeping operations during the whole span of the Cold War. The new guideline to promote sustainable peace after the Cold War takes its origin in one tool: the “*Agenda for Peace*” launched in 1992 by the Secretary General Boutros Boutros-Ghali.⁵³ Under this agenda, the UN wants to prevent conflicts by making a difference between peacemaking and peacekeeping. This tool is also well known as the justification of the use of Chapter VII in a military conflict without the consent of both parties. This agenda tried to take into account the changing nature of the conflicts of the last decade of the 20th Century. Trevor Findlay sums up perfectly the new strategy of the UN, “*after the Cold War the UN holding operation was suddenly superseded by the multi-functional operation linked to an integrated within an entire peace process.*”⁵⁴

The new strategy of the UN to achieve sustainable peace is based on four pillars:⁵⁵

- Peace-enforcement: “*I recommend that the Council consider the utilization of peace-enforcement units in clearly defined circumstances [...] Deployment and operation of such forces would be under the authorization of the Security Council.*”⁵⁶

⁵⁰ UNSC Resolution 50, <http://unscr.com/en/Resolutions/50>

⁵¹ Michael W Doyle; Nicholas Sambanis (2007), The UN record on peacekeeping operations, *International Journal*; Summer 2007; 62, 3; ProQuest Central pg. 494

⁵² Oğuz, Şafak (2016), “The Evolution of Peace Operations and the Kosovo Mission”, *Uluslararası İlişkiler*, Volume 13, No. 51, pp. 99-114.

⁵³ United Nations, *An Agenda for Peace: Preventive diplomacy, peacemaking and peace-keeping*, 1992

⁵⁴ Findlay, Trevor. & Stockholm International Peace Research Institute. (2002). *The use of force in UN peace operations*. Solna, Sweden : Oxford ; New York : SIPRI ; Oxford University Press

⁵⁵ United Nations, *An Agenda for Peace: Preventive diplomacy, peacemaking and peace-keeping*, 1992

⁵⁶ Ibid.

- Peacemaking: “is action to bring hostile parties to agreement, essentially through such peaceful means as those foreseen in Chapter VI of the Charter of the United Nations.”⁵⁷
- Peacekeeping: “is the deployment of a United Nations presence in the field, hitherto with the consent of all the parties concerned, normally involving United Nations military and/or police personnel and frequently civilians as well. Peace-keeping is a technique that expands the possibilities for both the prevention of conflict and the making of peace.”⁵⁸
- Post-conflict reconstruction: “Through agreements ending civil strife, these may include disarming the previously warring parties and the restoration of order, the custody and possible destruction of weapons, repatriating refugees [...] strengthening governmental institutions and promoting formal and informal processes of political participation.”⁵⁹

Since the birth of this new approach, the UNSC has launched more than 43 peacekeeping operations after the Cold War. Due to the improvement of the East-West relations in the late 1980s, the Council was even able to launch a team of UN observer to monitor the withdrawal of the Soviet troops from Afghanistan in 1988.⁶⁰ Furthermore, through Chapter VII’s Resolution 864, the Security Council launched United Nations Angola Verification Mission II (UNAVEM II) until the end of year 1993.

The principal use of Chapter VII Resolutions has been to send out peacekeeping operations took place after 1991 in the Iraqi region. The Gulf War increased the role of the UN and still legitimises its action as a worldwide peacekeeper to this day. Indeed, in April 1991, under UNSC Chapter VII Resolution 681, the United Nations Iraq–Kuwait Observation Mission (UNIKOM) was dispatched. It sent 300 military observers who were present to oversee the demilitarized zone (DMZ) along the Iraq-Kuwait border. It was soon followed up with UNSC Resolution 806 which extended the mandate of UNIKOM to include physical action to prevent violations.⁶¹ During the 1990s, the Security Council launched a series of POKs with more or less success. These were preceded by Chapter VII Resolutions. The first

⁵⁷ United Nations, *An Agenda for Peace: Preventive diplomacy, peacemaking and peace-keeping*, 1992

⁵⁸ Ibid.

⁵⁹ Ibid.

⁶⁰ Mats Berdal (1993,) *The changing nature of UN peacekeeping*, The Adelphi Papers, 33:281, 6-25

⁶¹ Koops, J. Alexander, MacQueen, N., Tardy, T., & Williams, P. David. (2015). *The Oxford handbook of United Nations peacekeeping operations*. First edition. Oxford: Oxford University Press

POKs named UN Operation in Somalia I (UNOSOM I), adopted through UNSC Resolution 751, was an attempt to monitor the ceasefire; it was directly followed by UNOSOM II,⁶² under Resolution 794 authorising the use of "*all necessary means to establish as soon as possible a secure environment for humanitarian relief operations in Somalia*"⁶³ Other POKs have been set up in Mozambique, ONUMOZ in 1992 (Resolution 797) and in Central African Republic in 1998 (MINURCA under Chapter VII Resolution 1159).

