Chapter 3

OBLIGATION OF INTERNATIONAL ORGANIZATION AND PROBLEM OF TERRORISM

September 11, 2001, shocked the international system, changing global perspectives on both the threat of terrorism and the tools required to prevent it. Although multilateral instruments against terrorism have existed since the 1960s, the unprecedented reach and potential of terrorist networks such as al-Qaeda and its affiliates constitute a new danger that challenges standing tools and institutions. Despite the death of al-Qaeda leader Osama bin Laden in May 2011, the world is still a decade after September 11 looking for an effective way to respond to the global terrorist threat. The Terrorism is a form of violence that breaks all the patterns of civilization that mankind share. Definitely we cannot avoid the suffering caused by groups of peoples and individuals that act appeared from the rule of law. But, the combat of Terrorism cannot serve as an excuse to implement measures that could be or have proved to be restrictive of human rights or that violate human rights. Dignified the human being in the combat of Terrorism is not a feature of weakness but without doubt, a symbol of the reaffirmation of the values that the Terrorism pretends to attack. Global initiatives for counter terrorism serve as examples of best-case scenarios that filter into national strategies to counter terrorism. Counter terrorism has been approached in a militaristic format and at times considering a policing approach. Both approaches are hailed to be custodians to the UN Counter Terrorism Strategy. Unequivocal attention also has to be paid to the respect for human rights. This section will provide an overview of multilateral entities and their current approaches to counter terrorism. Entities that will be included are the United Nations (UN), African Union (AU), the European Union (EU), G8 (Group Of Eights), NATO (North Atlantic Treaty Organization), ICRC (International committee of the Red Cross), Amnesty International and the International Police (INTERPOL). Multilateral institutions offer international standards of counter terrorism that countries may refer to as yardsticks against which they can measure appropriate national strategies to counter terrorism.

The UN council’s response after 9/11 was the ratification of Resolution 1373, which requires countries to evoke defensive measures if global peace and security is threatened. In terms of Resolution 1373, member states are obligated to provide measures to suppress terror financing; ensure proper border control including effective procedures to check travel documentation; and possess a national criminal code to prosecute acts of terrorism.

If UN Member States fail to comply with the above-mentioned regulations, they will be subjected to sanctions. In addition to the Resolution, the UN also has in existence 12 international conventions or instruments on terrorism, a number of which South Africa still has to accede to, sign or ratify.

The overseeing authority for Resolution 1373 is the Counter Terrorism Centre (CTC). The centre monitors Member States compliance with the regulations contained within Resolution 1373. The CTC is also effectively the de facto coordinator of counterterrorism technical assistance by supporting States to adopt new, or improve on, existing counter-terrorism related laws and accede as well as implement the 12 international conventions and protocols related to terrorism. Further to the CTC, other supporting bodies of UN measures to counter terrorism include: The Counter Terrorism Executive Directorate (CTED), the 1540 Committee, the Al-Qaida/Taliban Sanctions Committee, and the 1566 Working Group.

Another important UN measure in the process of combating global terrorism is General Kofi Annan’s five-pillar strategy to counter terrorism as advocated for in 2005. Enunciated in the report entitled ‘In Larger Freedom: towards development, security and human rights for all, the strategy as duly endorsed by the United Nations

2005 Summit of Heads of State on 8 September 2006 seeks to:

- Dissuade people from resorting to terrorism and supporting it;
- Deny terrorists access to funds and materials;
- Deter States from sponsoring terrorism;
- Develop State capacity to defeat terrorism; and
- Defend human rights.

At the UN multilateral level, it seems that all attempts are being made to strengthen global efforts towards eradicating threats of terrorism. The UN not only has appropriate conventions in place, but the institution has supplemented these legislative efforts with a global strategy. In terms of this global strategy, South Africa is working towards the first, second, fourth and fifth aspects. The fourth aspect is however, the most pertinent to this study in terms of strengthening the capacity of both SAPS and the relevant intelligence agencies as well as facilitating coordination between the relevant institutions.

