

**Non-State Actors, Terrorism and the United Nations:  
A Critical Analysis through three Case Studies Examining the United Nations'  
Effectiveness in Addressing the Threat Imposed by Violent Non-State Actors**

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(ABSTRACT)

The purpose of this study is to determine if the United Nations is structured in a manner that allows for it to effectively protect its principles while meeting the challenges emerging from the increasing number of security threats carried out by violent non-state actors.

The United Nations, through the strategies of collective security and sovereign equality, aspires to have its member states prevent war through the peaceful settlement of disputes. This thesis argues that, by examining the legal norms that govern the methods in which member states are authorized to use force, the foundation and principles of the United Nations are to promote collective security through the avoidance of war.

The United Nations' Charter only outlines a method for how sovereign states are to handle disputes with other states. The Charter fails to establish an effective method for states to respond to violence that originates from a non-state source. States therefore have elected to respond to aggression by non-state actors in terms that are not in accordance with the United Nations' Charter.

This thesis therefore argues that any member state that chooses to use force against another state, specifically due to that state being the perceived origin of violent non-state aggression, without the approval of the United Nations Security Council, is doing so illegally and undermining the integrity of the organization. Since the United Nations' Charter fails to make provisions for the use of force against violence by non-state on state actors, it would seem wise for the United Nations to update its Charter to reflect a more efficient method for states to

respond to non-state aggression. Unless the United Nations modernizes to respond to this tactic and outlines a strict method for states to respond to these situations, the United Nations will grow increasingly irrelevant.

The thesis is organized into four main parts.

The introduction describes the legal foundation of the United Nations and argues that its integrity is based upon the concept of collective security. This examination will explore the historical growth of collective security through the successes and failures of organizations who have previously employed its principles. This section will go into detail on the main principles of the United Nations Charter, specifically when the use of force is permissible by the organization.

The first chapter offers a historical examination into the growth of non-state actors and the terrorist tactics they have employed. Terrorism is a tactic that aspires to disrupt society through the threat or usage of violence. This tactic typically uses or threatens to use violence in an attempt to gain footage in political, economic, religious or social issues. This analysis will offer evidence into the effectiveness of this tactic for inflicting civilian casualties and disrupting the peace of states.

The second chapter is an analysis of how the United Nations has evolved to address the global growth of terrorism. This analysis will be supported by the legal documentation that the United Nations has passed to address terrorism. The main method in which the United Nations has employed to suppress terrorism is sanctions. This section will detail cases where the United Nations has used economic sanctions as a method to punish states that support terrorism.

The third chapter of this thesis will offer an in-depth analysis of instances where, despite structures that the United Nations has in place to suppress terrorism, member states have determined that their state is not adequately protected from terrorism. In turn, these states have used force against another sovereign state without a Security Council mandate. By doing this, the member states have violated United Nations articles governing the use of force and the notion of collective security.

The final section of this thesis will offer recommendations on necessary changes to the United Nations Charter regarding the use of force against violence by non-state on state actors. More efficient legal framework is necessary in the United Nations Charter to allow for states to capably and legally respond to the growth of terrorism.

This thesis demonstrates that the current structure of the United Nations is incapable of controlling or responding to violent non-state actors. Additionally, with the mounting number of occurrences where a member state elects to use force against another sovereign state in response to terrorism, the core principles and purpose of the United Nations are becoming moot. This thesis will conclude by exploring possible reform within the United Nations by allowing for member states to legally and effectively respond to the terrorist activities of violent non-state actors. This reform would be achieved by outlining legal action allowed by a state when attacked or threatened with an attack by a non-state actor.

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## **Introduction: Collective Security and The Legal Foundations of the United Nations**

The purpose of this chapter is to describe the historical growth of collective security and how this notion has shaped the world's principal multilateral organization, the United Nations.<sup>1</sup> It will continue on to explain major governing points that support the UN and show how this organization has evolved out of the ashes of previous multilateral organizations.

The UN Charter is the constitutional document that aids in the administration of operations and procedures for this organization. The Charter text was adopted in San Francisco on 26 June 1945, largely as a result of two devastating world wars and the continuing desire of governments to have states agree upon common rules of inter-state behavior that minimize the incidences of war. The Charter was ratified by 50 members and became the active governing document of the UN in October of that same year. The UN's Charter states that all member states shall act in accordance with the principles and purpose outlined within its Articles. This document is a legally binding decree regarding international law for all its signatories and is expected to supersede all other international treaties.

The mission and vision of the UN is conceptually framed around the notion of collective security. In this thesis, collective security is defined as a structure of states organized around common goals and values, to reduce security threats.<sup>2</sup> States forming a collective security organization agree to avoid the use of force between one another and agree to defend any member state if such an attack is made. The belief is that "an attack against one, is an attack against all" within the security arrangement.

The idea of collective security has been present in various security arrangements since the time of the Greek city-states, yet this modern day terminology was not employed until the

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<sup>1</sup> Hereafter United Nations will be referred to as the UN.

<sup>2</sup> George W. Downs and Keisuke Iida, Assessing the Theoretical Case against Collective Security (Ann Arbor: The University of Michigan Press, 1994) 18.

20<sup>th</sup> century. For instance, Greek city-states had a security arrangement, termed ‘Amphiktyonie’. These Amphiktyonics formed when Greek communities aligned themselves with those who had similar convictions on topics such as religion or political structure. These communities carried out the principles of a collective security arrangement by agreeing to refrain from the use of force against another community within the alliance, to abstain from cutting off water supplies during peace or war time, and to protect holy places.<sup>3</sup> Both the ancient city-states and modern-day collective security arrangements have expected their members to respect the physical boundaries and basic human necessities of the other members.

Another historical example of a collective security arrangement is the Old Swiss Confederation.<sup>4</sup> This confederation arose between eight villages within the central transalpine regions of modern day Switzerland. Up until the late 13<sup>th</sup> century, this region of Switzerland was mainly ignored by the dukes and kings who were focused upon developing the capital of Berne and the city of Hapsburg. When new trade routes were created through this central region of Switzerland, the federal government began to tighten its control. To inhibit the power from the regime, a group of eight villages signed an agreement aimed at strengthening their allegiance and minimizing the power of federal control. The villages also agreed against the use of force among members. The political structure of this alliance was that each village functioned as a sovereign political unit, with the ability to produce its own currency, military, and control over its residents. The group established lengthy and complicated treaties intended to hold the alliance together. This allegiance was tested when one of the members, the Zug village, had a section of its land occupied by a fellow member, the Schwyz village. In this case, the notion of collective security worked, and the other member villages encircled the attacked village and Schwyz

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<sup>3</sup> Elizabeth York, Leagues of Nations (London: Swarthmore Press, 1919) 5.

<sup>4</sup> Old Swiss Confederation: 1291-1515.

withdrew without any bloodshed.<sup>5</sup> The Old Swiss Confederacy eventually collapsed with the conquest of Napoleon.

Once Europe suppressed Napoleon, states within the continent met to create an organization to prevent domination by one superpowerful actor such as Napoleon. The Congress of Vienna, which was held in 1815 by the major powers of Europe, continued to develop the principles of a collective security agreement. The Congress was held in the aftermath of the Napoleonic Wars and sought to restore the territorial boundaries of the shattered continent. The main strategy of the Congress was to create a security arrangement, based upon a balance of power that would maintain peace. The Congress aimed to promote an arena in which open communications could occur focused upon the issues of security and financial systems. This balance of power rested upon the four main powers of Europe who were trusted with ensuring that peace was maintained throughout the continent. These powers were Great Britain, Russia, Prussia, and Austria, or otherwise known as the Quadruple Alliance of 1813. Other states were offered membership within the Congress but only allowed limited representation at congresses and conferences. This arrangement was called the “Concert of Europe” and is largely credited with maintaining peace in Europe until the turn of the 20<sup>th</sup> century.

The Concert was the first modern, well-organized collective security system of its size. This arrangement helped maintain peace and cooperation on a continent that had been fraught with conflict and wars for many years. The Concert pressured states to avoid military expansion, as had occurred with Napoleon, and instead encouraged states to synchronize aims and efforts to promote the social and economical growth of Europe. The Quadruple Alliance strove to uphold the settlements decided at the Congress of Vienna. Their common goal of preserving peace

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<sup>5</sup> Benjamin Barber, “The Death of Communal Liberty: A History of Freedom in a Swiss Mountain Canton.” (Princeton: Princeton University Press, 1974.) 302.

amongst members was consistent with the concept of collective security and the longevity of the Concert was in a large part a result of this structure. This organization, based upon a hierarchy of the states, encouraged governance by the four main states and kept the remaining member states mainly as followers to the politics.

The successes of the Concert have come under varying levels of scrutiny over the years. According to the historian, Richard Elrod, “the Concert seldom receives much credit for the long period of peace after 1815.”<sup>6</sup> The structure of granting power to only four of its members created a framework for Europe to work towards diplomacy and negotiations instead of war. This structure worked for a significant length of time but began its demise in 1848 when numerous wars began to occur between members. These wars include the Crimean War which was Russia versus France, the United Kingdom, Sardinia, and the Ottoman Empire.<sup>7</sup> The Italian Wars of Independence were three separate wars where Sardinia, in an alliance with France and Prussia, battled the Austrian Empire.<sup>8</sup> The Austro-Prussian War which occurred when Austria, along with some German states, declared war against Prussia.<sup>9</sup> Some German states and Italy joined as allies of Prussia. The outcome of this war was a shift in the loyalty of the states within the Germany Confederacy from Austria over to Prussia. The war also led to the unification of the northern Germany states, except for Austria. Franco-Prussian War was a conflict between France and Prussia.<sup>10</sup> Prussia was backed by its alliances with the North German Confederation. The Treaty of Frankfurt was signed on 10 May 1871 at the end of the war. This treaty gave Germany the French cities of Strasbourg, Metz and the regions of Alsace and Lorraine. This loss of territory caused great resentment within France and was a contributing factor for World War I.

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<sup>6</sup> Richard Elrod, "The Concert of Europe," *World Politics*, vol. 28, January 1976, 160.

<sup>7</sup> Crimean War: 1854-56.

<sup>8</sup> Italian Wars of Independence: 1848-1860.

<sup>9</sup> Austro-Prussian War: 1866.

<sup>10</sup> Franco-Prussian War: 1870-71.

Eventually states no longer placed as much value into a collective security arrangement and began to focus more upon national self-determination. The Concert forced members to focus upon the collective security of the entire organization without being able to concentrate upon their own state's affairs. This eventually created major failings within the Concert. Member states felt that they were forced to sacrifice their own self-control and started to enter into secret alliances with other member states that lead to the wars mentioned above. Due to these alliances, the Concert no longer was used as an open forum for deliberations.<sup>11</sup>

The Concert never established a method to successfully allow for both national self-determination and collective security. With the growing occurrence of wars within Europe, countries began to increase their militaries. The balance of power in Europe shifted away from a centrally located balance of power to states making both secret and public alliances with other states and further ignoring the collective security concept of the Concert. France aligned itself with Russia to balance the threat of Germany. Austria-Hungry aligned itself with Germany to balance the threat of Russia.

The Concert failed to evolve to handle the desire of states to focus more on national growth and their desire for military advancements. When the Concert was created after Napoleon, member states were focused on avoiding this type of devastation again. At this time, the limitations imposed by a collective security arrangement outweighed the appeal of national sovereignty. Eventually, the apprehension of war began to wane and states desired their sovereignty back. In an attempt to work towards national self-interest, states were entering secret alliances to propel their personal goals. The Concert failed to evolve to handle or at least recognize these occurrences of secret alliances. Through the decline in the appeal of collective

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<sup>11</sup> Harold Nicolson, The Congress of Vienna: A Study in Allied Unity, 1812-1822 (Orlando: Harcourt Brace Jovanovich Publishers, 1946).

security and then the destruction brought by World War I, the Concert collapsed and the international community was forced to reevaluate its preventative measures for war.

Immanuel Kant's *Perpetual Peace* (1795) argued that democracies are less likely to be warlike in comparison to monarchies and dictatorships because people governed by a democracy are citizens who participate in the governing process, and are not mere subjects to be arbitrarily directed by a ruler. The League of Nations was created after World War I, at the Paris Peace Conference in 1919.<sup>12</sup> Its main goals were to disarm the continent and prevent war. Drawing on Kantian thinking, the main objective of the LoN was to settle disputes by means of involvement from all members through processes of negotiations and diplomacy. To quote Kant's *Perpetual Peace*, this philosophy stated that "each of them [states] may and should for the sake of its own security demand that the others enter with it into a constitution similar to the civil constitution, for under such a constitution each can be secured in his right. This would be a league of nations..."<sup>13</sup>

The LoN required all states of Europe to act as equals, instead of having the major four states maintaining control. World leaders still valued the concept of collective security and recognized the need for an open forum for discussion. It was also acknowledged that this forum must allow for representation from more than just the main powers within Europe. The structure offered member states formal voting equality and the LoN functioned as a governing entity that assisted in the settling of disputes between member states. The LoN required consensus among its members to oppose the use of force, not a consensus to mandate peace. This is a major change in previous collective security arrangements because it did not require states to seek the permission of the group to use force. It was up to the collective members to restrain a state from

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<sup>12</sup> Hereafter League of Nations will be referred to as the LoN.

<sup>13</sup> Immanuel Kant, *Perpetual Peace: A Philosophical Sketch*, 1795. See the Second Definitive Article For A Perpetual Peace.

using force. The LoN functioned simply as a basic governing structure for its member states and did not maintain a military presence, therefore remaining dependent upon the capabilities of its members for the enforcement of judicial decisions. At this point in history, the very establishment of an organization based upon voting equality signified a fundamental alteration in the mindset of the political elite by agreeing to such an arrangement. Through a structure where disputes could be settled both openly and lawfully, the LoN introduced a more equitable establishment for collective security in the world.

The foundation crumbled in 1939 when the LoN's most basic goal of preventing another world war failed. Two major flaws largely led to this collapse. First, several of the world's most powerful states did not join the LoN, such as the United States.<sup>14</sup> Others had only a brief membership, such as the Soviet Union and Germany. The second failure was in the LoN's absence of a method to prevent the use of force by its members. The LoN was essentially powerless and silent in controlling the offensive parties leading up to World War II. The aim of the LoN was to provide safeguards against war, not to specifically prohibit war. The Preamble of the Covenant recognized that it was important to accept certain obligations not to resort to war.<sup>15</sup> Yet there was no clear prohibition of war. This lack of wording allowed for states to use force in certain cases: settling a dispute or as a mean of enforcing a judicial decision. The only limitation that the Covenant implied was the use of force for self-help or as a method for personal gain or acquisition. The LoN determined if a state had used force illegally through a required consensus of the aggression. How the LoN was structured regarding the use of force proved its limitations in regulating the behavior of sovereign states by failing to prevent aggression, and most importantly, by failing to stop the expansion of Nazi Germany.

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<sup>14</sup> Hereafter United States will be referred to as the U.S.

<sup>15</sup> *Covenant of the League of Nations* as part of *Treaty of Peace with Germany (Treaty of Versailles)*; signed 29 June 1919.

While the credibility of the LoN declined in the 1940s, the core concept of collective security and the value of an organization based on its premises lived on. Despite the U.S. maintaining its policy of isolation while the war escalated in Europe, the U.S. showed its commitment to creating a new legal organization aimed at effectively securing world peace and cooperation through the Atlantic Charter. On 14 August 1941, four months prior to the Japanese bombing of Pearl Harbor, U.S. President Franklin D. Roosevelt, and the Prime Minister of the United Kingdom, Winston S. Churchill, signed the Atlantic Charter. The Charter outlined eight principles of collective security on which these two prominent states based their hopes for a peaceful future.

The first principle states that there can be no territorial gains sought by the U.S. or the United Kingdom from the European continent.<sup>16</sup> Secondly, any territorial adjustments that occur must conform to the freely expressed wishes of the people impacted. Next, the Charter paid respect to the issue of governance by establishing that all states involved in any territorial adjustments will maintain the right of self-determination for their citizens and the ability to select what type of government is installed. This principle continued by outlining requirements of member states to respect the civil rights of their people. The next principle addressed the issue that all member states shall enjoy, on equal terms, the trade and raw materials of the world for their state's economic prosperity. The Atlantic Charter went on to explain that all economic trade barriers should be lowered to improve labor standards and economic advancements. Recognizing the destruction imposed upon the world by Nazi Germany and Japan, the Charter aimed to reestablish peace by means of disarmament. The remaining principles ensured freedom of the seas and established an association of nations that would sign this Charter.

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<sup>16</sup> Hereafter United Kingdom will be referred to as the U.K.

On 1 January 1942, twenty-six nations condemned Nazi Germany and Japanese aggression against sovereign states in the ‘Declaration by United Nations.’ This Declaration was based upon the concepts of the Atlantic Charter and was the first legal document applying the terminology “*United Nations*.” This Declaration focused on establishing an international organization that would maintain peace and security through a collective security arrangement and would not experience the same fate as the LoN. Consequently, the signatory states drafted the charter for the UN in 1944. The administrative details regarding members, voting, and organizational structure were finalized in San Francisco by the following year. These founding members of the UN were well aware of the fate of the LoN and focused upon establishing an organization that included a more open membership of states and a better method to outline when the use of force is permitted. Similar to the LoN, the UN was founded upon an ambition for preventing wars and maintaining peace, yet, unlike its predecessor, the UN’s founding members comprehended the necessity to secure membership from the world’s most powerful states and offered the great powers of the day, the U.S., U.K., China, Soviet Union, and France veto power over all decisions through the Security Council. Furthermore, the UN opened membership to all “peace-loving states”.<sup>17</sup> The UN altered the method in which it authorized the use of force. While the LoN required a consensus that a state had illegally used force, the UN organized itself in a manner that required a consensus for the use of force.

The Preamble to the UN Charter provides a genesis for the legal documentation of the Charter. The main structure of the Preamble had been written in a desperate attempt to avoid any reoccurrence of the two World Wars and the destruction that those wars had brought. This document was a way to start to rebuild the world physically, economically, and emotionally. The Preamble begins by stating that it is the mission of the UN to

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<sup>17</sup> Charter of the United Nations: Chapter 2 (article 4). New York City: United Nations, 1945.

“save succeeding generations from the scourge of war...to reaffirm faith in fundamental human rights, in the dignity and worth of the human person...to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained...and lastly to promote social progress and better standards of life.”<sup>18</sup>

With these prerequisites firmly established, the framers aimed to create a functioning legal environment to promote a more peaceful, prosperous, and just world based upon these ideals. These aspirations were to be reached through the practice of tolerance. Member states were expected, collectively, to agree to maintain and endorse international peace and security. This was specifically focused upon avoiding the use of force and promoting the UN through advancements in both economic and social endeavors.

The UN Charter stipulates that six separate bodies would be the foundation of this new security organization: the General Assembly, the Security Council, the Secretariat, the Economic and Social Council, the International Court of Justice, and lastly the Trusteeship Council. The Charter is currently divided into nineteen chapters. To date, 111 separate Articles regulate the UN. These articles govern international policy in regards to numerous topics ranging from membership, the actual governing structure of the UN (Assembly, Councils, Judicial, etc.), voting methods, usage of force, humanitarian aid, and a range of other topics.

The Articles that establish the conditions for what constitutes a security threat and what steps need to be taken by a state to obtain approval to use force will be utilized to demonstrate this thesis' claim the UN's Charter may have distinct flaws upon its ability to protect its member states against violence by non-state on state actors.

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<sup>18</sup> Id (Preamble).

To further understand how these principles are impacting the UN's ability to promote peace and security, one must be familiar with the articles that govern the UN and its member states. The main article governing UN policy regarding the use of force is found in Chapter 1: Purposes and Principles under Article 2. Article 2 is subdivided into seven sections, numerous of which pertain directly to this thesis. Article 2(1) summarizes the most basic concept of the UN that "the Organization is based on the principle of the sovereign equality of all its Members."<sup>19</sup> Article 2(3) states that:

All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice are not endangered.<sup>20</sup>

While Article 2(4) outlines that:

All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations"<sup>21</sup>

These articles outlined under Purposes and Principles are the basic principles that govern the UN organization. They are crucial in understanding the distinct flaws the UN currently is facing due to the growth of global terrorism by non-state actors, and the illegal use of force by member states to prevent or stop such acts.

Chapter VI of the Charter: Pacific Settlement of Disputes affirms the expectations of member states regarding the peaceful settlement of disputes. Article 33 states that members shall maintain international peace and security by seeking a solution through negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resorting to regional agencies or

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<sup>19</sup> Id (Chapter 1).

<sup>20</sup> Id (Article 2, Section 3).

<sup>21</sup> Id (Article 2, section 4).

arrangements, or other peaceful means of their own choice. If it is deemed necessary, the Security Council can be called upon to preside over the settlement of a particular dispute.<sup>22</sup>

The UN Charter defines the Security Council power to oversee collective security by investigating situations that threaten international peace, recommend procedures to peacefully settle disputes, to call upon member states to enforce sanctions, and the allowance for the use of force by its members. The Security Council is expected to investigate any situation threatening international peace, recommend procedures for the peaceful resolution of a dispute, call upon other member nations to completely or partially interrupt economic relations as well as sea, air, postal, and radio communications, or to sever diplomatic relations with a violating state and lastly it is given the ability to enforce its decisions militarily.

Since the establishment of the UN, fundamental principles regarding collective security and the use of force have been placed under ongoing and ever-growing stress, especially due to the emergence of threats to security from non-state actors. For the purpose of this research, the following definition will be employed to identify non-state actors.<sup>23</sup> This definition recognizes that the term ‘violent non-state actors’ refers to those international individuals who act autonomously of any recognized government and employ violence to achieve political means.<sup>24</sup>

It should be noted that not all NSAs are violent, in actuality, numerous devote their line of work to elevating suffering. Therefore, there is a need to distinguish the various types of non-state actors, which range from non-government organizations, civil society groups, private military firms, transnational criminal organizations, and lastly violent terrorist organizations. This last type is what this thesis will be referring to as NSAs unless otherwise noted.

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<sup>22</sup> Id (Chapter 6).

<sup>23</sup> Hereafter non-state actor will be referred to as NSA.

<sup>24</sup> Daphne Josselin and William Wallace. “Non-State Actors in World Politics: A Framework,” *Non-State Actors in World Politics*, Daphne Josselin and William Wallace eds. (New York: Palgrave Press, 2001), 3.

Violent non-state security threats have emerged from, but are not limited to civil rebellions, insurgency, liberation movements, and failed governments. These threats have historically shown varying levels of orderliness, with certain violent NSAs functioning as loose associations and others operating as active terrorist establishments. Major factors in the difference of NSAs often emerges from ideology, objective, strategy, financial support, and purpose. Those NSAs that are viewed as imposing the largest threat to society are the one's whose main tactic for acquiring power is by disrupting society in a manner that installs fear within the civilian population.

This action of NSAs to implement violent tactics is often referred to as terrorism. Terrorism has an ever-changing definition, because there is no one defining characteristic, tactic or organization for this behavior. It is ever changing because behaviors have different meanings and varying impacts upon society in different parts of the world. The phrase, "One man's terrorist is another man's freedom fighter" explains this discrepancy. The most congruent ideology behind those who use terrorism is that they possess the opinion that creating fear upon the general masses will prompt results. Despite this ideology, there is no single definitive aim or focus that unifies all terrorists. For this thesis, the term terrorist will describe the individuals who are aspiring to carry out a threat with the aim of disrupting society and instilling fear. The definition of terrorism stands as the calculated use of violence or threat thereof against civilian populations, typically in an attempt to gain political, economic, or religious footing. There can be non-state and state-supported terrorism, yet this thesis will only focus upon the concept of non-state terrorist and their application of violent tactics.

Chapter VI of the UN Charter, Pacific Settlement of Disputes, fails to outline a method for states to respond to NSAs. Member states are addressing the fear and terror of NSAs as they

see fit, many times by using force. Therefore, member states are violating the UN charter by failing to obtain approval by the Security Council when using force against the sovereign nation where these NSAs are located. Member states are justify their actions by stating that the UN no longer is able to ensure security. These member states are recanting their dedication to the collective security arrangement and the requirement to seek Security Council approval prior to the use of force. Instead member states are focusing on their own national self-interest against NSAs by using force against other sovereign states. This shift away from the collective security arrangement is similar to what occurred with the demise of the Concert of Europe and the LoN.

This thesis argues that in the current political scene, the violent activities of NSAs are having a detrimental effect upon the governing ability of the UN Charter to carry out its primary principles of preventing war and promoting peace and security. The legal foundation of the UN Charter, in particular the articles that address collective security and the use of force will be utilized to examine the effectiveness of the UN in handling violence carried out by NSAs.

## **Chapter 1: Growth of Non-State Actors and their Terrorist Actions**

### Introduction

The fundamentals of the UN are to prevent war through the peaceful settlement of disputes. When the Charter of the UN was drafted, it focused mainly upon individual sovereign states, not NSAs. NSAs were not acknowledged in the Charter because in 1945 the existence of NSA who possessed the ability to directly impact governmental policies on an international level was negligible.

The ability of NSAs, both peaceful and violent, has evolved over the past 40 years. This has occurred through the rise in the ease of travel and the growth of communications; specifically through advancements in technology. These advancements in technology allowed for an ease in availability, accessibility and functionality of media coverage. The growth in mass media helped convey an organization's message through swifter and ever evolving forms of technology to wider audiences. This trading of data has allowed for groups to organize more effectively because of their expanded exposure and therefore possible increases in membership and financial assistance. With the creation of the internet and the 'global village' that it established, information can be exchanged nearly instantaneously. According to the United States Institute of Peace, the main ways that terrorist organizations employ the internet is to spread propaganda, fundraise, recruitment, psychological warfare, data mining and coordinating actions.<sup>25</sup> In 1998, only half of the organizations listed on the U.S. Antiterrorism and Effective Death Penalty Act of 1996 had a web presence. It is estimated by the USIP that by 2000, nearly every terrorist organization had an active website. This consisted of hundreds of websites

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<sup>25</sup> Hereafter the United States Institute of Peace will be referred to as USIP.

supporting these organizations.<sup>26</sup> All of these evolving mechanisms have aided NSAs in becoming more mobile and better able to link to broader audiences.

The power of violent NSAs has grown substantially since the creation of the UN Charter, which has created a rift in the UN's ability to carry out its purpose of promoting peace and preventing war.<sup>27</sup> The growth in terrorist activities by NSAs has put the UN in a position where it must evolve to control this tactic. Because the UN Charter is ineffective to handle this security threat, member states and organizations, such as NATO, the United States, and Israel, have all violated the UN Charter by invading a sovereign nation under the guise that the UN failed to endorse its principle of promoting peace and security throughout the world. State actions not in accordance with UN Charter show a lack in the ability of the UN to control its member states or the NSAs that wage violent action on member states.

This thesis will present in greater detail how the aggressive behavior of states and the illegal activities of NSAs are negatively influencing the UN's success in the promotion of its primary aims. This chapter will outline the genealogy of terrorism, presenting the first NSAs who utilized terrorism, and the escalation in the usage of terrorism.

### Terrorism: Genealogy and Definitions

It is essential to describe the history of terrorist activities by NSAs up through the 20<sup>th</sup> century to show its impact upon society over time and the necessity for the UN to find a method to control this violent behavior. Terrorism and terrorist are not new or modern concepts. The incidences of NSAs employing violent behaviors to show opposition to a particular political rule

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<sup>26</sup> United States Institute of Peace "How Modern Terrorism Uses the Internet" USIP 2004, Available at: <<http://www.usip.org/pubs/specialreports/sr116.html>>.

<sup>27</sup> This growth has not occurred because of the existence of the UN, but more in parallel with the UN. The reason for the increased ability of these NSAs is based on the enhancements of technologies, media and transportation than due to the presence of the UN.

have existed since the time of the Roman Empire. Hundreds of years before the birth of Christ, the Greek historian, Xenophon, who was a student of Socrates, wrote about the effectiveness of psychological warfare. According to a bibliography supplied from the Encyclopedia Britannica, one facet to Xenophon's writings of psychological warfare was a historical form of terrorism that relied upon the demoralization of troops.<sup>28</sup> Alexander the Great would aim to capture the enemy's king as quickly as possible, torture, and then kill him. By killing the enemy's king, Alexander the Great intended to weaken the morale and leadership of the enemy troops.<sup>29</sup> While capturing an enemy king and killing him is different than the tactics of terrorism today, the concept is still the same, the calculated use of violence against populations in an attempt to gain political, economic or religious footing (Please see Appendix A for a list of modern terrorist tactics).

The word 'terreur' appeared for the first time in print in 1798 in the supplement to the dictionary, *L'Académie Française*. The word was used to explain the period of the French Revolution termed the 'Reign of Terror', and describes the actions of the Committee of Public Safety, which was established to preserve the central government through violent repression.<sup>30</sup> The Reign of Terror functioned in a manner, which ignored all democratic achievements and purposes of the intended Revolution and instead established a highly centralized government. The Committee, mainly run by Maximilien Robespierre, aimed to eliminate all internal counterrevolutionary incidences. The definition of the word 'terror' has directly evolved from the behaviors implemented by the radical Jacobins, who acted under the guidance of Robespierre.

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<sup>28</sup> "Xenophon." *Encyclopedia Britannica Online*. 23 Apr. 2005. Available at <<http://www.britannica.com/eb/article-9077679>>.

<sup>29</sup> D.Owen, "Battle of Wits: A History of Psychology and Deception in Modern Warfare." (Leo Cooper Ltd: 1978). Pg pxi.

<sup>30</sup> Reign of Terror: 1793-94.

The Jacobin Club, established at Versailles in 1789, began as a democratic society but was altered by the influence of Robespierre. The impact this organization had upon the history of NSAs is illustrated in the following statement quoted from a police agent to Minister Garat in April 1793: “Why did a dozen Jacobins strike terror into two or three hundred aristocrats?”<sup>31</sup> This particular quote referred to an episode that occurred in Paris and is significant because it shows the impact that a small group of individuals had upon the functionality of the state. Specifically, it showed the ability that the Jacobins had in striking terror upon the former ruling class of France. The Jacobins managed to take the term terror and transform it into both a tactic and ideology, ‘terrorisme’. Through the successes that the Jacobins achieved in subduing the aristocrats, this concept of a few individuals obtaining political control by implementing mass terror spread throughout Russia, Europe, and the United States.

### Historical Examples of the Use of Terrorism

#### *Narodnaya Volya: The First Organization to call itself a Terrorist Movement*

Since the latter part of the 19<sup>th</sup> century, NSAs who employ terrorism have steadily increased their exposure throughout the world. Typically focused upon aims of achieving social reform and political change, these groups learned that certain actions provoked panic upon the general public; forcing the political leaders of the impacted area to negotiate and yield to the demands of these NSAs. An early NSA who proudly described their activities as terrorism is the Russian-based organization Narodnaya Volya.<sup>32</sup>

Narodnaya Volya was organized in the late 1800s as a result in the split of a group of young intellectuals called the Zemlya I Volya. The reason for the group splitting was that part of

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<sup>31</sup> F.A. Aulard, La Société des Jaoci'ns, Recueil de documents, Paris, 1889.

<sup>32</sup> Narodnaya Volya translates to “the People’s Will”

the organization denounced terrorism while the other side saw the gains that could be obtained by using terrorism. Major goals of Narodnaya Volya were to overthrow the monarchy and to distribute the land out to the peasantry. The organization was lead by individuals who labeled themselves ‘professional revolutionaries’; and had a subsection known as the Pervomartovtsi, or “Terrorist Faction”. N. Morozov, the leading theoretician of Narodnaya Volya’s, quotes the Terrorist Faction for the expression ‘terrorist warfare’ and states that this subsection applied this expression to explain their activities.<sup>33</sup> Therefore, the Pervomartovtsi section of Narodnaya Volya, which included members such as Vladimir Lenin’s brother, Aleksandr Ulyanov, was among the first to use the term “terrorist” for self-identification.<sup>34</sup> Narodnaya Volya failed to grow beyond a few hundred members, but managed to instill abundant fear within the monarchy. They achieved their goals by committing bold and blatant public acts of violence, mainly through sanctioning public executions. In 1881, Narodnaya Volya took credit for initially imprisoning Tsar Alexander II in his own palace and eventually assassinating him, setting off the anarchist movement in Russia.

Advancements within sectors of media, technology, and weaponry allowed for an increase in both severity and publicity in terrorist acts at the end of the 19<sup>th</sup> century. Numerous organizations recognized that this particular form of violence offered organizations vast media coverage, specifically through newspapers and other printed materials. As the level of atrocities increased, so did the media attention. These NSA organizations recognized the international coverage their violent acts were receiving and the exposure of their demands and ideologies upon millions of people. This growth in media exposure further aided in the NSA’s ability to recruit supporters and sympathizers.

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<sup>33</sup> Morozov, N. “Terroristicheskaya Bor’ba.” London and Geneva, 1880. Translated to English by Felix Gross, *Violence in Politics.*) pg. 102.

<sup>34</sup> Bruce Hoffman, Inside Terrorism (New York: Columbia University Press, 1998) 18.

Developments in communications that had began at the turn of the 19<sup>th</sup> century, mainly through the printing press, allowed for organizations to easily spread their propaganda.

Narodnaya Volya produced the newspaper “*The Worker’s Gazette*”, which supported the message of ‘Now or Never!’ A command was thus issued to the other workers in Russia to rise up against the monarchy. With an efficient print technology available, organizations were able to expand their membership base by transmitting their message beyond their locality and were able to reach like-minded people and persuade them to support the organization. This allowed for the membership of NSAs to grow with nearly limitless boundaries.