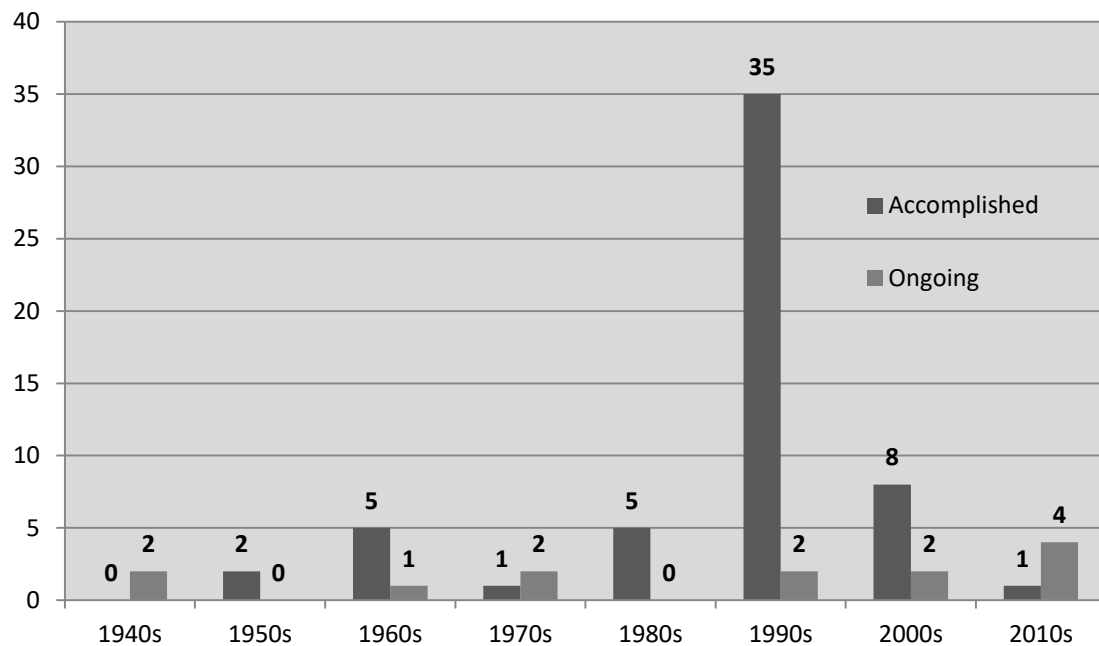


Figure 6. Launch of peacekeeping operations per decade from 1945 to 2017⁶⁴

It is interesting to note that over the fifty-two peacekeeping missions established after 1990, forty-four have been completed and terminated and only eight are still ongoing. In contrast, among the eighteenth POKs set up from 1945 to 1989, five are still ongoing.⁶⁵ This contrast is partly due to the surge of shorter and more localized conflicts more adapted to the deployment of UN missions

Nevertheless it seems that after a decade of craze, the failure of some POKs - such as the interventions in Rwanda at the time of the Genocide in 1994, in Srebrenica in 1995 to

⁶² Paul F. Diehl (1996) With the best of intentions: Lessons from UNOSOM I and II, *Studies in Conflict & Terrorism*, 19:2, 153-177

⁶³ UNSC Resolution 794, <http://unscr.com/en/Resolutions/doc/794>

⁶⁴ See annex 6

⁶⁵ United Nations Peacekeeping Website, <https://peacekeeping.un.org/en/list-of-past-peacekeeping-operations>

prevent the massacre of 8.000 Bosnian Muslim men by the Serb forces and in West Africa to dam the spread of Ebola in West Africa – dealt a huge blow to the infatuation with promoting sustainable peace through peacekeeping operations and mediation.

2. International Criminal Tribunals to promote peace after the failure of the POKs

“Justice might take long but Justice does not forget.” This motto is obviously in contradiction with the legal maxim “*Justice delayed is justice denied*” usually used to describe our Western justice systems. But I would argue, this adage does not apply at all to the International Justice through the United Nations. The suicide of former Bosnian Croatian war criminal Slobodan Praljak in 2017, at the UN war crimes court, 25 years after the fight is the perfect example of it. The creation by the Security Council of the International Criminal Tribunals and the adoption, under United Nations auspices, of the Rome Statute of the International Criminal Court have been the focus of international attention. Aware, of the failure of both POKs in Yugoslavia and in Rwanda, the UNSC set up two international Court to promote peace and reconciliation in line with the official discourse.

With respects to these tribunals, particularly the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR), we need to highlight a few points. The first point is that the UN Security Council set them up under the framework of its peace and security powers under chapter VII of the Charter. It determined that the situations at hand both in former Yugoslavia and Rwanda constituted threats to international peace and security. Chapter VII Resolutions 827 (1993) and 955 (1994) explicitly mentioned the breach to peace that needs to be restored by two International Tribunals in order to fulfil their duty of promoting peace: “*Determining that this situation continues to constitute a threat to international peace and security*”^{66 67}

The Council used *in fine*, its power tools to prosecute individuals who were responsible for war crimes in the two countries cited above. The hope was that their prosecution and

⁶⁶ For the case of the ICTY, see paragraph 4 of the United Nations Security Council Resolution 827, May 25th 1993, [https://undocs.org/en/S/RES/827\(1993\)](https://undocs.org/en/S/RES/827(1993))

⁶⁷ For the case of the ICTR, see paragraph 5 of the United Nations Security Council Resolution 955, November 4th 1994, [https://undocs.org/en/S/RES/955\(1994\)](https://undocs.org/en/S/RES/955(1994))

punishment would contribute to the restoration and maintenance of peace and would encourage reconciliation in the two countries.

Nevertheless, these *ad hoc* Tribunals have been highly criticised. Indeed, both Chapter VII Resolutions hereby inform that they were supposed to share their jurisdictions with the national courts of Rwanda and countries from the former Yugoslavia. But is it still peacebuilding when the ICTY and the ICTR supersede the national legal framework of the offended countries?

We should not be too hard with these Tribunals. To this date, despite a few clashes, hostilities have ceased in those countries but we also need to point out that they had already ceased before the Tribunals were established. One of the issues with these Tribunals is the lack of transparency in the UNSC Resolutions following the set up of both international jurisdictions. Whereas, in Resolutions 827 (1993) and 955 (2015), the Council made sure of the necessity to call for Article 39 determining the existence of a threat of peace, Resolutions that followed did not make it explicit. Indeed, by having a closer look at Resolution 1329 (2000),⁶⁸ Resolution 1411 (2002),⁶⁹ and Resolution 1534 (2004),⁷⁰ all under Chapter VII, do not mention explicitly a breach of peace.

This also raises the question of why the UNSC has not extended such international jurisdiction to other “failed states”? For instance, Somalia during the 1990s was one of the countries most afflicted with obstruction to humanitarian efforts, war crimes, and even genocide. Yet, no International Tribunal Court has been set up for Somalia, despite the big failure of the “*Restore Peace*” UN operation.