- **International Convention on Terrorism and Human Rights**

Today are effective twelve legal instruments of universal reach on Terrorism, being the most recent one, the International Convention for the Suppression of the Financing of Terrorism, signed in New York in 1999? From the list of those instruments it is very easy to find out that no one gives a clear and express concept of Terrorism and none of them covers the relationship between counter Terrorism and human rights. It is proposed then, an International Convention on Terrorism and Human Rights, in order to give binding support to the Reports, recommendations, Resolutions and statements made by different United Nations organs. The preamble of the Convention would just consist in the mention as a recompilation, of the last UN Resolutions about the issue Terrorism-Human Rights, from the General Assembly, the Human Rights Council and the Security Council. There could be quoted also, excerpts from Reports of the thematic Special Rapporteur and from other relevant documents - such as the Universal Declaration of Human Rights, the International Covenants on Human Rights, the Convention relating the Status of Refugees and the Geneva
Conventions of 1.949 with its Additional Protocols-. This would express the philosophic, historic, legal and rational source of the main proposal of the Convention, which is, combat Terrorism respecting human rights. A key aspect could be seen in the preamble of the International Convention for the Suppression of the Financing of Terrorism: Noting also that existing multilateral legal instruments do not expressly address such financing.... Applying this to the topic we are dealing with and as was previously said, there is no International Treaty that involves Terrorism and human rights. The operative clauses of the Convention would be consolidated around the already referred UNGA Resolution 61/171, that reaffirms the obligation of States to respect certain rights as non-derivable in any circumstances, (and) that any measures derogating from the provisions of the Covenant (on Civil and Political Rights) must be exceptional and temporary; and also requests that counter-Terrorism measures should be implemented in full consideration of minority rights; that it must be respected the non-refoulement obligations under International Refugee and Human Rights Law; and, that there must be respected the safeguards concerning the liberty, security and dignity of the person and to treat all prisoners in accordance with International Law, including Human Rights Law. Other recommendations are in the Report of the Special Rapporteur on the Promotion and Protection of Human Rights while Countering Terrorism (A/HRC/4/26), presented at the beginning of this year: 

Either universal or random security checks as preferred alternatives, instead of measures based on profiling. Universal or random checks are nondiscriminatory and at the same time impossible for terrorists to evade. That States establish clear and strict standards as to what factors law enforcement agents may or may not employ for their search efforts in the counter-Terrorism context to ensure that the use of terrorist-profiling practices by law enforcement agencies is clearly documented and monitored. The Treaty itself, before the ratification and the entry into force, could be provisionally applied according to article 25 of the Vienna Convention on the Law of Treaties. The article 18 of the same Convention, expressed that a State is obliged to refrain from acts which would defeat the object and purpose of a Treaty when that State has already signed it, and even before the ratification and entry into force.
• **Link between the Counter-Terrorism Committee of the UN Security Council and the UN Human Rights Council**

The Security Council, according to the article 24 of the UN Charter has as a primary responsibility the maintenance of international peace and security. By doing an extensive interpretation of such disposition and keeping in mind the events of recent years, this executive organ have brought into discussion the topic of Terrorism, mainly after the remembered acts against the New York World Trade Center in 2001. Precisely after those attacks, it was approved by the Council, the Resolution 1373 (2.001), that among other things established a Committee of the Security Council to monitor implementation of this Resolution, with the assistance of appropriate expertise, and calls upon all States to report to the Committee on the steps they have taken to implement this Resolution. This Committee would be known later as the Counter-Terrorism Committee. We also have the UN Human Rights Council, created by the UNGA Resolution 60/251 those points out the specific duties of the new organ, including the promotion of the universal respect for the protection of all human rights... without distinction and the addressing of situations of violations of human rights. It is very important to emphasize the operative clause n° 3 of the mentioned Resolution, which confers the Council the responsibility of promote the effective coordination and the mainstreaming of human rights within the United Nations System. This could be tied with the Global Counter-Terrorism Strategy, adopted in 2.006, in which the Member States of the UN resolve to support the Human Rights Council, and to contribute to its work on the question of the promotion and protection of human rights for all in the fight against Terrorism.