#### *Algeria: Introduction of Aircraft into Terrorism*

One organization that shaped modern terrorism was the Algerian organization Front de Libération Nationale.<sup>35</sup> In 1954, the French colony of Algeria was seeking its independence from France. After numerous encounters and clashes from both sides, the French government executed two Algerian rebels in 1956. The FLN responded by murdering 49 Frenchmen in three days and initiated guerrilla warfare against the French state. During 1956-57, the tactic of the FLN was to kill innocent French nationals living in Algeria by bombing cafes where they knew French families visited and performed night raids against farms, factories, communications, and transportation facilities. Kidnappings became routine along with murder and mutilation, with no regard for gender, age or affiliation. The intent of this violence was to draw French and international attention to the wants and demands of the FLN, who had decided that the more notable the attacks, the greater the notoriety they would achieve. In September 1956, several women bombed three separate sites in Algeria, one being the corporate office of the French airline, Air France. In all, 7,000 individuals were murdered in the two-year span of terror, with

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<sup>35</sup> Hereafter Front de Libération Nationale will be referred to as FLN.

an average of 800 shootings and bombings per month in 1957.<sup>36</sup> Due to the success of the FLN, the notoriety of this crusade spread throughout Algeria and the rest of the world.

Terrorism escalated in its impact on innocent civilians when the first major commercial hijacking was carried out by the Popular Front for the Liberation of Palestine,<sup>37</sup> with the diversion of an El Al flight to Algeria. The Israeli passengers aboard this plane were held for five weeks with no casualties. This event was the first in a slew of airline hijackings. The magnitude of the hostage situation forced states and international political organizations to recognize that this type of aggression was continuing to grow and needed to be controlled. NSA hijackings continued to occur, and innocent passengers were used as bargaining chips in exchange for particular demands. This barter was typically based upon demands by NSAs for the release of fellow members of their organization who were imprisoned. While the PFLP incident was the first in aviation hijackings, eventually the damage caused through hijackings significantly increased when the plane and the lives of its passengers became subject to bombings.

## Conclusion

The behavior of NSAs and their terrorist behaviors have grown so strong in late 20<sup>th</sup> century and the beginning of the 21<sup>st</sup> century that it forced the UN to dedicate considerably more effort towards preventing terrorism (Please see Appendix B for a timeline of major attacks in the 20<sup>th</sup> century-present). This began in the 1960s, when the UN's General Assembly set forth to establish a working definition for terrorism. Numerous member states were hesitant to accept a definition of terrorism for numerous reasons. Some feared that it would interfere with state

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<sup>36</sup> Global Security. Org, "Alergerian National Liberation: History 1954 -1962,"Global Security 1993, *Available at:* <<http://www.globalsecurity.org/military/world/war/algeria.htm>>.

<sup>37</sup> Hereafter Popular Front for the Liberation of Palestine will be referred to as PFLP.

interests. Others were worried that it may negatively affect national liberation movements. Also, many states felt more secure establishing treaties and conventions on a case by case basis because such an approach provides greater political latitude instead of accepting a strict definition. By the end of the 1990s, the UN accepted a working definition for terrorism and outlined the criminality in the use of terrorism. This definition states that terrorism is

“Criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes are in any circumstances unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or other nature that may be used to justify them.”<sup>38</sup>

This definition is fairly generic and allows for fairly broad interpretations of what is a terrorist act. Therefore, this definition establishes a framework for the UN to follow while still allowing for open discussion and the need for consensus from member states when deciding if an attack (or threat of) can be defined as terrorism.

Concluding with this definition, this chapter has given a brief examination into the historical evolution of violent NSAs and the preliminary efforts of the UN to address terrorism.<sup>39</sup> Obviously, this is not a new tactic. Historical evidence shows that the use of terrorism is neither new, based within any specific region, nor utilized by any particular individuals. It is an approach that has shown a fairly high degree of effectiveness and therefore has grown in popularity with groups who are willing to implement violent tactics to obtain their goals. Because of its effectiveness and growth in popularity, terrorism will only continue to occur unless something is done to render it less lucrative. Up to this point no international organization has been able to successfully stop the use of this tactic.

When the UN drafted its charter in 1946, it only had the ability to make provisions for traditional war situations. Neither the Concert of Europe nor the LoN dealt with terrorism at the

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<sup>38</sup> UN General Assembly Resolution 54/109 adopted on 9 December 1999.

<sup>39</sup> For a more in-depth examination into the history of terrorist attacks, please see Appendix A.

magnitude that the UN has been forced to. Over the past four decades, the UN and its member states have diligently worked to strengthen its structure to handle this threat to international security. The following chapter will describe the historical foundation of the conventions addressing terrorism in the UN and examine the practice of the UN implementing these conventions to avert the usage of terrorism.

## Chapter 2: History of United Nations Action against Terrorism

### Legal Evolution of International Humanitarian Law

According to the UN, terrorism constitutes a threat to international peace and security, and it is contrary to the purpose and principles of the United Nations.<sup>40</sup> The UN currently has 13 major multilateral conventions regarding the responsibilities of member states to combat terrorism. The UN has established written legal documents on how to handle violent NSAs and their usage of terrorism in response to the growth attained by these groups over the past century and a half. The UN built upon the workings of the LoN and the documents from both the Hague Regulations and the Geneva Conventions as its framework.

Prior to the First Geneva Convention, a man named Henri Dunant wrote a novel titled *A Memory of Solferino* which described the horrors he had witnessed between France and Austria in the northern Italian town of Solferino. The major theme of this novel was based on the fact that there was no method for either state to rescue wounded soldiers, therefore causing their unnecessary death. Dunant's novel called for the creation of a volunteer relief group that would care for the wounded during and after battle. The Geneva Society for Public Welfare adopted Dunant's cause and created the International Committee of the Red Cross.<sup>41</sup> Soon after the creation of the ICRC, sixteen other European states came together and created a legal document to help solidify the aims of the ICRC. A treaty was signed, referred to as the First Geneva Convention, on 22 August 1864. The First Geneva Convention was the first of several Geneva Conventions, each addressing different aspects of war and peace, with the aim to promote the

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<sup>40</sup> UNSCR 1368 adopted on 12 September 2001.

<sup>41</sup> Hereafter the International Committee of the Red Cross will be known as the ICRC.

causes of the ICRC.<sup>42</sup> The evolution of the Geneva Conventions from the first to the fourth Convention was guided by the adoption of the Hague Regulations. These regulations were international treaties negotiated at the First and Second Conferences at The Hague in 1899 and 1907, respectively. They were the first formal documentations regarding the acceptable use of force during wartime and also set the standard for what constitutes a war crime. The Second Hague Convention established the laws and customs regarding the use of force during land warfare. The Hague Convention, first held in 1907, applied the principles established at both the 1864 and 1906 Geneva Conventions.

With the ratification of the Fourth Geneva Convention in 1949, an international legal standard was set pertaining to a range of humanitarian concerns, such as violence to life and person.<sup>43</sup> Specifically, Article 33 of the GCIV states that “Collective penalties and likewise all measures of intimidation or of terrorism are prohibited” and Additional Protocol II (Article 4) prohibits “acts of terrorism”.<sup>44</sup> These articles are important because they outline the humanitarian standard that neither individuals nor civilians should be subjected to terrorism or the threat thereof. It should be noted that despite the usage of the terminology terrorism, ICRC fails to ever define what they constitute as terrorism.

Following the GCIV, in 1977, a law was established, referred to as the ICRC’s Protocol Additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of International Armed Conflicts (Protocol I), which established the legal definition of

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<sup>42</sup> The Second Geneva Convention, adopted in 1906, addressed the treatment of casualties in war at sea and the Third Geneva Convention, adopted in 1929, addressed the treatment of prisoners of war.

<sup>43</sup> Hereafter the Fourth Geneva Convention will be referred to as GCIV.

In particular, GCIV addresses murders of all kinds, mutilation, cruel treatment and torture; the taking of hostages; outrages upon personal dignity, in particular humiliating and degrading treatment; and forbids the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court. Adapted from “International Humanitarian Law – Fourth 1949 Geneva Convention.” International Committee of the Red Cross. 01 January 2007. Available at <<http://www.icrc.org>>.

<sup>44</sup> Id (Article 33) & (Additional Protocol II, Article 4).

international humanitarian law.<sup>45</sup> IHL is the “body of rules, which, in wartime, protects people who are not or are no longer participating in the hostilities. Its central purpose is to limit and prevent human suffering in times of armed conflicts.”<sup>46</sup> Protocol I is relevant to this research because it outlines the legal requirements for the treatment of innocent civilians during both peace and wartime; the exact target of terrorists. Building upon the foundation of the ICRC, IHL stipulates that armies and armed NSAs both must refrain from directly attacking civilians and other ‘protected persons’ and cannot deprive civilians of aid and relief.<sup>47</sup>

While ICRC does not directly define ‘terror’ or ‘terrorism’, it does apply the concept of terrorism within its documents. Protocol I states, “The civilian population as such, as well as individual civilians, shall not be the object of attack.”<sup>48</sup> While this protocol does not have a distinct definition of terrorism, it does offer a hint into what IHL is implying for the meaning of terrorism to be: “Acts or threats of violence with the primary purpose of which is to spread terror among the civilian population are prohibited.”<sup>49</sup> IHL establishes that all signatories must outlaw the use of attacks on civilians and specifically discourages attacks that have the primary purpose of spreading terror. The UN Charter accepts IHL as its legal definitions regarding violence against civilians.<sup>50</sup> Violations against IHL can be brought up before the International Court of Justice at The Hague.

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<sup>45</sup> Hereafter international humanitarian law will be referred to as IHL.

<sup>46</sup> Definition by the International Committee of the Red Cross regarding International Humanitarian Law, *available at* <[http://www.icrc.org/web/eng/siteeng0.nsf/iwpList2/Humanitarian\\_law?OpenDocument](http://www.icrc.org/web/eng/siteeng0.nsf/iwpList2/Humanitarian_law?OpenDocument)>.

<sup>47</sup> The term ‘protected persons’ refers to an individual who at a given moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals. It excludes citizens of a neutral state or an allied state if that state has normal diplomatic relations with in the State in whose hands they are.

<sup>48</sup> Charter of the United Nations: Chapter VII-Article 51 (2) New York City: United Nations, 1945. Side Note regarding Protocol I of 1977: it has been ratified by 160 states, but not by the United States, Israel, Pakistan, India, North Korea, Iran, and Iraq (plus others).

<sup>49</sup> Id (Protocol I).

<sup>50</sup> General Assembly Resolution 217 A (III) adopted on 10 December 1948. This is the official definition proclaimed by the UN as the Universal Declaration of Human Rights.

## UN Conventions regarding Terrorism

IHL promotes an environment that aims to eliminate violent threats against civilians and is the foundation for the UN's regulations on this topic. The following section will examine how the UN has expanded its legal regulations from ICRC's Protocol I so that it can more efficiently address the threats that are being imposed by NSAs and their terrorist activities.

To date, the UN has adopted 13 major conventions to address the on-going use of terrorism. The first convention, the Convention on Offences and Certain Other Acts Committed on Board Aircraft, was signed in Tokyo (also known as the Aircraft Convention) on 14 September 1963. The Tokyo Convention established methods to handle in-flight terrorist acts and required states to take offenders into custody. Two more conventions were adopted in 1970-71 to handle similar situations and behaviors.<sup>51</sup> This topic evolved once again in 1988, with the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, where the UN supplemented the previous conventions, which were limited to domestic airports and flights, to now include international aviation.

In 1973, the UN held the Convention of the Prevention and Punishment of Crimes Against Internationally Protected Persons (also known as the Diplomatic Agents Convention) defining who constitutes as an "internationally protected person" and established that states must penalize all parties that threaten, attempt, or carry out actions that compromised the "liberty of an internationally protected person."<sup>52</sup> The fifth UN convention against terrorism is the International Convention Against the Taking of Hostages (also known as the Hostages Convention), which is

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<sup>51</sup> These two Conventions were the Convention for the Suppression of Unlawful Seizure of Aircraft (also known as the Unlawful Seizures Convention) (1970) and the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (also known as the Civil Aviation Convention) (1971).

<sup>52</sup> The term 'protected persons' in regards to the Diplomatic Agents Convention refers to the Head of State as well as any members of their family accompanying them (or anyone performing the functions of the Head of State), any representative or official of a State or International organization as well as any members of their family accompanying them.. Adopted from the UN Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons: New York adopted on the 14 December 1973.

particularly relevant to this research because it shows how the UN has updated its framework to address new tactics of terrorism that violent NSAs employ. This convention acknowledges the impact and power that NSAs have obtained through kidnappings. The Hostages Convention stipulates that it is unlawful to “detain another person in order to compel a third, party, namely a State, an international intergovernmental organization, a natural or juridical person, or a group of persons, to do or abstain from doing any act as an explicit or implicit condition for the release of the hostage.”<sup>53</sup> Through this convention, the UN made it illegal for a person or organization to exploit innocent individuals as bargaining chips in return for certain demands.

Two UN conventions deal with the unlawful acts of violence created through nuclear material and plastic explosives, the transportation, and selling of these items. In 1980, the UN adopted the Convention on the Physical Protection of Nuclear Material (also known as the Nuclear Materials Convention), which made the possession, transportation, or use of nuclear materials to cause death or injury a criminal offense. The 1991 Convention on the Making of Plastic Explosives (also known as the Plastic Explosives Convention), specifically deals with the detonation of these items aboard aircraft.

The Convention of the Suppression of Unlawful Acts against the Safety of Maritime Navigation (also known as the Maritime Convention) and its protocol, the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, were adopted in 1988, addressing maritime terrorism both against ships and fixed offshore platforms.

Most recently, the UN has adopted conventions with the specific purpose of addressing terrorism. In 1997, the UN adopted the International Convention for the Suppression of Terrorist Bombings (also known as the Terrorist Bombing Convention) which stated that member states who adopted this convention would make it a crime within their state to organize, direct, carry

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<sup>53</sup> Id (UN Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons).

out or be an accomplice to an offense that intentionally delivers, places, discharges or detonates an explosive or other lethal device in a public place, a government building or within modes of public transportation. This convention stated that the member state would prosecute any criminal offenders through appropriate penalties.<sup>54</sup> This puts the responsibility to prosecute offenders upon member states, not upon the Security Council. Therefore, even if the Security Council deems a bombing a terrorist attack, unless member states agree to pursue the offenders, then this convention lacks any true strength or power.

In 1999, the UN adopted the International Convention for the Suppression of the Financing of Terrorism (also known as the Terrorist Financing Convention) which required member states that had adopted this convention to take steps to prevent the financing of terrorist, through both directly or indirectly sources. Similar to the Bombing Convention, this convention only legally requires that member states who have adopted this convention be the only ones who are responsible for the prevention in the financing of terrorism. As of March 2004, 132 countries had signed the Terrorist Financing Convention yet only 112 have completed the ratification and acceptance process.<sup>55</sup> Therefore, 80 member states are not held accountable for preventing the financing of terrorist. This detail is significant in that the UN cannot legally reprimand member states that have not signed this convention. Therefore there are 80 member states that are not directly working to prevent the financing of terrorism. Once again, this convention is putting the responsibility regarding the financing of terrorist upon the member states, not upon the Security Council.

The most recent convention adopted by the UN is the United Nations Global Counter-Terrorism Strategy (also known as the Nuclear Terrorism Convention), which was adopted on 8

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<sup>54</sup> UN Convention for the Suppression of Terrorist Bombings adopted on 12 January 1998.

<sup>55</sup> Currently, there are 192 UN member states. There are 193 countries in the world. As of 1 May 2008, the Vatican (Holy See) was not a member of the UN. Additionally Kosovo is not recognized as an independent state.

September 2006.<sup>56</sup> This convention addresses national, regional and international acts of terrorism and outlines a strategy for member states to address terrorism. This strategy outlines a plan of action to prevent terrorism and build member states capacity for preventing terrorism. This includes coordination of all member states to combat crimes that are associated with terrorism, such as drug trafficking, illicit arms trade, money laundering, and smuggling of nuclear, chemical, biological, radiological and other potentially deadly materials. Furthermore, the convention requires member states to cooperate among themselves regarding border and customs control.

The first convention regarding acts of terrorism was adopted in 1963 and the most recent convention was adopted in 2006. This shows how the UN has evolved its framework to address the use of terrorism. These recently adopted conventions became legal through Resolution 52/164, Resolution 54/109 and Resolution 60/288. Resolution 52/164, adopted at the 52<sup>nd</sup> session of the UN General Assembly is based upon the International Convention for the Suppression of Terrorist Bombings. This 24-article Resolution gives the UN “universal jurisdiction” over the unlawful and intentional use of explosives and other lethal devices, in, into, or against various defined public places with the intent to kill or cause serious bodily injury, or with the intent to cause extensive destruction to a public place.<sup>57</sup> On 9 December 1999, the UN General Assembly adopted Resolution 54/109, which is based upon the International Convention for the Suppression of the Financing of Terrorism. This convention states that member states must take all steps necessary to prevent and counteract the financing of terrorist groups. It established that not only were the individuals who committed the violent acts punishable but additionally, any individuals or organizations that were discovered to be aiding in their funding

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<sup>56</sup> This convention was adopted through A/RES/60/288.

<sup>57</sup> UN General Assembly Resolution 52/164 article 2 adopted on 9 January 1998.

would also be held criminally accountable. This allowed states to legally freeze and seize funds of groups believed to engage in terrorist activities. Furthermore, it eliminated the ability to use bank account confidentiality to shield those who were financing NSAs; instead it required that states must adhere to requests for legal assistance regarding particular financial transactions.<sup>58</sup> By passing this resolution, the UN weakened sources of indirect monetary backing of NSAs by targeting the financiers. On 8 September 2006, the 60<sup>th</sup> session of the UN General Assembly adopted Resolution 60/288.<sup>59</sup> This convention stated that all member states would aim to include the Security Council when planning a response to a terrorist attack if using nuclear, chemical, biological or radiological weapons. The UN adopted this convention with a two-year review clause so that the strategy could be built upon because “The challenge of terrorism was not new, and would evolve. Therefore, counter-terrorism measures had to evolve with it.”<sup>60</sup>

According to the UN, since the end of 2001, the signed commitment from states to accept and implement these 13 Conventions has risen dramatically. Ratifications of these anti-terrorism conventions have risen 15 percent since July 2001 and fourteen countries have ratified 12 Treaties.<sup>61</sup> The Nuclear Terrorism Convention was adopted by all 192 members of the UN. While the UN has passed numerous conventions addressing the evolving tactic of terrorism, violent NSAs still are carrying out violent attacks that are bestowing terror upon the general population. This thesis will now examine how the UN applied these conventions to address the issue of NSAs receiving support from states.

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<sup>58</sup> UN General Assembly Resolution 54/109 adopted on 9 February 1999.

<sup>59</sup> UN General Assembly Resolution 60/288 adopted on 8 September 2006.

<sup>60</sup> Press Briefing from the United Nations regarding the Implementing the United Nations Global Counter-Terrorism Strategy. Available at < <http://www.unis.unvienna.org/unis/en/pressconf/2007/pb20070516.htm>>.

<sup>61</sup> “Selected UN Activities to Address Terrorism: September 2001-2002.” (New York: UN News Centre, 2003) Available at < <http://www.un.org/News/dh/infocus/overview.htm>>.

Over time, the activities of NSAs have increased and diversified which made it difficult for the UN, while a well financed organization, to evolve structurally with these NSAs. The scope and intensity of violence NSAs were inflicting was disproportionate with their status of not belonging to any recognized state. As the severity of the NSAs terrorist actions increased, the UN saw the need to financially inhibit the relationship between NSAs, their backers and possibly sympathetic states. As the UN began to recognize that some of these groups must be obtaining support, finances, or some other form of assistance from a state, it acknowledged the need to address the rising problem of terrorism and state support.

For the UN to curtail state-supported terrorism, it relied upon the foundation of its Charter to outline responsibilities that member states were required to follow. Under Chapter VII titled Action with Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression, Article 41 of the UN Charter states that “The Security Council may decide what measures, not involving the use of armed forces, are to be employed to give effect to its decisions...These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.”<sup>62</sup> Article 41 does not specifically refer to states perceived or proven to sponsor terrorism but this is irrelevant. When states signing the UN Charter, they are agreeing to support Article 41 and therefore the resulting Security Council decisions. The Security Council has passed resolutions regarding the use of terrorism and outlined methods for member states to follow as a response. Therefore, member states are bound to follow these decisions due to Article 41.

There are varying levels of commitment by member states depending on the type of decision passed by the UN. Under the UN Charter, all member states agree to accept and carry

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<sup>62</sup> Charter of the United Nations: Chapter VII-Article 41 (New York City: United Nations, 1945).

out decisions of the Security Council. The Security Council alone has the power to make decisions which member states are obligated to follow. If other organs of the UN choose to pass a convention or make recommendations, then member states are allowed to decide if they want to sign on and follow this decision. Therefore, when the Security Council has passed resolutions regarding the use of terrorism, then member states are obliged to follow the recommendations of the Security Council. An example of this would be UNSCR 638, which the Security Council states that it is *deeply disturbed* by the prevalence of incidents of hostage taking and abduction... and *demand*s the immediate safe release of all hostages and abducted persons.<sup>63</sup> Therefore, all member states of the UN must work to prevent the taking of hostages and is also responsible for the failure to help in the release of these hostages. If member states fail to do so, they are in violation of this resolution and therefore the UN Charter.

In July 1998, 120 member states adopted a treaty that established a permanent international criminal court.<sup>64</sup> This treaty went into force on 1 July 2002. Prior to the establishing of the ICC, the UN dealt with violators of its Charter and Resolutions through tribunals. These tribunals were established on a case-by-base basis. The ICC does not try member states, but instead tries the individual criminals behind the offenses. The ICC only has jurisdiction over current crimes; it is not able to try crimes committed prior to 1 July 2002. The types of crimes that the ICC handles are genocide, crimes against humanity, war crimes, and crimes of aggression. While terrorism is not specifically addressed, it could be tried under crimes against humanity if the attack is determined to be a “systematic attack directed against a civilian population”.<sup>65</sup>

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<sup>63</sup> UNSCR 638 adopted on 31 July 1989.

<sup>64</sup> Here in after, the international criminal court will be referred to as the ICC.

<sup>65</sup> "Setting the Record Straight." Welcome to the UN. It's your world. 14 Sep. 2008. Available at <<http://www.un.org/News/facts/>>.

If a violation does not fall under the auspices of the ICC, the UN can still chose to penalize states through diplomatic efforts or sanctions. The UN has chosen to employ these penalties against states that it believed were offering financial assistance to NSAs. The first attempt, through diplomatic efforts, was intended to “build multinational coalitions against terrorism and encouraging states to take effective counterterrorism action.”<sup>66</sup> The second penalty, sanctions, has ended up being a more effective mechanism used by the UN in its battle against state-supported terrorism. These sanctions forced violating states, through rigorous economic restrictions, to reconsider the extent of their involvement in harboring, supporting, and aiding violent NSAs. The following portion of this chapter will examine examples of the use of sanctions to combat terrorism.

By examining how the UN’s legal legislation has evolved into its current form in controlling international non-state security threat, one can argue that the UN has a substantial legal base to address this threat. This thesis will now examine scenarios of these Resolutions and Conventions being implemented to prevent the use of terrorism by NSAs.

### UN Use of Sanctions

The LoN had recognized the necessity for economic sanctions and included their usage within its Convention of June 17<sup>th</sup> 1925 under Articles regarding the International Trade in Arms. The LoN saw the importance of this feature because of the belief that the economic blockade against Germany had caused the end to WWI. The belief was that the German collapse was not because of a military defeat but because of the economic strains that were placed upon the Wilhelminian Regime.

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<sup>66</sup> “Factsheet: The UN’s Contributions to Counterterrorism.” (New York: United Nations Foundation, 2005).

Prior to 1990, the UN had only relied upon Article 41 to justify economic sanctions twice. The first time sanctions were implemented was in 1966, with the passing of UNSCR 232 against the Ian Smith-led government of Rhodesia.<sup>67</sup> This occurred when Rhodesia issued its declaration of independence from the U.K. in 1965.<sup>68</sup> The Security Council rejected the existence of the UDI-Rhodesia state and went on to establish that UDI-Rhodesia was a threat to international peace and security with UNSCR 216 and UNSCR 217 in November of 1965.<sup>69</sup> By 1966, the Security Council built upon these two resolutions with the passing of UNSCR 221 and eventually UNSCR 232. UNSCR 232 established the expectations of member states to limit trade with UDI-Rhodesia.<sup>70</sup> These economic sanctions began in 1966 and remained in force until 1979, ending with the collapse of the UDI government. There are multiple elements that led to the collapse of the UDI government. One being a growing lack of respect from the citizens of the country upon its military, a major arm of the government. This occurred because the military was beginning to be seen as costly, unproductive and potentially infiltrated by the British Secret Service. This lack of respect for the military was leading numerous black soldiers, which made up 70% of the military, to begin to shift their allegiance. Eventually, Ian Smith recognized the need for an agreement to be reached between his government and national parties that were growing support within the country. In April of 1979, free and open elections were held within Rhodesia.<sup>71</sup>

The second time that economic sanctions were implemented prior to 1990 was against South Africa in 1977 due to apartheid. UNSCR 418 was passed on 4 November 1977,

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<sup>67</sup> Rhodesia is modern-day Zimbabwe.

<sup>68</sup> Hereafter declaration of independence referring to the Ian Smith-led government will be referred to as UDI.

<sup>69</sup> UNSCR 217 adopted on 20 November 1965.

<sup>70</sup> UNSCR 232 adopted on 16 December 1966.

<sup>71</sup> Beckett, Ian. "The Rhodesian Army: Counter-Insurgency, 1972-79" available at <[http://members.tripod.com/selousscouts/rhodesian%20army%20coin%e2\\_79%20part2.htm](http://members.tripod.com/selousscouts/rhodesian%20army%20coin%e2_79%20part2.htm)>

implementing an arms embargo and led to restrictions upon foreign investments.<sup>72</sup> These sanctions remained in force until 1993, when the UN General Assembly voted to lift sanctions due to the fall of apartheid with Resolution 48/1 at its 22<sup>nd</sup> plenary meeting.<sup>73</sup> While the UN sanctions may not be the direct reason for the end of apartheid in South Africa, it did help bring about the end to it. Essentially, the UN, along with most of the international community had denounced the apartheid regime by 1980. Prior to 1980, the states that bordered South Africa were heavily economically dependant upon South Africa. Yet, these states formed the Southern African Development Co-ordination Conference, which aimed to promote economic development in the region and therefore reducing their dependency upon South Africa. Additionally, the government of South Africa implemented increasing social conservative demands upon its citizens. These reforms lead to an increase in civil unrest within South Africa. A state of emergency was declared in July of 1985 and did not end until 1990. In 1990, South Africa's new President, F.W. de Klerk lifted the ban on anti-apartheid parties. He also started working towards the release of Nelson Mandela. When apartheid finally ended, numerous reasons can be given for why the South Africa's government finally turning away from apartheid. The main reasons were that President De Klerk extended elections within the country to include black candidates, the on-going civil unrest within the country had weakened the government, and the continuing economic instability of the nation all caused the fall of apartheid.

Since 1990, the UN's Security Council has increased its economic pressure in hopes of dissuading the behaviors of unlawful member states. The reasons for sanctions have ranged from civil wars, ceasefire violations, human rights violations, suppression of democracy, and terrorism. These issues have been handled through increases in military operations, mandates for

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<sup>72</sup> UNSCR 418 adopted on 4 November 1977.

<sup>73</sup> UN General Assembly A/RES/48/1 adopted on 8 October 1993.

arms inspections, heightened expectations regarding human rights, and the implementation of economic sanctions. Since the end of the Cold War, the Security Council has voted to implement economic sanctions, for a variety of reasons, against eleven separate states beginning with Iraq. Iraq is one of the first states to be listed by the UN as a state that supported organizations who employed terrorism. Sanctions began in December of 1979 but the UN removed Iraq from its list in 1982. Iraq is believed to aid numerous terrorist groups, including the Palestinian Liberation Front (PLF), the Abu Nidal Organization (ANO), and al-Qaeda. With Iraq's invasion of Kuwait in August of 1990, the country became subject to the most comprehensive trade and financial sanctions by the UN. UNSCR 661 mandated the implementation of economic sanctions that would curtail Saddam Hussein's ability to obtain biological and nuclear weapons. Sanctions were only dropped in 2003, by UNSCR 1483, when the U.S. campaigned for the removal of sanctions so that the Occupying Forces could obtain full control of Iraq's oil sales.<sup>74</sup> The Security Council voted in favor of economic sanctions against terrorist-supporting states in three other cases: Libya (1992), the Sudan (1996), and Afghanistan (1999).

### *Libya*

Sanctions were applied against Libya in 1992 through UNSCR 748.<sup>75</sup> The beginning to Libya's involvement with terrorism started with the Qaddafi Regime. In a September 1969 coup, a group of army officers led by 27-year-old Colonel Muammar al-Qaddafi ousted Libya's king,

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<sup>74</sup> UNSCR 1483 adopted on 22 May 2003. The name Occupying Forces was given to the U.S. and U.K. for their invasion of Iraq in 2003 and they are referenced in UNSCR 1483 by this name. This resolution was passed 14-0 (Syria absent) and gave the Occupying Forces legal governing and peacekeeping authority over Iraq, recognized the creation of a transnational governing council of Iraqis and lastly removed all sanctions against Iraq. This moved the authority of authorizing expenditures from Iraq's oil revenue from the UN to the Development Fund for Iraq, which was controlled by the Occupying Forces.

<sup>75</sup> UNSCR 748 adopted on 31 March 1992.

Idris. The group was named the Revolutionary Command Council with Qaddafi as its head.<sup>76</sup> This RCC-led state was based upon Islamic tradition and Qaddafi went to great lengths to suppress Western influences upon his country. Throughout the 1970s and 1980s, Libya's government implemented a movement known as "Pan-Arabism". Pan-Arabism is based upon the desire for unification among the Arab peoples and nations of the Middle East and is typically secular, socialist, and anti-Western in nature.<sup>77</sup> One method in which Qaddafi went about repressing Western influences was through the forced exodus of both British and American troops based in Libya. Qaddafi openly supported liberation movements and international terrorist organizations aimed to end Western imperialism. Qaddafi perceived to support roughly 50 international terrorist organizations and 40 more radical governments in Africa, Asia, Europe, and the Americas. The two more controversial organizations that Qaddafi openly supported were Abu Nidal Organization (ANO) and Hamas, both recognized as terrorist organizations by the UN.

Relations between Libya and the West began to collapse in 1981, when two Libyan fighter planes shot at U.S. forces in the Gulf of Sidra. In 1986, when Libyan terrorist bombed the Berlin nightclub, La Belle Disco, communications entirely disintegrated. This disco, housed in the city's Schoenberg district, was known to be a popular gathering place for American soldiers stationed in Germany during the Cold War. The two-kilogram bomb killed two U.S. Servicemen and one Turkish woman, injuring an additional 229 people. The U.S. Government quickly blamed Libya for the explosion, stating that they had intercepted messages between the city of Tripoli and informants in Europe, which indicated Qaddafi as the masterminded of the attack. Ten days later, U.S. President Ronald Regan responded by bombing the Libyan cities of

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<sup>76</sup> Herein after the Revolutionary Command Council will be referred to as the RCC.

<sup>77</sup> Definition of Pan-Arabism according to Encyclopdia.com.  
*Available at < <http://www.encyclopedia.com/html/p/panarabi.asp>>.*

Tripoli and Benghazi. It was not until 1990 that the Libyan suspects were detained and tried in court. Evidence submitted at the time of the trial included the intercepted radio transmissions between informants in Europe and individuals in Tripoli supporting the U.S. claim that Qaddafi had planned the attack.

The most substantial terrorist act carried out by Libyan based NSAs was the 21 December 1988 bombing of Pan Am Flight 103 over Lockerbie, Scotland. This occurred when 12-16 ounces of plastic explosives were hidden within a cassette player and placed in a suitcase held in the storage hold of the Boeing 747. The blast killed all 270 people aboard the plane and eleven on the ground. The UN Security Council passed UNSCR 635 “strongly condemning the destruction of Pan Am Flight 103 and calling on all states to assist in the apprehension and prosecution of those responsible.”<sup>78</sup> One of the largest international criminal investigations ensued. Investigators interviewed over 15,000 people, examined more than 180,000 pieces of evidence, and went to more than 40 countries. After finding the timing device of the bomb, the investigators were able to trace it back to Abdelbaset Ali Mohmed al-Megrahi and Al Amin Khalifa Fhimah, both Libyan nationals. Despite numerous requests, Qaddafi refused to extradite these men.

With UNSCR 731, the UN Security Council officially recognized that the Libyan Government played a major part in the Pan Am bombing and condemned the government for not fully aiding in the prosecution of those responsible.<sup>79</sup> By 31 March 1992, the Libyan government still had failed to respond to the extradition request of UNSCR 731. At this point, the Security Council passed UNSCR 748 and implemented economic sanctions against the state of Libya. This included denial of any international aircraft to enter or exit Libya, prohibition of the sale or

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<sup>78</sup> UNSCR 635 adopted on 14 June 1989.

<sup>79</sup> UNSCR 741 adopted on 21 January 1992.

transfer of arms, and the censure of Libyan nationals from international travel until the two Lockerbie suspects were extradited.<sup>80</sup> In November 1993, the UN met again to discuss the lack of cooperation from the Libyan government and implemented further sanctions. UNSCR 883 required all member states to freeze all funds and financial resources involving Libya, with specifically extreme restrictions on all petroleum products. UNSCR 883 additionally froze all Libyan government assets abroad.<sup>81</sup>

Through hindsight, the international community has viewed these UN economic sanctions as successful. In 1999, Qaddafi finally succumbed to the economic pressures and Libya handed over the terrorist suspects that they had been harboring for nearly a decade. In 2003, the UN Security Council voted 13-2 to pass UNSCR 1506, which lifted economic sanctions against Libya. The Security Council stated that they were “lifting with immediate effect, the measures set forth in paragraphs 4,5 and 6 of resolution 748 (1992) and paragraphs 3,4,5,6 and 7 of resolution 883 (1993)” explaining that this was done because the Libyan government had taken steps “to comply with the above-mentioned resolutions, particularly concerning acceptance of responsibility for the actions of Libyan officials, payment of appropriate compensation, renunciation of terrorism, and a commitment to cooperating with any further requests for information in connection with the investigation.”<sup>82</sup>

These sanctions were the first time that the support of terrorism by a state was the reason why the UN imposed economic sanctions against a state. Sanctions effectively achieved their purpose of bringing the Lockerbie suspects to justice in front of the International Court of Justice at The Hague. The Libyan government continued to cooperate with the UN by expelling the once well-harbored ANO terrorist group from the country.