However, it should not be forgotten that for the first time, International Tribunals have served to spread the message in the affected countries and beyond that no one is above the law.⁷¹

⁶⁸ UNSC Resolution 1329, [https://undocs.org/en/S/RES/1329\(2000\)](https://undocs.org/en/S/RES/1329(2000))

⁶⁹ UNSC Resolution 1411, [https://undocs.org/en/S/RES/1411\(2002\)](https://undocs.org/en/S/RES/1411(2002))

⁷⁰ UNSC Resolution 1534, [https://undocs.org/en/S/RES/1534\(2004\)](https://undocs.org/en/S/RES/1534(2004))

⁷¹ Daniel Nsereko (2008), “The Role of International Criminal Tribunals in the Promotion of Peace: the Case of the International Criminal Court” 19 *Criminal Law Forum: An International Journal* 373 – 393.

3. The promotion of peace at the expense of the civil society

The last decade of the 20th Century has been the source of big change for the UNSC. Following the embarrassing failures of the use of the military epitomized by the debacle in Somalia, the reluctance of Member States to invite their citizens to join Peacekeeping operations and the big failure of stopping the Genocide in Rwanda, the 1990s marked a downturn in this period of new hope for peace. Nonetheless, in matters of peaceful means, the Council has always had more than one string to its bow. Alongside peacekeeping operations, mediation, peace agreements and lastly International Tribunals, the Security Council used for almost more than twenty years the so-called “smart sanctions” in order to promote peace.

The last decade of the 20th Century is known as “*the sanctions decade*.”⁷² While the Security Council voted sanctions twelve times in the 1990s, they only employed targeted sanctions twice between 1945 and 1990.⁷³ “Smart sanctions” are part of the Council’s portfolio and are legally binding for the incriminated country. They were mostly used against Iraq, Haiti and former Yugoslavia in the early 1990s.⁷⁴ We will later focus on the Iraqi sanctions and the consequences of it.

Targeted sanctions can be categorized in six different types, from the less coercive one to the most legally binding for the offended States:⁷⁵

- Individual/Entity targeted sanctions (e.g. travel ban, assets freeze; most discriminating)
- Diplomatic sanctions (only one sector of government directly affected)
- Arms embargoes or proliferation-related goods (largely limited impact on fighting forces or security sector)
- Commodity sanctions other than oil (e.g. diamonds, timber, charcoal; tend to affect some regions disproportionately)
- Transportation sanctions (e.g. aviation or shipping ban; can affect much of a population)

⁷² Cortright, David and George A. Lopez (2000) *The Sanctions Decade: Assessing UN Strategies in the 1990s*. Boulder, CO: Lynne Rienner Publishers.

⁷³ Ibid.

⁷⁴ Drezner, D. W. (2011). “Sanctions Sometimes Smart: Targeted Sanctions in Theory and Practice”. *International Studies Review*, 13(1), 96–108

⁷⁵ Biersteker, T., Eckert, S., & Tourinho, M. (Eds.). (2016). *Targeted Sanctions: The Impacts and Effectiveness of United Nations Action*. Cambridge: Cambridge University Press

- Core economic sector sanctions (e.g. oil and financial sector sanctions; affect the broader population and therefore are the least discriminating of targeted sanctions)

The idea of targeted sanctions might be efficient, if it is done in a smart way and taking into account humanitarian affairs and the social context. For example, in theory, the effectiveness of arms embargoes, financial sanctions and travel bans penalize political elites of the country targeted, prevent them from committing any crimes and thereby protect civilian population. Therefore, vulnerable populations should, still have access to commodities (food and medical supplies) during embargoes and not suffer as much as the belligerent groups.

The case of the Iraq during the 1990s shows something completely different. Sanctions in Iraq were established by the Security Council as follows:

[Security Council] “*Decides that all States shall prevent:*

(a) *The import into their territories of all commodities and products originating from Iraq and Kuwait exported there-from after the date of the present Resolution;*”⁷⁶

[Security Council] “*Decides that all States shall not make available to the Government of Iraq, or to any commercial, industrial or public utility undertaking in Iraq or Kuwait, any funds or any other financial or economic resources [...] except payments exclusively for strictly medical or humanitarian purposes and, in humanitarian circumstances foodstuffs;*”⁷⁷

The sanctions against Iraq, voted on August 6th 1990 and spearheaded by the United States, cannot be clearer. They highlighted the fact the population should not be the victim of these “smart sanctions” and should be given humanitarian aids. But the sanctions had disastrous outcomes and brought discredit to the UNSC. Indeed, according to Garfield,⁷⁸ these economic sanctions caused at least the death of 100.000 among young children from August 1991 to March 1998 due to the lack of commodities because of the embargo. Some experts agreed upon the number of 227.000 children. Besides the humanitarian tragedy for the country, Iraqi’s economy immensely suffered, with a loss between \$175 billion in possible oil revenues.⁷⁹ The example of Iraq, suspected of having set up a program of Weapons of Mass

⁷⁶ See paragraphe 3(a), UNSC Resolution 661, <http://unscr.com/en/Resolutions/doc/661>

⁷⁷ See paragraphe 4, UNSC Resolution 661, <http://unscr.com/en/Resolutions/doc/661>

⁷⁸ Richard Garfield (1999), “Morbidity and Mortality Among Iraqi Children from 1990 to 1998: Assessing the impact of Economic Sanctions”, *International Peace Studies*, University of Notre Dame & Fourth Freedom Foundation

⁷⁹ Meghan O’Sullivan (2003), “Shrewd Sanctions”, Washington, D.C.: *Brookings Institution Press*

Destruction, facing targeted sanction for more than ten years, remains nowadays one of the biggest failures of the UNSC. Even worse, it could have contributed to the rebirth of terrorism in the area among a population subjected to ten years of starvation and poverty. Only the US troops seemed to be surprised of the poor welcome they received from the Iraqi population, when they invaded the country in 2003. The same goes for the NATO coalition invasion in 2001, in Afghanistan, with a poor welcome after two years of suffering from economic sanctions by the “1267 committee”.