Indeed, the UNGA Resolution 61/171 expresses in its operative clause n° 12, that the General Assembly welcomes the ongoing dialogue established between the Security Council and its Counter Terrorism Committee and the relevant bodies for the promotion and protection of human rights, and encourages the Security Council and its Counter-Terrorism Committee to strengthen the links and to continue to develop cooperation with relevant human rights bodies.
Finally, we have as a reference the Report of the UN Secretary-General entitled Recommendations contained in the Report of the High-Level Panel on United Nations System-wide Coherence (A/61/836), in which he says that the Organization urgently needs more coherence and synergy so it can perform as one and be more that the sum of its parts.

Then, it is indispensable that the linkage mechanism between the Counter-Terrorism Committee of the UN Security Council and the UN Human Rights Council, being re-enforced, especially within the process of reforms undertaken by the United Nations after the World Summit of 2005.

As part of this idea to put into a network both organs, there could be held joint official meetings, and might be made joint Reports that include a strict monitoring of the counter Terrorism measures of the Member States of the UN. Other steps would be the adoption of common plans, the exchange of relevant information and the harmonization of global initiatives.\(^3\)

Over the past decade, the international community has developed instruments and created new initiatives to address the threat of terrorist attacks. Today's counterterrorism regime lacks a central global body dedicated to terrorist prevention and response. United Nations (UN) alone are more than thirty agencies conducting relevant work on the issue. The United Nations has helped rally international efforts for counterterrorism. It now oversees sixteen conventions that target different aspects of terrorism, including terrorist financing, hijacking, acquiring weapons of mass destruction, and hostage taking, to name a few. These differences continue to obstruct efforts to build a comprehensive treaty that would unite all aspects of counterterrorism under one legal umbrella.

The UN Security Council (UNSC) has strengthened the international legal foundation for counterterrorism efforts by issuing numerous binding resolutions. To oversee the implementation of the bedrock counterterrorism resolutions created after September 11, the UNSC established the Counterterrorism Committee (CTC), and

\(^3\) http://www.un.org/en/terrorism/terrorism-hr.shtm
later the **CTC Executive Directorate** (CTED). The CTC, composed of all fifteen UNSC members, is tasked with assessing states' efforts to implement relevant resolutions, evaluating gaps in state capacity, and facilitating donor coordination for technical and financial counterterrorism assistance. In an effort to increase the legitimacy and add coherence to the UN's efforts, the UN General Assembly unanimously adopted in 2006 the **Global Counterterrorism Strategy** (GCT). Although the GCT provides an important normative and operational foundation for counterterrorism work at the UN, a report by the **Center on Global Counterterrorism Cooperation** released ahead of the 2010 review conference notes that the strategy's potential to "provide for collaborative, holistic counterterrorism efforts is either unknown or largely overlooked beyond New York, Geneva, and Vienna." That is, it has earned little attention or traction even among most UN member states.

Beyond the UN, other multilateral and regional bodies and initiatives have also ramped up their efforts to address terrorism. The **Financial Action Task Force (FATF)** and the Group of Eight (G8) **Counterterrorism Action Group (CTAG)**, for example, were created and operate independently, with varying degrees of success. The FATF—created in 1989 to combat money laundering and tasked with countering terrorist financing. The CTAG's efforts, however, have suffered from a lack of direction and declining motivation among member states.

**United Nations (UN) documents** provide operational definitions or interpretations of customary international law, and existing conventions against terrorism do provide a universal legal regime against terrorism, none is comprehensive. The **UN General Assembly (UNGA)** has not reached consensus on a definition of terrorism that would be adhered to by all countries. In turn, differences over the definition have been a major factor in the failure to pass a **Comprehensive Convention on Terrorism**, which criminalizes all forms of international terrorism. Negotiations of the Comprehensive Convention are deadlocked after nearly a dozen years of discussion among legal experts at the UN.
Today's global counterterrorism framework includes sixteen UN conventions and protocols, a multitude of Security Council resolutions, the UN Global Counterterrorism Strategy, and a collection of regional instruments. The sixteen conventions and protocols overseen by the United Nations constitute the normative and legal backbone of global counterterror efforts.