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<sup>80</sup> UNSCR 748 adopted on 31 March 1992.

<sup>81</sup> UNSCR 883 adopted on 11 November 1993.

<sup>82</sup> UNSCR 1506 adopted on 12 September 2003.

This particular examination of UN economic sanctions shows how valuable sanctions can be against fighting terrorism if they are effectively implemented and respected multilaterally. The UN unmistakably conveyed to the government of Libya that sanctions would not be lifted unless full compliance with the requirements of turning over the Lockerbie suspects and curtailing state support for violent NSAs was met. While it did take over a decade for the Qaddafi regime to comply, eventually the sanctions caused an economic stranglehold over Qaddafi. The objectives of the sanctions were achieved, and therefore the UN sanctions are viewed as successful. Unfortunately, as this thesis will further explore, the use of sanctions against terrorism has rarely shown to achieve similar results.

### *The Sudan*

In 1956, after a short revolt and civil war, the Sudan broke away from British-Egypt rule and became a sovereign state. For nearly five decades, the Sudan was riddled with military coups and civil wars. In 1989, another military coup, which was led by Islamic fundamentalists, forced the Sudanese government into becoming an Islamic state. The coup was headed by Dr. Hassan al-Turabi and backed by General Bashir. These individuals were members of the Iranian-backed extremist organization, National Islamic Front<sup>83</sup>. Bashir served as the president of the NIF, yet Turabi was considered to be the intelligence behind the scenes. After the NIF took over control of the Sudan, strict Islamic law was imposed and a campaign to convert Christians to Islam was launched. Under the NIF, the Sudan offered residency to any Arab or Muslim. Through this policy, Osama bin Laden was allowed to enter the Sudan where he moved to the city of Khartoum. Other known violent NSAs who relocated to the Sudan during this time were Imad Mughniyah, the man believed to be responsible for the 1983 bombing in Beirut of the

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<sup>83</sup> Herein after the National Islamic Front will be referred to as the NIF.

U.S. embassy and of military barracks. The bombings killed hundreds of U.S. marines and staff members. The Sudan also harbored Ilich Ramirez Sanchez, known as “Carlos the Jackal”.<sup>84</sup> Due to the state providing sanctuary, safe passage, military training, financial support, and office space to numerous international terrorist and Islamic organizations, the Sudan was designated as a state that supported terrorism.<sup>85</sup>

Prior to the 1989 coup, the Sudan was receiving large amounts of support from foreign countries to aid both its military and its economy. After the coup, this aid significantly decreased and the Sudan entered an economic depression. The inflation that the country experienced was crippling, at times inflation was 200% and the public debt was greater than \$16 billion, which was more than twice the country’s GDP.<sup>86</sup> In 1991, when Osama bin Laden and al Qaeda moved to the Sudan, he also brought his extensive wealth and training camps.

Terrorist aggression escalated in 1995, when three members of the Egyptian terrorist organization, Gama’at al-Islamiyaa, attempted to assassinate Egyptian President, Hosni Mubarak, while he was in Ethiopia. The Sudan quickly offered safe haven to these three suspects and refused to extradite them to Ethiopia. The UN Security Council met and passed UNSCR 1044 on 31 January 1996. The language of this resolution stated that the international community was “gravely alarmed at the terrorist assassination attempt on the life of the President of the Arab Republic of Egypt, in Addis Ababa, Ethiopia, on 26 June 1995, and mandated that

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<sup>84</sup> Carlos the Jackal is a known member of the PFLP and a known assassin. Major attacks that he has masterminded include numerous attacks against OPEC members. In 1975, the Jackal, along with three other individuals, took sixty OPEC members hostage. The rebels demanded an aircraft, which was granted. The rebels flew, along with forty hostages, to Algiers. Eventually, the hostages were released. After a brief imprisonment, the Jackal continued to carry out numerous bombings throughout Europe. Significant pressure arose within Europe against those who were tolerant of the Jackal, who was eventually banned from the continent. First, he found sanctuary within Syria and Jordan, but eventually moved to the Sudan. He is currently serving a life sentence in France.

<sup>85</sup> Ted Dagne, Sudan: Humanitarian Crisis, Peace Talks, Terrorism, and U.S. Policy (Washington D.C.: The Library of Congress, 2005) CRS 13-4.

<sup>86</sup> *The Economist*, “Islam’s Dark Side - The Orwellian State of Sudan,” 24 June 1995, 21.

those responsible for that act must be brought to justice.”<sup>87</sup> The resolution demanded that the Sudanese government comply with the request of the Organization of African Unity (OAU), which urged for immediate action to extradite the suspects to Ethiopia and to desist from engaging in any terrorist activities.<sup>88</sup> By April of that same year, the UN met again to analyze the cooperation from the Sudanese government regarding UNSCR 1044. The Security Council decided that the government of the Sudan had failed to comply. In an attempt to escalate the pressure upon the Sudan, the UN passed UNSCR 1054, which imposed economic sanctions against the Sudan until they resolved all request established by the UN and OAU. These sanctions forced a reduction in the number of Sudanese diplomats located in states who recognized that the Sudan supported terrorism. The sanctions also restricted the travel of Sudanese governmental officials.<sup>89</sup> The aims of these sanctions were to have the government comply with the UN’s aim to strengthen cooperation between member states in order to prevent, combat and eliminate all forms of terrorism.<sup>90</sup>

Yet, despite these sanctions, in 1998, two U.S. embassies were bombed in Nairobi and Dar es Salaam. Combined, about 225 people were killed and 4085 people were injured in these bombings. Through an investigation by the U.S. FBI, Osama Bin Laden was determined to have been the leader behind these attacks. The U.S. government responded to these attacks through Operation Infinite Reach. This was a series of cruise missile attacks upon a chemical plant in the outskirts of Khartoum. The U.S. government justified these attacks by stating that the plant was producing chemical weapons yet a later investigation disproved this statement.<sup>91</sup> After these

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<sup>87</sup> UNSCR 1044 adopted on 31 January 1996.

<sup>88</sup> Press Release by the Security Council. Security Council Calls On Sudan To Extradite Suspects In Attempted Assassination Of Egyptian President, SC/6170 issued on 31 January 1996.

<sup>89</sup> UNSCR 1054 adopted on 26 April 1996.

<sup>90</sup> UNSCR 1044 adopted on 31 January 1996.

<sup>91</sup> "CNS-Chemical Weapons in the Sudan: Allegations and Evidence." Center for Nonproliferation Studies, 17 September 2008. Available at <<http://www.intellnet.org/documents/800/050/850.htm>>.

bombings, the Sudan chose to expel Osama bin Laden, along with Carlos the Jackal and Mughniyah out of their country.

By 1999, despite the earlier economic depression, the political disorder, and the international turbulence that the country was experiencing, the Sudan slowly began to improve. Bashir allowed for some of the political elite that had been exiled to return to the country, foreign currency was allowed to be carried and the dinar was becoming stable. The Sudan was also able to begin to build international relationships by importing and exporting goods, and they were even able to sign commercial trade agreements with Egypt. In late 1999, the Sudan and Uganda signed an agreement to no longer support each others NSAs. States outside of Africa acknowledge this growth and reopened their embassies in Khartoum. The Sudan opened economic relationships with France, the Netherlands, Germany, Malaysia and Japan, all helping to future improve the Sudan's economic stability.

Despite these steps in the right direction, the UN and the U.S. government has yet to remove the sanctions placed upon Sudan, which has led this state to turning to China for economic and military support. China paid for tanks, guns and planes, which have been used to continue the on-going civil war between north and south Sudan.

By 2000, the Sudanese government had signed all 12 conventions relating to terrorism that existed within the UN, yet it still had failed to comply with the requirements established by UNSC 1054. It is possible that if the UN and or Western states had recognized the steps the Sudan was taking towards compliance and had offered financial support, then the civil war in the Sudan would not have increased in its severity and intensity. Because the Sudanese government was failing to comply with the requirements of UNSCR 1054, the sanctions remained in place impacting the civilian Sudanese population in vast and horrific ways. Grave accounts of hunger,

famine, and continuing incidences of civil unrest were abundant. Due to these accounts of suffering, the UN passed UNSCR 1372, which terminated the sanctions imposed by UNSCR 1054, in an attempt to alleviate the distress upon the general public.<sup>92</sup> Even after the sanctions had been removed, limited humanitarian aid was offered to the Sudan. This was because of the Sudanese government's lack of compliance in preventing civil war, their failure to halt support for terrorist organizations, and also their failure to extradite the terrorist suspects named in UNSCR 1044. The UN undertook extensive research to analyze the humanitarian conditions throughout the Sudan, with UN Secretary General Kofi Annan visiting the region, returning with accounts of "catastrophic levels" of suffering.<sup>93</sup> Annan stated that the UN would aid both in ceasefire efforts and humanitarian aid. Finally, on 24 March 2005, with the adoption of UNSCR 1590, the UN authorized the deployment of 10,000 UN forces focused on ending the civil war, preventing the growth of terrorist activities, and overseeing the ceasefire.<sup>94</sup> In April 2006, the UN passed UNSCR 1672, which imposed sanctions against four Sudanese nationals.<sup>95</sup>

Despite the varying attempts by the UN and numerous other organizations, the humanitarian situation in the Sudan is still dire. The Sudan is in the midst of the longest civil war in Africa, a reason why the UN, despite steps by the Sudan against terrorism, still fears that this state will be a training location for terrorists.<sup>96</sup> The Sudan backs this fear, stating if the UN imposes sanctions against the Sudan, not only will the government collapse, but also it will

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<sup>92</sup> UNSCR 1372 adopted on 28 September 2001

<sup>93</sup> "At End of Annan's Trip, Sudan Pledges to End Conflict in Darfur." UN News Centre 5 July 2004. 20 November 2004. Available at <<http://www.un.org/apps/news/storyAr.asp?NewsID=11243&Cr=Sudan&Cr1=>>>.

<sup>94</sup> These troops are part of the United Nation Mission in the Sudan (UNMIS). Currently (as of 30 November 2006), the numbers of individuals deployed to the Sudan under UNMIS is slightly greater than 23,000.

<sup>95</sup> These four individuals are Major General Gaffar Mohamed Elhassan (Commander of the Western Military Region for the Sudanese Armed Forces), Sheikh Musa Hilal (Paramount Chef of the Jalul Tribe in North Darfur), Adam Yacub Shant (Sudanese Liberation Army Commander) and Gabriel Abdul Kareem Badri (National Movement for Reform and Development Field Commanders).

<sup>96</sup> Andrew Harding. "Oil and Sudan's Civil War." (BBC News: Southern Sudan, 21 April 2001).

become a threat to the war on terrorism. Without a government in place that is focused upon suppressing terrorism, there are limited resources to police and control the activities of violent NSAs, particularly the behaviors of Hamas and the Palestinian Islamic Jihad.<sup>97</sup>

It is difficult to determine the impact UN sanctions have had upon the humanitarian situation within the Sudan. Even prior to the first time sanctions were imposed upon the Sudan in 1996, the Sudan was already in the midst of a civil war and had accounts of terrible human rights violations. One thing that is known is that UN sanctions did not create an environment that would elevate these atrocities. The Sudan has improved its standings in regards to preventing state-sponsored terrorism, but it is still a state that is very unpredictable, leading the UN and some member states to fear that the Sudan will revert back to the appeal of wealthy terrorist organizations to assist with the economic struggles of this state.

## Conclusion

As this chapter has shown, the UN has expanded upon the documents to address the behaviors of terrorist. Despite any legal changes that the UN has undertaken, violent NSAs have continued to carry out attacks. While sanctions have experienced some successes, the following chapter will show instances where the UN has failed to reduce terrorist behaviors within a state. Due to these shortcomings of the UN, member states are searching for means outside of the organization to ensure their own safety. The overwhelming security threat that is imposed by potential terrorist attacks leads states to act preemptively and violating Article 39, believing this

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<sup>97</sup> “Patterns of Global Terrorism” Office of the Coordinator for Counterterrorism. (Washington D.C.: U.S. State Department, 30 April 2003). According to the Council on Foreign Relations, Hamas is the largest and most influential Palestinian militant groups. The first Hamas suicide bombing occurred in 1993. According to the Council on Foreign Relations, Hamas is believed to have killed more than 500 people in 350 separate terrorist attacks. The Palestinian Islamic Jihad was formed in the 1970s and is similar to Hamas in their goals but is considerably smaller than Hamas. Palestinian Islamic Jihad is believed to get much of its money and training from Hezbollah. Since 1995, Palestinian Islamic Jihad has claimed nearly 160 lives in 29 separate attacks.

behavior will prevent injury and death to their citizens. The UN Charter fails to establish a method for states to protect themselves against violence that originates from a non-state source. Therefore member states are choosing national sovereignty and national security over collective security. This is the same pattern that led to the demise of the Concert and the LoN. The following chapter will examine situations where member states have chosen national sovereignty to address non-state security threats instead of respecting their commitment to the Charter of the UN. Through these examinations, hopefully a method will be seen on how the UN can alter its structure to better handle these situations and protect the principle of collective security.

### **Chapter 3: The Unilateral Acts of States to Manage Non State Actors**

#### Introduction

Throughout the years, the UN has acknowledged the need for effective procedures that outline methods to handle violent NSAs. As the previous chapter illustrated, there have been numerous efforts by the UN to manage the terrorist threat imposed by NSAs, mainly through economic sanctions. Despite the use of sanctions, non-state terrorist individuals and organizations have continued to grow and carry out increasingly shocking acts of violence. Member states attacked by NSAs have reacted by using force against them, often without a Security Council mandate. States argue that the UN cannot effectively prevent or address this tactic; therefore they have to tackle this issue themselves. Without the authority of the Security Council, these member states are violating the UN Charter.

As the previous chapter illustrated, the UN recognizes acts of terrorism as violations to the terrorist conventions adopted by the UN and therefore are treated as criminal offenses dealt with by the International Criminal Court at The Hague. The UN requires an investigation into a terrorist attack so that the Security Council can determine the most appropriate and effective method to respond to the attack. Member states are not allowed to use force against other member states unless requirements outlined by Chapter VI of the UN Charter have been met.

The Pacific Settlement of Disputes governs the actions that a state can legitimately take in respect to threats of peace, breaches of this peace, and acts of aggression. The opening section, Article 39, states that the responsibility for determining the existence of any threat to peace, breach of peace or act of aggression remains exclusively with the Security Council. The Security Council alone can decide what actions can be taken against a violator of this article. Article 39 explicitly delineates the ability to determine if a member state is a threat to peace to

the Security Council. Yet, despite this article, a following article, 51, states that the UN does not have the power over a member state if an armed attack occurs against that state. Member states hold the intrinsic right for self-defense after an armed attack occurs until the Security Council meets and rules upon the appropriate measures to address the offensive party in respect to the principles of the UN Charter. Therefore, once the Security Council has met, Article 51 is void from giving a member state a blank check for using force. Member states are again required to seek authorization from the Security Council to use force. Article 51 does not function as a standalone piece of the UN Charter. States cannot read this Article in separation from the other Articles of the UN Charter, specifically Article 39. Article 51 simply functions as one of many facets in the authorization for the use of force and allows for a state to respond in self-defense to an armed attack until the Security Council has had time to meet.

#### Usage of the Terminology “Armed Attack” and “Self-Defense

Due to this vacillation in the authority to permit the use force, states have broadened their perception of Article 51 to justify their use of force in otherwise unlawful situations or they have failed to respect the Security Council’s decision after it has had time to meet and decided upon appropriate measures for justice. There are also cases where there is a threat of an armed attack and member states are responding with a preemptive attack against the NSAs located within another sovereign state. This is not the method in which the Security Council envisioned Article 51 to be utilized. This growing leniency in the understanding of Article 51 is may be correlated with the increasing severity of terrorist attacks by NSAs. States are viewing that the UN has distinct flaws in its Charter regarding effective manners in controlling violent NSAs and therefore are preemptively using force to seek peace and security for themselves. Due to the

increasing number of attacks by NSAs worldwide, states are electing to respond through the use of force against member states that harbor these NSAs.

The vague terminology adopted within Article 51 has allowed for states to establish their own meanings regarding the terms ‘armed attack’ and ‘self-defense’. This self-defining behavior can still violate the UN Charter. By signing the UN Charter, its members agreed to all resolutions and articles, including Chapter I, Article 2, which states that “all members...shall fulfill in good faith the obligations assumed by them in accordance with the present Charter.”<sup>98</sup> To reiterate the principles and purpose of the UN outlined in chapter 1 of this thesis, UN Chapter 1: Article 2 (3&4), maintains that its members should strive to act in a manner which is observant of international peace, security, and justice and refrain from the threat or use of force against another state. Therefore, even if a member state retaliates against what they have determined is an armed attack and the Security Council fails to agree with this decision; the member state is violating Article 2 of the Charter. This leaves the violating state justification through Article 51 insignificant and the authority for the use of force has been returned to the Security Council through Article 39.

Throughout the history of the UN, there have been numerous meetings where the repertory of practice of the UN Charter has been argued. For Article 51, there was much debate as to what specifically defined an armed attack. Did Article 51 intend to cover all cases of attack, direct or indirect as long as it was an armed attack? Or did armed attack simply imply aggressive behavior by an actor which is armed? All of these were discussed at length without an agreement reached as to what exactly constituted an armed attack and therefore what type of attack allows for a state to respond through self-defense. This discrepancy leaves a loophole for member states to create their own definition. In general, it appears that for the UN to classify an

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<sup>98</sup> Charter of the United Nations: Chapter 1 (New York City: United Nations, 1945).

event as an armed attack, it needs to include actual or potential physical violence, along with some infringement of national boundaries. Despite this, states are creating their own definition of ‘self defense’ or ‘armed attack’. The U.S., for example, employed its own definition of an armed attack to declare self-defense against Nicaragua throughout the 1980s and Panama in 1989.

In Nicaragua, the U.S. helped recruit, train, finance, arm, and support military actions against the Nicaraguan government. The U.S. stated that it was doing this to aid El Salvador after an armed attack occurred against that state and because of El Salvador’s request that the U.S. aid in their response to the attack. This went in front of the ICJ in June of 1986, where the ICJ “*Rejects the justification of collective self-defense maintained by the United States of America in connection with the military and paramilitary activities in and against Nicaragua the subject of this case.*”<sup>99</sup> Therefore, the ICJ ruled that a member state cannot use force on the behalf of another state against another state.

In 1989, Panama’s military leader, Manuel Noriega, lost the national election to Guillermo Endara, yet Noriega maintained power by force. The U.S. requested that Noriega step down but he refused. On 16 December, an incident occurred that included the death of a U.S. Marine officer and the apparent assault of four U.S. personnel. The U.S. utilized this incident to claim an armed attack had occurred against their state and chose to invade Panama on 20 December under the auspices of ‘self defense’. The Security Council met on this issue and drafted a resolution stating that the U.S. was in violation of Article 51, yet this resolution was

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<sup>99</sup> “Case Concerning the Military and Paramilitary Activities In and Against Nicaragua (Nicaragua v. United States of America) Merits. 27 June 1986. Available at <<http://www.icj-cij.org/docket/index.php?sum=367&code=nus&p1=3&p2=3&case=70&k=66&p3=5>>.”

vetoed. While the UN failed to pass a resolution, the General Assembly voted on 29 December 1989 to condemn the invasion of Panama by the U.S.<sup>100</sup>

Neither of these situations were instigated by what the UN confirmed to be an armed attack, therefore failing to give the U.S. justification to employ Article 51. Additionally, in both of these cases, the U.S. government never sought a UN resolution to authorize the use of force as required by Article 39. Flagrant violations against the UN Charter, due to states establishing their own terminology for ‘armed attack’ as used in Article 51, continue to occur without any notable retribution, especially when debased by well-developed states. Member states are also beginning to broaden their definition of Article 51 to also include the risk of armed attack as a reason for self-defense, when in all honesty, these states are acting preemptively. Such preemptive action also violates Article 39 and the collective security agreement of the UN. These violations will only continue to amass due to the growth of violent NSAs unless the UN creates a better method to address violent NSAs, has an established definition for what constitutes as an armed attack, and outlines a standard process for states to follow after an attack occurs. Lastly, the UN needs to establish a way to enforce its resolutions and decisions so that a violating state is appropriately punished.

To better show how violations of the UN Charter have affected the integrity of the UN, this thesis will now analyze three case studies of the illegal use of force against member states that have harbored NSAs that employ terrorist tactics. All these case studies show a member state using force under the auspices of self-defense against NSAs within another sovereign state. The first study will examine the situation between Israel, the Palestinians, and Lebanon. The second study is an examination into the current situation between Afghanistan, the U.S., and

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<sup>100</sup> A/RES/44/240 adopted on 29 December 1989. Available at <<http://daccessdds.un.org/doc/RESOLUTION/GEN/NR0/549/99/IMG/NR054999.pdf?OpenElement>>.

Iraq. The uses of force in these case studies were not always authorized by the Security Council and therefore show the inability of the Security Council to promote its purpose and principles.

The final study analysis the on-going conflict in the undetermined region of Kashmir. Both India and Pakistan desire this region as part of their state and both are using force illegal in their attempt to attain the region. If a state is determined to violate the UN Charter, the UN lacks the ability to reprimand the violator which shows that the UN Charter may be hollow in promoting its basic principles.

## **Case Study #1: Israel versus the Palestinian Authority, Lebanon and the UN**

### General Introduction and History

At the end of World War II, with so many displaced Jewish refugees, there was international pressure to create a Jewish state. In addition to this, the UN acknowledged the chaotic situation that existed between the Jews and the Arabs within the region of the British Mandate.<sup>101</sup> The UN Partition Plan (or UNGAR 181) was voted upon on 29 November 1947. The resolution outlined a plan to create two states, one Jewish and one Arab. The plan was approved by a vote of 33 to 13 with 10 abstentions. Despite passing, the Security Council determined that the plan could not be implemented without a military presence, which was decided to be an unnecessary use of force. On 14 May 1948, the day that the British Mandate over the Palestine region expired, Israel proclaimed its independence as a state. Immediately, the U.S. recognized the state of Israel and soon thereafter, so did the USSR. Less than one day after the declaration of independence, Egypt, Syria, Jordan, Lebanon and Iraq invaded Israel. The fighting went on for roughly 15 months. In early 1949, the UN intervened and negotiations between Israel and the invading states (except Iraq) began. On 21 July 1949, the UN acting mediator on Palestine to the Secretary-General transmitted a report stating that armistice negotiations had taken place between Israel and Egypt, Lebanon, Transjordan and Syria and that a truce had been reached with the Palestinian Authority. Through these negotiations, the state of Israel gained 50% more land than it would have been allocated if the UN Partition Plan had been gone into effect.

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<sup>101</sup> Palestine was part of the Ottoman Empire from 1516 to 1917. When the British occupied Jerusalem on 9 December 1917, authority of Palestine was switched over to the British Empire. This was recognized by the League of Nations and referred to as the British Mandate which further supported British rule over Palestine.

In 1956, the UN had to introduce forces into the region due to a dispute that occurred within the Sinai Peninsula. The Sinai Crisis began when British, French and Israeli forces attacked Egypt after Egypt's decision to nationalize the Suez Canal. The Canal, which was built in 1869, was financed by both the French and Egyptian governments, to create a canal that links the Mediterranean Sea with the Red Sea. The canal had been controlled as an international company for nearly 87 years and open to all of these states for shipping purposes. With the closure of the Canal, passage from Europe to Asia, without going around Africa, was made impossible. This closure led Great Britain, France and Israel to invade the state of Egypt. The UN General Assembly held its first Emergency Session on this issue on 30 October 1956, at which point Resolution 1001 was adopted. This Resolution established the first UN Emergency Force to be placed on the Egyptian side of the Israel/Egypt border.<sup>102</sup> The Resolution also called for a cease fire between all involved parties and withdrawal of all foreign troops within Egypt.

The situation between Israel and the rest of the Arab nations continued to worsen throughout the mid 1960s and further escalated on 16 May 1967, when Egyptian President Nasser, asked for the UN to withdraw their forces from the Sinai Peninsula of Egypt. This request was honored and upon the departure of UNEF, Nasser closed the Straits of Tiran, a strategic passage within the Suez Canal. Upon the closing of the Straits of Tiran, the state of Jordan determined it to be a strategic move to align its self collectively with Egypt. Jordan and Egypt signed the Egyptian-Jordanian Mutual Defense Treaty. After that, Iraq also decided to join this pact. The pact placed the militaries of these states under the command of Egyptian General, Abdul Moneim Riad.

To further add to the situation, in May, Egypt moved around 1,000 tanks and 100,000 soldiers to its border with Israel. These troops did not use force. On 5 June 1957, Israel chose to

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<sup>102</sup> Hereafter UN Emergency Force will be referred to as UNEF.

launch a pre-emptive attack against Egypt. This caused for an invasion of Israel by members of the Egyptian-Jordanian Mutual Defense Treaty. After only six days, to the despair of these Arab states, their plan backfired as Israeli forces proceeded to triple the size of the state of Israel at the expense of the Arab states that had invaded it; Egypt, Jordan and Syria.

While the Arab nation was not the first to use force, it clearly stated its intent to eliminate the state of Israel. To quote Egypt's President, Gamal Nasser, who was at the time viewed as the leader of the Arab nation, the Arab goals were "the full restoration of the rights of the Palestinian people. In other words, we aim at the destruction of the State of Israel. The immediate aim: perfection of Arab military might. The national aim: the eradication of Israel."<sup>103</sup>

The violence that occurred during this short war led to a UN Security Council meeting concerning the conflict. The UN Security Council unanimously passed UNSCR 242, which required a "withdrawal of Israeli armed forces from territories occupied in the recent conflict"<sup>104</sup> in exchange for a ceasefire in the 1967 Arab-Israeli war. These occupied territories included the West Bank, East Jerusalem, the Gaza Strip, the Sinai Peninsula, and the Golan Heights.

Prior to using force against Egypt, Israel never met with the Security Council to justify its use of force. At the time, Israel claimed that it was acting in self-defense against Egypt and therefore was justified to use force under Article 51. The UN disagreed with this statement justifying Israel's use of force with UNSCR 242 by stating that the warring parties terminate all claims or states of belligerency and respect and acknowledge the sovereignty, territorial integrity of other states in the area.<sup>105</sup> Eventually in 1982, the Prime Minister of Israel even admitted that Israel's behavior in the Six Day War was not justified under self-defense. Prime Minister Begin stated that:

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<sup>103</sup> Samuel Katz, Battleground-Fact and Fantasy in Palestine (New York: Bantam Books, 1985) 10-11, 185.

<sup>104</sup> UNSCR 242 adopted on 22 November 1967.

<sup>105</sup> Id.

In June 1967, we again had a choice. The Egyptian army concentrations in the Sinai approaches do not prove that Nasser was really about to attack us. We must be honest with ourselves. We decided to attack him. This was a war of self-defense in the noblest sense of the term. The Government of National Unity then established decided unanimously: we will take the initiative and attack the enemy, drive him back, and thus assure the security of Israel and the future of the nation.<sup>106</sup>

After the Six Day war, the majority of Palestinian population that was based within Egypt and Israel relocated to Jordan.

### The Palestinian Population and the Palestinian Liberation Organization

To further understand how the Palestinian population corresponds with this thesis, one needs to examine the organization of this population and specifically the creation of the Palestinian Liberation Organization.<sup>107</sup> The PLO was formed in 1964 as an umbrella organization to numerous already existing smaller groups of the Palestinian resistance to Israeli “aggression”. The aim of this organization was the elimination of the state of Israel. The main governmental force was under the control of Al Fatah and the Movement for the Liberation of Palestine. The military division of the PLO was the Palestine Liberation Army, which also came into existence in 1964.<sup>108</sup> Yasir Arafat took over control of this organization in 1968. Due to continuing conflicts within the Middle East and the lack of a Palestinian state, members of the PLO were located in numerous different states, including the states of Jordan, Israel, and Lebanon.

In addition to the Palestinian enclave, the PLO also established its major base of operations within the state of Jordan. The Six Day War had failed to achieve the goals of the

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<sup>106</sup> "Address by Prime Minister Begin at the National Defense College." National Defense College. 24 Sept. 2008. Address by Prime Minister Begin at the National Defense College. 8 Aug. 1982. Israel Ministry of Foreign Affairs. 24 Sept. 2008

<<http://www.mfa.gov.il/mfa/foreign%20relations/israels%20foreign%20relations%20since%201947/1982-1984/55%20address%20by%20prime%20minister%20begin%20at%20the%20national>>.

<sup>107</sup> Hereafter the Palestinian Liberation Organization will be known as the PLO.

<sup>108</sup> Hereafter the Palestinian Liberation Army will be known as the PLA.

Palestinian population and the other Arab states, which led to an increase in organization of these states and NSAs to eradicate Israel. In addition to the well organized PLO, The Popular Front for the Liberation of Palestine was organized in 1967, under the leadership of George Habash and his associate, Dr. Wadi' Haddad.<sup>109</sup> Haddad showed his lack of faith that the UN would be able to force Israel to fulfill its obligations in UNSCR 242, Haddad commanded his members of the PFLP to retaliate against the state of Israel with acts of violence. As explained by the Institute for Counter-Terrorism, the PFLP is an organization which has “combined Marxist ideology with Palestinian nationalism, and was among the first of the Palestinian organization to use terrorism as a means to win attention to its cause.”<sup>110</sup> Haddad and his members implemented the tactic of terrorism, mainly through airline hijacking.

The first major commercial hijacking was carried out in July of 1968, when the PFLP diverted an El Al flight to Algeria.<sup>111</sup> This was one of the first major acts of violence against the state of Israel by the PFLP. The PFLP successfully used the passengers as collateral in exchange for the release of sixteen Palestinians jailed in Israel. The plane eventually was forced to land in Algeria. As the Introduction of this thesis explained, Algeria was a state that was the home base to numerous terrorist organizations. The El Al 1968 hijacking is the longest hijacking incident in history, with the passengers being held for 40 days.

In 1969, a U.S.-led peace arrangement called “Rogers Plan”, which called for a ceasefire between Israel and Egypt, was proposed to Egypt, Israel and Jordan. Rogers Plan was proposed by U.S. Secretary of State, William Rogers. Its aim was to alleviate some of the tension that was

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<sup>109</sup> Hereafter the Popular Front for the Liberation of Palestine will be known as the PFLP.

<sup>110</sup> “Popular Front Liberation of Palestine” International Policy Institute for Counter-Terrorism. 2001, ICT Online. 4 February 2005. Available at: <[http://www.ict.org.il/inter\\_ter/orgdet.cfm?orgid=31](http://www.ict.org.il/inter_ter/orgdet.cfm?orgid=31)>.

<sup>111</sup> Members of the popular front for the liberation of Palestine diverted a Rome to Tel Aviv flight on El Al Airlines to Algiers. 21 Passengers and 11 crew members were held for 39 days. The last hostages are released on September 1, 1968.

created by the Six-Day War between Israel and other Arab states. The plan called for a 90 day ceasefire and Israel, Egypt and Jordan were to meet to discuss compliance with UNSCR 242. To reiterate, UNSCR 242 calls for Israel to withdraw from territories that it illegally occupied after the Six-Day War. It also called for Jordan and Egypt to accept the sovereignty and independence of the state of Israel. Rogers Plan was accepted by both Egypt and Jordan. The PLO viewed that Rogers Plan was being forced upon these states by the U.S. government and unacceptable to agree to because it was too pro-Western and also too pro-Israeli. Due to Jordan's acceptance of the plan, the PLO decided to overthrow the regime of this state. This attempted coup on the King of Jordan, Hussein bin Talal, and the ensuing retaliation became better known as Black September.

In addition to the attempted coup, the Haddad-led organization, the PFLP, simultaneously hijacked three commercial aircrafts. These planes were diverted to Jordan. In Jordan, the PFLP held the passengers hostage and eventually all planes were detonated on the ground after the passengers had been released. After the recent attempted coup and the fact that the PFLP diverted these hijacked planes into his sovereign state, King Hussein retaliated against the entire Palestinian population. King Hussein declared martial law and the Jordanian Army attacked the headquarters of the PLO in Amman and other Palestinian organizations. Black September escalated when the PLO obtained aid, from Syrian armed forces, to carry out attacks against the Jordanian army. With the introduced involvement of Syria, an extreme clash was created between Jordanian forces, Syrian forces, and the PLO. King Hussein requested aid from the U.S., who in turn requested that Israel aid Jordan. The Israel used its air force by flying jets over the Syrian troops, without any munitions being exchanged. The Syrian troops began to retreat. Additionally, the PLO began to withdraw its forces from Jordan. In the end, it was

estimated that between five and ten thousand Palestinians were killed in Jordan during the 10 days known as Black September.<sup>112</sup> This conflict caused the already dislocated Palestinian enclave and the PLO to relocate from Jordan into the state of Lebanon.

During the twentieth-century, the state of Lebanon was extremely unstable and vulnerable to the corruption of outside states and organizations. This instability may be the root cause to why Lebanon became the base for numerous violent NSAs. Terrorist organizations employ the geo-strategic location of Lebanon and the instability of its government to attack Israel, a state which they did not recognize as legitimate. The displaced Palestinians in Lebanon chose to unify and carry out violent actions in an attempt to reacquire what they viewed as their land. By the mid 1970s, more than 300,000 members of the PLO were based in Lebanon, becoming the home base for that terrorist organization. The activities of these NSAs increased in frequency and severity. One of the most infamous acts of the PLO was the hostage taking and murdering of 11 Israeli athletes during the 1972 Munich Olympic Games. The terrorist acts of the PLO came to a head in 1978, when members of this organization attacked cars and buses in Tel Aviv-Haifa, killing 35 Israelis and injuring more than 74. At this point, the state of Israel began its retaliation against the PLO.