Part III: The war against terrorism: the new hobby horse after the failure of the promotion of peace

1. A United Nations definition of terrorism: a US definition?

Experts inside and outside the UN agreed at least on one point: we cannot define terrorism but we can fight it, to borrow from Walter Laqueur.⁸⁰ Despite the emergency to fight this threat to international peace, terrorism is also a normative challenge for the United Nations. Among all UN Member States, none of them concur on how have to frame one of the biggest threats – I would argue Climate Change might be a bigger threat than terrorism – of the 21st century. Walter Laqueur, who spent his entire life trying to find a definition of terrorism, perfectly captured the ambiguity of the concept – “*one man’s terrorist is another man’s freedom fighter.*”⁸¹ The most obvious example is the treatment of the Taliban by the US, once dubbed “*freedom fighters*” in the 1980s while fighting the Soviets in Afghanistan, who became “*terrorist fighters*” in the 2000s when suspected of hiding and helping Osama bin Laden’s men. The debate has always existed since the 1970s and different schools of thought have been fighting since then. Countries suspected of “sponsoring” (Syria, Libya and now Qatar) terrorism are trying to persuade the international community to define terrorism in a way that leaves groups they sponsor out of the definition.⁸² Indeed, it was not a surprise to see in “Arab Strategy in the Struggle against Terrorism”, a document released after an Arab League meeting in 1998, that belligerent activities aimed at liberation and self determination using armed forces are not considered as terrorist.⁸³ One could discern an implicit reference to the Israeli occupation in Palestine for instance which implies that they are, turning a blind eye to potential attacks from “freedom fighters” against Israel. Nevertheless, since there is a huge pattern in Arab countries to have groups trying to earn or assert their independence (Kurds in Iraq etc...), the framework may have multiple examples in mind. However, this claim is once

⁸⁰ Walter Laqueur, “We Can't Define 'Terrorism,' But We Can Fight It”, *The Wall Street Journal*, July 15th, 2002

⁸¹ Walter Laqueur (1987), “The Age of Terrorism”, *Little, Brown and Company, Boston, Toronto*

⁸² Boaz Ganor (2002), “Defining Terrorism: Is One Man's Terrorist another Man's Freedom Fighter?”, *Police Practice and Research*, 3:4, 287-304

⁸³ International Institute for Counter-Terrorism, *Arab League Nations Sign Anti-terror Accord*, 1998, <https://www.ict.org.il/Article/1585/Arab-League-Nations-Sign-Anti-terror-Accord#gsc.tab=0>

again quite open to subjective interpretation. Kurds are seen as terrorist by the Iraqi government whereas Palestinian fighters fighting for their local national liberation are considered “freedom fighters” by the same government. Are they not both fighting for their own self –determination?

Before 9/11, terrorism issues were mostly handled by the General Assembly through the 6th Committee. Even when the whole world was watching live the hostages taking during the Olympic Games in Munich in 1972, which ended up with the death of 11 Israeli athletes, the topic did not get onto the international agenda.

The vote for the adoption of the International Convention for the suppression of terrorist bombings in 1997,⁸⁴ one of the nineteen Instruments to fight terrorism still used by UNODC/TPB nowadays, can be seen as the first step against the threat of global terrorism. Still, the Convention does not provide a general definition for the term “terrorism” in, because G77 countries all united opposed their views and their approvals for it.

Due to the profile of the attack and target, 9/11 has been the turning point to speed up the process of having true guidelines. It seems very clear, beyond the close ties between the US and the UN,⁸⁵ that the way to handle terrorism within the UN framework has been dictated by the United States of America for two reasons. Firstly, because the USA has been the victim of the most memorable attack against a Western country, and more importantly because the United Nations’ relies of US’s money.⁸⁶ In October 2001, very soon after the terrorist attacks in New York, “The USA Patriot Act” was released,⁸⁸ and gave the US’s view of terrorism:

"activities that (A) involve acts dangerous to human life that are a violation of the criminal laws of the U.S. or of any state; (B) appear to be intended (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping"

⁸⁴ International Convention for the Suppression of Terrorist Bombings, Entry into force in May 2001, https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=XVIII-9&chapter=18&clang=en

⁸⁵ Willard, A. (2004). US Hegemony and International Organizations: The United States and Multilateral Institutions. *Perspectives on Politics*, 2(4), 892-893

⁸⁶ Starting January 1, 2001, the United States was assessed to pay 22% of the U.N. regular budget for a total amount of \$328,206,625.

⁸⁷ Marjorie Brown , Luisa Blanchfield, United Nations *Regular Budget Contributions: Members Compared, 1990-2010*, Congressional Research Service, January 15th 2013

⁸⁸ PUBLIC LAW 107–56—OCT. 26, 2001, *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept And Obstruct Terrorism*, USA PATRIOT ACT, Act of 2001

Therefore, in 2005, when Kofi Annan, then Secretary-General of the UN, tried to offer a definition, it was encompassing many possible forms of terrorism as outlined by the American version.

*“Any action constitutes terrorism if it is intended to cause death or serious bodily harm to civilians or non-combatants with the purpose of intimidating a population or compelling a government or an international organization to do or abstain from doing any act.”*⁸⁹

Thus, due to the fact there is no definition of terrorism, they justify the adoption of several Chapter VII Resolutions under the fact that *“acts, methods, and practices of terrorism are contrary to the purposes and principles of the United Nations.”*⁹⁰ With such a broad definition, which allows the UN to put terrorists’ entities and individuals on a list,⁹¹ it seems normal some scholars call for a violation of Human Rights.⁹²

2. The legal basis of the UN actions on counter-terrorism

The 9/11 attacks reinforces the Council’s focus on terrorist threats. In the years that followed the event of 2001, anti-terrorist measures increased dramatically and in a frenetic way, in comparison with the almost inexistent framework prior to 2001. The UN has adopted twenty Resolutions since 9/11.