UN Security Council (UNSC), particularly through its Counterterrorism Committee, pressed for greater participation. As a result, in the first two years after the September 11, ratification of the conventions for the Suppression of Terrorist Bombings and the Suppression of Financing of Terrorism increased significantly. UNSC Resolution (UNSCR) 1368 was particularly significant because it linked the right to self-defense as enshrined in Article 51 of the UN Charter with the response to international terrorism. The UNSC also passed UNSCR 1373, requiring member states to criminalize terrorism and its financing, and providing guidelines for enhanced cooperation on law enforcement and intelligence sharing. Although UNSCR 1373 provides the foundational requirements to international counterterrorism efforts, some countries complain that it oversteps the legislative authority of the UNSC by imposing its will on member states.

In parallel with the UN Security Council's work, then UN secretary-general Kofi Annan and UNGA championed and supported a global strategy for counterterrorism. In part fueled by concerns over the UNSC's overemphasis on the legal and law enforcement aspects of counterterrorism, and on the UNSC's encroaching legislative authority, UNGA unanimously passed the UN Global Counterterrorism Strategy in 2006 and reaffirmed support for it in September 2008 and 2010. The strategy pulls together existing UN norms and activities into a single document and serves as a comprehensive guide based on four pillars: addressing conditions conducive to the spread of terrorism, preventing and combating terrorism, building state capacity and bolstering the UN's counterterrorism role, and ensuring respect for and the protection of human rights in counterterrorism efforts.

Another UN body, the Counterterrorism Implementation Task Force—a coordinating arm for UN's counterterrorism work—established a working
group, **tackling the Financing of Terrorism**. The group provided a series of recommendations to help countries bolster their CTF efforts. Furthermore, institutions such as the International Monetary Fund have incorporated these recommendations into their work plans. However, the working group has been largely inactive since it released a report in 2009.

**UN Security Council Resolution (UNSCR) 1540** is the backbone of the international regime to prevent acts of terrorism using WMDs. The resolution prohibits member states from helping non state actors "develop, acquire, manufacture, possess, transport, transfer, or use" nuclear, chemical, and biological weapons, and requires national controls for stocks and shipments.

In April 2011, the UN Security Council passed **Resolution 1977**, extending the 1540 Committee's mandate for ten years, signaling confidence in its effectiveness.

The UN General Assembly's Global Counterterrorism Strategy, adopted in 2006, went further by establishing "measures to ensure respect for human rights" as one of its four main pillars—recognizing the protection of human rights and promotion of counterterrorism as complementary pursuits. The strategy promotes an unprecedented but much-needed common approach, striving to develop cohesion across all relevant UN bodies—particularly the Counterterrorism Committee (CTC) and Counterterrorism Executive Directorate (CTED)—as well as among the entirety of member states. The UN General Assembly has since spearheaded efforts for greater integration. In support of the GCT, the Counterterrorism Implementation Task Force operates a working group on protecting human rights.

Although in practice more a counterweight than a vehicle for an integrated approach, the **Human Rights Council (HRC)** and **Office of the High Commission for Human Rights** regularly promote awareness of civil liberties issues in counterterror pursuits, supporting a special rapporteur on human rights and counterterror as well as addressing such issues in the HRC's universal periodic review process.

The role of the UN General Assembly Security Council is limited regarding human rights concerns. Although certain UN mechanisms exist to monitor member state
adherence to human rights standards. The reluctance of some states to incorporate the human rights agenda overshadows the emerging consensus among UN member states that human rights are a fundamental part of counterterrorism.4

3.2 African Union (AU)

Continental efforts in preventing and combating terrorism have a long history. In 1992, the Organization of African Unity (OAU), meeting at its 28th Ordinary Session, held in Dakar, Senegal, adopted a Resolution on the Strengthening of Cooperation and Coordination among African States [AHG/Res.213 (XXVIII)] in which the Union pledged to fight the phenomena of extremism and terrorism. At its 30th Ordinary Session held in Tunis, Tunisia, in June 1994, the OAU adopted the Declaration on the Code of Conduct for Inter-African Relations [AHG/Del.2 (XXX)], in which it rejected all forms of extremism and terrorism, whether under the pretext of sectarianism, tribalism, ethnicity or religion. The declaration also condemned, as criminal, all terrorist acts, methods and practices, and expressed its resolve to enhance cooperation to combat such acts.