Before Israel invaded Lebanon, it failed to use the open forum of the UN to discuss what it was viewing as an armed attack against Israel by Lebanon. The UN Security Council did not view the behaviors of the PLO as enough justification for Israel to invade Lebanon under the auspices of Article 51. Even if the UN recognized that an armed attack had occurred, Israel would still have needed to present its case for the use of force against Lebanon to the Security Council so that the Security Council could rule upon the appropriate measures to address the situation. As previously stated, Article 51 does not give a member state a blank check to use

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<sup>112</sup> Joel Leyden, Terrorist Arafat Dead, Peace Possible for Israel (Jerusalem: Israel News Agency, 2004).

force, instead it only allows for a state to respond in self-defense to an attack until the Security Council has had time to convene. In addition to failing to present its case to the Security Council, Israel also failed to meet with the government of Lebanon to discuss the actions of the PLO. As Article 2(3) of the UN Charter states, “All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice are not endangered” and Article 2(4) states that “All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state”, both of which Israel failed in doing when it launched its offensive attack against Lebanon.<sup>113</sup> Additionally, Israel failed to meet with the Lebanese government neither to discuss methods of establishing a peaceful border nor to work towards eliminating the PLO.

The first military offensive led by Israel to handle the terrorist actions of the PLO began with Operation Litani on 14 March 1978. The UN Security Council met on 19 March 1978 to discuss the situation between Israel and Lebanon. In this meeting, the Security Council determined that Israel had launched an armed attack against Lebanon and was illegally occupying territories within the Lebanese border. By determining that Israel was the aggressor in this particular situation, the Security Council voided Israel’s claim of self-defense through Article 51. Operation Litani was a three-month attack aimed to rid the Lebanese-Israeli border of the PLO. It ended with Israel occupying a piece of southern Lebanon along the Litani River. This occupation increased international scrutiny regarding the hostilities in the Middle East and through the adoption of UNSCR 425 and UNSCR 426 in March 1978, established the United Nations Interim Forces in Lebanon<sup>114</sup>. UNSCR 425 “Calls upon Israel immediately to cease its military action against Lebanese territorial integrity and withdraw forthwith its forces from all

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<sup>113</sup> Charter of the United Nations: Chapter 1. New York City: United Nations, 1945.

<sup>114</sup> Hereafter the United Nations Interim Forces in Lebanon will be known as UNIFIL.

Lebanese territory.”<sup>115</sup> For a limited time, Israel withdrew from Lebanon, being replaced by the UNIFIL forces. The UNIFIL’s main function was to provide food and aid to the locals that had been impacted by the recent violence, yet UNIFIL failed to address the issue of Lebanon being the base for the PLO. Eventually, the PLO increased its missile and rocket launches against the border. Hostilities between the state of Israel and the PLO intensified, with frequent attacks upon Israeli citizens in the Northern Galilee region from the PLO based in southern Lebanon.

The fighting climaxed with the attempted assassination of Israel’s ambassador to the United Kingdom, Shlomo Argov, in London. This occurred in June 1982 and the Abu Nidal Organization, an Al Fatah splinter group, who was the original controller of the Palestinian movement, quickly claimed responsibility.<sup>116</sup> The state of Israel responded by launching Shlom HaGalil or Operation Peace for Galilee against the PLO. This operation became better known as the 1982 Invasion of Lebanon.

Operation Peace of Galilee began when the Israel Defense Force illegally invaded southern Lebanon.<sup>117</sup> The official objective of this operation was to stop attacks upon northern Israel from NSAs based in Lebanon. The UN responded to the invasion of Lebanon by passing UNSCR 520, which called for the respect of the sovereignty of Lebanon and demanded for Israel to withdraw its troops from the state.<sup>118</sup>

Israel claimed that they were using force against Lebanon in the name of self-defense against the PLO. On 6 June 1982, the Israeli Foreign Ministry Director General, David Kimche, stated that Israel was invading Lebanon due to the attempted assassination of Shlomo Argov and

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<sup>115</sup> UNSCR 425 adopted on 19 March 1978.

<sup>116</sup> Hereafter the Abu Nidal Organization will be known as ANO.

<sup>117</sup> Hereafter the Israeli Defense Force will be known as the IDF.

<sup>118</sup> UNSCR 520 adopted on 17 September 1982.

was acting in complete and total self-defense.<sup>119</sup> While Israel attempted to apply Article 51 to justify its use of force, the UN Charter outlines that once the Security Council has met, Article 51 is void from giving a member state a blank check for the use of force. The Security Council met numerous times on this subject, and instead of agreeing with Israel, they determined that Israel did not have the right to use force against the state of Lebanon, despite the attacks by the PLO, therefore they were in violation of Article 39 of the UN Charter. Unlike the Six Day war, Prime Minister Begin justified Israel's use of force against Lebanon stating that it was unavoidable and had to be done to address the attacks that NSAs were carrying out against Israel. Begin stated:

As for Operation Peace for Galilee, it does not really belong to the category of wars of no alternative. We could have gone on seeing our civilians injured in Metulla or Kiryat Shmona or Nahariya. We could have gone on counting those killed by explosive charges left in a Jerusalem supermarket, or a Petah Tikva bus stop. All the orders to carry out these acts of murder and sabotage came from Beirut. Should we have reconciled ourselves to the ceaseless killing of civilians, even after the agreement ending hostilities reached last summer, which the terrorists interpreted as an agreement permitting them to strike at us from every side, besides southern Lebanon? True, such actions were not a threat to the existence of the state. But they did threaten the lives of civilians, whose number we cannot estimate, day after day, week after week, month after month.<sup>120</sup>

Despite this attempt at justification by Israel, the Security Council passed 88 resolutions regarding what it viewed as violation by the state of Israel between 1967-1988 and 'condemned' Israel 49 times.

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<sup>119</sup> Kimche, David. "Interview with Foreign Ministry Director General David Kimche on Israel radio." Interview. Interview with Foreign Ministry Director General. 6 June 1982. Israel Ministry of Foreign Affairs. 19 Sept. 2008. Available at

<<http://www.mfa.gov.il/mfa/foreign%20relations/israels%20foreign%20relations%20since%201947/1982-1984/5%20interview%20with%20foreign%20ministry%20director%20general>>.

<sup>120</sup> "Address by Prime Minister Begin at the National Defense College." National Defense College. 24 Sept. 2008. Address by Prime Minister Begin at the National Defense College. 8 Aug. 1982. Israel Ministry of Foreign Affairs. 24 Sept. 2008. Available at

<<http://www.mfa.gov.il/mfa/foreign%20relations/israels%20foreign%20relations%20since%201947/1982-1984/55%20address%20by%20prime%20minister%20begin%20at%20the%20national>>.

It was not until 2000 that Israel completely withdrew from the south of Lebanon, in accordance with UNSCR 425, two decades after the resolution was adopted. This pullout achieved the goal of Lebanese independence, thirty years after the beginning of its occupation by Israel.

The Security Council passed numerous resolutions regarding the illegal invasion of Lebanon by Israel, yet the majority of these resolutions failed to directly address the root cause for the continuation and amplification within this volatile region, which was the terrorist tactics employed by violent NSAs during this timeframe. PLO troops used the sovereign state of Lebanon as its base for organizing and carrying out terrorist activities. The state of Israel retaliated by using armed force against Lebanon, the base of the PLO. While the UN did pass resolutions regarding the illegal use of force by Israel against Lebanon, it failed to successfully address the NSAs based within Lebanon who were employing terrorist tactics. In effect, one could argue that the UN failed to adequately promote the safety of the state of Israel by not effectively addressing attacks on its territory by NSAs. In fact, since the UN has become involved within this conflict, violent NSAs within the region have only grown. For example, the Islamic fundamentalist organization, Hezbollah or Party of God, was formed in Lebanon in 1982, after the Israeli invasion of Lebanon. Hezbollah's specific aim is to force Israel to withdraw from Lebanon.

Hezbollah is regarded by the Arab and Muslim world as being a legitimate political party, while Western states typically view it as an Islamist terrorist organization. Hezbollah is different from numerous other NSAs based in the Middle East because it holds significant political power in Lebanon, with 23 seats in the 128-member parliament. Noteworthy terrorist activities of this organization are the kidnapping and murder of U.S. army colonel, William Higgins and CIA

Station Chief William Buckley. Additionally, Hezbollah is believed to have kidnapped more than 90 westerners between 1982-92. Hezbollah was accused of masterminding the 1983 truck bombing in Beirut, which killed 241 U.S. Marines, the bombing of the U.S. embassy in Beirut in 1984, the 1985 hijacking of TWA Flight 847 en route from Athens to Rome, the bombing of the Israel embassy in Buenos Aires (1992), and the bombing of the Israel embassy in London (1994).<sup>121</sup>

Finally, in September 2004, when the UN Security Council adopted UNSCR 1559, the UN stated that all Lebanese militias, specifically referring to Hezbollah, must disband. This has failed to happen, mainly because Hezbollah disagrees with the UN belief that Israel has withdrawn completely from Lebanon. Hezbollah states that the Sheeba Farms area, which is located in the corner where Lebanon, Israel, and Syria meet, should be completely liberated from Israel control. Due to the ongoing Israeli presence in the region, Hezbollah continues to launch attacks against Israeli forces. This location is officially referred to by the UN as the “Blue Line”. The UNIFIL, along with cartographers, established a line for the mandate of Israeli withdrawal from Lebanon. This line, along with a completed map of the state, was applied when confirming if Israel had officially withdrawn from Lebanon.<sup>122</sup> The Security Council met and through the Security General’s report, issued a statement addressing this issue. “The Government of Lebanon should heed the Council’s repeated calls for the parties to respect the Blue Line in its entirety,”<sup>123</sup> stating that Israel was not violating UNSCR 425 by occupying the Sheeba Farms, because it is located on the Israeli side of the Blue Line.

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<sup>121</sup> Martin Kramer, “Hezbollah in Lebanon” *The Oxford Encyclopedia of the Modern Islamic World*. V2 (New York City and Oxford: Oxford University Press, 1995) 130-3.

<sup>122</sup> UNSCR 425, passed in 1978, calls for Israel to withdraw from all Lebanese territories.

<sup>123</sup> Press Release by the UN Security Council after its 5117<sup>th</sup> meeting on 28 January 2005.

While the state of Israel has officially left Lebanon according to the UN, which was one of the major aims of the UN involvement in the region, the root issue of this problem has been left unaddressed and therefore the issue is still active. The issue is that organizations that use terrorism are still active in the region. Violent NSAs are still attacking Israel despite the withdrawal of Israel from Lebanon. These organizations who employ terrorism still exist and actually are growing. The resolutions that the UN passed on the issues within this region eventually were successful in having the state of Israel withdraw from Lebanon, yet the UN has been ineffective in its dealings of NSAs in this region.

While the UN approached this situation recognizing that Israel was a violating member state due to its illegal use of force against Lebanon without a UN Security Council mandate, the UN failed to address the issue of NSAs and their terrorist activities. One reason why the UN failed in this current situation within Israel and Lebanon is that the UN was unable to have Israel fulfill its obligations under UNSCR 425 after the Six-Day War in a timely manner. Partially due to this, NSAs established a base within Lebanon so that they could carry out attacks against Israel, forcing this state to withdraw from its illegal occupation. The UN also failed to address the behavior of the violent NSAs and because of this Israel justified its presence within Lebanon as one of self defense. This actually meant that Israel increased its attacks against Lebanon, the exact opposite of the aim of the Security Council resolutions. The UN showed its ineffectiveness because it failed to prevent Israel from illegally occupying Lebanon, despite all the resolutions passed acknowledging that Israel was violating Article 39 and 51 of the UN Charter. It was not until 2004 that the UN even began to address the activities of the NSAs based within Lebanon. Due to this delay in actions of the UN, the NSAs within the region managed to increase their influence upon the situation by growing in popularity and attacks.

The UN needed to be able to handle this situation in a more effective manner. The UN failed to promote one of its core principles of sovereignty for member states. Primarily, the UN was unable to have Israel withdraw from Lebanon; it also failed to stop the attacks which were being carried out by NSAs based within Lebanon upon Israel. Israel continued its occupation because at this point the UN failed to promote another core set of principles to its Charter, that of peace and security. This was a situation that continued to propel itself for decades. If the UN had been able to effectively control this situation in the beginning, and then it is plausible that this particular situation within the Middle East region would not have been as violent or as prolonged.

## **Case Study# 2: The War on Terror after 9/11**

### **General Introduction and History**

Throughout history, the region of modern day Afghanistan has consistently been a place of turmoil and war. Both the British and the Russians took part in establishing the current Afghan boundaries.<sup>124</sup> Afghanistan acquired its independence from these countries in August 1919. From then on, a countless numbers of coups, innumerable civil wars, and numerous invasions occurred; at almost no point in history has the government of Afghanistan been stable for an extended period of time. Between 1919 and 1965, Afghanistan underwent multiple regime changes. During the 1920's, Afghanistan experienced expanding diplomatic relations with other states and social reform. This included the education of women, co-ed schools and eliminating the law that required women to cover their face with a veil. During the 30's, Afghanistan continued to modernize. Through the 40's-60's, Afghanistan implemented some elements of democratic governance, which included a bicameral legislation, with one-third of the legislation appointed by the king, one-third elected by the people and the last third indirectly selected from the provincial assemblies. In 1965, the People's Democratic Party of Afghanistan was founded.<sup>125</sup> This party saw relative political success in gaining parliamentary seats. In

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<sup>124</sup> These lines were established during the Great Game. The Great Game was a conflict that existed between the British Empire and the Russian Empire over central Asia. The first phase of the Great Game occurred between 1813 and 1907 with the second phase occurring between 1917-beginning of WWII. The Great Game occurred when the British Empire became fearful of the expanding Russian Empire, specifically in the Afghan region. Both countries attempted to set up puppet governments within Afghanistan. The boundaries of Afghanistan were established during WWI. Both Russian and Great Britain were concerned with German advancement in the Middle East. Due to this, they agreed to unify for the time being, this allowed for Great Britain to establish and maintain the current borders and Russia to conduct all political relations between the three states.

<sup>125</sup> Hereafter the People's Democratic Party of Afghanistan will be referred to as People.

1967, People split into two separate groups, Masses and Banner.<sup>126</sup> The split was caused by deeply-seeded ethnic, class, and ideological differences, with the Masses aiming towards a more military Marxist government. Afghanistan experienced poor economic conditions during the early 70's, mainly due to a severe drought. During this time, Mohammed Khan seized power in a military coup in 1973. Khan had gained power through the support and aid of the Banner party, but during his Presidency, he did not recognize himself as a member of Banner, instead he saw himself as the head of his own republic. In 1978, President Khan, fearing a coup from Afghan communists, placed members of both the Masses and Banner under house arrest. Khan was correct in his assumption of the coup, and eight days after ordering house arrest, the coup was initiated and Khan was murdered.

After his death, Mohammad Taraki, leader of the Masses, became President. The Masses party tended to focus their administrative governance on a Marxist-Leninist belief. The Taraki regime implemented ever more modern reforms within Afghanistan, which included the end to usury, equal rights for women, and land reforms. These reforms created turbulence with those who supported a more traditional Islamic Afghan culture, the Banners. Civil unrest became prevalent throughout Afghanistan between these two parties. Then the Soviets invaded in 1979 and established a pro-communist government in the city of Kabul. Due to the on-going Cold War, the U.S. government began offering training and support to anti-communist Muslim rebels called mujahedeens. The Soviet-established government and the U.S.-backed mujahedeens were at war for ten years until 1989 when the Soviets withdrew their troops.

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<sup>126</sup> The **Masses** (Khalq) party was created in 1965 due to a split in the People's Democratic Party of Afghanistan. It was composed mainly of non-elite Afghans. The Masses believed that an immediate overthrow of the government was necessary.

The **Banner** (Parcham) party was also created in 1965 out of the People's Democratic Party of Afghanistan. It was mainly composed of labor workers. This party aimed to industrialize Afghanistan before any attempts towards a revolution.

The abrupt departure of foreign entities left the state of Afghanistan in turmoil and led to a continuance of fierce civil war between the Masses and Banners. The Soviets were able to offer some aid to Afghanistan yet famine was wide spread. During this time, the UN was working to establish a transitional government from the Soviets to the Afghans. This government was never established. In August 1991, Boris Yeltsin announced that he was ending all direct aid to Afghanistan. After an internal struggle for power, in 1992, Burhanuddin Rabbani was elected president of Afghanistan. Despite these elections, the civil war within Afghanistan continued. From this chaos, a group emerged that was determined to end the unrest. This organization, the Taliban, emerged as an ad-hoc militia that worked to rid Afghanistan of the chaos and illegal underground activities that were occurring. They were considered honest, fierce and devout members of Islam. The Taliban gained control of Afghanistan in late 1994 by bring order to the warring country. The Taliban intended to eliminate all other political entities/factions and establish supreme political control in the country by installing a strict Islamic government. Originally, the Taliban rule of government offered stability, economic growth, unity, and order to the Afghan people. This initial order gave the Afghans a sense of security, which led them to accept the new Taliban government. Soon thereafter, the Taliban instituted a governing body based on a very radical version of Islam. The most common of these were the forced requirements that women must be veiled head to toe, men must have long beards, and the banning of most forms of mass communications. The concept of jihad, or holy struggle, is a central belief of this radical Islam.<sup>127</sup> Jihad believes that armed conflict against heretics leads to self-improvement, specifically through the elimination of Western ideals. Essentially, they are aiming for Islam to be the only religion of the world and it is up to the followers of this radical

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<sup>127</sup> Other definitions of jihad include a struggle in the way of God or to struggle to improve one's self and/or society. Historically, jihad has been an on-going struggle between Christianity and Islam.

Islam to promote this form of jihad. The Taliban welcomed Islamic terrorist groups to take refuge in their state. Some of these organizations paid the Taliban for this asylum.<sup>128</sup>

Afghanistan has been an Islamic nation since the 7<sup>th</sup> century. With the installation of the Taliban government, Islamic fundamentalists gained control of the state. By the Taliban instituting this form of radical Islamism, they created a breeding ground for NSAs who were aiming to carry out jihad. The Taliban allowed for Afghanistan to be a home base of operations for a growing list of Islamic terrorist organizations, in particularly to Osama bin Laden and his al-Qaeda terrorist network. It has been estimated that al-Qaeda paid between \$10-\$20 million per year to the Taliban for safe haven.<sup>129</sup>

Osama bin Laden and his al-Qaeda terrorist network is a group of NSAs, which are estimated to spread over more than one hundred states.<sup>130</sup> The Taliban allowed NSAs who followed this form of radical Islam to use Afghanistan as a base training camp and also as a home base in which to strengthen and grow. Without the support of the Taliban, it is unclear if al-Qaeda would have been able to achieve the growth that it did after being forced out of the Sudan. As much as al-Qaeda relied on the Taliban for asylum, the Taliban greatly relied on al-Qaeda for an ever-greater share of their needs, such as arms, goods, vehicles, and even social projects.<sup>131</sup>

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<sup>128</sup> Roth, Greenburg, et al. "Monograph on Terrorist Financing." Testimony to the National Commission on Terrorist Attacks Upon the United States. 20 December 2008. *Available at* <[http://www.9-11commission.gov/staff\\_statements/911\\_TerrFin\\_Ch2.pdf](http://www.9-11commission.gov/staff_statements/911_TerrFin_Ch2.pdf)>. pg. 31

<sup>129</sup> Id (31).

<sup>130</sup> Al-Qaida. 15 August 2006. Global Security, Alexandria, VA. 2 February 2007 *Available at* <<http://www.globalsecurity.org/military/world/para/al-qaida.htm>>.

<sup>131</sup> Roth, Greenburg, et al. "Monograph on Terrorist Financing." Testimony to the National Commission on Terrorist Attacks Upon the United States. 20 December 2008. *Available at* <[http://www.9-11commission.gov/staff\\_statements/911\\_TerrFin\\_Ch2.pdf](http://www.9-11commission.gov/staff_statements/911_TerrFin_Ch2.pdf)>. pg. 31

Al-Qaeda was formed by Osama bin Laden as a splinter group from his previous organization, Maktab al-Khadamat or Office of Order.<sup>132</sup> It started its activities in the Sudan in 1988. MAK began as an organization focused upon channeling funds from a variety of sources into training for mujahedeens in guerilla combat to fight against the Soviet occupation of Afghanistan. Osama bin Laden had gained his notoriety after helping to force the Soviets out of Afghanistan, an act which gained him the status of a mujahedeen hero.<sup>133</sup> The Gulf War and the growing presence of U.S. military bases in Saudi Arabia infuriated Osama bin Laden and gave him a new focus towards the presence of U.S. troops upon the holy land of Mecca and Medina. The first training bases for al-Qaeda were established in the Sudan and by the mid 1990s, carefully planned and executed attacks began occurring worldwide, including the bombings of U.S. and Saudi military bases.<sup>134</sup> As a result of its usage of terrorism, both bin Laden and al-Qaeda were banned from the Sudan following pressure imposed by UN economic sanctions.<sup>135</sup> The group found refuge in Afghanistan, where the Taliban welcomed its radical Islamic views. This occurred nearly simultaneously with the assassination attempt on Hosni Mubarak, the Egyptian President, in Addis Ababa, Ethiopia, on 26 June 1995.

To be able to deal with such a vast transnational organization such as al-Qaeda effectively, the UN needed to implement an effectual policy that required maximum aid and cooperation from all its member states to follow al-Qaeda after its departure from the Sudan. The UN became involved in the Sudan and the al-Qaeda organization after the assassination

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<sup>132</sup> Hereafter Maktab al-Khadamat will be known as MAK.

<sup>133</sup> It should be noted that as this chapter previously explained, the U.S. government trained and supported to the mujahedeens, which included Osama bin Laden.

<sup>134</sup> On 13 November 1995, a car bomb detonated at a U.S. base in Riyadh Saudi Arabia. Five servicemen were killed.

<sup>135</sup> See Chapter 2 for further details into UN activities in the Sudan.

attempt on Mubarak and mandated that those responsible be brought to justice.<sup>136</sup> The state of the Sudan did not comply with UNSCR 1044 which led the UN to imposing economic sanctions under UNSCR 1054.<sup>137</sup> These sanctions increased pressure against the Sudan to end their support for violent NSAs. The UN managed to persuade the Sudan to ban al-Qaeda from its state, which showed the effectiveness of these sanctions on the state level. While al-Qaeda was banned from the Sudan, Sudanese officials failed to bring those responsible for the attempted assassination on Mubarak to justice. Additionally, having the Sudan ban al-Qaeda did not force the organization to disband; instead it simply relocated to Afghanistan. This shows that UN sanctions did work in regards to the effectiveness of sanctions upon a state and forcing that state to comply, yet it failed to prevent al-Qaeda from spreading. It only forced the organization to relocate to Afghanistan, where within the next decade organized and carried out one of the most significant terrorist attacks by NSAs.

After al-Qaeda relocated to Afghanistan, attacks upon Western targets continued to mount, especially those carried out against U.S. targets. In 1996, bin Laden issued a declaration of war or fatwa titled “Declaration of War against the Americans Occupying the Land of the Two Holy Places.”<sup>138</sup> This declaration focused al-Qaeda’s radical Islamic attention mainly against the U.S.

By 1996, the Taliban had taken over the capital, Kabul, forcing Burganuddin Rabbani to escape from the capital. Rabbani relocated his government to the northern Afghan town of Faizabad. This government assumed the name of the Northern Alliance. This alliance is composed of five anti-Taliban factions, with Rabbani as the head. Quickly, the Northern Alliance

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<sup>136</sup> This was done through UNSCR 1044. United Nations Security Council Resolution 1044 adopted on 31 January 1996.

<sup>137</sup> United Nations Security Council Resolution 1054 adopted on 26 April 1996.

<sup>138</sup> Bin Laden, Osama. “Bin Laden’s Fatwa” Online NewsHour with Jim Lehrer. August 1999. 16 September 2008. Available at < [http://www.pbs.org/newshour/terrorism/international/fatwa\\_1996.html](http://www.pbs.org/newshour/terrorism/international/fatwa_1996.html)>.

was recognized by the UN and most other states as the acting government of Afghanistan. The only major states that recognized the Taliban as the acting government of Afghanistan were Saudi Arabia and Pakistan.

### **UN Involvement in Afghanistan**

In 1996, the UN Security Council adopted UNSCR 1076, which recognized the brutality of the civil war in Afghanistan and urged for a peaceful settlement.<sup>139</sup> This resolution mentions in Paragraph five that “the continuation of the conflict in Afghanistan provides a fertile ground for terrorism and drug trafficking which destabilize the region and beyond, and calls upon the leaders of the Afghan parties to halt such activities.”<sup>140</sup> Over the following three years, the UN Security Council passed four additional resolutions regarding the Afghan situation. Each resolution required the fighting between the Taliban and Rabbani’s Northern Alliance to end and the treatment of women and children to be enhanced. These resolutions do address terrorism, but they do not specifically mention al-Qaeda or bin Laden.

Despite these resolutions, al-Qaeda was strengthening. In 1998, al-Qaeda was strong enough to carry out the 7 August simultaneous bombings of U.S. embassies in Tanzania and Kenya. The U.S. government retaliated by launching missile strikes on suspected al-Qaeda training bases in the Sudan and Afghanistan. These air strikes were not supported by the UN Security Council and were a violation of the UN Charter. By 1999, the situation in Afghanistan worsened and the UN decided to impose economic sanctions against Afghanistan. With UNSCR 1267, passed on 15 October 1999, the UN stated that it:

Deplored the fact that the Taliban continues to provide safe haven to Usama bin Laden and to allow him and others associated with him to operate a

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<sup>139</sup> United Nations Security Council Resolution 1076 adopted on 22 October 1996.

<sup>140</sup> Id.

network of terrorist training camps from Taliban-controlled territory and to use Afghanistan as a base from which to sponsor international terrorist operations.<sup>141</sup>

This resolution went on to recognize the failure of previous UN resolutions to prevent Afghanistan from abetting known terrorist organizations and stated that economic sanctions against the state were needed to force a resolution to the situation. The UN imposed economic sanctions against Afghanistan due to the refusal of the Taliban to extradite terrorist suspect, Osama bin Laden. This resolution placed sanctions upon aircraft, travel, and the freezing of assets. Additionally, it called for the Taliban to stop “the provision of sanctuary and training for international terrorists and their organizations.”<sup>142</sup> This resolution was the first time that the UN specifically denounced the relationship between bin Laden and the Taliban.

These economic sanctions did not persuade the Taliban to turn in Osama bin Laden or to stop allowing the training and harboring of terrorists. Due to the large amount of financing that the Taliban was receiving from al-Qaeda, they resisted international pressure to expel bin Laden or turn him over to a third country. Similarly to when the UN implemented sanctions against the Sudan, economic sanctions against Afghanistan negatively impacted the civilian population of this state yet failed to adequately undermine the power of the Taliban. The Taliban and the terrorist organizations it supported, despite the UN imposing economic sanctions in 1999, only continued to grow and strengthen in their intensity and membership.

Regardless of these UN sanctions, al-Qaeda was able to plan and carryout the October 2000 terrorist bombing of the U.S.S Cole. This bombing killed eighteen American soldiers and injured 39. Obviously the newly imposed sanctions did not curtail the abilities of al-Qaeda. Recognizing that the way that the UN was currently addressing the al-Qaeda situation was not working and that these sanctions were only negatively impacting the civilians of Afghanistan,

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<sup>141</sup> United Nations Security Council Resolution 1267 adopted on 15 October 1999.

<sup>142</sup> Id.

not curtailing al-Qaeda, the UN Office for the Coordination of Humanitarian Affairs issued a statement that highlighted the sanctions' "tangible negative effect" on Afghan people.<sup>143</sup> Despite the recognition of the negative impact sanctions were having on the general public, the UN did not lift sanctions upon Afghanistan and actually passed more sanctions in December 2000. UNSCR 1333 placed an embargo upon the importing and exporting of arms, training or advice upon military issues, and mandated the withdrawal of any and all officials that advise the Taliban, and lastly the seizure of Osama bin Laden's assets.<sup>144</sup> Despite the states freezing bank accounts and money seized by those who finance terrorism, al-Qaeda was not forced into submission. Additionally, the Taliban did not comply with any of the UN demands. As history would support, UNSCR 1333 was unable to stop al-Qaeda from carrying out one of the worst terrorist attacks in the world less than one year after these sanctions were passed.

Since 1996, the UN has recognized the growing use of terrorism by organizations based in Afghanistan, and by means of economic sanctions in 1999 and 2000, the UN continued to aggressively try to handle the mounting security threat from the Taliban and al-Qaeda. These efforts did not undermine the power of the Taliban or persuade them to relinquish support for Bin Laden and al-Qaeda. Despite these sanctions and other efforts from the UN, who began its current involvement in Afghanistan in 1996, the use of terrorism by al-Qaeda was not reduced, in actuality it increased in severity.

### September 11<sup>th</sup>, 2001 Attacks

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<sup>143</sup> Hereafter, the UN Office for the Coordination of Humanitarian Affairs will be known as OCHA. "Vulnerability and Humanitarian Impact of UN Security Council Sanctions in Afghanistan", UNCO (Islamabad: Summary Report, 17 August 2000).

<sup>144</sup> United Nations Security Council Resolution 1333 adopted on 13 December 2000.

8:46AM on 11 September 2001 is the most catastrophic event to date in U.S. history regarding terrorist attacks.<sup>145</sup> At a quarter to nine, a plane slammed into the north side of the World Trade Center North Tower; less than ten minutes later, another plane, United Airlines Flight 175, collided with the south side of the South Tower of the World Trade Center. Before 11am that morning, four commercial airliners had been hijacked and these seized planes destroyed two mammoth towers and significantly damaged a government building. These buildings were in Washington DC, New York City, and the fourth plane, with the intentional crashing by its passengers, occurred in the fields of Pennsylvania. The estimated number of casualties was 3,054.

These attacks shocked the entire international community, showing that the state with the largest defense budget could still be brought to a standstill by a small group of individuals. The severity of this attack against one of the world's superpowers invoked a feeling of fear amongst other developed states and citizens worldwide. States who had no major direct contact with terrorism were emotionally impacted because this attack exposed everyone's vulnerability.

Due to this revelation, the support given to the U.S. in the days that followed the attacks of September 11th was unfaltering and genuine. There were offers of military support, economic help, and physical manpower with no attached terms from virtually all Western European and American states. The majority of Middle Eastern states condemned the attacks but some were guarded in their immediate condemnation of one of their own as the mastermind of the attacks. Iraq was the only Arab state that did not publically condemn the September 11<sup>th</sup> attacks.

In the West, the vulnerability that the attacks exposed led many leaders and publics to offer the U.S. unrelenting support, due to what Steven Ratner describes as the 'Eiffel Tower

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<sup>145</sup> As a side note, September 11 is also the official UN International Day of Peace.

Factor'.<sup>146</sup> In the days that followed September 11<sup>th</sup>, most states comprehended that a terrorist attack of September 11<sup>th</sup> magnitude could occur upon their land and all states were vulnerable. Because of the Eiffel Tower Factor mentality, many states reacted on the days that followed September 11<sup>th</sup> based upon "emotion and empathy."<sup>147</sup> Most states realized that despite the UN and other intelligent agencies efforts, there existed an extreme security threat from NSAs and many states knew that they were vulnerable to the tactics of terrorism. The collective security agreement of the UN did not protect states against NSAs. Even with UN sanctions still in place against Afghanistan, one of the most severe terrorist attacks managed to occur.

### **UN Resolution 1368 and U.S.-led Invasion**

The U.S. was offered nearly undisputed support regarding retaliatory efforts against these attackers. Beginning on 11 September, Security General Kofi Annan, released a statement condemning the attacks and included the statement that:

"In such moments, cool and reasoned judgment is more essential than ever. We do not know yet who is behind these acts, or what objective they hope to achieve. What we do know is that no just cause can be advanced by terror."<sup>148</sup>

The Security Council met on September 12<sup>th</sup>, 2001, where it unanimously adopted UNSCR 1368. A brief summary of UNSCR 1368 states that the UN:

*Unequivocally condemns* in the strongest terms the horrifying terrorist attacks which took place on 11 September 2001 in New York, Washington (D.C.) and Pennsylvania and *regards* such acts, like any act of international terrorism, as a

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<sup>146</sup> This factor is described by Steven Ratner by the fact that it is "simply unimaginable that France, Russia, China, or India, each of which spars with the United States on numerous foreign policy issues, would have responded otherwise had Al Qaeda crashed planes into the Eiffel Tower, the Kremlin, the Forbidden City, or the Taj Mahal...States reacted as they did on the basis of emotion and empathy." Steven Ratner. "*Jus Ad Bellum* and *Jus in Bello* after September 11." The American Journal of International Law 919 (2002): 905-21.

<sup>147</sup> Id (see 919)

<sup>148</sup> Statement by Kofi Annan, 2001. Press Release (11 Sept. 2001), available at <<http://www.un.org/News/Press/docs/2001/SGSM7948.doc.htm>>.

threat to international peace and security (emphasis remains from original documentation).<sup>149</sup>

UNSCR 1368 goes on to call on its member states to unite to bring the perpetrators to justice and to “redouble” their efforts to prevent and suppress terrorist attacks.<sup>150</sup> The resolution states that the UN is ready “to take all necessary steps to respond to the terrorist attacks of 11 September 2001, and to combat all forms of terrorism; in accordance with its responsibilities under the Charter of the United Nations.”<sup>151</sup>

On 7 October 2001, the U.S. retaliation for the September 11<sup>th</sup> attacks led it to invade Afghanistan, under what the U.S. government termed the ‘War on Terrorism’.<sup>152</sup> The UN Security Council went on to pass UNSCR 1378 which condemns “the Taliban for allowing Afghanistan to be used as a base for the export of terrorism by the Al-Qaida network and other terrorist groups and for providing safe haven to Usama Bin Laden, Al-Qaida and others associated with them, and in this context supporting the efforts of the Afghan people to replace the Taliban regime.”<sup>153</sup> Additionally, UNSCR 1378 reiterated its support of international efforts to root out terrorism as established in UNSCR 1368.