In other words, despite the absence of a consensual definition, the UNSC has placed international terrorism on its agenda since the early 1990s. In 1992, mandatory actions were taken against Libya accused of being involved in the bombing of two commercial airlines:

[Security Council] *“Strongly deplores the fact that the Libyan Government has not yet responded effectively to the above requests to cooperate fully in establishing responsibility for the terrorist acts referred to above Pan Am flight 103 and Union de transports aériens flight 772”*⁹³

⁸⁹ UN Secretary General Speech, Madrid Summit, Launch of the Global Strategy Against Terrorism, March 10th 2005

⁹⁰ UNSC Resolution 1373, <http://unscr.com/files/2001/01373.pdf>

⁹¹ Security Council Committee Pursuant to Resolutions 1267 (1999) 1989 (2011) and 2253 (2015) concerning ISIL (Da’esh) Al-Qaida and Associated Individuals Groups Undertakings and Entities, <https://scsanctions.un.org/fop/fop?xml=htdocs/resources/xml/en/consolidated.xml&xslt=htdocs/resources/xsl/en/al-qaida.xsl>

⁹² Andrew Hudson (2007), “Not a Great Asset: The UN Security Council's Counter-Terrorism Regime: Violating Human Rights”, 25 *Berkeley J. Int'l Law*. 203

⁹³ UNSC Resolution 748, [https://undocs.org/S/RES/748\(1992\)](https://undocs.org/S/RES/748(1992))

Sudan has also been accused of non-cooperation in matters of fight against terrorism, when in 1996 they refused to extradite three suspects involved in the assassination attempt against the Egyptian President in 1995. This is the second time sanctions were imposed by the Council pursuant to Resolution 1054.

[Security Council] “*Determined to eliminate international terrorism and to ensure effective implementation of Resolution 1044 (1996) and to that end acting under Chapter VII of the Charter of the United Nations*”⁹⁴

The outcomes of both Resolutions were economic sanctions against Libya and Sudan. Gaddafi’s country was facing an arm embargo and a reduction of the personnel in the Libyan army, while Sudan suffered from restrictions on the travel of Sudanese officials.

The “war against terrorism” really started in 1999, when the Security Council following pressure from Washington, imposed financial sanctions against the Taliban regime in Afghanistan under Resolution 1267.⁹⁵ It urged the Taliban to extradite Bin Laden who was suspected by US intelligence of involvement in the bombings of the US embassies in Nairobi (1998) and in Dar es Salaam (1998). This Resolution is a milestone, firstly for the creation of the so-called “1267 Committee” but mainly for the creation of a comprehensive document, regularly updated, listing all entities and individuals suspected of terrorism. The role of the Committee is to oversee the implementation of sanctions when a group or an individual is suspected of terrorism. The “Responsibility of the Security Council in the Maintenance of International Peace and Security” which is highlighted in the Resolution 1269,⁹⁶ recognized international terrorism as a breach of peace and gives the clear mandate to the Council.

The 9/11 attacks reinforces the Council’s focus on terrorist threats. A day after the attacks on the US soil, Resolution 1368 was adopted and legitimized action against terrorism: “*Recognizing the inherent right of individual or collective self-defence in accordance with the Charter.*”⁹⁷ This Resolution remains controversial nowadays since it does not specify the actions that should be taken under the “collective self-defence”. The lack of definition of

⁹⁴ UNSC Resolution 1054, [https://undocs.org/S/RES/1054\(1996\)](https://undocs.org/S/RES/1054(1996))

⁹⁵ UNSC Resolution 1267, <http://unscr.com/en/Resolutions/doc/1267>

⁹⁶ UNSC Resolution 1269, <http://unscr.com/en/Resolutions/doc/1269>

⁹⁷ UNSC Resolution 1368, [https://undocs.org/en/S/RES/1368\(2001\)](https://undocs.org/en/S/RES/1368(2001))

terrorism makes it even more difficult as a State could exercise its right of self defence to use armed forces. Yet, some acts considered “terrorist attacks” may not require the use of force.⁹⁸

Resolution 1373,⁹⁹ took another step forward in the fight against terrorism. It recommends Member States to “*take the necessary steps to prevent the commission of terrorist acts, including by provision of early warning to other States by exchange of information.*”¹⁰⁰ According to Bianchi, it creates obligations for all UN Member States to change some of their domestic legislation in order to fully implement the Resolution.¹⁰¹

These above Resolutions created numerous UN bodies to monitor and oversee the implementation of adopted Chapter VII Resolutions on counter-terrorism or at least to help States to put them into their legislation.

3. UN bodies and Offices in charge of the implementation of Chapter VII Resolutions on counter-terrorism

The legal framework of the United Nations on counter-terrorism is composed of nineteen instruments. Since 1963, the international community has elaborated a couple of instruments to prevent terrorist acts. Those nineteen instruments were developed by the UN, but also in compliance with the International Atomic Energy Agency (IAEA), the International Civil Aviation Organization (ICAO) and the International Maritime Organization (IMO)’s guidelines.¹⁰² The United Nations Office on Drugs and Crime

⁹⁸ See Putin and the launch of the war against Chechen invoking the right of self defence in 2002.

⁹⁹ UNSC Resolution 1373, [https://undocs.org/en/S/RES/1373\(2001\)](https://undocs.org/en/S/RES/1373(2001))

¹⁰⁰ See para. 2 (b) UNSC Resolution 1373, [https://undocs.org/en/S/RES/1373\(2001\)](https://undocs.org/en/S/RES/1373(2001))

¹⁰¹ Andrea Bianchi (2007), “Assessing the Effectiveness of the UN Security Council’s Anti-terrorism Measures: The Quest for Legitimacy and Cohesion”, *The European Journal of International Law*

¹⁰² 1963 Convention on Offences and Certain Other Acts Committed On Board Aircraft;

1970 Convention for the Suppression of Unlawful Seizure of Aircraft;

1971 Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation;

1988 Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation;

2010 Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation;

2010 Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft; Protocol to Amend the Convention on Offences and Certain Acts Committed on Board Aircraft;

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

1979 International Convention against the Taking of Hostages;

1980 Convention on the Physical Protection of Nuclear Material;

2005 Amendments to the Convention on the Physical Protection of Nuclear Material;

1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation;

2005 Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation;

(UNODC) began to focus on counter-terrorism issues in 1999 and, the Terrorism Prevention Branch (TPB) was established in 2002 “to provide upon request, technical assistance to Member States [...] for the prevention and suppression of terrorism.” The mandate of the TPB is to assist countries to update their domestic legal framework to accommodate these nineteen new instruments. Through workshops and meetings, experts from the TPB try to train officials from countries to help them building the technical tools for counter-terrorism. Each year, a couple of countries ratify some of these instruments but the quick change of government and political regimes jeopardizes the work of the branch in the long run.