These efforts culminated in the 1999 OAU Convention on the Prevention and Combating of Terrorism adopted by the 35th Ordinary Session of the OAU Summit, held in Algiers, Algeria, in July 1999. The Convention requires that States Parties criminalize terrorist acts under their national laws as defined in the Convention. It defines areas of cooperation among states, establishes state jurisdiction over terrorist acts, and provides a legal framework for extradition as well as extra-territorial investigations and mutual legal assistance. The Convention entered into force in December 2002 and to date, 40 Member States have ratified it.

To give concrete expression to the commitments and obligations of Member States under the 1999 Convention and the other international CT instruments, the AU High-Level Inter-Governmental Meeting on the Prevention and Combating of Terrorism in Africa, held in Algiers in September 2002, adopted the AU Plan of Action on the Prevention and Combating of Terrorism. The Plan of Action adopts practical CT

4 http://www.cfr.org › Terrorism
measures that substantially address Africa’s security challenges, includes measures in areas such as police and border control, legislative and judicial measures, financing of terrorism and exchange of information.

The US State Department’s annual country assessments of global terrorism stated in April 2006:

*Though it is unclear to what extent terrorist groups were present and operating in west and central Africa, the fundraising, terrorist recruiting, and other support activities of al-Qaeda and affiliated persons and groups in SA, Nigeria, and across the trans-Sahara region remained a serious concern.*

It lists incidents of either concern or co-operation in 16 African countries ranging from arrests of terrorist suspects and disruption of alleged terrorist operations in Kenya to recruitment activities by known al-Qaeda affiliates in Nigeria, to the abuse of South African travel documentation by foreigners, on US and UK terrorist alert lists. Essentially, these trends highlight the fact that terrorism is not just a western concern. It is an international issue requiring a coherent international response. Africa has a vital role to play in ensuring security within and beyond its shores. Building counter terrorism capacity requires moving beyond broad pledges to a systematic, incremental approach that recognises both the threat and required resources. As such, the Bush administrations’ National Strategy for Combating Terrorism highlights the African Union (AU) as one of the “essential elements” in a common front against transnational terrorism5.

In 1999, in the wake of the devastating attacks against the US embassies in Kenya and Tanzania, the Organization of African Unity (OAU) adopted its Convention on the Prevention and Combating of Terrorism. The convention defines a terrorist act as any act which is in violation of the criminal laws of a state party (that is a member state of the OAU that has ratified or acceded to the convention) and that may endanger the life, physical integrity or freedom of — or cause serious injury or death to — any

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person(s), or causes damage to public or private property, natural resources, environmental or cultural heritage, and is intended to:

- Intimidate, put in fear, force, coerce or induce any government, institution, the general public or any segment thereof, to do or abstain from doing any act, or to adopt or abandon a particular standpoint;
- Disrupt any public service, the delivery of any essential service to the public or to create a public emergency; or
- Create general insurrection in a state\(^6\)

In this regard, 36 of the 53 AU Member States ratified the Convention on the Prevention and Combating of Terrorism. Furthermore, according to the convention, state parties are forbidden from any activities aimed at organizing, supporting, financing, committing or inciting to commit terrorist acts, or providing havens for terrorists, including the provision of weapons and their stockpiling in their countries and the issuing of travel documents.\(^7\)

In the case of the African Union (AU), the African Union Non-Aggression and Common Defence Pact supplements the framework provided by the OAU Convention of 1999, as established in Abuja, Nigeria on 31 January 2001. The Pact specifically declares that, ‘the encouragement, support, harboring or provision of any assistance for the commission of terrorist acts and other violent trans-national organized crimes against a member state’, constitutes an act of aggression (Art 1(d) (xi)). Member states are prohibited from using their territory: ‘for the stationing, transit, withdrawal or incursions of irregular armed groups, mercenaries and terrorist organizations operating in the territory of another member state’, (Art 5(c)). The member states are obliged to ‘extend mutual, legal and all other assistance in the event of threats of terrorist attack or other organized international crimes’ and to ‘arrest and prosecute

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\(^6\) http://www.africa-union.org

\(^7\) http://www.africa-union.org/conventions
any irregular armed group(s), mercenaries or terrorist(s) that pose a threat to any member state’, (Art 6).  