The UN has been actively involved in post-Soviet Afghanistan since 1996, yet terrorist attacks against other states by NSAs based within this state have only increased. It was obvious, that despite UN sanctions and other efforts, that the UN was not capable of effectively ending the use of terrorism by NSAs located within this state. The UN utilized every method that it has in place to address the terrorist situation in Afghanistan. Despite all the resolutions and sanctions that the UN had passed regarding Afghanistan, al-Qaeda was still able to plan and carry out the

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<sup>149</sup> United Nations Security Council Resolution 1368 adopted on 12 September 2001.

<sup>150</sup> Id.

<sup>151</sup> Id.

<sup>152</sup> Hereafter the War on Terrorism will be referred to as the WOT.

<sup>153</sup> United Nations Security Council Resolution 1378 adopted on 14 November 2001.

most horrific terrorist attack to date. This shows that even when the UN fully implements its arsenal of Conventions, sanctions and resolutions, it is still unable to thwart an organization that is determined to use the tactic of terrorism. The UN Charter states that its principle is to “take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace.”<sup>154</sup> Some member states believe that violating the UN Charter is acceptable when it means protecting their state from terrorist attacks, especially when the UN has failed to do so.

### Iraq

The transition by the U.S. from having multilateral support against invading Afghanistan to combat al-Qaeda into the U.S. deciding it had the authority to invade the sovereign state of Iraq, only further promotes the reality that a state, and not the UN, remains the supreme voice in the decision to use force. While numerous member states supported the reaction of the U.S. government against Afghanistan, sovereign states in the Middle East spoke out against the U.S. government and their use of force, stating that they were concerned that the U.S. would stretch Article 51. These states were worried that the U.S. government would use force against any other Middle Eastern sovereign state that the U.S. suspected of supporting al-Qaeda. In this case and the others examined in this thesis, states justify their illegal use of force against another sovereign state by arguing that another state is a threat to security in a way that the UN is unable to stop. Due to the mounting historical examples of UN failure to prevent terrorist attacks, states are deciding that it is worth violating the UN Charter to achieve their own safety. These Middle Eastern states were concerned that the U.S. would establish its own connection between those who carried out the September 11<sup>th</sup> attacks and the states that they believed harbored these NSA.

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<sup>154</sup> Charter of the United Nations: Chapter 1 (article 1). New York City: United Nations, 1945.

The majority of the world offered unrelenting support for the U.S. and its retaliatory efforts against Afghanistan and the violent terrorist network based there. The initial support the U.S. had in its WOT was because of the growing power of violent NSAs and the ineffective action by the UN in regards to terrorism. States perceived the UN as too weak or ineffective to implement peace and security against non-state security threats. George W. Bush's gave a speech to a Joint Session of Congress on the State of the Union, 29 January 2002. This speech claimed that some states, with specific mention of North Korea, Iran, and Iraq, "constitute an axis of evil, arming to threaten the peace of the world... And all nations should know: America will do what is necessary to ensure our nation's security,"<sup>155</sup> making it apparent to the world that despite the UN and international law, the U.S. would continue to handle the WOT in a manner in which it determined would ensure its own safety against violent NSAs. This completely ignored the collective security agreement that the U.S. had entered when becoming a member of the UN. During this speech in front of Congress, President Bush outlined his plans for the U.S. government to operate unilaterally, completely setting aside the UN's major principle of collective security, in the statement: "I will not wait on events, while dangers gather. I will not stand by, as peril draws closer and closer."<sup>156</sup>

In a general meeting of heads of state in September 2002, President Bush outlined the framework his administration desired the UN to require of Iraq. The U.S. claimed that Iraq was functioning as a threat to the authority of the UN and a threat to peace and Iraq must take steps towards peace, which were outlined by George Bush as:

1. Immediately and unconditionally forswear, disclose, and remove or destroy all weapons of mass destruction, long-range missiles, and all related material.

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<sup>155</sup> George W. Bush, State of the Union address in Response to the Terrorist Attacks (29 Jan. 2002) *available at* <<http://www.whitehouse.gov/news/releases/2002/01/20020129-11.html>>.

<sup>156</sup> *Id.*

2. End all support for terrorism and act to suppress it.
3. Cease persecution of its civilian population.
4. Release or account for all Gulf War personnel whose fate is still unknown.
5. End all illicit trade outside the oil-for-food program.”<sup>157</sup>

Unless the UN required the state of Iraq to comply with these demands from the U.S., President Bush stated that “the purposes of the United States should not be doubted. The Security Council resolutions will be enforced, the just demands of peace and security will be met, or action will be unavoidable. We must stand up for our security, and for the permanent rights and the hopes of mankind. By heritage and by choice, the United States of America will make that stand. And, delegates to the United Nations, you have the power to make that stand, as well.”<sup>158</sup> This speech was well received by most members of the UN because they were encouraged to see the U.S. working multilaterally regarding the Iraqi issues. Yet, there was still a threat behind this statement from President Bush; the U.S. would take unilateral action if these criteria were not met.

The Security Council responded to this speech by unanimously adopting UNSCR 1441, which did acknowledge that Iraq was violating numerous UN resolutions, with particular concern given to UNSCR 687.<sup>159</sup> UNSCR 687, passed on 3 April 1991, stated the terms by which Iraq was required to adhere to regarding biological, chemical, nuclear, and all other weapons of mass destruction. UNSCR 687 established the official boundary between Iraq and Kuwait and authorized member states to use all means necessary to uphold and implement this and previous resolutions regarding Iraq and its disarmament.<sup>160</sup> The wording of ‘all means necessary’ in UNSCR 687 laid the framework for what the Bush administration would later

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<sup>157</sup> Statement by George W. Bush at the UN General Assembly, Press Release (12 Sept. 2002), *available at* <<http://www.whitehouse.gov/news/releases/2002/09/20020912-1.html>>.

<sup>158</sup> *Id.*

<sup>159</sup> United Nations Security Council Resolution 1441 adopted on 8 November 2002.

<sup>160</sup> United Nations Security Council Resolution 687 adopted on 3 April 1991.

utilize as its legitimatization for using force to invade Iraq. UNSCR 1441 stated that Iraq was in violation of the terms established in UNSCR 687 by not providing an accurate, full, final, and complete disclosure of all aspects of its programs to develop weapons of mass destruction.<sup>161</sup> Therefore, the U.S., along with the United Kingdom, declared that Iraq was acting as a threat to international security.<sup>162</sup> Additionally, the Authority implied that Iraq had connections to al-Qaeda and other violent NSAs, implying that there was a credible link between Iraq and the attacks of September 11<sup>th</sup> and that Iraq was harboring the same terrorist, al-Qaeda. In a speech by U.S. President George W. Bush, the US claimed:

We know that Iraq and the al Qaeda terrorist network share a common enemy -- the United States of America. We know that Iraq and al Qaeda have had high-level contacts that go back a decade. Some al Qaeda leaders who fled Afghanistan went to Iraq. These include one very senior al Qaeda leader who received medical treatment in Baghdad this year, and who has been associated with planning for chemical and biological attacks. We've learned that Iraq has trained al Qaeda members in bomb-making and poisons and deadly gases. And we know that after September the 11th, Saddam Hussein's regime gleefully celebrated the terrorist attacks on America.<sup>163</sup>

Through these linkages between Iraq and al-Qaeda, the Authority justified their 2003 invasion of the sovereign state of Iraq applied UNSCR 1441, UNSCR 1368 and UNSCR 1378, which the Authority stated gave them permission to retaliate against Iraq for the September 11<sup>th</sup> attacks.<sup>164</sup> Yet, the U.S. inability to acquire authorization from the Security Council to use force within

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<sup>161</sup> United Nations Security Council Resolution 1441.

<sup>162</sup> Hereafter the U.S. and United Kingdom alliance in its war against Iraq will be referred to as the Authority.

<sup>163</sup> "President Bush Outlines Iraqi Threat." Speech by George W. Bush at the Cincinnati Museum Center on 7 October 2002 (Washington D.C.: Office of the Press Secretary, 2002).

<sup>164</sup> This previously discussed resolution was passed on 12 September 2001, "condemning in the strongest terms the horrifying terrorist attacks which took place on 11 September 2001 in New York, Washington, D.C. and Pennsylvania and *regards* such acts, like any act of international terrorism, as a threat to international peace and security."

Iraq, voids Article 51 and Article 39, showing that the U.S. was in violation of the UN Charter under Article 2(4).<sup>165</sup>

Obviously, there was no armed attack by the state of Iraq upon either state of the Authority, as required by Article 51, no matter what the lenience for the definition of armed attack that one uses. Since the release of *The 9/11 Commission Report*, even the U.S. government has admitted that there was no documentable connection between Iraq and al-Qaeda.<sup>166</sup> Even prior to the release of this official document, on 31 January 2003, at a press conference with British Prime Minister Tony Blair, President Bush was asked if he believed “that there is a link between Saddam Hussein, a direct link, and the men who attacked on September the 11th?” President Bush answered that he “cannot make that claim.”<sup>167</sup> This admission along with the official *9/11 Commission Report* erased any correlation between Iraq and the terrorist attacks upon the U.S. on 11 September 2001. Despite any violations against UNSCR 1441 that Iraq may have committed, this did not give the Authority any justification or permission to use force against Iraq without the specific approval of the Security Council.

By 17 March 2003, despite marginal attempts by the Authority to acquire the necessary votes to obtain a Security Council mandate allowing for the use of force, it had become abundantly clear to the Authority that their proposed attack upon Iraq stood no chance of acquiring the authorization for the use of force. At this point, the Authority officially stated that they would not submit a new resolution to the Security Council, implicitly admitting that the

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<sup>165</sup> Article 2(4) establishes that all states must “abstain from the use of force in the absence either of an armed attack or of prior authorization by the Security Council.

Charter of the UN: Article 2. New York City: UN, 1945.

<sup>166</sup> The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States, Chapter 10.3, “Phase Two’ and the Question of Iraq,” (Washington D.C.: U.S. Government Printing Office, 8 August 2004).

<sup>167</sup> “President Bush Meets with Prime Minister Blair: Remarks by the President and British Prime Minister Tony Blair.” The Cross Hall 31 January 2003. (Washington D.C.: Office of the Press Secretary, 2003).

resolution would fail.<sup>168</sup> That evening, at 8:00 P.M, President George W. Bush addressed the people of the U.S. and the world, stating that Saddam Hussein and his sons had 48 hours to leave their state or suffer invasion.<sup>169</sup> 20 March 2003, exactly 555 days after the September 11<sup>th</sup> attacks, the U.S. invaded the sovereign state of Iraq violating all laws regarding the use of force established by the Charter of the UN.

When the Authority failed to acquire UN support for the invasion of Iraq, it still went ahead with its planned use of force. This violated numerous aspects of the UN Charter. Through the Iraqi invasion, the Authority violated UN Charter Article 2(4) which states that all members must refrain from the “use of force against the international integrity or political indolence of any state, or in any manner inconsistent with the Purpose of the UN.”<sup>170</sup> Additionally, Article 39 mandates its members to wait for the Security Council to decide upon appropriate measures regarding the use of force. Not only did the Authority fail to obtain the measures required by the UN, it showed blatant disregard for the rulings by the Security Council on 17 March 2003. Through the invasion of Iraq, the Authority explicitly ignored the requirement from the UN that approval for the use of force must come from the Security Council. Similar to other case studies in this thesis, national self-interest overruled the governing body of the UN. By signing the UN Charter, a member state recognizes that the Security Council alone has the fundamental right of authorizing action against a threat to international peace. The Authority bypassed this provision and is thus in violation of Article 39 and cannot use Article 51 as justification.

When the UN attempted to suppress organizations who utilized terrorism as a tactic in the Sudan, specifically Osama bin Laden’s al-Qaeda, it failed. Al-Qaeda simply relocated to

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<sup>168</sup> Statement by the UN Security Council, Press Release (17 March 2003), *available at* <http://www.un.org/apps/news/storyAr.asp?NewsID=6472&Cr=iraq&Cr1=inspect>.

<sup>169</sup> Statement by George W. Bush, Press Release from the White House. (17 March 2003), *available at* <http://www.whitehouse.gov/news/releases/2003/03/20030317-7.html>.

<sup>170</sup> Charter of the UN: Article 2. New York City: UN, 1945.

Afghanistan. For the Authority, it applied failures like this one of the UN to establish its personal justification to invade Iraq, believing that it could not wait for another failure from the UN, because the U.S. could not “stand by and do nothing while dangers gather,” as the Authority stated would occur unless action was taken against Iraq.<sup>171</sup> The Authority knowingly used force illegally to invade Iraq without the Security Council’s approval, completely ignoring the principles of collective security. These member states attempted to sell the invasion through unproven ties between Iraq and Afghanistan. Despite the UN and most developed nations openly disagreeing with this invasion, there was nothing that could be done to stop the Authority.

The U.S. administration shifted its primary focus from capturing Osama bin Laden and his network, the known culprits of the attacks of September 11<sup>th</sup>, to state of Iraq. The Authority twisted the terminology established by UNSCR 1368 to feebly sell a war that facts show had nothing to do with terrorism. Additionally, similar to when the UN imposed sanctions upon the Sudan with hopes of rooting out al-Qaeda, the sanctions in Afghanistan are only causing the organization to reposition. Like with the Sudan, al-Qaeda is not failing, it is just relocating. Al-Qaeda relocated across the borders of Afghanistan into Pakistan. According to a statement by Magnus Ranstorp, al-Qaeda is now exponentially stronger than before.<sup>172</sup> Neither UN sanctions nor force from one of the world’s strongest army’s has been able to effectively impede the use of terrorism by al-Qaeda.

According to the National Counterterrorism Center, terrorist attacks within Afghanistan have only continued to rise each year that the Center has been gathering data.<sup>173</sup> Since the WOT

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<sup>171</sup> Statement by George W. Bush at the UN General Assembly, Press Release (12 Sept. 2002), *available at* <<http://www.whitehouse.gov/news/releases/2002/09/20020912-1.html>>.

<sup>172</sup> Donovan, Jeffrey. “Terrorism: Six Years On, How Is War Against Al-Qaeda Progressing?” Radio Free Europe. 10 September 2007. Accessed on 6 October 2008. Available at <<http://www.rferl.org/content/article/1078609.html>>.

<sup>173</sup> “Report on Incidents of Terrorism 2005.” National Counterterrorism Center. 11 April 2006. P 12. Virginia, 2006. “Report on Incidents of Terrorism 2006.” National Counterterrorism Center. 30 April 2007. P 3. Virginia,

began, al-Qaeda has carried out eight major international terrorist attacks throughout the world.<sup>174</sup> One of the major attacks that al-Qaeda has claimed responsibility for is the killing of Benazir Bhutto. Bhutto served two terms as the Prime Minister of Pakistan. At the time of her murder, she was a leading candidate in the general elections of Pakistan. Bhutto was the first female leader of Pakistan and she is credited for modernizing Pakistan. Additionally, Bhutto was a pro-Western leader. Due to these reasons, it is believed al-Qaeda and other radical Islamic NSAs, under the guidance of Baitullah Mehsud, assassinated Bhutto on 27 December 2007.<sup>175</sup> The U.S. CIA conducted an investigation into the murder and determined that members of al-Qaeda and allies of Pakistani tribal leader Baitullah Mehsud were responsible for the assassination of former Pakistani Prime Minister Benazir Bhutto.<sup>176</sup> Currently there is a petition into the UN to conduct a formal investigation into Bhutto's death.

The Taliban still controls much of Afghanistan, leading this state to continue to accept a radical form of Islam that supports jihad and the use of terrorism. Al-Qaeda has moved from

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2007. "Report on Incidents of Terrorism 2007." National Counterterrorism Center. 30 April 2008. P 10. Virginia, 2008.

<sup>174</sup> Attacks that al-Qaeda has claimed responsibility for are:

- The April 2002 explosion of a fuel tanker outside a synagogue in Tunisia.
- Several spring 2002 bombings in Pakistan.
- The October 2002 attack on a French tanker off the coast of Yemen.
- The November 2002 car bomb attack and a failed attempt to shoot down an Israeli jetliner with shoulder-fired missiles, both in Mombasa, Kenya.
- The May 2003 car bomb attacks on three residential compounds in Riyadh, Saudi Arabia.
- The March 2004 bomb attacks on Madrid commuter trains, which killed nearly 200 people and left more than 1,800 injured.
- The July 2005 bombings of the London public transportation system.
- The February 2006 attack on the Abqaiq petroleum processing facility, the largest such facility in the world, in Saudi Arabia.
- Council for Foreign Relations "al-Qaeda". Available at < <http://www.cfr.org/publication/9126/#8>> Accessed 3 October 2008.

<sup>175</sup> "U.N. moves toward Bhutto death inquiry." CNN.com. 11 July 2008, accessed on 12 Dec. 2008. Available at <<http://www.cnn.com/2008/WORLD/asiapcf/07/10/un.pakistan/index.html>>.

<sup>176</sup> Warrick, Joby. "CIA Places Blame for Bhutto Assassination". Washington Post. 18 January 2008. Available at <http://www.washingtonpost.com/wp-dyn/content/article/2008/01/17/AR2008011703252.html>

Afghanistan into Pakistan, where it is carrying out attacks against US and NATO forces that are based in Afghanistan working to stabilize the government there.

The actions that the states of the Authority openly and blatantly took undermined the foundation to the UN in multiple ways. First, the Authority employed the UN's resolutions that were adopted for the prevention of terrorism and twisted them around to justify the use of force against a sovereign state in a war that had nothing to do with terrorism. Due to this, the UN's campaign against terrorism will be clouded by the Authority's WOT and its illegal invasion of Iraq. Secondly, the Authority approached the UN with the idea to invade Iraq, which was not accepted by the rest of the Security Council. Due to this, the Authority decided to illegally use force to invade Iraq when it could not acquire this mandate. This was done with absolutely no ramifications against either member of the Authority. Lastly, by relocating the WOT to Iraq, the Authority took the focus away from the root problem, organizations who actually do use terrorism remain active in Afghanistan.

### **Case Study #3-India and Pakistan**

#### General Introduction and History

In 1612, the Honorable East India Company assumed control of the region of India.<sup>177</sup> HEIC started as a British owned joint-stock company between India and Southeast Asia. It was a simple trading company until creating military and governmental functions, essentially making it the ruling facet of India. By 1857, the Indians were rebelling against the HEIC in what was called the First War of Independence. Indians lost this war and the British Crown took over control from the HEIC of India in 1858. The time period when the Crown controlled India is often referred to as the British Raj. The region of modern day India, Pakistan and Bangladesh was formed from British Raj.

When the British Crown gained control over India, the state was divided into multiple sections. The portion of the state that included the government of the HEIC continued to be directly ruled by the British Crown. There were over 175 Princely States governed by a Viceroy, who was located in Calcutta. The Viceroy was British, appointed by the British Crown, and reported directly to the Crown. The representative leaders of the Princely States, who reported to the Viceroy, were Indians. Additionally, there were about 500 other states that were not directly ruled by the British Crown or the Viceroy, but by Governors. These 500 states were partitioned into eight provinces. The eight Governors were given lavish titles along with other items to reward them for their loyalty and service to the Crown. This was done to ensure that these rulers remained loyal to the British government and motivated to suppress any growing national movement within their Province.

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<sup>177</sup> From hereafter the Honorable East India Company will be referred to as HEIC.

In 1885, a Hindu-majority political party within India formed the Congress Party. This party was recognized and supported by the British Crown. It quickly gained support across the country. One of the major aims of this party was to obtain independence for India. To appease this movement, the British government began offering additional power to the Indians. This included the creation of Indian counselors who directly advised the Viceroy and a province council with membership by Indians from the provinces. In the early 1900's, the Government of India Act was passed, which gave Indians roles in what used to be exclusively held British positions. The Act also called for open and free elections for these positions. The Congress Party precluded Muslims from holding these positions. With the growing power of the Congress Party, Muslims became increasingly concerned that their ethnicity would fail to gain recognition if India gained its independence. In 1906, a large group of Muslims gathered in Dhaka focused on organizing itself into a group that would maintain prosperity and recognition of the Muslim community within India.<sup>178</sup> The aims of this mission were:

The Muslims are only a fifth in number as compared to the total population of the country...if at any point the British government ceases to exist in India...the Muslims have to face most serious difficulties in safe-guarding our interests from the grasping hands of our neighbors.<sup>179</sup>

The Muslims had always been a minority in India and now they were greatly concerned about their representation under a Hindu government. These tensions continued, but were lessened when Mohandas Gandhi returned to India in 1916 and helped unite both the Hindus and the Muslims under the goal of an independent Indian state. This momentum continued through World War I.

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<sup>178</sup> Dhaka is now the capital of Bangladesh.

<sup>179</sup> "The Statesmen: The All India Muslim League." The Official Gateway to the Government of Pakistan. 14 Dec. 2008 Available at <<http://www.pakistan.gov.pk/Quaid/politician2.htm>>.

During World War I, Indian troops fought alongside British troops. This helped to promote India on the international level. When the League of Nations was formed on 10 January 1920, India was listed a founding member under the name British India.<sup>180</sup> For the next decade, India continued to obtain additional levels of independence from the British Crown. In 1935, the Government of India Act was passed by the British Parliament. This authorized the creation of a central government that oversaw all the provinces and states and allowed for all provinces in India to have independent legislative assemblies.

When World War II broke out, Great Britain declared war for both itself and India. This was done without consulting Indian leaders and led to great public resentment. Great Britain acknowledged this issue and in attempt to resolve the situation, it stated that if India supported Great Britain during the war, then Great Britain would grant India their independence. Great Britain failed to establish a timeline for handing over control. This failed to appease the Indians, who during the summer of 1942, demanded immediate and complete independence. At this time, Gandhi was the head of the India Liberation Movement and he launched the Quit India movement. This movement demanded the immediate withdrawal of the British government from India. The British military immediately quashed the Quit India movement and imprisoned many Indian political leaders.

### Independence from Great Britain and Partitioning

As the end of WWII neared, many members of the Indian military that were fighting with the British military began to defect. The government of India began to speak of the boundaries of India post-British control. The issue of two separate states, one Indian (Hindu/Secular) and one

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<sup>180</sup> "National Membership of the League of Nations." Indiana University. 3 Nov. 2008 *Available at* <<http://www.indiana.edu/~league/nationalmember.htm>>.

Muslim, arose. According to the President Jinnah of the Muslim League “the areas in which the Muslims are numerically in a majority should be ground to constitute independent states.”<sup>181</sup> Yet numerous national non-Muslim leaders within India did not agree with this. They believed that religious choices were independent decisions and should not be the political motivation for creating a separate state. The Hindus desired a unified, secular Indian state while the Muslims desired their own separate, Muslim state. This distinction created much resentment between the Hindus and Muslims and widespread fighting broke out across India.

At this point, the British government, motivated by its own economic issues, hastily transitioned power to India. At the beginning of talks within the British government, the aim was to transfer power over to India by June 1948. Yet, in the end, the British government granted the British Raj its independence in August of 1947.<sup>182</sup> Two separate states were created out of British Raj, the state of India and the state of Pakistan. Agreement upon a post-British India plan was one of great conflict. Numerous scenarios were analyzed for partitioning yet the issues of having numerous different provinces, government practices, and religious viewpoints made the decision-making process extremely convoluted. The British government’s focus was to avoiding the balkanization of India.<sup>183</sup> According to Merriam-Webster’s Dictionary, balkanization is defined as the division of an area, region or group into hostile small units.<sup>184</sup> The Mountbatten Plan was the final plan adopted by the British Cabinet. This Plan consisted of the following proposals:

- 1.) The major provinces would meet separately with the British to vote if they supported a partitioning of India into two separate states or for one unified state.

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<sup>181</sup> Metcalf, Barbara D., and Thomas R. Metcalf. A Concise History of Modern India. New York: Cambridge University Press, 2006: P.208.

<sup>182</sup> Pakistan gained its independence on 14 August 1947 and India was granted independence on 15 August 1947.

<sup>183</sup> Chabra, G.S... Advance Study in the History of Modern India (v. 2). Twin Lakes: Lotus Press, 2007: P.190.

<sup>184</sup> “Balkanization”. Encyclopedia Britannica Online. 23 February 2005. Available at: <http://www.britannica.com/dictionary?book=Dictionary&va=balkanization&vao=Entry+Word>.

- 2.) The British would meet with numerous other provinces and allow them to vote which Constitutional Assembly they would be ruled under within the new India.
- 3.) The North-West Frontier Province was allowed to vote to decide if it would go with the Muslim province or remain with India, if a partition was agreed upon.<sup>185</sup>

The provinces of Bengal and Punjab voted in favor of partitioning and half of each province went to India and the other half to Pakistan. Sind and the North-West Frontier Provinces voted in favor of partitioning and they requested to be part of Pakistan. The Sylhet Province also voted to accede to Pakistan. When asked by the British Cabinet why the North-West Frontier Provinces had elected to vote in this manner, Mountbatten stated that “the riots and bloodshed throughout the country made the prospect of its acceptance pretty remote....All the Muslim League leaders to whom I spoke made it absolutely clear that they desire Partition.”<sup>186</sup> There was deep distrust between the Hindus and Muslims. Simply put, the Muslims did not trust the Hindus and therefore wanted their own state.

Shortly after independence was granted, riots spread throughout the region. Hindu communities living with Muslim majorities feared their future in a Muslim-controlled state. Muslims were attacking Hindus and vice-versa, specifically in the partitioned region of Punjab, where the crimes were extensive. Groups of ex-Indian/British soldiers would group together and raid homes at night. This created a large group of refugees within India, aiming to travel to another part of the state where they felt safer. It has been assessed that the partitioning of India created one of the biggest human relocations in history.<sup>187</sup> The number of refugees estimated by mid-1948 was roughly 12 million people. Trains that were transporting these refugees would be ambushed and groups of passengers murdered. Estimates on the number of murders that

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<sup>185</sup> Campbell-Johnson, Alan. Mission with Mountbatten. New York: E.P. Dutton & Co., 1953.

<sup>186</sup> Terraine, John. The Life and Times of Lord Mountbatten. London: Hutchinson, 1969.

<sup>187</sup> Gopalan, Sandeep. "From Darfur to Sinai to Kashmir: Legalization and Ethno-Religious Conflicts." Buffalo Law Review: 55.2 (2007): 1-35. Social Science Research Network. 24 Nov. 2008. Available at <<http://ssrn.com/abstract=1008192>>.

occurred during this time period is between a hundred thousand and up to one million.<sup>188</sup> After relocation, the Indian-controlled section of Punjab ended up being 60% Hindu and the Pakistani portion of Punjab became almost exclusively Muslim. It has been stated that if the British government had not been so hasty in their transfer of power and had set up a transitional government that included a military force then the transfer of power could have potentially been less violent.

Much like the British government's aim, the Indian Congress wanted to avoid the balkanization of the region. The legal status of these Princely States prior to partitioning was that of a closely held territory whose status was equivalent to that of a direct colony but the states were not technically part of British Raj. When the British government established the guidelines for partitioning, the legal status held by these Princely States would lapse. In its place, the Princely states were given the option to vote if they wanted to belong to India, Pakistan or become their own independent state. The British government discouraged these Princely States from creating their own independent state.

The method that India chose to follow was to first ask the Prince of the particular state if he wanted to simply accede to India. If he declined, India would offer him a large sum of money to accede. Additionally, there were accounts of threats and acts of intimidation towards these Princes in an attempt to force them to accede to the state of India. All but two states had made their decision regarding partitioning by August 1947, except for two, one was the Hyderabad state and the other was the Kashmir and Jammu state.<sup>189</sup>

The Prince of the Hyderabad state, who was Muslim, opted for independence instead of joining either state. He had a small militia that worked to maintain this stature. Unfortunately,

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<sup>188</sup> Metcalf, Barbara D., and Thomas R. Metcalf. A Concise History of Modern India. New York: Cambridge University Press, 2006. P.211.

<sup>189</sup> Hereafter Kashmir and Jammu will simply be referred to as Kashmir.

due to being surrounded on all sides by India, the Indian Army invaded his state and eventually the Prince acceded to India.

The other Princely state that held out on making a decision was the state of Kashmir, which is located to the north of India and in the north-east corner of Pakistan. This state was in a peculiar position because it bordered both newly created states. Additionally, the majority of the state was Muslim yet the Maharaja of Kashmir, Hari Singh, was Hindu. The Maharaja was slow in making any decision regarding partitioning because he was negotiating for Kashmir to become its own independent state. In a letter to Lord Mountbatten, Singh stated “I wanted to take time to decide to which Dominion I should accede, whether it is not in the best interest of both the Dominions and my State to stand independent, of course with friendly and cordial relations with both.”<sup>190</sup> There are conflicting reports regarding what the people of Kashmir wanted out of partitioning. There are accounts of crowds gathering in Srinagar’s main square shouting anti-Pakistani slogans, yet the Maharaja was also unpopular with his Muslim citizens.<sup>191</sup> It appears that much of the state was split; much like the Maharaja was with his decision. Before the Maharaja was able to make a decision, the newly formed Pakistani army invaded this Princely State.

Pakistan claimed that it should have control over Kashmir because of the large Muslim population located in the region. Pakistan stated that the people of Kashmir would prefer to be under Pakistani rule, and the Maharaja should not have the ability to defy the interests of his citizens by forcing them to join the Indian state. Therefore, Pakistan justified that it used force

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<sup>190</sup> Anand, Justice A.S.. The Constitution of Jammu and Kashmir: Its Development and Comments. Derwood: Universal Law Publishing Co Ltd, 2004. P. 344.

<sup>191</sup> Sengupta, Somini. "THE INDIA-PAKISTAN TENSION: THE BACKGROUND; Struggle for Kashmir Is Fueled By Clashing National Narratives ." The New York Times 13 Jan. 2002. 6 Feb. 2009 Available at <[http://query.nytimes.com/gst/fullpage.html?res=9803E5DF1738F930A25752C0A9649C8B63&sec=&spon=&page\\_wanted=1](http://query.nytimes.com/gst/fullpage.html?res=9803E5DF1738F930A25752C0A9649C8B63&sec=&spon=&page_wanted=1)>.

simply to aid the citizens of a state that were being held under duress. India disagreed with this argument. In the British Government's plan for transition stated that the leader of the Princely State would decide the fate of the state, not the popular vote of the people. Additionally, India viewed itself as a secular state; they felt that the Muslims of Kashmir should not feel threatened or worried about being ill-represented. They stated that there would be equal rights among both the Muslims and the Hindus in India.

### The First Indo-Pakistani War

On 22 October 1947, the first war between India and Pakistan commenced when Pakistan invaded the disputed territory of Kashmir.<sup>192</sup> At this point, the status of the region of Kashmir was undetermined by the UN and the international community. The Maharaja of this Princely State needed to still decide on the status of his state, if it would be included in the state of India, the state of Pakistan or be its own independent state. On 26 October 1947, the Maharaja signed the Instrument of Accession with India, which legally transferred power of his state to India. The state of India would not cross the border into Kashmir unless the Maharaja signed the Instrument of Accession. Once this document was signed, changing Kashmir's legal status, Indian troops entered Kashmir, soon gaining control over the southern two-thirds of the state.

On 1 January 1948, India took the issue of Pakistan's presence in Kashmir to the UN. The issue that India was raising to the Security Council was that of the illegal invasion of the Indian-controlled state of Kashmir by Pakistan. India contended that Kashmir's accession was legally binding, bringing the entire region under Indian sovereignty and making any Pakistani use of force without a Security Council mandate a violation of the UN Charter. Through UNSCR 39, the UN established a commission composed of three members of the UN, one

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<sup>192</sup> Also known as the First Kashmir War.

selected by India, one selected by Pakistan and the third agreed upon by both.<sup>193</sup> The UNCIP was tasked with evaluating the situation. UNCIP set up offices in the region and mediated the situation between India and Pakistan with the aim of restoring peace and order.

Two weeks after India's meeting with the Security Council, Pakistan filed a complaint with the Council objecting to the validity of Kashmir's accession to India. Pakistan stated that the Instrument of Accession was done through fraud and violence and that any decision on the legal status of Kashmir needed to include the will of the Kashmiri people, not just the Maharaja. Shortly thereafter, the UN passed UNSCR 47, which stated that the "question of accession of Jammu and Kashmir to India or Pakistan should be decided through the democratic method of free and impartial plebiscite."<sup>194</sup> This Resolution shifted the legal status of Kashmir away from India and established that the Security Council would assume jurisdiction in the decision of this conflict. UNSCR 47 outlines the legal structure, recognized by the UN, regarding the steps for achieving a permanent legal status of the region of Kashmir. UNSCR 47 (nor any other UN resolution) fails to address the issue regarding the validity of the Instrument of Accession, which is a main problem that prolongs the Kashmir dispute. India continues to state the legality of this accession and the fact that it includes Kashmir in its legal boundaries, while Pakistan continues to state that this document was forced and therefore is not a valid or legal agreement for accession. If the UN had addressed this specific issue, it is plausible that the conflict within Kashmir would have ended sooner. Without mention to the validity or lack thereof regarding the Instrument of Accession, the Security Council deemed that the region of Kashmir was still neutral and must be allowed self-determination towards what it wanted as its governing body.

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<sup>193</sup> UNSCR 39 adopted on 20 January 1948. From here after the UN Commission for India and Pakistan will be referred to as UNCIP.

<sup>194</sup> UNSCR 47 adopted on 21 April 1948.