Resolution 1373 established a monitoring body, Counter-Terrorism Committee (CTC), to check compliance of all States with its terrorism-related decisions.

[The Security Council] “Decides to establish, in accordance with rule 28 of its provisional rules of procedure, a Committee of the Security Council, consisting of all the members of the Council, to monitor implementation of this resolution, with the assistance of appropriate expertise, and calls upon all States to report to the Committee, no later than 90 days from the date of adoption of this resolution and thereafter according to a timetable to be proposed by the Committee, on the steps they have taken to implement this resolution;”¹⁰³

Resolution 1373 went a step further by including other less publicized international mechanisms such as the Financial Action Task Force (FATF) Special Recommendations on Terrorist Financing of October 2001.¹⁰⁴ CTC works closely with the FATF which focuses exclusively on the promotion of international action to combat money laundering and to facilitate the confiscation of the proceeds of crime.¹⁰⁵

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

2005 Protocol to the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms located on the Continental Shelf;

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

1997 International Convention for the Suppression of Terrorist Bombings;

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

2005 International Convention for the Suppression of Acts of Nuclear Terrorism

¹⁰³ See para. 6 UNSCR 1373

¹⁰⁴ Karima Bennoune (2006), “Newark The Fundamental Rules of the International Legal Order: Jus Cogens and Obligations Erga Omnes”, *Rutgers School of Law*, Leiden, Boston: Martinus Nijhoff

¹⁰⁵ Angeliki Panagoulia, *The role of the Security Council in the fight against terrorism and the violation of human rights by the anti-terrorism measures: the case of the “Consolidated lists”*, Institute des Hautes Etudes Européennes, Master Thesis, 2009

In 2004, the United Nations implemented the *Counter Terrorism Committee Executive Directorate* (CTED) through Resolution 1535.¹⁰⁶ In line with the Counter Terrorism Committee, CTED's work is to promote the counter-terrorism guidance mentioned in Resolution 1373 and technical assistance to Member States.

In 2004, the UNSC adopted Resolution 1540,¹⁰⁷ which became very quickly "1540 Committee". In accordance with the Convention on the Physical Protection of Nuclear Materials adopted in 1980 and the Biological Weapons Convention the Committee (1975), the Committee is the responsible body in charge of looking at "*traffic in or use nuclear, chemical and biological weapons and their means of delivery,*" and making sure of Member States' compliance to prevent non-State actors from accessing Weapons of Mass Destructions (WMD).

Last but not least, in 2017, the General Assembly of the UN, true to the *Global Counter-Terrorism Strategy* adopted in 2006,¹⁰⁸ adopted a resolution to create a body devoted to worldwide counter-terrorism: United Nations Office on Counter-Terrorism (UNOCT). Seventy-nine years after the League of Nations drafted a *Convention for the Prevention and Punishment of Terrorism*, the UN finally established an office dealing only with one of the major threat of 21st Century. In light of this delay and of its past shortcomings both in defining and fighting the threat, we can wonder whether the UN is really adapted to the threat of terrorism.

¹⁰⁶ UNSC Resolution 1535, [https://undocs.org/en/S/RES/1535\(2004\)](https://undocs.org/en/S/RES/1535(2004))

¹⁰⁷ UNSC Resolution 1540, [https://undocs.org/en/S/RES/1540\(2004\)](https://undocs.org/en/S/RES/1540(2004))

¹⁰⁸ The General Assembly, which, on 8 September 2006, adopted resolution A/RES/60/288 that establishes a Global Counter-Terrorism Strategy, for the first time marking the global agreement to a common strategic and operational approach to fighting terrorism. On September 2008, the General Assembly held a two-day meeting to review implementation of the Strategy and adopted resolution A/RES/62/272, which reaffirmed its support for the Strategy.

Conclusion

The post Cold War era was the stage of the booming activity of the Council, which became a very optimistic and proactive body after forty-five years of frustration. The main challenge of the paper was to stick as much as possible to Chapter VII Resolutions, as a way to outline trends in the treatment of contemporary problems after the 1990s. It is important to recall that the post Cold War period is in many respects far more violent than the post World War II era. The rise in the number of ongoing conflicts per year shows that conflicts went from worldwide conflicts to localised war zone between armed groups; which is more challenging for the UN.

Strengthened in its position with its new empowerment, the UNSC tried to improve its image on the world stage by using more often legally binding Resolutions or bring tools up to date such as the peacekeeping operations. The period from 1990 to 2015, shows a true paradigm shift within the UNSC resolutions. After years of failures, being only a bystander in several conflicts because of the one P5 members' vetoes, the Council tried to promote peace at all costs. 9/11 is a turning point as the UNSC mainly focused its attention on terrorism, thereby neglecting the promotion of peace which is the basis of the UN Charter. "*The threat to peace*" seems to be the new motto of the UNSC which allows it to issue binding Resolutions and intervene by all means,¹⁰⁹ by implicitly evoking a breach of peace without being able to find one sometimes.

The thirty Chapter VII Resolutions mentioned in this paper gives a good impression on how the Council tried to react and face contemporary issues. These reactions almost always came with a certain time lag.

Early on in this period of study, there was a big trend towards peacekeeping operations (POKs) meant to show the new assertiveness of the Council. Resolution 681 (1991) in Kuwait and Iraq and Resolution 864 (1994) in Angola were the starting point of forty three POKs in the post Cold War era. Then after few fails such as the Genocide in Rwanda and the well-know "Restore peace" in Somalia, the body used a new tool for reconciliation: International Criminal Tribunals through Resolutions 827 (1993) for Yugoslavia and 955 (1994) for Rwanda. As a last peaceful resort, the UNSC used the "smart sanctions" to affect only those

¹⁰⁹ I. Österdahl (1997), "By All Means, Intervene! The Security Council and the Use of Force under Chapter VII of the UN Charter in Iraq (to protect the Kurds) in Bosnia, Somalia, Rwanda and Haiti", 66 NJIL pp. 243–245.

guilty of international law violations and while protecting civilian population from any humanitarian problems that come from the crippling an economy. Resolution 661 (1991) in Iraq followed by Resolution 1267 for the Afghanistan are two examples. Despite good intentions, it seems it only resulted in failed systems, with impoverished economies and nurtured hatred of the UN within both countries'. Did the UNSC provide the ground in which fanaticism and terrorism could flourish in these countries? Also how can one explain that the Security Council adopts an increase number of resolutions, while at same time its weak reaction to non-authorized use of force – as exemplified by the case of Iraq in 2003 – points to a weakened upholding of fundamental provisions of the Charter?¹¹⁰

In some respects, the topic of counter-terrorism gave another chance for the Council to recover from the failure of the last decade of the 20th Century. Yet, once again, without going back into details of the absence of definition of terrorism, it took twenty years for the UN to create a body dedicated to the fight against terrorism (UNOCT). In matters of counter-terrorism, the UNSC has a delay of three years in each of its activity. The war in Syria started in 2011, and Resolution 2178,¹¹¹ on the threat of Foreign Terrorist Fighters (FTFs), was adopted only in 2014. The same goes for Resolution 2396 on the threat of FTFs returnees,¹¹² which was released in late 2017, for a phenomenon which started in 2013.

There are several limits to this paper. It would have been interesting to give some attention to the semantic of the Resolutions to see if there are any changes in the words employed by the Council. I also did not focus on Human Rights violations and the humanitarian disasters partly resulting from Chapter VII Resolutions on counter-terrorism. Moreover, the irregular definition of the conditions to deploy Chapter VII Resolutions could also be one of some interest. For instance, Israel might have violated at least as many Security Council Resolutions as has Iraq, but while Iraq was punished by years and years of sanctions, and eventually a military intervention, Israel gets away with it.¹¹³ We can also interrogate the lawfulness of some of the Resolutions.

¹¹⁰ Johansson, P., & Amer, R. (2007), “The United Nations Security Council and the Enduring Challenge of the Use of Force in Inter-state Relations”, *Umeå Working Papers in Peace and Conflict Studies*, Umeå: Statsvetenskap.

¹¹¹ UNSC Resolution 2178, [https://undocs.org/en/S/RES/2178\(2014\)](https://undocs.org/en/S/RES/2178(2014))

¹¹² UNSC Resolution 2396, [http://undocs.org/fr/S/RES/2396\(2017\)](http://undocs.org/fr/S/RES/2396(2017))

¹¹³ Johansson, Patrik (2009), “The Humdrum Use of Ultimate Authority: Defining and Analysing Chapter VII Resolutions.” *Nordic Journal of International Law* 78(3):309–342

Another question remains; will the UNSC consider climate change as a “threat against international peace” and use Chapter VII to condemn some countries with a lack of legislation in terms of ecology?

Annexes

Annex 1. Vetoed Resolutions at the United Nations Security Council from 1945 to 1990 by the 5 permanent countries of the Council¹¹⁴

Year/ Country	USSR	USA	UK	France	China	Total per Year
1990	0	2	0	0	0	2
1989	0	5	2	2	0	9
1988	0	6	1	0	0	7
1987	0	2	2	0	0	4
1986	0	8	3	1	0	12
1985	0	3	1	0	0	4
1984	1	2	0	0	0	3
1983	1	2	0	0	0	3
1982	0	8	1	0	0	9
1981	0	5	4	4	0	13
1980	2	1	0	0	0	3
1979	2	0	0	0	0	2
1978	0	0	0	0	0	0
1977	0	3	3	3	0	9
1976	0	6	1	2	0	9
1975	0	6	1	1	0	8
1974	0	1	1	1	0	3
1973	1	3	1	0	0	5
1972	0	1	2	0	1	4
1971	3	0	1	0	0	4
1970	0	1	2	0	0	3
1969	0	0	0	0	0	0
1968	1	0	0	0	0	1
1967	0	0	0	0	0	0
1966	1	0	0	0	0	1
1965	0	0	0	0	0	0
1964	2	0	0	0	0	2
1963	1	0	1	0	0	2
1962	1	0	0	0	0	1
1961	3	0	0	0	0	3
1960	5	0	0	0	0	5
1959	0	0	0	0	0	0
1958	5	0	0	0	0	5
1957	3	0	0	0	0	3
1956	1	0	2	2	0	5

¹¹⁴Dag Hammarskjöld Library, <https://research.un.org/en/docs/sc/quick>, last updated on June 2018

1955	1	0	0	0	0	1
1954	4	0	0	0	0	4
1953	0	0	0	0	0	0
1952	8	0	0	0	0	8
1951	0	0	0	0	0	0
1950	3	0	0	0	0	3
1949	12	0	0	0	0	12
1948	7	0	0	0	0	7
1947	13	0	0	0	0	13
1946	9	0	0	0	0	9
1945	0	0	0	0	0	0
Total	90	65	29	16	1	201

Annex 2. Ongoing conflicts in the world, per year, from 1975 to 2015

Year	Number of ongoing conflicts
2015	52
2014	42
2013	36
2012	33
2011	38
2010	31
2009	37
2008	37
2007	35
2006	33
2005	32
2004	33
2003	31
2002	33
2001	39
2000	39
1999	40
1998	37
1997	40
1996	41

1995	40
1994	48
1993	43
1992	49
1991	52
1990	49
1989	40
1988	39
1987	47
1986	44
1985	38
1984	42
1983	43
1982	44
1981	41
1980	41
1979	41
1978	38
1977	36
1976	32
1975	30

Annex 3. Peace Agreements from 1990 to 2015

Year	Number of peace agreement per year
2015	13
2014	23
2013	25
2012	40
2011	23
2010	19
2009	26
2008	45
2007	25
2006	30
2005	15
2004	28

2003	25
2002	30
2001	21
2000	13
1999	37
1998	27
1997	36
1996	39
1995	28
1994	50
1993	27
1992	23
1991	34
1990	19

Annex 4. Chapter VII Resolutions adopted by the United Nations Security Council from 1990 to 2015

Year	Number of Chapter VII resolution adopted per year
2015	35
2014	32
2013	24
2012	32
2011	35
2010	33
2009	23
2008	40
2007	36
2006	45
2005	39
2004	27
2003	28
2002	32
2001	18
2000	15
1999	16
1998	22
1997	17
1996	12
1995	21
1994	24
1993	27
1992	15
1991	13
1990	9