UNSCR 47 went on to demand the withdrawal of both Indian and Pakistani troops from Kashmir and for both states to respect the decision of the plebiscite once it was held. Ignoring the mandate that these states leave the Kashmir region, Pakistan seized a portion of western and northern Kashmir. India exerted control over the remaining portion of Kashmir. The Security Council passed two more resolutions regarding the situation in Kashmir, UNSCR 51 and UNSCR 80. These stated that the UNCIP needed to proceed without delay in carrying out the plebiscite required by UNSCR 47 and to demilitarize the region of Kashmir.<sup>195</sup>

On 27 July 1949, India and Pakistan agreed to a ceasefire through the Karachi Agreement, which would be enforced by observers from the UN. Additionally, both Pakistan and India were still required to hold a free and fair plebiscite in Kashmir. In 1951, India proposed that the elections of the Indian assembly in India-occupied Kashmir should count as a valid plebiscite. In March of 1951, the Security Council denied this proposal through UNSCR 91.<sup>196</sup> UNSCR 91 terminated UNCIP and replaced it with the United Nations Military Observer Group in India and Pakistan.<sup>197</sup> The UN Security Council met again in 1957 to discuss the unresolved situation in Kashmir and passed UNSCR 122.<sup>198</sup> UNSCR 122 again requested that the plebiscite for national determination be held in Kashmir. The UN did not recognize that either of these states had legal control over Kashmir. Thus the use of force in this region without a Security Council resolution was a violation of the UN Charter. The UN had not recognized the Kashmir region as being part of either state; therefore the any use of force in Kashmir would not be a domestic, internal conflict. A member state can only use force without first seeking a Security

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<sup>195</sup> UNSCR 51 adopted on 3 June 1948. UNSCR 80 adopted on 14 March 1950.

<sup>196</sup> UNSCR 91 adopted on 30 March 1951.

<sup>197</sup> From hereafter the United Nations Military Observer Group in India and Pakistan will be referred to as UNMOGIP.

<sup>198</sup> UNSCR 122 was adopted on 24 January 1957.

Council Resolution if it is to address an internal issue or as a response to an armed attack by another state.

Despite the ceasefire, the UN-required plebiscite still was not held. UNSCR 47 called for the demilitarizing of the Kashmir region before the UN-appointed plebiscite would be held. Neither India nor Pakistan completely withdrew their troops from Kashmir. Even after the ceasefire was agreed upon, both states continued to maintain a military presence in the region. India stated that the presence of Pakistani troops precluded any further talks about holding the plebiscite. Pakistan stated that because India still maintained troops in Kashmir that this demonstrated India's own lack of commitment for holding the plebiscite. Over the next few years, the UN continued to work for a negotiation that achieved demilitarization of Kashmir so that the plebiscite could be held, but a permanent resolution could not be reached between India and Pakistan.

### The Second Indo-Pakistani War

The Second Indo-Pakistani War occurred when Pakistan attempted to covertly infiltrate Kashmir through Operation Gibraltar.<sup>199</sup> Operation Gibraltar began in August 1965 when Pakistani troops entered Kashmir with the intent of further broadening the invasion to include Kashmiris. Operation Gibraltar was planned by Pakistani leader, Ayub Khan, who sponsored these troops and Kashmir insurgents to cross the cease-fire line into India. The aim of Operation Gibraltar was to infiltrate across the border between India-held Kashmir and Pakistan-held Kashmir to create an uprising against the Indian government.<sup>200</sup> Pakistan hoped to bring the

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<sup>199</sup> Also known as the Second Kashmir War.

<sup>200</sup> Hoyt, Timothy. "Pakistani Nuclear Doctrine and the Dangers of Strategic Myopia." *Asian Survey* 41.6 (2001): 956-977. P. 961.

Kashmir issue once again to the international level in hopes of finally establishing a solution to the situation in the favor of Pakistan. Instead of acquiring international support, many viewed that the state of Pakistan was violating the 1949 ceasefire. Therefore, the state of Pakistan was using force outside of their state without a Security Council mandate. This thesis previously defined violent non-state actors as individuals who act autonomously of any recognized government and employ violence to achieve political means. Due to Kashmir's undetermined status and lack of true governmental representation, any activities of individuals based in this region that include the calculated use of violence or threat thereof against civilian populations for the purpose of gaining political, economic, or religious footing will be deemed as terrorist activity by an NSA. It is important to note that NSAs within Kashmir have varying agendas, some NSAs demand the independence of Kashmir (Jammu and Kashmir Liberation Front), some want to join Pakistan (Hizb-ul-Mujahideen) and some want to join India (Mukti Bahini). While their agendas may differ, the tactics of using force to intimidate and influence the civilian population to their agendas is the same.

The presence of Pakistani troops and newly recruited Kashmir NSAs was quickly detected by India who launched a military response. This war went on for five weeks. Throughout the course of the war, the UN Security Council met and passed five separate Resolutions concerning the Indo-Pakistani situation. The Security Council demanded a ceasefire between these states and demanded that the governments of these two states withdraw their troops.<sup>201</sup> Eventually both parties met at Tashkent in the Soviet Union to negotiate the peace

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<sup>201</sup> These resolutions were UNSCR 209 adopted on 4 September 1965, UNSCR 210 adopted on 6 September 1965, UNSCR 211 adopted on 20 September 1965, UNSCR 214 adopted on 27 September 1965, and UNSCR 215 adopted on 5 November 1965.

agreement.<sup>202</sup> The negotiations declared that both sides would pull back to pre-war territorial lines and both India and Pakistan agreed to make “all efforts to establish good relations in accordance with the UN Charter and reaffirm their obligation not to have recourse to force and to settle their disputes through peaceful means.”<sup>203</sup> After the end of the Second Indo-Pakistani war, India created the Border Security Force, which was established to monitor the border between India-held Kashmir and Pakistan-held Kashmir.<sup>204</sup> Again, the UN did not recognize that either of these states had legal control over Kashmir, which would make any use of force in this region without a Security Council resolution a violation of the UN Charter. Once the ceasefire was established, it was fairly well respected between these two states until March 1971.

### The Third Indo-Pakistani War

To understand the catalyst for what became the Third Indo-Pakistani War, one must understand the civil war that occurred within Pakistan during the early 1970s. The regions of Pakistan that made up the war were West Pakistan and East Pakistan (or East Bengal). West Pakistan was where most of the political and economic structures of the state were located. East Pakistan did not feel that it was being treated equally, both financially and politically, by West Pakistan. The turning point occurred when the Awami League, composed of citizens from East Pakistan, won a majority of the seats in the 1970 elections, allowing for the League’s leader, Sheikh Mujibur Rahman, to ascend as Prime Minister of Pakistan. West Pakistan, specifically Zulfikar Ali Bhutto, refused to allow Rahman to become Prime Minister and imprisoned him. Political leaders of East Pakistan began to organize and demand East Pakistan’s independence

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<sup>202</sup> Tashkent Declaration was adopted on 10 January 1966. It was signed by the Prime Minister of India (Lal Bahadur Shastri) and Pakistan’s President (Muhammad Ayub Khan).

<sup>203</sup> "Tashkent Declaration." Embassy of India - Washington DC. 10 Jan. 1966. 4 Nov. 2008 *Available at* <[http://www.indianembassy.org/South\\_Asia/Pakistan/Tashkent\\_Declaration\\_January\\_10\\_1966.html](http://www.indianembassy.org/South_Asia/Pakistan/Tashkent_Declaration_January_10_1966.html)>.

<sup>204</sup> Here after the Border Security Force will be referred to as the BSF.

from West Pakistan due to this imbalanced management. East Pakistan demanded that its national interest and political freedoms be respected by West Pakistan or grant them their own independence. The West Pakistani-controlled military of Pakistan responded with force against the civilians, students, and intelligentsia of East Pakistan. Some have stated that the response by the military could be termed as genocide due to the indiscriminate killing and the planned program to eliminate the potential leadership of East Pakistan. West Pakistan also aimed to destroy the economy of East Pakistan by demolishing the trade routes in the region. It is believed that roughly 10 million East Pakistani refugees sought refuge from persecution in eastern India.

The on-going Cold War between the Soviet Union and the United States had a direct impact on what was to become the Third Indo-Pakistani War. By 1971, the U.S. made the state of Pakistan an ally in hopes of avoiding an expansion of the Soviet Union in Southeast Asia. The state of Pakistan entered this agreement in hopes of better defending itself against the threat of India. The U.S. helped leverage Pakistan diplomatically on the international stage and the U.S. also offered Pakistan military assistance. With the election of Indira Gandhi as Prime Minister of India in 1966, India's foreign policy changed because of her open dislike for the U.S. and its "protégé Pakistan".<sup>205</sup> Gandhi publicly denounced the idea of an independent Muslim state in Southeast Asia. At this point, Gandhi chose to align her state with the Soviet Union and sided with East Pakistan in the Pakistani civil war. In addition to supporting India, the Soviet Union also sided with East Pakistan in its civil war.

Gandhi took sides with East Pakistan, stating that she had to address the overwhelming refugee crisis that India was experiencing. India did appeal to the UN to intervene in Pakistan's civil war, stating that the refugees that were moving into India were becoming an

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<sup>205</sup> Chapman, Graham P. The Geopolitics of South Asia: From Early Empires to the Nuclear Age. Hampshire, England: Ashgate Publishing, 2008.

“unmanageable refugee crisis”.<sup>206</sup> When the UN did not get involved in the Pakistani civil war (it was a domestic affair after all), India began financing, aiding, and training a NSA organization based in East Pakistan called the Mukti Bahini. Mukti Bahini was a group of armed organizations that fought against the Pakistani army. The Mukti Bahini would eventually become the Bangladesh Armed Forces. Other states noticed the growing volatility of the Indo-Pakistan situation and questioned if this conflict required UN intervention, now that the situation was not exclusively a domestic issue anymore. Reports of the United Kingdom’s Parliament show that it was discussed if the situation should be raised with the Security Council. It was decided that “it must be raised either by India or by Pakistan; and it does not appear that they propose to do so at present.”<sup>207</sup> On the 20 July, the UN Security General’s released a memorandum to all Security Council members that stated:

'In the light of the information available to me, I have reluctantly come to the conclusion that the time is past when the international community can continue to stand by, watching the situation deteriorate and hoping that relief programmes, humanitarian efforts and good intentions will be enough to turn the tide of human misery and potential disaster. I am deeply concerned about the possible consequences of the present situation, not only in the humanitarian sense, but also as a potential threat to peace and security and for its bearing on the future of the United Nations as an effective instrument for international co-operation and action.'<sup>208</sup>

The UN may have reached what it viewed as its legal involvement in such a complicated situation. The situation that arose in the early 1970’s began with the civil war of Pakistan but escalated to the involvement of India within this civil war. At this point, it appears that the UN

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<sup>206</sup> "The Secretary-General - Developments under U Thant, 1961-1971." Encyclopaedia of the Nations - Information about countries of the world, United Nations, and World Leaders. 28 Nov. 2008. Available at <<http://www.nationsencyclopedia.com/United-Nations/The-Secretary-General-DEVELOPMENTS-UNDER-U-THANT-1961-1971.html>>.

<sup>207</sup> "East Pakistan: India/Pakistan Relations and United Nations." UK Parliament. 10 June 1971. 29 Nov. 2008. Available at <[http://hansard.millbanksystems.com/lords/1971/jun/10/east-pakistan-indiapakistan-relations#column\\_394](http://hansard.millbanksystems.com/lords/1971/jun/10/east-pakistan-indiapakistan-relations#column_394)>.

<sup>208</sup> "The Secretary of State for Foreign and Commonwealth Affairs." UK Parliament. 4 Nov. 1971. 29 Nov. 2008. Available at <[http://hansard.millbanksystems.com/commons/1971/nov/04/foreign-affairs#column\\_410](http://hansard.millbanksystems.com/commons/1971/nov/04/foreign-affairs#column_410)>.

recognized its inability to effectively have a mediatory role in the conflict that involved Pakistan and India, due to the organizations inactivity in the situation. The only involvement that the UN took was launching the United Nations East Pakistan Relief Program. By December 1971, Pakistan launched air attacks against north-western India for its involvement in what it saw was an internal conflict by aiding NSAs who were fighting against the Pakistani military. This use of force by Pakistan was illegal because the state had not acquired the necessary Security Council mandate to use force against India. At this point, the Third Indo-Pakistani War began. The UN Security Council met in December 1971 to discuss the war. On 21 December, they adopted UNSCR 307, which demanded both parties to respect the cease-fire that had been established at the end of the Second Indo-Pakistani War.<sup>209</sup>

Neither the U.S. nor the Soviet Union became physically involved in this war. The U.S. sent a nuclear aircraft carrier, the Enterprise, to the region, condemned the invasion, and stated that India itself was violating international law. U.S. President Richard Nixon eliminated all ties with Gandhi and her administration, stating that if India further invaded Pakistan, the U.S. would get involved in the conflict.<sup>210</sup> It is believed that this threat motivated Gandhi to sign the Treaty of Friendship and Mutual Cooperation with the Soviet Union.<sup>211</sup> The resulting political and military assistance that India received from the Soviet Union allowed Gandhi to swiftly and brutally invade West Pakistan. West Pakistan was quickly beaten by the overwhelming amount of military force that India was able to employ. They lost a great number of lives, land, and had

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<sup>209</sup> UNSCR 307 adopted on 21 December 1971.

<sup>210</sup> Ziring, Lawrence. "Pakistan and India: Politics, Personalities and Foreign Policy." *Asian Survey* 18.7 (1978): 706-730. *JSTOR*, Virginia Tech. 25 Nov. 2008. Available at <<http://www.jstor.org/stable/2643527>>.

<sup>211</sup> The Indo-Soviet Treaty of Friendship and Mutual Cooperation was signed in August 1971.

to surrender to the Indian army. Additionally, West Pakistan granted East Pakistan, now Bangladesh, its independence.<sup>212</sup>

By 2 July 1972, a ceasefire was reached between these states, when India and Pakistan signed the Simla Accords. The Simla Accords established the line of control between India and Pakistan as a 740 Km long three part section: the Southern Sector, the Central Sector and the Northern Sector.<sup>213</sup> The line runs east to west and then south. The line separates the northern portion of Kashmir into Azad Kashmir, and the southern portion is Indian-controlled Kashmir.<sup>214</sup> While India viewed its side after the Simla Accords as being Indian-controlled, the international community did not recognize this as a permanent solution. India and Pakistan are still expected to allow for an UN-supervised plebiscite to reach a final determination for the Kashmir region. Azad Kashmir is part of Pakistan-administered Kashmir. The constitution of Pakistan does not recognize this region as being part of the state of Pakistan and the citizens within Azad Kashmir have no political representation within Pakistan's parliament. Currently, the legal status of Azad-Kashmir is an autonomous region under Pakistani control. Pakistan states that the region of Azad Kashmir is under the status of "territory in dispute" and is awaiting a plebiscite to determine if the area can accede to Pakistan. The Simla Accords stated that at a latter point, a final settlement of Kashmir must be reached between the two states. The UN views Indian-controlled Kashmir and Azad Kashmir as disputed territories that are awaiting a final decision. This has never occurred. To date, the Simla Accords are generally accepted as the state boundary between Indian and Pakistan, there is no territory in-between this boundary that is completely autonomous of either India or Pakistan. The UN currently uses the Line of Control in its documents as the Kashmir boundary. Yet the UN still requires that a plebiscite must be

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<sup>212</sup> The UN officially recognized Bangladesh as a UN member in 1974.

<sup>213</sup> Hereafter the line of control will be referred to as the LOC.

<sup>214</sup> The literal translation of Azad Kashmir to English is Free Kashmir.

held to determine the final status of Kashmir. Additionally, the UN does not officially endorse the Simla Accords; it is simply recognized as a peace treaty between these two states. Therefore, the UN still had not recognized that either of these states had legal control over Kashmir, which would mean that any use of force in this region could not be considered an internal conflict. In accordance with the UN Charter, any use of force, excluding internal conflicts, without a Security Council mandate is a violation of the UN Charter. The Accords listed that both states agreed to respect the principles and purpose of the UN Charter and to resolve all future disputes by peaceful means. India and Pakistan agreed to “refrain from the threat or use of force against the territorial integrity or political independence of each other.”<sup>215</sup> This means that this is the current respected sovereign boundary between these two states and therefore if force is used across this boundary without a Security Council mandate, then this would still be a violation of the UN Charter.

After the Simla Accords, the states of India and Pakistan refrained from any overtly violent actions against one another but the internal political nature of both states began to alter. Regarding foreign policy, the Prime Minister of Pakistan, Zulfikar Ali Bhutto, aligned the state of Pakistan with other Muslim states. This occurred mainly due to the limited involvement from the U.S. after the invasion by India in the Third Indo-Pakistani war. Bhutto was upset by the lack of support his state was given and therefore began to align his state with other Muslim states. This was done with the focus of combating the industrial states that he felt were exploiting third world states during the Cold War. While Pakistan began to align itself as a counter to developed states, India focused on developing itself so that it could be considered a player in major world decisions. In 1972, Prime Minister Gandhi, authorized Indian scientists to

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<sup>215</sup> "Kashmir: Legal Documents." Kashmir Information Network. 23 Nov. 2008. Available at <<http://www.kashmir-information.com/LegalDocs/SimlaAgreement.html>>.

work on developing a nuclear device. On 18 May 1972, India held its first nuclear test. This was the first nuclear test by a state that was not a member of the UN Security Council.

Throughout the rest of the 1970s, no major violations of the LOC occurred between India and Pakistan. This relationship changed irrevocably when the Soviets invaded Afghanistan and the subsequent involvement by Pakistan.

### Impact of the Soviet Invasion of Afghanistan

The 1979 Soviet invasion of Afghanistan had a direct impact upon the situation between Pakistan and India. The U.S. government funneled arms into Afghanistan to aid insurgents in their battle against the Soviets. By 1980, one path that this aid went through was the Pakistani Inter-Services Intelligence agency.<sup>216</sup> Pakistan saw the need to be involved in the Afghan crisis because it desired access to oil and other natural resources via Afghanistan and to obtain a strategic alliance against the threat of India. The Pakistani ISI selected who would receive the U.S. supplied arms and training. Between 1983-97, the ISI trained and armed 83,000 mujahedeens fighting in Afghanistan.<sup>217</sup> In addition to funneling arms into Afghanistan, the ISI siphoned off some of the arms for domestic use. The ISI went on to use the resources that it had obtained during the Afghan war to aid the NSAs in the volatile region of Kashmir. Since 1989, NSAs based in Indian-controlled Kashmir have gone into Azad Kashmir and Pakistan to receiving military training.<sup>218</sup> According to a report by the Joint Intelligence Committee of India in 1995, the ISI spent about Rs 2.4 crore per month (roughly \$600,000 dollars) to sponsor

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<sup>216</sup> Here after the Pakistani Inter-Services Intelligence agency will be known as the ISI.

<sup>217</sup> Pike, John. "Directorate for Inter-Services Intelligence [ISI] - Pakistan Intelligence Agencies." Federation of American Scientists. 25 July 2002. 8 Feb. 2009 <<http://www.fas.org/irp/world/pakistan/isi/>>.

<sup>218</sup> Tremblay, Reeta Chowdhari. "Nation, Identity, and the Intervening Role of the State: A Study of the Secessionist Movement in Kashmir." Pacific Affairs 69.4 (1997): 471-497. JSTOR. Virginia Tech. 7 Feb. 2009. P. 474.

activities in Kashmir.<sup>219</sup> All NSAs in the region reportedly received arms and training from Pakistan, but the pro-Pakistani groups received the most funding from the ISI. While the state of Pakistan denies giving any funding to Kashmir NSAs, the government states that they do provide moral, political and diplomatic support to these organizations. The U.S. State Department issued a report in 1994 that showed there was “credible evidence of official Pakistani support to Kashmir militants.”<sup>220</sup> By May 1996, at least six major NSA organizations operated in Indian-controlled Kashmir, which were believed to include 5,000 and 10,000 armed men.<sup>221</sup> The oldest and most widely known militant organization, the Jammu and Kashmir Liberation Front, was the most active NSA in Indian-controlled Kashmir. The Jammu and Kashmir Liberation Front demands unification of both Indian-controlled Kashmir and Azad Kashmir into an independent state. The organization is different than other NSAs in the region because it considers itself a secular organization. The largest and most active of the pro-Pakistani groups was the Hezb-ul-Mujahedin. The other major groups were Harakat-ul Ansar, Al Umar, Al Barq, Jaish-e-Mohammad, and Lashkar-e Toiba. Many of these groups were made up largely of Pakistani’s who were trained and fought in Afghanistan. There is an umbrella organization called the Kul-Jammat-e-Hurriyat-e-Kashmir (All Kashmir Freedom Front) which is made up of many of the Islamic, pro-Pakistan NSAs. The stated goal of this organization is to have UNSCR 47 implemented and have the future of Kashmir be determined by a UN plebiscite. This organization has stated that it will respect whatever outcome the plebiscite has, if it is that Kashmir becomes an independent state or that the region becomes part of Pakistan and India, separately.

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<sup>219</sup> Pike, John.

<sup>220</sup> United States Department of State. Patterns of Global Terrorism, 1994. Washington, D.C.: Department of State Publication, 1995. P.4.

<sup>221</sup> Pike, John.

Even after the Soviet invasion of Afghanistan ended, the U.S., Saudi Arabia and other states continued to funnel arms and finances to the ISI because of their desire to continue having the ISI intervene in the rebuilding of Afghanistan. These states believed that if they continued to support Pakistan and the ISI, then they would be able to control the outcome of the state of Afghanistan. In 1994, the Pakistani government backed the Taliban, an Afghan organization promising to bring order to the chaotic state. As detailed in the previous case study, with the rise of the Taliban in Afghanistan, Afghanistan became a home base of operations for a growing list of Islamic terrorist organizations, particularly Osama bin Laden and his al-Qaeda terrorist network. The use of terrorism as a tactic only continued to spread and intensify throughout the region. The following section will examine this spread of terrorism by violent NSAs, specifically those that were aiming at complete Indian withdrawal from Indian-controlled Kashmir.

### Kashmir

The legal status of Kashmir continues to be disputed, despite the signing of the Simla Accords. The Indian-controlled section of Kashmir is considered an integral part of the state and is integrated into the national government. The region maintains a state legislature, state government and a governor, yet the Constitution of India grants Kashmir special autonomous status as a temporary provision. This provision states that the Indian Parliament needs Kashmir's Government's consensus for applying all laws aside from Defense, Foreign Affairs and Communications. Azad Kashmir is referred to as being held "in trust" by the Pakistani government, stating that until the plebiscite is held then the region will remain autonomous. Azad Kashmir does not have any government representation to the Pakistani government. Additionally, the UN still considers Kashmir a disputed territory. The UN does not officially

recognize the Kashmir region being controlled by either India or Pakistan and states it is still waiting to hold the plebiscite to determine the final legal status of the region. Internationally, most states believe that the future status of Kashmir must be determined by the will of the people of this territory through an impartial plebiscite under the supervision and control of the UN. States that publically support this process are the United States, the United Kingdom, Canada, Belgium, France, China, and Columbia.

Many Kashmiris favor a third option, instead of inclusion in India or Pakistan, they desire their own independence. In 1989, India held what it called open elections in Indian-controlled Kashmir. India claimed that the results of these elections show that the citizens of Kashmir elected to be part of India. It turned out that only a fraction of the Kashmir population participated in this election, leading the UN to reject India's claim that they had held free and open elections. On 19 January 1990, the Indian government acted upon the results of the 'election' and abolished the state legislature, government and governor of the Kashmir region and forced the region exclusively under federal rule. This only further ignited the separatist movement within Kashmir.<sup>222</sup>

After the elections organized by India, the Indian-controlled Kashmir region began to see a rise in violent attacks by Kashmir NSAs against both domestic and Indian targets through kidnappings, bombings and hijackings. Numerous frustrated citizens in Indian-controlled Kashmir were drawn into separatist movements, some of which utilized terrorism as a tactic. Organizations, such as the Jammu and Kashmir Liberation Movement and Hizb-ul-Mujahiden organized, trained and armed these individuals (See Appendix C for a detailed list of Pakistani and Kashmiri NSAs that have arisen since 1990). Cross-border attacks between India and

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<sup>222</sup> Indian-controlled Kashmir citizens again have representation in the India government. Currently, Indian-controlled Kashmir has a multi-party democratic system of governance and they hold seats at the National Congress.

Pakistan increased, in addition to fighting between Indian troops and Indian-controlled Kashmir NSAs. Many of these attacks were believed to be carried out by militants from the Afghan war that had returned home to Pakistan and Indian-controlled Kashmir and were now taking up arms against India's control over Indian-controlled Kashmir. These NSAs were trained, armed and had the desire to gain independence for their own state. The ISI continued to provide financial support and arms for these NSAs. Pakistan justified its support by claiming that these NSAs were not terrorists, instead they were freedom fighters waging jihad against Indian aggression.<sup>223</sup>

Numerous of these NSAs throughout both sections of Kashmir viewed themselves as freedom fighters, yet the state of India grouped together any independence movement within Indian-controlled Kashmir as the work of terrorists. India has failed to comply with its promise of holding an UN-controlled plebiscite to determine the status of Indian-controlled Kashmir. India fails to allow for the citizens Indian-controlled Kashmir to exercise their right for self-determination. In response to the behavior of these NSAs, the state of India created a special operations force called the Rashtriya Rifles to address the counterinsurgency within Indian-controlled Kashmir. Additionally, the Border Security Force was modified from a border patrol unit into a counterinsurgency force.<sup>224</sup> While the actions of violent NSAs in the Indian-controlled Kashmir region intensified, the behavior of Indian troops deteriorated. Pakistani President, Musharraf, stated that the behavior of India since the 1989 elections included tactics of state-sponsored terrorism aimed at Kashmiris.<sup>225</sup> Musharraf statement shows Pakistan's anger at India for getting involved in a region that is not recognized as legally a part of India. India

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<sup>223</sup> Ahmed, Samina . "The United States and Terrorism in Southwest Asia: September 11 and Beyond." *International Security* 26.3 (2002): 79-93. JSTOR. Virginia Tech. 4 Dec. 2008. Available at <<http://www.jstor.org/stable/3092090>>.

<sup>224</sup> Hereafter the Border Security Force will be referred to as the BSF.

<sup>225</sup> Ranjan, Roy. "Musharraf says India is 'holding peace hostage'." *The Independent News*. 13 Sep. 2002. 15 Nov. 2008 Available at <<http://www.independent.co.uk/news/world/asia/musharraf-says-india-is-holding-peace-hostage-642637.html>>.

promised to hold an UN-supervised plebiscite, but has failed to do so. Any military involvement in either section of Kashmir by India is viewed by Pakistan as state-sponsored terrorism against the people of this disputed territory.

As outlined in Chapter 2, International Humanitarian Law was adopted with the central purpose to “limit and prevent human suffering in times of armed conflicts.”<sup>226</sup> Additionally, IHL stipulates that armies must refrain from directly attacking civilians and other ‘protected persons’ and cannot deprive civilians of aid and relief. UN GA Resolution 217A adopted this definition of IHL on 10 December 1948. This is the official definition proclaimed by the UN as the Universal Declaration of Human Rights and all members of the UN are expected to follow this declaration. Any state that violates this resolution can be brought before the International Court of Justice at The Hague.

In January 1993, the BSF set fire to the town of Sopore in Indian-controlled Kashmir, killing 55 unarmed civilians and burning down more than 200 shops and homes as retaliation after Indian-controlled Kashmir NSAs attacked the BSF.<sup>227</sup> This became later known as the Sopore Massacre. In February of 1993, the Physicians for Human Rights issued a report based on facts from a recent mission to Kashmir.<sup>228</sup> This report documented systematic human rights violations by Indian Security Forces, including torture and the deliberate interference in the care of the sick and wounded. Additionally, the report showed cases where Indian Security Forces had raided hospitals, threatened, beat and detained doctors and other medical staff.<sup>229</sup> In the spring of 1993, the BSF was responsible for burning down the majority of Indian-controlled

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<sup>226</sup> Definition by the International Committee of the Red Cross regarding International Humanitarian Law, *available at* <[http://www.icrc.org/web/eng/siteeng0.nsf/iwpList2/Humanitarian\\_law?OpenDocument](http://www.icrc.org/web/eng/siteeng0.nsf/iwpList2/Humanitarian_law?OpenDocument)>.

<sup>227</sup> "Blood Tide Rising." *TIME.com*. 18 Jan. 1993. 4 Dec. 2008 *Available at* <<http://www.time.com/time/magazine/article/0,9171,977469,00.html>>.

<sup>228</sup> Hereafter Physicians for Human Rights will be referred to as PHR.

<sup>229</sup> Raymond, Nathaniel. "The Crackdown in Kashmir - Torture of Detainees and Assaults on the Medical Community." *Physicians for Human Rights*. 28 Feb. 1993. 27 Nov. 2008. *Available at* <<http://physiciansforhumanrights.org/library/news-1993-02-28.html>>.

Kashmir's capital, Srinagar. At least 125 people were killed by the fires. In June, PHR issued a report regarding the human rights violations by Indian troops, specifically those based within Indian-controlled Kashmir. The report outlined human rights abuses, particularly custodial deaths, reprisal killings, rape, torture and assaults on the medical community by Indian paramilitary and military forces during the twelve month period ending in June 1993.<sup>230</sup> In practice any young Muslim man living in a village, rural area or part of town noted for activities of any of the pro-independence or pro-Pakistan groups could become a suspect and a target for the large-scale and frequently brutal search operations described in Indian-controlled Kashmir as "crackdowns."<sup>231</sup>

The Indian government addressed the growing concern over human rights abuses by designating a National Human Rights Commission on 12 October 1993. The aims of this commission were to investigate these human rights claims and enforce those principles set forth under the United Nations Human Rights Commission Resolutions of 1992 and 1993.<sup>232</sup> Yet between the years of 1990-1997, only ten members of any counterinsurgency force were tried for these human rights violations.<sup>233</sup> The Indian government stated that its policy in Indian-controlled Kashmir was one of openness and transparency. However, despite multiple requests by UN experts on torture to investigate these claims, India consistently refused to cooperate or grant these experts access. The human rights violations by the Indian Security Force only further motivated the NSAs in Indian-controlled Kashmir to fight for their states independence.

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<sup>230</sup> Raymond, Nathaniel. "Human Rights Crisis in Kashmir - A Pattern of Impunity." Physicians for Human Rights. March 1993. 28 Nov. 2008 Available at <<http://physiciansforhumanrights.org/library/report-1993-kashmirimpunity.html>>.

<sup>231</sup> Id.

<sup>232</sup> "National Human Rights Commission, New Delhi, India." National Human Rights Commission. 20 Nov. 2008 Available at <<http://nhrc.nic.in/>>.

<sup>233</sup> "Border Security Forces - India." GlobalSecurity.org - Reliable Security Information. 30 Nov. 2008 Available at <<http://www.globalsecurity.org/military/world/india/bsf.htm>>.

Additionally, this only strengthened Pakistan's claim that it supports these organization because their fundamental rights for equality and self-determination are being suppressed by India.

In early 1999, armed men crossed the LOC and obtained control of unmanned offices and bases in the Kargil district, which is part of Indian-controlled Kashmir. The state of Pakistan states that these were Azad Kashmir freedom fighters and militant Islamic NSAs and not Pakistani troops, yet the international community rejects these claims stating that this invasion included regular Pakistani troops.<sup>234</sup> According to the article in the *RUSI Journal*, which is funded by the British government, the planning for this invasion by the Pakistani military began in last 1998, if not earlier.<sup>235</sup> It is believed that the intruders consisted of Pakistani-backed NSAs, the 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, and 12<sup>th</sup> battalions of the Pakistani Army's Northern Light Infantry, and members of the Pakistani Special Services Group.<sup>236</sup> This invasion continued to spread into the state of India, a direct violation of the UN Charter by the state of Pakistan for carrying out an act of aggression against India.<sup>237</sup> Indian troops did not discover this operation until early May 1999. India responded with Operation Vijay, the mobilization of 30,000 troops to Indian-controlled Kashmir. This would become loosely known as the Fourth Indo-Pakistan War.<sup>238</sup> Battles ensued between the Pakistani troops/Kashmir NSAs and Indian troops. Pakistan eventually withdrew and India reestablishing its boundaries to the LOC established by the Tashkent Declaration and the Simla Accords.

The Pakistani government originally claimed that these attacks were carried out by Kashmir-based NSAs without any Pakistani aid. Yet the international community deemed that

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<sup>234</sup> Rizvi, Hasan. "Pakistan in 1999: Back to Square One." *Asian Survey* 40.1 (2000): 208-218. P. 218.

<sup>235</sup> Qadir, Shaukat. "An Analysis of the Kargil Conflict 1999." *RUSI Journal*. 8 Feb. 2009 <<http://www.ccc.nps.navy.mil/research/kargil/JA00199.pdf>>. P. 2.

<sup>236</sup> *War in Kargil*. Monterey: Center for Contemporary Conflict, 2001. P. 2.

<sup>237</sup> *Charter of the United Nations*: Article 1:1. New York City: United Nations, 1945.

<sup>238</sup> The Fourth Indo-Pakistani War is also known as the Kargil War.

the Pakistani army was involved in the Kargil conflict, especially due to the level of training and supplies these individuals required to survive in very extreme and harsh weather conditions.<sup>239</sup> Eventually President (and head of the Pakistani Army), Musharraf, admitted to Pakistan's involvement in the illegal occupation across the LOC. This operation consisted of both Pakistani forces and Kashmir NSAs.<sup>240</sup> Pakistan deliberately violated the UN requirements regarding the use of force when it obfuscating its servicemen's identities and employed violent NSAs to attack a sovereign state. After Pakistan's defeat, there was a successful coup in Pakistan by Musharraf to overthrow then Prime Minister Nawaz Sharif. After the coup, the state of Pakistan experienced further economic failure and political distress. There were internal disputes between political figures, with many no longer supporting Musharraf and stating that the Kashmir invasion was a "waste of time" and that Musharraf's actions were "disastrous".<sup>241</sup>

With the disintegrating political and economic situation within Pakistan, the societal structure of the state began to fail. In parts of Pakistan, Islamic extremists were working to overtake the local governments by vowing to bring about order to the state similarly to how the Taliban obtained power in Afghanistan.<sup>242</sup> It is believed that between 1994 and 1999, an estimated 80,000 to 100,000 Pakistanis trained with the Taliban.<sup>243</sup>

The linkage between Pakistan and Afghanistan is irrefutable and permanent. They share borders and ethnicities. Pakistanis fought alongside Afghans during the Soviet invasion. Pakistan gave support to the Taliban when it was working to gain control over the state of

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<sup>239</sup> Acosta, Marcus. "High Altitude Warfare: The Kargil Conflict and the Future." Department of National Security Affairs, June 2003. P. 47.