Annex 5. Share of Chapter VII Resolutions within the overall United Nations Security Council Resolutions adopted from 1990 to 2015

Year	Number of Chapter VII resolution adopted per year	number of Resolutions adopted per year
2015	35	64
2014	32	63
2013	24	47
2012	32	53
2011	35	66
2010	33	59
2009	23	48
2008	40	65
2007	36	56
2006	45	87
2005	39	71
2004	27	59
2003	28	67
2002	32	68
2001	18	52
2000	15	50
1999	16	65
1998	22	73
1997	17	54
1996	12	57
1995	21	66
1994	24	77
1993	27	93
1992	15	74
1991	13	42
1990	9	37

Annex 6. Launch of peacekeeping operations per decade from 1945 to 2017

Decade	Number of accomplished POKs	Number of POKs still ongoing	Total Number of POKs per decade
1940s	0	2	2
1950s	2	0	2
1960s	5	1	6
1970s	1	2	3
1980s	5	0	5
1990s	35	2	37
2000s	8	2	10
2010s	1	4	5
Total	57	13	70

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- ⁷ Revelations have been raised by newspapers that Bernardino León while still mediating for the conflict, was indeed in close contact with the United Arab Emirates for a position in order to train UAE’s diplomat for £35.000 per month. Major concerns have been noted and accusations suggested that the UAE have violated the United Nations’ arms embargo in Libya which put Bernardino León in a major conflict of interest situation.
- ⁸ Charter of the United Nations signed on 26 June 1945, in San Francisco, Chapter VII <http://www.un.org/en/sections/un-charter/chapter-vii/index.html>
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- ¹⁰ See annex 1
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- ¹² UNSC Website, <http://www.un.org/en/sc/documents/Resolutions/>
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- ¹⁴ UNODC Website, <https://www.unodc.org/unodc/en/terrorism/>
- ¹⁵ The Uppsala Conflict Data Program, Department of Peace and Conflict Research, <https://www.pcr.uu.se/research/ucdp/about-ucdp/>
The Uppsala Conflict Data Program (UCDP) is the world’s main provider of data on organized violence and the oldest ongoing data collection project for civil war, with a history of almost 40 years. Its definition of armed conflict has become the global standard of how conflicts are systematically defined and studied.
- ¹⁶ The Peace Research Institute Oslo, The Battle Deaths Dataset version 3.0, <https://www.prio.org/Data/Armed-Conflict/Battle-Deaths/The-Battle-Deaths-Dataset-version-30/>

¹⁷ The Uppsala Conflict Data Program, Department of Peace and Conflict Research, <http://ucdp.uu.se/?id=1>

¹⁸ See Annex 2

¹⁹ Philipp Schweers (2009), “The changing nature of war and its impacts on International Humanitarian Law”, Munich, GRIN Verlag

²⁰ United Nations Charter, preamble. “*We the peoples of the United Nations determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and to promote social progress and better standards of life in larger freedom, and for these ends to practice tolerance and live together in peace with one another as good neighbours, and to unite our strength to maintain international peace and security, and to ensure, by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest, and to employ international machinery for the promotion of the economic and social advancement of all peoples, have resolved to combine our efforts to accomplish these aims.*”

²¹ UN Peacemaker Database, <https://peacemaker.un.org/document-search>

²² The Uppsala Conflict Data Program, Department of Peace and Conflict Research, <https://www.pcr.uu.se/research/ucdp/about-ucdp/>.

The Uppsala Conflict Data Program (UCDP) is the world’s main provider of data on organized violence and the oldest ongoing data collection project for civil war, with a history of almost 40 years. Its definition of armed conflict has become the global standard of how conflicts are systematically defined and studied.

²³ See annex 3

²⁴ See annex 3

²⁵ See annex 3

²⁶ Until now, it stays the most deathful terrorist attack with more than 2,996 deaths, <https://www.history.com/topics/9-11-attacks>

²⁷ Took the life of 202 people and well-known as the first attack against occidental citizens abroad, https://web.archive.org/web/20090504201848/http://afp.gov.au/international/operations/previous_operations/bali_bombings_2002

²⁸ United Nations Charter, Article 51, Chapter VII, <http://www.un.org/en/sections/un-charter/chapter-vii/index.html>,

“*Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.*”

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³¹ See annex 4

³² United Nations, Highlights of Security Council Practice 2015, <https://unite.un.org/sites/unite.un.org/files/app-schighlights-2015/index.html>

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⁴⁰ Ibid.

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⁴⁵ Johansson, Patrik. (2009). "The Humdrum Use of Ultimate Authority: Defining and Analysing Chapter VII Resolutions." *Nordic Journal of International Law* 78(3):309–342

⁴⁶ United Nations website, Article 24 , *In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf.* <http://www.un.org/en/sections/un-charter/chapter-v/index.html>

⁴⁷ United Nations Information Service Vienna, <http://www.unis.unvienna.org/unis/en/60yearsPK/index.html>

⁴⁸ Dag Hammarskjöld (1905-1961) was a Swedish economist and diplomat who served as the second Secretary-General of the United Nations. Hammarskjöld was the youngest person to have held the post, at an age of 47 years upon his appointment. His second term was cut short when he was killed in an airplane crash while en route to cease-fire negotiations during the Congo Crisis. He is one of only four people to be awarded a posthumous Nobel Prize.

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⁶⁶ For the case of the ICTY, see paragraph 4 of the United Nations Security Council Resolution 827, May 25th 1993, [https://undocs.org/en/S/RES/827\(1993\)](https://undocs.org/en/S/RES/827(1993))

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2010 Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft; Protocol to Amend the Convention on Offences and Certain Acts Committed on Board Aircraft;
1973 Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons;
1979 International Convention against the Taking of Hostages;
1980 Convention on the Physical Protection of Nuclear Material;
2005 Amendments to the Convention on the Physical Protection of Nuclear Material;
1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation;
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1988 Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf;
2005 Protocol to the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms located on the Continental Shelf;
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