<sup>240</sup> This operation was titled Operation Badr by the Pakistani ISI.

<sup>241</sup> "Select Media Reports from Urdu Media in Pakistan." Pakistan Media Watch 5 Aug. 2004. pg 3. 25 Nov. 2008 Available at <<http://www.ipcs.org/PakMedia05-UAug04.pdf>>.

<sup>242</sup> Rizvi, Hasan. "Pakistan in 1999: Back to Square One." Asian Survey 40.1 (2000): 209.

<sup>243</sup> Rashid, Ahmed. "The Taliban: Exporting Extremism." Embassy of India - Washington DC. November/December 1999. 9 Dec. 2008 Available at <[http://www.indianembassy.org/policy/Terrorism/think\\_tank/taliban\\_extremism\\_fa\\_nov\\_99.htm](http://www.indianembassy.org/policy/Terrorism/think_tank/taliban_extremism_fa_nov_99.htm)>.

Afghanistan. Pakistani offered the Taliban military, logistical and economic support.<sup>244</sup> At the end of the century, the state of Pakistan was in dire straits economically, politically and socially. The government of Pakistan maintained its support for the Taliban and Afghanistan during this time because it viewed this state as a much needed ally. Pakistan was one of only three states that publicly recognized the Taliban as the official government of Afghanistan. The state of Pakistan and its subsequent connections with the Taliban were coming under scrutiny because of the terrorist attacks carried out by NSAs linked to Afghanistan, specifically the bombings of the U.S. embassies in Tanzania and Kenya in 1998. In 1999, the UN passed UNSCR 1267 against Afghanistan due to the refusal of the Taliban to extradite terrorist suspect, Osama bin Laden.<sup>245</sup> This resolution stated that no person or state could give funds that benefited the Taliban, which the state of Pakistan was publically giving economic support.<sup>246</sup> After these sanctions were passed, the U.S. government pressured Pakistan to withdraw its support for the Taliban. Despite this, violent acts of terrorism continued to spread throughout the state of Pakistan. In addition to Pakistan's support for the Taliban and al-Qaeda, NSAs based in Indian-controlled Kashmir began to increase their battle for independence, with the support of Pakistan.

### Kashmir NSAs

The intensity and occurrence of attacks carried out by NSAs in Indian-controlled Kashmir began to garner increased international attention in the mid-1990s. This led to much debate between UN member states regarding if the UN should place sanctions upon Pakistan due to what was believed to be a growing terrorist problem within the state. There was hard evidence

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<sup>244</sup> Ahmed, Samina. "The United States and Terrorism in Southwest Asia: September 11 and Beyond." *International Security* 26.3 (2002): 79-93. *JSTOR*. Virginia Tech. 4 Dec. 2008. <<http://www.jstor.org/stable/3092090>>.

<sup>245</sup> UNSCR 1267 adopted on 15 October 1999.

<sup>246</sup> Ahmed, Samina. "The United States and Terrorism in Southwest Asia: September 11 and Beyond." *International Security* 26.3 (2002): 79-93. *JSTOR*. Virginia Tech. 4 Dec. 2008. <<http://www.jstor.org/stable/3092090>>.

of Pakistan supporting terrorists in the Kashmir valley which put pressure on states like the U.S. to no longer view Pakistan as an ally.<sup>247</sup> By 1997, the U.S. government began listing Indian-controlled Kashmir NSAs as active terrorist organizations to watch. The first organization listed by the U.S. government, Harakat ul-Mujaheddin, eventually became one of the largest and most violent NSA organizations in Kashmir.<sup>248</sup>

On 24 December 1999, members of HuM hijacked Indian Airlines flight IC814 from Nepal en route to Afghanistan. The plane made one stop in India and another in Pakistan before landing in Afghanistan. The plane remained on the tarmac in Afghanistan with 155 passengers detained. After a week, the Indian government agreed to release three prisoners in exchange for the passengers. The three prisoners were Mohammad Masood Azhar (Pakistani), Mushtaq Ahmed Zargar (Indian), and Ahmed Omar Sayed Sheikh (Pakistani). These prisoners were all well known members of Indian-controlled Kashmir NSAs organizations. Azhar was a leader of HuM, Zargar was a leader of Al-Umar Mujahideen and Sheikh was a member of HuM. Upon release, Mohammad Masood defected from HuM and became the leader of Jaish-e-Muhammad.<sup>249</sup> After Masood became the leader of JeM, the organization began to receiving funding from the Taliban and al-Qaeda's Osama bin Laden.<sup>250</sup> If the Indian government had not released these prisoners, it is unclear if these organizations would have had the leadership to be able to organize and garner funding as they have over the past decade

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<sup>247</sup> International Terrorism: The Karachi Assassinations. Daily Digest. U.S. Information Agency. 16 March 1995. Washington, DC.

<sup>248</sup> The names Harakat ul-Mujaheddin and Harakat ul-Ansar are synonymous for one another. Hereafter Harakat ul-Mujaheddin and Harakat ul-Ansar will be referred to as HuM. Harakat ul-Mujaheddin stands for Islamic Freedom Fighters' Group.

<sup>249</sup> Here after Jaish-e-Muhammad will be referred to as JeM. Jaish-e-Muhammad stands for Army of Muhammad.

<sup>250</sup> "Jaish-e-Mohammad Mujahideen E-Tanzeem." South Asia Terrorism Portal. 8 December. 2008. Available at <[http://www.satp.org/satporgtp/countries/india/states/jandk/terrorist\\_outfits/jaish\\_e\\_mohammad\\_mujahideen\\_e\\_tanzeem.htm](http://www.satp.org/satporgtp/countries/india/states/jandk/terrorist_outfits/jaish_e_mohammad_mujahideen_e_tanzeem.htm)>.

On 12 September 2001, shortly after the attacks on the U.S., Pakistan released the following statement, “The people of Pakistan are deeply shocked and outraged at the dreadful terrorist attacks in New York and Washington, which have resulted in unprecedented loss of thousands of innocent lives.”<sup>251</sup> India’s Prime Minister, Atal Behari Vajpayee, released a statement in which he expressed “heartfelt sympathies to the families of those who have been killed.”<sup>252</sup> India further responded to the September 11<sup>th</sup> attacks stating that their “fight against terrorism did not start on September 11<sup>th</sup>. We have been fighting this battle alone for years now. Pakistan has spawned, encouraged and sustained terrorist activities in Kashmir. India is a victim of terror and has a right to use military force to protect itself.”<sup>253</sup> This is India’s justification for using force against NSAs located in Indian-controlled Kashmir because the UN is not aptly handling the terrorist situation located in the region. Similar to other case studies in this thesis, UN member states are electing to respond to aggression by NSAs in terms that are not in accordance with the United Nations’ Charter because the UN Charter fails to establish an effective method for states to respond to violence that originates from a non-state source.

With the September 11<sup>th</sup>, 2001 attacks against the United States, governments and organizations worldwide demanding that the people and states connected to the Taliban and al-Qaeda be brought to justice. Shortly there after, Musharraf aligned himself with the U.S.’s War on Terrorism in hopes of securing his status as President of Pakistan during the chaotic time. He also offered U.S. logistical support, intelligence sharing, and access to airspace and military bases for operations in Afghanistan, in exchange for financial incentives. This helped build

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<sup>251</sup> "Statement by the President of Pakistan; September 12, 2001." Yale Law School: The Avalon Project. 12 September 2001. 4 Dec. 2008 *Available at* <[http://avalon.law.yale.edu/sept11/pakistan\\_001.asp](http://avalon.law.yale.edu/sept11/pakistan_001.asp)>.

<sup>252</sup> "Prime Minister's address to the nation on terrorist attacks on the United States - September 14, 2001." Embassy of India. 12 Sep. 2001. 4 Dec. 2008. *Available at* <[http://www.indianembassy.org/special/cabinet/Primeminister/pm\\_september\\_14\\_2001.htm](http://www.indianembassy.org/special/cabinet/Primeminister/pm_september_14_2001.htm)>.

<sup>253</sup> Ahmed, Samina. "The United States and Terrorism in Southwest Asia: September 11 and Beyond." International Security 26.3 (2002): 79-93. JSTOR. Virginia Tech. 4 Dec. 2008. <<http://www.jstor.org/stable/3092090>>.

diplomatic relations between Pakistan and the U.S. and other Western states. The U.S. gave Pakistan more than one billion U.S. dollars for their support and also eased their sanctions against Pakistan.<sup>254</sup> The U.S. also offered preferential trading terms for Pakistani products. Japan lifted sanctions on Pakistan, the United Kingdom agreed to cancel outstanding debt owed by Pakistan and additionally they offered Pakistan £55 million to cancel debt owed to the Asian Development Bank, World Bank and the International Monetary Fund.<sup>255</sup> While Pakistan did withdraw its support for the Taliban, the state shifted funding instead to NSAs based within Indian-controlled Kashmir.<sup>256</sup> This allowed for the violent tactics by Indian-controlled Kashmir NSAs to grow in severity and frequency.

On 1 October 2001, members of JeM detonated a car bomb outside the Jammu and Kashmir State Legislative Assembly in Srinagar, Indian-controlled Kashmir. Thirty-eight people were killed. The Indian Exterior Minister replied to these attacks by stating “India cannot accept such manifestations of hate and terror from across its borders, there is a limit to India's patience.”<sup>257</sup> UN Secretary General, Kofi Annan quickly released a statement “utterly condemning Monday's terrorist suicide bombing in Srinagar in the Indian-controlled part of Kashmir.”<sup>258</sup> By mid-October, the Indian military began carrying out artillery fire along the LOC against Pakistan, without a UN mandate. India did not go to the UN Security Council regarding its planned use of force against Pakistan. On 13 December 2001, members of LeT

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<sup>254</sup> Sanctions against Pakistan were initially placed in 1990 because the U.S. government believed that Islamabad had a nuclear bomb. These sanctions eliminated all humanitarian and military aid from the U.S. to the Pakistani government. Additionally, economic sanctions were placed against Pakistan and India in June 1998 after both states conducted nuclear test.

<sup>255</sup> “£19m of Pakistan Debt Cancelled.” Department for International Development 16 Sep. 2004. 7 Feb. 2009 <<http://www.dfid.gov.uk/news/files/pressreleases/pr-pakistandebtl6sep04.asp>>.

<sup>256</sup> “Kashmir Militant Extremists - Council on Foreign Relations.” Council on Foreign Relations. 14 Sep. 2008. 28 Nov. 2008 Available at <<http://www.cfr.org/publication/9135/#3>>.

<sup>257</sup> “CNN.com - Bombing at Kashmir assembly kills at least 29 - October 1, 2001.” CNN.com. 1 Oct. 2001. 22 Nov. 2008 Available at <<http://premium.edition.cnn.com/2001/WORLD/asiapcf/south/10/01/india.kashmir/index.html>>.

<sup>258</sup> “Secretary-General Condemns Terrorist Suicide Bombing in Kashmir.” United Nations Information Service. 2 Oct. 2001. 4 Dec. 2008 Available at <<http://www.unis.unvienna.org/unis/pressrels/2001/sgsm7978.html>>.

attacked the Indian Parliament in New Delhi. This attack occurred when five gunmen entered the Parliament house shortly after a session had adjourned. A total of twelve people were killed, including all of the gunmen. Twelve people were injured. No members of Parliament were hurt. All of the NSAs were Pakistani nationals.

After the attack, Pakistani President Musharraf agreed to withdraw all ISI backing of non-indigenous Islamic NSA groups in Kashmir and publically banned five Pakistani NSAs.<sup>259</sup> The Pakistani government saw a distinct difference between freedom fighters and terrorists. They believed that genuine freedom fighters were national heroes, while terrorists were simply those who were using their land to carryout illegal attacks. Musharraf released the following statement, "Pakistan would not be used for carrying out terrorist or subversive activities inside and outside the country"<sup>260</sup>

After the attacks upon India's parliament, India referred to Pakistan as the "epicenter of terrorism."<sup>261</sup> India located a large percent of its military along the Pakistani border and stated that "now it's time for a decisive fight."<sup>262</sup> Luckily the violence did not escalate and a fifth Indo-Pakistani war did not break out, although attacks by Indian-controlled Kashmir NSAs continued. Additionally, Christian churches, U.S. consulates and non-profit organizations saw a rise in attacks against their buildings and people by Indian-controlled Kashmir NSAs. In early 2002, due to what was assumed to be a link between these Indian-controlled Kashmir NSAs and

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<sup>259</sup> There banned organizations were Tehrik-e-Jafria Pakistan, Sipah-e-Sahaba, Tehrik-e-Nifaz-e-Shariat Mohammadi, Jaish-e-Mohammad (JeM), and Lashkar-e-Taiba (LeT). Lashkar-e-Jhangvi and Sipah-e-Mohammad had already been banned since 14 August 2001.

"President General Pervez Musharraf's Address to the Nation." South Asia Terrorism Portal. 12 Jan. 2002. 4 Dec. 2008. Available at <<http://www.satp.org/satporgtp/countries/pakistan/document/papers/2002Jan12.htm>>.

<sup>260</sup> Talbot, Ian. "Pakistan in 2002: Democracy, Terrorism, and Brinkmanship." *Asian Survey* 43.1 (2003): 199. JSTOR. Virginia Tech. 28 Nov. 2008. Available at <<http://www.jstor.org/stable/3557881>>.

<sup>261</sup> Chellaney, Brahma. "Fighting Terrorism in Southern Asia: The Lessons of History." *International Security* 26.3 (2002): 94-116. JSTOR. Virginia Tech. 28 Nov. 2008. Available at <<http://www.jstor.org/stable/3092091>>.

<sup>262</sup> Vajpayee rules out Kashmir talks." *BBC News* 23 May 2002. 28 Nov. 2008 Available at <[http://news.bbc.co.uk/2/hi/south\\_asia/2003615.stm](http://news.bbc.co.uk/2/hi/south_asia/2003615.stm)>.

Afghani-trained militants, *The Wall Street Journal* reporter Daniel Pearl went to Pakistan to investigate this story. He was kidnapped and nine days later was murdered. One of the released prisoners from the 24 December 1999 airline hijacking, Ahmed Omar Saeed Sheikh, the leader of JeM, was arrested and sentenced to death for Pearl's murder.

Since 2002, attacks by Indian-controlled Kashmir NSAs have only grown. In July 2003, twenty seven people were killed in the Indian-controlled section of Kashmir, Srinagar, after members of JeT threw hand grenades into a public market. On 29 October 2005, two markets were bombed in New Delhi, India, killing 62 people and injuring at least 210. It was determined that members of LeT were responsible for the attack. That same day, the UN Secretary General released a statement condemning the series of attacks in New Delhi.<sup>263</sup> In July 2006, members of LeT bombed seven commuter trains in Mumbai killing nearly 200 people and injuring over 700. The UN released a statement condemning "in the strongest terms the series of bomb attacks that occurred in different parts of India, including Mumbai, on 11 July 2006, causing numerous deaths and injuries, and expresses its deepest sympathy and condolences to the victims of these heinous acts of terrorism and their families, and to the people and the Government of India."<sup>264</sup> Most recently, the November 2008 Mumbai Terrorist Attacks were believed to have been carried out by members of LeT, with aid from the Pakistani ISI. Nearly 200 people were killed and over 300 were injured when members of LeT overtook the city of Mumbai.

With this rise in attacks, India continues to demand that Pakistan withdraw its support for Indian-controlled Kashmir NSAs. Due to the fact that this has not occurred, India continues to maintain a strong military presence in Indian-controlled Kashmir. Clashes persist between the

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<sup>263</sup> "The Secretary-General's Statements." Welcome to the UN. 29 Sep. 2005. 2 Dec. 2008 Available at <<http://www.un.org/apps/sg/sgstats.asp?nid=1766>>.

<sup>264</sup> "Security Council Presidential Statement Condemns In Strongest Terms India Bombings, Says Perpetrators of Reprehensible Acts of Terrorism Must Be Brought to Justice." The United Nations. 12 July 2006. 2 Dec. 2008 Available at <<http://www.un.org/News/Press/docs/2006/sc8772.doc.htm>>.

troops and NSAs with tens of thousand killed in the region since 1989.<sup>265</sup> To halt this situation, Pakistan must stop state-sponsored terrorism against India, and India needs to stop state-condoned violence by its troops against Kashmir. The mere presence of Indian troops in Kashmir and their use of force violates the UN Charter as does Pakistan's support of the NSAs who are fighting against the state of India. After extensive international criticism, even the Pakistani President, Asif Ali Zardari, acknowledged the actions of individuals within his state were that of "non-state actors" and that they "now have power to precipitate a war in the region."<sup>266</sup> The UN must become further involved in this situation before it becomes even more volatile.

While terrorist attacks by Indian-controlled Kashmir NSAs continue to grow, the UN still is unable to hold the required plebiscite. Much of this is due to the fact that the region of Kashmir has not been demilitarized, which is a critical first step towards the UN-sponsored plebiscite. Additionally, it seems the neither Pakistan nor India want to hold the plebiscite because of the potential outcome that could be an independent Kashmir state, which neither state supports. Both states view the inclusion of Kashmir in their particular state as being crucial, for India it supports that they are a secular state and for Pakistan it further supports the fact that it is a Muslim state. As previously stated, the UN does not accept that the Simla Accords is the final solution regarding Kashmir and it does not give India or Pakistan any legal control over any part of Kashmir. Pakistan does not agree with the Simla Accords as a final solution either. Currently, India controls two-thirds of Kashmir and three-fourths of its population, which is exactly why Pakistan will not agree to this as being the final agreement. The UN still mandates

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<sup>265</sup> "Indian troops kill seven rebels in Kashmir." Australian Broadcasting Corporation. 27 Sep. 2005. 14 Dec. 2008 Available at <<http://www.abc.net.au/news/stories/2005/09/27/1469742.htm>>.

<sup>266</sup> Raina, J N. "Will UN be effective in tackling Pak sponsored terrorism." Asian Tribune. 12 July 2006. 4 Dec. 2008 Available at <<http://www.asiantribune.com/?q=node/14694>>.

that a plebiscite must be held for the disputed region of Kashmir. Additionally, India requests that the UN defines the behavior of Pakistan as state-sponsored terrorism. To avoid the situation between NSAs in Indian-controlled Kashmir and the state of India from growing to catastrophic levels, India must request that the UN Security Council get involved and pass resolutions against Pakistan. India must work towards obtaining international support against the Pakistani ISI and NSAs located within Pakistan and Kashmir. Additionally, the UN needs to sanction Pakistan and India to finally settle the disputed territory of Kashmir. The 2006 UN Global Counter-Terrorism Strategy stated that the UN will face terrorism head on, that the UN continues to condemn terrorism and that the UN will not tolerate the use of terrorism.<sup>267</sup> If this Global Counter-Terrorism Strategy is true, then the UN needs to become further involved in this situation, more so than simply passing public statements denouncing the use of terrorism. The UN needs to place sanctions against the states of Pakistan and India, and use its leverage to hold free and fair elections within Kashmir. The outcome of this election must include active participation from all people in Kashmir and the UN needs to be present to facilitate any transfer or establishment of power. Lastly, the UN must use diplomatic pressure and targeted sanctions on a post-plebiscite Kashmir if non-democratic practices begin to arise internally or from external states or NSAs.

A solution needs to be reached for the disputed territory of Kashmir. The international community, through the UN, needs to work towards allowing the Kashmiri people to exercise their right of self-determination. The UN needs to work to end the attacks being carried out by Kashmir NSAs against the state of India and also urge the state of India from illegally using force against the Kashmiri people. The UN needs to facilitate open discussions between

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<sup>267</sup> "UN Action to Counter Terrorism." Welcome to the UN. 4 Dec. 2008 *Available at* <http://www.un.org/terrorism/>.

Pakistan and India, while also including representation from Kashmir. The people of Kashmir should have the final say in their future status, which would be determined by the majority of the population through a free and democratic plebiscite under U.N. supervision.

## Chapter 4: Discussion and Recommendations

### Discussion

The case studies presented in this thesis illustrate that the current structure of the UN is incapable of controlling or adequately responding to violent NSAs. As a result, member states are electing to use force against sovereign states that are perceived to be the base of these NSAs without the required approval of the Security Council. It is clear that unless this disconnect is corrected the core principles and purpose of the UN will become obsolete. After completing the research for this thesis, I find that the actions of violent NSAs could cause the UN to lose its functionality as a collective security arrangement. My recommendations are intended for the UN to avoid a similar fate experienced by the League of Nations and the Concert of Europe.

After each of the world wars, the international organizations, which had attempted to prevent these disasters, went under heavy debate. After WWI, the Concert of Europe became the League of Nations, post-WWII, the League of Nations became the United Nations. If the war on terrorism becomes a more multinational, successful battle, possibly the UN will not become the foundation for the world's next arrangement for collective security. The basic reasoning behind all of these organizations is the same, to promote peace and security through an organization that relies upon the balance-of-power to deter aggression and independent motivations of sovereign states. The enemy is different this time, it is not another state which is threatening the collective security arrangement, but instead individuals who act autonomously of any recognized government. Preventing the collapse of this necessary organization is obligatory.

Since the 1960s, the UN has adopted 13 conventions that address the threat of terrorism. Through implementation of sanctions, the world has seen a significant drop in state-sponsored terrorism. The UN has witnessed the greatest results when it establishes clear-cut guidelines

regarding the aims and intentions of these sanctions. As detailed in Chapter two, state-sponsored terrorism has shown a decrease, yet the usage of terrorism by NSAs has failed to attain a comparable outcome. The violent acts of NSAs to date have been an unstoppable threat. The UN, with the aid of its member states and other counter-terrorism organizations, need to reform its current policies to be able to successfully control this threat. As this thesis outlined through the case studies of Israel and Lebanon, the War on Terror after 9/11, and Indian and Pakistan, the UN has shortcomings that are preventing it from accomplishing its overall aim of promoting a secure world. The UN's inability to prevent NSA terrorist activities, which is leading member states to illegally use force, suggests that the UN must alter its procedures in order to retain its credibility as an effective organization to prevent war. These modifications must include a successful mechanism to prevent the use of terrorism by NSAs and also address the unilateral actions member states are taking because of these NSAs.

While the most prominent aim of the UN needs to be preventing the violent tactics of NSAs, the defiance of Article 51 by member states to unilaterally address terrorism also needs to be undertaken. States are justifying their violation of Article 51 because the UN fails to make provisions for the use of force against violence by non-state on state actors. The case studies in this thesis show that the illegal use of force by states is not stopping NSAs from using the tactic of terrorism. These violations of Article 51 are not controlling the terrorist threat presented by NSAs and additionally are causing the demise of the UN being a respected collective security arrangement.

## Recommendations

The tactic of terrorism will only continue unless the governments of the world unite to fight what could be the most devastating enemy ever fought. The necessity for a cohesive strategy to combat terrorism relies heavily upon having a multilateral approach. While it has been stated that “for a collective security system to achieve any degree of success requires the abandonment of self-interest,” history shows that this notion was the catalyst for the demise of the Concert of Europe and League of Nations.<sup>268</sup> Currently, the threat from NSAs is leading states to function unilaterally, when they feel their own best interests are at stake. Guidelines and methods need to be established, respected and trusted to have member states resume utilizing the UN as a collective security arrangement that can effectively address the threat presented by NSAs. The UN must create a method for states to legally and efficiently respond to the terrorist activities of violent NSAs, either after an actual attack or the threat of an attack has occurred by NSAs. The UN must modernize to respond to these NSAs and outline a strict method for states to react to these situations.

### *Updates to the UN Charter*

A statement by then-U.S. President George W. Bush that “all nations should know: America will do what is necessary to ensure our nation’s security,” shows that some member states will not wait for a Security Council mandate regarding the use of force if it is decided that this unilateral action best promotes a state’s security.<sup>269</sup> These statements should serve as a wake-up call to the UN. To avoid becoming irrelevant, the UN needs to work to sustain itself as

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<sup>268</sup> George W. Downs and Keisuke Iida. “Assessing the Theoretical Case against Collective Security,” (Ann Arbor, The University of Michigan Press, 1994) 18.

<sup>269</sup> George W. Bush, State of the Union address in Response to the Terrorist Attacks (29 Jan. 2002) *available at* <<http://www.whitehouse.gov/news/releases/2002/01/20020129-11.html>>.

a collective security body designed to handle the world's threats. The threat of terrorism exists and the threat is grave. More must be done. To avoid the fate of the Concert of Europe and the League of Nations, the UN needs to go under a reconstruction. It can be done. The recreation of collective security organizations, time and time again, shows the need for the UN continues to exist. The UN plays a vital role in a vast range of topics: health, disaster relief, human rights, civil crises, freedoms, economic development, trade, protection of refugees, security, and the list goes on. This organization functions so that the foreign policy goals and objectives of governments worldwide can be implemented. To maintain its stature, the UN needs to update its Charter to reflect a more efficient method for states to respond to non-state aggression. This uncontrolled threat is leading states to violate the UN's requirements regarding the legal use of force, reducing its effectiveness as a collective security organization, to ensure their own security.

### *Aid and Sanctions*

The definition of a NSA is one who acts autonomously of any recognized government, yet states are harboring these individuals and organizations. States need to be held accountable for these activities. There are two methods for the UN to address this, either placing sanctions against a state or by offering finance assistance to a state to aid in their counter-terrorism efforts. An educated decision regarding the most effective step would be made through an open and well-informed discussion between experts and member states of the UN.

Some states are in desperate need of outside aid to help with controlling terrorism. According to the Counter-Terrorism Evaluation Project, difficulties that states are facing include

civil conflict, extreme poverty, social hardship, and lack of coordination.<sup>270</sup> Most of these flaws, due to financial limitations, are preventing numerous member states from effectively carrying out counter-terrorism requirements. The UN needs to create a process so that finances are not the reason that the usage of terrorism by NSAs thrives.

For some states, the issue of preventing terrorism is potentially due to limited finances, but this is not always the situation. Some states are allowing for NSAs to find safe haven in their country, are not motivated to effectively abolish the NSAs, or are reaping some other benefit from harboring these NSAs. As seen by the effective implementation of sanctions by the UN against states that publically sponsored terrorism, the world has seen a significant decrease in state-sponsored terrorism. The UN needs to create a process that encompasses the effectiveness found with state-sponsored terrorist sanctions and enforce them stringently against states that aid, harbor or turn a blind eye to NSAs. These sanctions need to be implemented multilaterally by all member states. States that do not choose to implement these sanctions should be considered as aiding NSAs.

### *Increase the Authority of the Counter-Terrorism Committee*

Through UNSCR 1373, the Security Council established the Counter-Terrorism Committee.<sup>271</sup> The aims of this committee are to monitor the implementation of the counter-terrorism mandate of UNSCR 1373.<sup>272</sup> The CTC receives reports by states regarding their

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<sup>270</sup> David Cortright, Alister Miller, et al. "An Action Agenda for Enhancing the United Nations Program on Counter-Terrorism," (Goshen: Fourth Freedom Forum, September 2004) 8.

<sup>271</sup> Hereafter the Counter-Terrorism Committee will be referred to as the CTC.

<sup>272</sup> United Nations Security Council Resolution 1373 adopted on 28 September 2001. According to the official Mandate of the CTC: Resolution 1373 established the Counter-Terrorism Committee, made up of all 15 members of the Security Council. The CTC monitors the implementation of resolution 1373 by all States and tries to increase the capability of States to fight terrorism. The CTC is an instrument to monitor the implementation of resolution 1373. The CTC is not a sanctions committee and does not have a list of terrorist organizations or individuals. The

progress and from there, the UN reviews, by country, their effectiveness in carrying out these principles and recommends change. Initially, the CTC saw notable involvement from member states, but once the primary shock of the September 11<sup>th</sup> attacks wore off, the contributions to this organization also waned.

This thesis recommends that to strengthen the organizational role of the CTC, the UN needs to restructure this organization as a new international agency to combat terrorism. It should function as its own specialized agency which would allow for greater capacity in achieving its aims of controlling terrorism. The newly organized CTC would function much like the International Atomic Energy Agency, whose basic function is to act as the world's central intergovernmental forum for scientific and technical collaboration in the nuclear field. As proposed by a Swiss-led panel to the UN, "there is a need to deepen interagency cooperation, both at the national and international level... We continue to advocate for the creation of a body that unites all current UN counter-terrorism efforts under one roof, and gives it a clear mandate and direction."<sup>273</sup> The organization would function as a stand-alone entity with adequate access to funds and programs, overseen by the UN, and be sufficiently staffed with knowledgeable individuals. As stated, a major problem currently hampering counter-terrorist activities is that numerous member states simply do not have the finances to effectively control violent NSAs. The CTC needs to have a mechanism in place to aid states that lack the resources to build effective operations against terrorism.

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resolution list suppressing terrorism financing, exchanging of information to prevent terrorist attacks, and denying safe haven to those who finance, plan, support, or commit terrorist acts as its aims.

Available at <<http://www.un.org/Docs/sc/committees/1373/mandate.html>>.

<sup>273</sup> The Associated Press. "Panel advises UN to consider new agency to fight terrorism - International Herald Tribune." International Herald Tribune - World News, Analysis, and Global Opinions. 25 July 2008. 09 Feb. 2009. Available at <<http://www.iht.com/articles/ap/2008/07/25/news/UN-UN-Counterterrorism.php>>.

The CTC would need to unify a strategy between the UN, counter-terrorism organizations, intelligence agencies of governments worldwide, and member states. It must be respected and applied. If all of these groups create and work behind a cohesive strategy, instead of individual unilateral attacks, NSAs will see they are fighting to topple more than an ideology they disagree with, but instead are taking on governments and organizations worldwide. By having this multilateral strategy, the option of terrorism would become less attractive.

### Conclusion

Regarding the issue of national sovereignty, until the threat that is being imposed by NSAs is controlled, states will continue to act unilaterally in an attempt to promote their own security. While these actions are illegal and their effectiveness is debatable, there will continue to be a desire from states to act unilaterally against what they term as rogue regimes or states they feel are aiding terrorism. This unilateral action will cause the demise of the UN. In a statement released by Security-General Kofi Annan, he comprehended the dire straits that the UN is facing. He stated that the UN needs reform which includes:

Overhauling basic management practices and building a more transparent, efficient, and effective United Nations system to revamping our major intergovernmental institutions so that they reflect today's world and advance the priorities set forth in the present report, we must reshape the Organization in ways not previously imagined and with a boldness and speed not previously shown... While purposes should be firm and principles constant, practice and organization need to move with the times. If the United Nations is to be a useful instrument for its Member States and for the world's peoples... it must be fully adapted to the needs and circumstances of the twenty-first century.<sup>274</sup>

The UN currently is facing severe political and organizational challenges. To have a successful future, it must consider recommendations regarding reform. The real challenge is actually

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<sup>274</sup>Kofi Annan. "In Larger Freedom: Towards Security, Development, and Human Rights for All." Report of the Security General of the United Nations for Decision by Heads of State and Government in September 2005. Issued 16 September 2005, (New York City: United Nations Press Centre 2005).

implementing these words. Simply discussing the notion of change without taking the necessary action will only allow for the world to watch the slow demise of this magnificent organization and no end to the tactic of terrorism by NSAs. The UN needs to revamp the implementation of its Charter to pertain to issues of national security imposed by NSAs. The UN must restructure the CTC by taking the current arrangement of this committee and turning it into an independently functioning entity that can combat terrorism. Hopefully these changes will promote the UN as a collective security organization that will produce a partnership between member states, intelligence agencies, and non-government organizations, which can implement a successful multilateral arrangement to stop the usage of terrorism by NSAs.

## **APPENDIX ONE: Current Terrorist Tactics**

The most common types of terrorist attacks are:

### **Bombings**

Bombings are typically the most common method due to explosive devices being inexpensive and relatively easy to make. Improvements in technology have allowed for bombs to be smaller and harder to detect.

### **Bombing--Improvised Explosive Device (IED)**

This is a bomb that is constructed in non-conventional military ways. They are typically improvised with chemicals, pyrotechnics and metals. They are often laid on roadsides so that vehicles drive over them and detonate them.

### **Kidnappings and Hostage-Takings**

Terrorists use kidnapping and hostage-taking typically to create a bargaining position for a particular demand, typically the release of prisoners or for financial gain. Hostage-taking can involve the seizure of a facility or location and the taking of hostages within. Kidnappings and hostage-takings can lead to the death of the hostages if demands are not met.

### **Armed Attacks and Assassinations**

Armed attacks include raids and ambushes. Assassinations are the killing of a selected victim, usually by bombings or small arms.

### **Hijackings and Skyjackings**

Hijacking is the seizure by force of a surface vehicle, its passengers, and/or its cargo. Skyjacking is the taking of an aircraft while in route. This also creates a hostage situation. Skyjacking also provides mobility for the terrorists to relocate the aircraft to an area that is compassionate of the terrorist demands.

### **Other Types of Terrorist Incidents**

The below types of attacks are less common than the above but potentially much more dangerous. These terms are categorized together as weapons of mass destruction or WMDs.

#### **Biological Attacks**

The deliberate release of germs or other biological substances into the environment with the intent to infect or kill large number of individuals.

#### **Chemical Attack**

The deliberate release of toxic gas, liquid or solids that can poison people and the environment with the intent to infect or kill large numbers of individuals.

#### **Nuclear Attack**

Is the deliberate release of a nuclear weapon, which produces a destructive force from nuclear reactions of fusion or fission. As a result, even a nuclear weapon with a small yield is significantly more powerful than the largest conventional explosives, and a single weapon is

capable of destroying an entire city immediately. The long term effects of radiation can lead to significantly more deaths.

### **Radiological Attack**

Typically carried out by the detonation of an explosive device that is filled with spent fuel from atomic power plants or other radioactive waste materials or chemicals. It does not produce a self-sustaining fission reaction and therefore dirty bombs do not possess the destructive power of atomic bombs. It spreads chemicals over the land and creates the effect of Chernobyl.

## APPENDIX TWO: Timeline of Major 20<sup>th</sup> Century-Present Terrorist Attacks

DATE: 1 October 1910

LOCATION: United States

DOMESTIC OR INTERNATIONAL: DOMESTIC

TYPE OF ATTACK: BOMBING<sup>275</sup>

In Los Angeles during a union strike, the *Los Angeles Times* building was destroyed by dynamite. Two brothers and a third individual, all union supporters were behind the attack. Twenty lives were lost and at least twenty were injured.

DATE: 16 September 1920

LOCATION: United States

DOMESTIC OR INTERNATIONAL: PROBABLY DOMESTIC

TYPE OF ATTACK: BOMBING

A horse-drawn carriage stopped in front of the headquarters of J.P. Morgan on Wall Street and exploded, killing 38 and injuring 400. A letter was found stating “Free the political prisoners. Or it will be sure death for all of you. American Anarchist Fighters” No person ever claimed responsibility for the bombing and no charges were ever pressed.

DATE: 16 April 1925

LOCATION: Bulgaria

DOMESTIC OR INTERNATIONAL: DOMESTIC

TYPE OF ATTACK: BOMBING

Members of the military organization of the Bulgarian Communist Party (BCP) set off a bomb in St. Nedelya Church in Sofia. This was during the funeral service for General Konstantin Georgiev, which meant most of the country’s elite were present. 150 people were killed and over 500 people were injured. After the attack, martial law was imposed and approximately 450 people were killed by the state without sentencing.

DATE: 10 October 1933

LOCATION: United States

DOMESTIC OR INTERNATIONAL: UNKNOWN

TYPE OF ATTACK: BOMBING--AVIATION

A Boeing 247-D was in route from Cleveland to Chicago when it was detonated by a nitroglycerin bomb. It killed all ten aboard. No one was ever brought to trial for the attack. This was the first proven case of sabotage in commercial aviation.

DATE: 22 July 1946

LOCATION: Israel

DOMESTIC OR INTERNATIONAL: PALESTINIAN BASED ORGANIZATION

TYPE OF ATTACK: BOMBING

A bomb was detonated in the King David Hotel in Jerusalem. The hotel housed the military command and the police of the British government of Palestine. Ninety-one people were killed and 45 people were injured. The attack was carried out by members of Irgun, a Zionist group.

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<sup>275</sup> Please see Appendix B for explanations of types of terrorist attacks

DATE: 11 April 1955

LOCATION: India

DOMESTIC OR INTERNATIONAL: CHINESE AND U.S. LED ATTACK

TYPE OF ATTACK: BOMBING--AVIATION

The *Kashmir Princess*, a plane owned by Air India, had an explosion onboard while traveling over the Pacific Ocean. The flight was in route from Bombay, India to Jakarta, Indonesia. Sixteen individuals on board were killed, three survived. Those on board consisted of government staff members, a member of the delegation of the Democratic Republic of Vietnam. The bomb was intended to kill Zhou Enlai, the Chinese Premier, who switched planes at the last minute and was not aboard the plane. The Kuomintang of China (Chinese National Party) was blamed for the attack and decades following the attack, former CIA member came forward to claim involvement.

DATE: 5 March 1968

LOCATION: Columbia

DOMESTIC OR INTERNATIONAL: DOMESTIC

TYPE OF ATTACK: HIJACKINGS AND SKYJACKINGS

Three members of the Ejercito de Liberacion Nacional (ELN) hijacked a Colombian Avianca Airlines plane with 28 passengers and three crewmen and ordered it flown to Cuba. The plane, en route from Riohacha to Barranquilla, Colombia, was diverted and forced to fly to Santiago de Cuba. Colombian guerrilla leader Ricardo Lara Parada was reported aboard the plane. Parada was connected with the National Liberation Army, a pro-Castro guerrilla group operating in Colombia. The plane and its passengers were returned to Colombia on March 6.

DATE: 18 March 1968

LOCATION: Israel

DOMESTIC OR INTERNATIONAL: JORDAN BASED ORGANIZATION

TYPE OF ATTACK: BOMBING

A school bus traveling from Tel Aviv to the Negev Desert was blown up when it hit a mine planted by Al Fatah twelve miles north of Elat. Two Israeli adults were killed and twenty-eight children injured in the blast. The Israelis retaliated by attacking the village of Karameh, which was believed to be a major Fatah base in Jordan. One hundred fifty guerrillas were killed another 150 captured by the Israelis, who lost 29 dead and 70 wounded. The Jordanians intervened with tanks, and the Israelis retreated.

DATE: 18 August 1968

LOCATION: Israel

DOMESTIC OR INTERNATIONAL: JORDAN BASED ORGANIZATION

TYPE OF ATTACK: ARMED ATTACK OR ASSASSINATION

Al Fatah exploded three grenades in Jerusalem's Jewish section, injuring eight Israelis and two Americans.

DATE: 28 August 1968

LOCATION: Guatemala

DOMESTIC OR INTERNATIONAL: DOMESTICALLY LOCATED BUT ASSASSINATED  
A FOREIGN NATIONAL

**TYPE OF ATTACK: ARMED ATTACK OR ASSASSINATION**

Members of Fuerzas Armadas Rebeldes (FAR) killed United States ambassador to Guatemala, John Gordon Mein, in downtown Guatemala City as he attempted to avoid being kidnapped by the guerrillas. Mein was the first U.S. ambassador to be assassinated while serving in office. The following day the FAR issued a communiqué stating that they had planned to kidnap Mein and hold him hostage in exchange for the release of Camilo Sanchez, one of the FAR commanders who had been captured earlier by government forces.

DATE: 4 September 1968

LOCATION: Israel

DOMESTIC OR INTERNATIONAL: UNKNOWN

TYPE OF ATTACK: BOMBING

Three bombs exploded in and near the central bus station in Tel Aviv. Four hundred Arabs were arrested for questioning. One Israeli was killed and seventy-one wounded. No group ever claimed responsibility and no one ever was sentenced for the bombing.

DATE: 22 November 1968

LOCATION: JERUSALEM

DOMESTIC OR INTERNATIONAL: JORDIAN BASED ORGANIZATION

TYPE OF ATTACK: BOMBING

A large bomb exploded in Jerusalem's busiest open-air market, killing 12 and wounding 52. Al Fatah claimed responsibility for the attack.

DATE: 26 December 1968

LOCATION: Greece

DOMESTIC OR INTERNATIONAL: PALESTINIAN BASED ORGANIZATION

TYPE OF ATTACK: ARMED ATTACK OR ASSASSINATION

An Israeli passenger was killed and a stewardess was wounded in a gunfire attack on an El Al Israel Airlines plane at the Athens airport. Two Palestinians who were sentenced to 17 and 14 years imprisonment for the Athens incident were freed after the hijacking of a Greek airliner to Cairo on July 22, 1970.

DATE: 18 February 1969

LOCATION: Switzerland

DOMESTIC OR INTERNATIONAL: PALESTINIAN BASED ORGANIZATION

TYPE OF ATTACK: ARMED ATTACK OR ASSASSINATION

An El Al Israel Airlines jet preparing to take off from Zurich to Tel Aviv was machine-gunned by four Arab terrorists who belonged to the PFLP. The pilot was killed. In the exchange of gunfire between the terrorists and an Israeli airline security guard, one attacker was killed and three Israeli crew members and three passengers were wounded. The three terrorists surrendered and were later sentenced to 12 years hard labor.

DATE: 6 March 1969

LOCATION: Israel

DOMESTIC OR INTERNATIONAL: PALESTINIAN BASED ORGANIZATION

TYPE OF ATTACK: BOMBING

Members of the PFLP were responsible for planting a bomb that exploded in a crowded cafeteria of the Hebrew University in Jerusalem, wounding 29 Israeli students.

DATE: 17 June 1969

LOCATION: United States of America

DOMESTIC OR INTERNATIONAL: DOMESTIC

TYPE OF ATTACK: HIJACKINGS AND SKYJACKINGS

Willie Lee Brent, a Black Panther charged by the FBI with participating in a shoot-out with police in San Francisco in 1968, hijacked a TransWorld Airlines flight, carrying 87 persons from Oakland, California, to New York. The plane was diverted to Havana, Cuba. It was the longest U.S. hijacking to date. He was in jail in Cuba for two years.

DATE: 27 November 1969

LOCATION: Greece

DOMESTIC OR INTERNATIONAL: JORDANIAN BASED ORGANIZATION

TYPE OF ATTACK: BOMBINGS

In a hand-grenade attack on the El Al Israel Airlines office in Athens, a Greek child was killed and 13 people were wounded. Two Jordanian terrorists were sentenced to 11-year and 8-year jail terms, but they were freed after the hijacking of an Olympic Airways plane to Cairo on July 22, 1970. Mildos Dergarabedian was arrested in the United States in August 1979, and was deported as a member of an international terrorist group called the Palestinian Popular Struggle Front.

DATE: 10 February 1970

LOCATION: Germany

DOMESTIC OF INTERNATIONAL: PALESTIANIAN BASED ORGANIZATION (PFLP)

TYPE OF ATTACK: BOMBING—AUTOMOBILE

Three members of the Popular Democratic Front for the Liberation of Palestine attacked an El Al bus at the Munich airport. One passenger was killed and 11 were injured. All three terrorist were captured.

DATE: 21 February 1970

LOCATION: Switzerland

DOMESTIC OR INTERNATIONAL: PALESTIANIAN BASED ORGANIZATION

TYPE OF ATTACK: BOMBINGS--AVIATION

A sabotaged Swissair plane en route to Tel Aviv crashed on takeoff, killing all 47 passengers, 15 of whom were Israelis. The PFLP-GC claimed responsibility, and then upon public reaction to the attack, disclaimed it.

DATE: 1 November 1970

LOCATION: Pakistan

DOMESTIC OR INTERNATIONAL: UNKNOWN BUT MAIN SUSPECT WAS FOREIGN

TYPE OF ATTACK: ARMED ATTACK OR ASSASSINATION

The Polish deputy foreign minister was assassinated in Karachi by a Pakistani who drove a truck into a reception line that was greeting Polish officials at the airport. Four persons were killed and 10 injured in the attack. No official organization claimed responsibility for the attack.

DATE: 20 November 1971

LOCATION: Taiwan

DOMESTIC OR INTERNATIONAL: UNKNOWN

TYPE OF ATTACK: BOMBING--AVIATION

A China Airlines plane flying from Taipei to Hong Kong exploded in midair, killing all twenty-five on board. No one claimed responsibility for the attack.

DATE: 26 January 1972

LOCATION: Yugoslavia

DOMESTIC OR INTERNATIONAL: PRO-CROATIAN ORGANIZATION

TYPE OF ATTACK: BOMBING--AVIATION

An explosive device is detonated aboard Yugoslavian Airlines Flight 364. The device was planted by Ustasa agents. The McDonnell Douglas DC-9 airplane is destroyed and 27 of 28 passengers die.

DATE: 30 May 1972

LOCATION: Israel

DOMESTIC OR INTERNATIONAL: JAPANESE AND PALESTINIAN BASED ORGANIZATION

TYPE OF ATTACK: ARMED ATTACK OR ASSASSINATION

Three members of the Japanese Red Army, working on behalf of the Popular Front for the Liberation of Palestine, entered the waiting area at the Tel Aviv's Lod airport. They fired indiscriminately at airport staff and visitors. They killed twenty-four people and injured seventy-eight others.

DATE: 5 September 1972

LOCATION: Germany

DOMESTIC OR INTERNATIONAL: PALESTINIAN BASED ORGANIZATION

TYPE OF ATTACK: KIDNAPPINGS AND HOSTAGE TAKING

The Black September terrorist organization entered the Olympic Village during the Munich Olympic Games. They entered the compound that housed Israeli athletes. During the attack, a coach and one athlete were killed and nine others were taken hostage. Black September demanded the release and safe passage to Egypt of 234 Palestinians and non-Arabs jailed in Israel, along with two German terrorists held by the German penitentiary system. After one day of negotiations, the terrorist demanded transportation to Cairo. The terrorist and their hostages were transported to the airport by bus. An attempt by the German government to overtake the hostages backfired and the remaining nine hostages were killed along with most of the hostages.

DATE: 17 December 1973

LOCATION: Italy

DOMESTIC OR INTERNATIONAL: UNKNOWN BUT PROBABLE PALESTINIAN BASED ORGANIZATION

TYPE OF ATTACK: KIDNAPPING AND HOSTAGE-TAKING AND HIJACKINGS AND SKYJACKINGS

Five terrorist used guns to take over a Pan Am flight headed towards Beirut. Two people were killed by gun shots. The terrorist then detonated grenades aboard the flight, killing 29 people. The terrorist then took five Italian hostages and forced them aboard a Lufthansa plane. An Italian customs agent was killed during this process. Lebanese authorities would not allow the Lufthansa plane to land, at which point it changed routes to Kuwait. The remaining hostages were released and the terrorist were never caught. It was believed that the attack was carried out by the PLO but the PLO renounced the attack.

DATE: 21 September 1976

LOCATION: United States of America

DOMESTIC OR INTERNATIONAL: A CUBAN BASED ORGANIZATION

TYPE OF ATTACK: BOMBING--AUTOMOBILE

The Cuban Nationalist Movement (CNM) assassinated Orlando Letelier, the former Ambassador to the United States from the Republic of Chile. Letelier, along with Ronni Moffitt, were killed in Maryland by the denotation of a bomb within Letelier's car. Seven members of CNM were convicted of varying responsibilities behind this attack by a United States court. The two main individuals who organized this assassination were never extradited from Chile for a trial.

DATE: 6 October 1976

LOCATION: Barbados

DOMESTIC OR INTERNATIONAL: VENEZULANIAN BASED ORGANIZATION AND POSSIBLE THE UNITED STATES GOVERNMENT

TYPE OF ATTACK: BOMBINGS--AVIATION

A Cubana flight scheduled to fly from Barbados to Cuba was brought down by bombs shortly after takeoff. All 73 people on board were killed. Several members from the Cuban government were on the flight. Up to this point in history, this was the deadliest terrorist attack in the Western Hemisphere. Two Venezuelan men were arrested in Trinidad and both confessed. Later, two more individuals were arrested for the attack. The Cuban government has claimed that this bombing is one of numerous that was masterminded by the United States government.

DATE: 23 May 1977

LOCATION: Netherlands

DOMESTIC OR INTERNATIONAL: SOUTH MOLUCCAN (Indonesia) BASED ORGANIZATION

TYPE OF ATTACK: KIDNAPPING AND HOSTAGE-TAKING AND HIJACKINGS AND SKYJACKINGS

Four armed gunmen took 105 children and five teachers hostage at a primary school in Bovensmilde. Also that morning, from the same terrorist organization, nine men hijacked a train. The hostages were taken to demand the Dutch government to grant South-Moluccan its own independent state.

Four days into the situation all the children are released. Twenty days later, after military intervention, the teachers are released.

On the train, there were 50 hostages. On June 11, twenty days into the seize, the military intervened and two hostages and four hijackers were killed.

Four of the terrorist were sentenced to 6-9 years in prison.

DATE: 11 March 1978

LOCATION: Israel

DOMESTIC OR INTERNATIONAL: PALESTIANIAN BASED ORGANIZATION

TYPE OF ATTACK: ARMED ATTACK, HIJACKING AND BOMBING

Twelve members of the terrorist organization Fatah landed north of Tel Aviv by small boats. They killed an American photographer and hijacked a bus. The Israeli army persuaded the bus and an extensive shooting battle occurred between the army and the hijackers. Eventually, the members of Fatah committed suicide by blowing up the bus. Thirty five civilians and six terrorist members were killed and seventy-one wounded.

DATE: 20 November 1979

LOCATION: Saudi Arabia

DOMESTIC OR INTERNATIONAL: ISLAMIC FUNDAMENTALIST

TYPE OF ATTACK: ARMED ATTACK, KIDNAPPINGS AND HOSTAGE-TAKING

The Grand Mosque in Mecca was seized by over 500 armed gunmen early in the morning of November 20<sup>th</sup>. Saudi forces retook the mosque five days later. 158 individuals were killed, 127 Saudi soldiers and the rest were worshippers. In 1980, 63 of the gunmen were beheaded and 107 were imprisoned.

DATE: 30 November 1981

LOCATION: Syria

DOMESTIC OR INTERNATIONAL: LEBANESE BASED ORGANIZATION

TYPE OF ATTACK: BOMBING—AUTOMOBILE

A car bomb detonated on a crowded street in Damascus, Syria. 64 people were killed and 135 were wounded. The Organization for the Liberation of Lebanon from Foreigners claimed responsibility.

DATE: 4 November 1983

LOCATION: Lebanon

DOMESTIC OR INTERNATIONAL: ISLAMIC JIHAD ORGANIZATION

TYPE OF ATTACK: BOMBING—AUTOMOBILE

A car bombing attack near an Israeli military base detonated, killing 39 people.

DATE: 23 November 1985

LOCATION: Greece

DOMESTIC OR INTERNATIONAL: PALESTIAN BASED ORGANIZATION

TYPE OF ATTACK: HIJACKINGS AND SKYJACKINGS

Egypt Air flight 648 was hijacked by three Palestinian men shortly after take-off. The flight was in route from Athens to Cairo. Gunfire was exchanged between the hijackers and a security service agent that was aboard the flight. The agent and a hijacker were killed and the plane's fuselage was punctured. This caused the intended hijackers flight plan to be altered from Libya to Malta. The Maltese government attempted to stop the plane from landing. Initially, 11 passengers were released. After the hijackers started shooting hostages because their demands were not being met, the Maltese government raided the aircraft. A fire broke out and in the end

58 passengers were killed. Only one of the hijackers survived. He was tried in Malta and given a 25-year sentence, of which he served 8 years. Upon release and travel to Nigeria, the U.S. government captured the hijacker and sentenced him to life imprisonment for killing 3 Americans in the Egypt Air hijacking.

DATE: 20 November 1986

LOCATION: Lebanon

DOMESTIC OR INTERNATIONAL: UNKNOWN

TYPE OF ATTACK: BOMBING—AUTOMOBILE

Three members of a U.N. peacekeeping team from Fiji and four civilians were killed when car bombs exploded in the vehicles they were traveling in. No one claimed responsibility for the attacks.

DATE: 29 November 1987

LOCATION: Thailand

DOMESTIC OR INTERNATIONAL: THE NORTH KOREAN GOVERNMENT

TYPE OF ATTACK: BOMBING—AVIATION

Korean Air flight 858 was in route from Abu Dhabi to Bangkok. A bomb exploded while the flight was in mid-air, killing all 115 passengers on board. It was determined that two North Korean operatives had planted the bomb and exited the plane in Abu Dhabi. Both of the operatives took cyanide pills upon detection, one dying immediately and the other survived. The surviving operative confessed and explained that the North Korean government was responsible for the attack.

DATE: 26 February 1993

LOCATION: United States

DOMESTIC OR INTERNATIONAL: AL-QAEDA TERRORIST NETWORK

TYPE OF ATTACK: BOMBING—AVIATION

A car bomb exploded in the underground garage around noon on the afternoon of February 26<sup>th</sup>. Six people were killed and 1042 were injured. Four members of Al-Qaeda were sentenced to life in prison for their roles in the bombing.

DATE: 20 March 1995

LOCATION: Japan

DOMESTIC OR INTERNATIONAL: DOMESTIC—Aum Shinrikyo

TYPE OF ATTACK: CHEMICAL ATTACK—RAIL

Aum Shinrikyo released sarin gas on five separate lines of the Tokyo subway during the morning rush hour. The gas killed twelve people, injured fifty and caused vision problems for at least five thousand people. Twenty members of Aum Shinrikyo were tried for the attacks. The organization still remains on most lists of active terrorist organizations.

DATE: 25 June 1996

LOCATION: Saudi Arabia

DOMESTIC OR INTERNATIONAL: HEZBOLLAH AL-HEJAZ

TYPE OF ATTACK: BOMBING---AVIATION

A fuel truck exploded next to a U.S. air force barrack in Khobar, Saudi Arabia. Twenty people were killed and 372 were injured. Charges were filed against 19 members of Hezbollah for varying roles in the bombing.

DATE: 23 November 1996

LOCATION: Ethiopia

DOMESTIC OR INTERNATIONAL: DOMESTIC

TYPE OF ATTACK: HIJACKINGS AND SKYJACKINGS

Ethiopian Air flight 961 was hijacked by three Ethiopian men while in route from Ethiopia to India. The men were opponents of the Ethiopian government seeking political asylum. They demanded that the plane be flown to Australia. The plane ran out of fuel and the pilot attempted a crash landing near the Comoro Islands. 123 of the 175 on board were killed.

DATE: 17 November 1997

LOCATION: Egypt

DOMESTIC OR INTERNATIONAL: ISLAMIC BASED ORGANIZATION

TYPE OF ATTACK: ARMED ATTACK, KIDNAPPINGS AND HOSTAGE-TAKING

Islamic terrorist from the group Jihad Talaat al-Fath (Holy War of the Vanguard of the Conquest) disguised themselves like security officers at Deir el-Bahri. Deir el-Bahri, located near Luxor, is one of Egypt's top tourist attractions. The attraction includes the temple of 18<sup>th</sup>-dynasty pharaoh, Hatshepsut. After tourists had descended into the temple, the terrorist opened fire upon them. 58 tourists were killed. After the massacre, the terrorist hijacked a bus which was stopped at an Egyptian checkpoint. A gun battle ensued and the terrorist elected to commit suicide.

DATE: 7 August 1998

LOCATION: Kenya & Tanzania

DOMESTIC OR INTERNATIONAL: AL QAEDA TERRORIST NETWORK

TYPE OF ATTACK: BOMBINGS—AUTOMOTIVE

Two simultaneous car bombs went off near the U.S. Embassy's in Dar es Salaam, Tanzania and Nairobi, Kenya. In Nairobi, 212 people were killed and in Dar es Salaam, at least 11 were killed. It is estimated that 4100 people were also injured. Multiple theories arose as to why Al Qaeda chose these particular targets. The response by the U.S. government for the attacks was cruise missile strikes against the Sudan and Afghanistan (states that supported Al Qaeda).

Twenty-one people were charged with various roles in these bombings.

DATE: 18 October 1998

LOCATION: Antioquia

DOMESTIC OR INTERNATIONAL: DOMESTIC REBEL GROUP: National Liberation Army (ELN)

TYPE OF ATTACK: BOMBING

Early in the morning on October 18<sup>th</sup>, a bomb exploded along the oil line near Manchuca, Antioquia. The ensuing fire spread to the nearby village. 84 villagers were killed and at least 100 injured. The heads of ELN were sentenced to 40 years in prison for the bombing. The particular oil line was owned by British Petroleum and the Colombian state oil.

DATE: 31 August 1999-23 September 1999

LOCATION: Russia

DOMESTIC OR INTERNATIONAL: DOMESTIC REBEL GROUP: Chechen rebels

TYPE OF ATTACKS: BOMBINGS

Over the course of 2 weeks, nearly 300 people were killed in a series of bombings throughout Russia. The first bombing occurred in a mall in Moscow. Next, a car bombing detonated outside of an apartment for Russian soldiers. On 8 September, another bomb went off in an apartment building. Five days later, another apartment complex was bombed. The last bombing occurred on 16 September, when a truck bomb went off near an apartment complex. Notes left at the scenes and phone calls made claiming responsibility for the attacks blamed Putin's illegal use of military units within Chechnya as a reason for the attack. The bombings led to Russia invading Chechnya on 24 September.

DATE: 12 October 2000

LOCATION: Yemen

DOMESTIC OR INTERNATIONAL: AL QAEDA TERRORIST NETWORK

TYPE OF ATTACKS: BOMBING--NAVAL

The *USS COLE* was refueling in the harbor of Aden when a small craft detonated near the port side of the ship. A 35-by-36 foot hole was created. Seventeen sailors were killed and 39 others were injured. A ruling in 2007 by a federal judge in the United States stated that both Al-Qaeda and the Sudanese government were responsible for the attack.

DATE: 11 September 2001

LOCATION: United States

DOMESTIC OR INTERNATIONAL: AL QAEDA TERRORIST NETWORK

TYPE OF ATTACKS: BOMBINGS---AVIATION, HIJACKINGS AND SKYJACKINGS

On the morning of September 11<sup>th</sup>, four planes on cross-country flights from different airports on the East Coast are hijacked by numerous groups of men. Two planes hit the World Trade Center towers, causing the collapse of both buildings. A third plane hits the Pentagon, the United States Department of Defense headquarters. The last plane crashes into a field in Pennsylvania in an apparent revolt by its passengers. An estimate 3000 individuals were killed. Soon after the attacks, the FBI named nineteen men as being the hijackers and connected these men as members of Al-Qaeda.

DATE: 12 October 2002

LOCATION: Indonesia

DOMESTIC OR INTERNATIONAL: ISLAMIC JIHAD ORGANIZATION

TYPE OF ATTACK: BOMBING—SUICIDE AND AUTOMOBILE

Three separate bombs detonated nearly simultaneously, one by a suicide bomber, another within a vehicle and the third as a planted device. Two bombs detonated near a nightclub in a tourist area of Kuta, Bali and the third detonated near the U.S. consulate. 202 people were killed and 209 individuals were injured. Various members of Jemaah Islamiyah were charged with the bombings.

DATE: 7 February 2003

LOCATION: Columbia

DOMESTIC OR INTERNATIONAL: DOMESTIC: Revolutionary Armed Forces of Colombia–People's Army (FARC)

TYPE OF ATTACK: BOMBING—AUTOMOBILE

A car bombing exploded in a parking garage of a night club in Bogota. 36 people were killed and more than 200 were injured. Columbian Vice President, Francisco Santos blamed FARC for the bombing.

DATE: 27 February 2004

LOCATION: Philippines

DOMESTIC OR INTERNATIONAL: ISLAMIC JIHAD ORGANIZATION

TYPE OF ATTACK: BOMBING—NAVAL

Shortly after departing Manila, a bomb exploded aboard the ferry. 116 people were killed. Various groups claimed responsibility for the explosion. Eight months after the bombing, the Abu Sayyaf group was found responsible for the attack.

DATE: 11 March 2004

LOCATION: Spain

DOMESTIC OR INTERNATIONAL: UNKNOWN

TYPE OF ATTACK: BOMBING—RAIL

A series of bombs detonated along the Madrid rail system killing 191 people and injuring 1755. Twenty-nine people have been charged with the bombings. They belong to a loose group of Moroccan, Syrian, and Algerian Muslims believed to be inspired by Al-Qaeda. The bombings had a direct impact on the Spanish general elections which took place three days later. Analysts have stated that the bombings led to the defeat of the incumbent José Aznar's Partido Popular.

DATE: 7 July 2005

LOCATION: United Kingdom

DOMESTIC OR INTERNATIONAL: Al QAEDA TERRORIST NETWORK

TYPE OF ATTACK: BOMBING—AUTOMOBILE

A series of bombs exploded during the rush hour on London's public transport system. Three bombs exploded in the Underground and a fourth bomb exploded on a bus. 52 individuals were killed and 700 were injured. Two weeks later, a second series of bombings detonated in London, but none of the bombs caused severe damage or injury. During the initial bombings, all four of the terrorist were killed. After the second series of bombings, all four terrorist were captured. Al-Qaeda was determined to be the mastermind network behind the bombings.

DATE: 1 February 2006

LOCATION: Syria

DOMESTIC OR INTERNATIONAL: Al QAEDA TERRORIST NETWORK

TYPE OF ATTACK: BOMBING

Three bombs were detonated at the South Korean embassy in Damascus. The attack killed 23 people. The bombing was linked to Al-Qaeda.

DATE: 11 July 2006

LOCATION: India

DOMESTIC OR INTERNATIONAL: DOMESTIC-- Students Islamic Movement of India (SIMI)

TYPE OF ATTACK: BOMBING—RAIL

Over the period of eleven minutes, seven bombs exploded in the Mumbai transit system. 209 people were killed and 700 were injured. Three people were arrested for carrying out the attack. Abdul Karim Tunda, one of India's most wanted men and suspected organizer, was also arrested for masterminding the attacks.

DATE: 19 February 2007

LOCATION: India

DOMESTIC OR INTERNATIONAL: UNKNOWN

TYPE OF ATTACK: BOMBING—RAIL

This attack occurred shortly before midnight when two bombs exploded on the Samjhauta Express. 68 people were killed and dozens were injured. No one ever claimed responsibility and no one has been tried for the attacks.

DATE: 26 November 2008 – 29 November 2008

LOCATION: India

DOMESTIC OR INTERNATIONAL: PAKISTANI BASED ORGANIZATION: LASHKAR-E-TOIBA

TYPE OF ATTACK: BOMBING

A series of eight attacks occurred at temples, hotels, cafes, ports, hospitals and cinemas throughout South Mumbai. 173 people were killed and over 300 were injured. One terrorist was captured alive. He admitted to being Pakistani and a member of Lashkar-e-Toiba.

### **APPENDIX THREE: List of Major Terrorist Organizations based in Pakistan, Azad Kashmir and Indian-controlled Kashmir**

#### Harakat ul-Mujaheddin

Harakat ul-Mujaheddin organized within Afghanistan as part of the militant forces that were battling the Soviets.<sup>276</sup> After the Soviets withdrew from Afghanistan, the group shifted its focus onto the Kashmir region. Under the supervision of the Pakistani government, the group reorganized and was renamed to the Harakat ul-Ansar. Around 1993, this group began carrying out terrorist attacks against civilians based within Kashmir, mainly through the tactic of kidnapping. The organization had offices throughout Pakistan and training facilities in Pakistan, Afghanistan and some parts of Kashmir. By 1997, the U.S. government officially listed Harakat ul-Ansar as an active terrorist organization. This motivated the Pakistani government to publically withdraw its support for Harakat ul-Ansar. Due to this designation of terrorist organization, Harakat ul-Ansar changed its name back to Harakat ul-Mujaheddin yet they still experienced difficulties to achieve financial support. During a U.S. led raid of al-Qaeda training camps within Afghanistan in 1998, numerous members of HuM were captured or killed. Additionally, HuM signed on in agreement to Osama bin Laden's Fatwa.<sup>277</sup>

On 24 December 1999, members of HuM hijacked Indian Airlines flight IC814 from Nepal while in route to Afghanistan. The aim of HuM was for members of the organization released from prison. They achieved this goal, yet once these members were released, they defected to rival NSAs, primarily to Jaish-e-Muhammad. After this defection, the power and presence of HuM had declined.

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<sup>276</sup> Here after Harakat ul-Mujaheddin will be referred to as HuM. Harakat ul-Mujaheddin stands for Islamic Freedom Fighters' Group.

<sup>277</sup> For more on bin Laden's Fatwa, please see case study #2.

### Jaish-e-Muhammad

Jaish-e-Muhammad was formed in 1994 in Pakistan with the goal of having Indian forces withdraw from the Kashmir region and for this region to be included as part of Pakistan.<sup>278</sup> It is a splinter group from HuM. The organization is based and trains within Pakistan. The leader of this organization is Maulana Masood Azhar, one of the members released after the 1999 Indian Airlines hijacking by HuM. After Azhar took over control of JeM, it is believed that the organization also began to receive funding from the Taliban and Osama bin Laden.<sup>279</sup>

### Lashkar-e-Toiba

Lashkar-e-Toiba formed in 1990 in Afghanistan and relocated to Pakistan around 1993.<sup>280</sup> The organization consists of mainly Kashmiri citizens. Initially, this organization is believed to have direct connections with the Pakistan's ISI. Hafiz Saeed is the leader of this organization. The aims of LeT are slightly different than similar NSAs within the Kashmir region. This organization aims to not only unify Kashmir with Pakistan but they additionally aim to have Muslim rule all of India and desire a unification of all Muslim regions that surround Pakistan. In 2000, they opened fire upon Chittisinghpura villagers in Kashmir, killing 35. In 2002, Pakistan banned the LET, mainly due to international pressures. LET simply renamed itself, with one of its main pseudonyms being Jamaat ud Dawah. Members of this organization also have close ties with the Taliban and al-Qaeda. These NSAs admitted to carrying out the car bomb attack on the U.S. Consulate in Karachi on June 14, 2002. On 5 May 2005, the UN added

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<sup>278</sup> Hereafter Jaish-e-Muhammad will be referred to as JeM. Jaish-e-Muhammad stands for Army of Muhammad.

<sup>279</sup> Jaish-e-Mohammad Mujahideen E-Tanzeem." South Asia Terrorism Portal. Accessed on 24 Nov. 2008 Available at <[http://www.satp.org/satporctp/countries/india/states/jandk/terrorist\\_outfits/jaish\\_e\\_mohammad\\_mujahideen\\_e\\_tanzeem.htm](http://www.satp.org/satporctp/countries/india/states/jandk/terrorist_outfits/jaish_e_mohammad_mujahideen_e_tanzeem.htm)>.

<sup>280</sup> Hereafter Lashkar-e-Toiba will be referred to as LeT.

LET to its list of individuals, groups, undertakings and entities associated with al-Qaeda, bin Laden and the Taliban.<sup>281</sup> This organization is believed to have been involved with the London bombings in 2005, the 2005 Delhi bombings, 2006 Varanasi bombings, 2006 Mumbai train bombings, in addition to the recent 2008 Mumbai attacks.

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<sup>281</sup> “The Consolidated List Established and Maintained by the 1267 Committee with Respect to Al-Qaida, Usama Bin Laden, and the Taliban and other Individuals, Groups, Undertakings and Entities Associated with Them.” The United Nations. Available at <<http://www.un.org/sc/committees/1267/pdf/consolidatedlist.pdf>>.

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