Moreover, in 2002, at a meeting in Algiers, the AU adopted a plan to bring states in line with the Convention of 1999. The plan called for the creation of an African Centre for the Study and Research on Terrorism (ACSRT) to co-ordinate the analyses of terrorism and counter terrorism activities on the continent with AU member states and the regional economic communities. The ACSRT is tasked to centralise, collect and disseminate studies and analysis on terrorism and terrorist groups. The states and regional economic communities are required to designate focal points to liaise with the centre. While this counter terrorism mechanism in Algiers envisions a highly integrated network of regional and state focal points co-ordinated centrally through the centre in Algiers, the probability of the Centre functioning effectively is constrained by funding commitments and the lack of human resource capacity of the regional economic communities. Thus far, only 20 of 53 states and 3 of 8 regional organizations have designated focal points. South Africa is among those states that has not identified a focal point.  

Given the above situation, the immediate strategy should be to build Africa’s capacity based on a blunt and practical division of labor among states and regional organizations according to their strengths. That means building strong co-operative ties between the centre in Algiers and the key states where concerns about terrorism and capacity to respond converge. This would include Kenya, Tanzania, Nigeria, Mali, South Africa and Mozambique. Critically, it also requires resolving the conflict over Western Sahara in order to integrate Morocco — the only African state which not an AU Member State is. These measures will inherently aid in coordinated efforts on the continent to combat terrorism.  

Nonetheless, while African governments and regional institutions are gradually strengthening their counter terrorism capacities through improved intelligence

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10 http://www.africa-union.org/Terrorism/terrorism2.htm
services, legislation and international co-operation, many African leaders remain
deeply ambivalent about terrorism as a security priority. For most African states,
urgent development issues rightly trump concerns about terrorism. In addition, former
liberation movements as well as the AU, meanwhile, dispute where to draw the line
between “terrorists” and “freedom fighters”. Yet, the AU Convention on preventing
and combating terrorism as well as the establishment of the ACSRT illustrates
Africa’s commitment in dealing with threats of terrorism.

As part of the implementation of the 2002 Plan of Action, the African Centre for the
Study and Research on Terrorism (ACSRT), was established in 2004 in Algiers to
serve as a structure for centralizing information, studies and analyses on terrorism and
terrorist groups and to develop Counter-Terrorism capacity building programmes.
The ACSRT also provides a forum for interaction and cooperation among Member
States and Regional Mechanisms. The Centre plays an important role in guiding the
AU’s CT efforts and works in collaboration with a number of regional and
international partners to ensure coherent and coordinated CT efforts in the continent.

An additional Protocol to the 1999 Convention on the Prevention and Combating of
Terrorism was adopted by the 3rd Ordinary Session of the Assembly of the Union,
held in Addis Ababa in July 2004. The proposal for the adoption of the Protocol was
made by 28 heads of states meeting in Dakar, on 17 October 2001, and adopting
the Dakar Declaration against Terrorism. The Protocol recognizes the growing threat
of terrorism in the continent and the growing linkages between terrorism, drug
trafficking, transnational organized crimes, money laundering, and the illicit
proliferation of small arms and light weapons. The Protocol aims to give effect to
Article 3(d) of the Protocol Relating to the Establishment of the Peace and Security
Council of the African Union, which states that the objective of the Council, inter alia,
is to ‘co-ordinate and harmonize continental efforts in the prevention and combating
of international terrorism in all its aspects’. The Protocol will enter into force
following the deposit of the 15th instrument of ratification. To date, 12 states have
ratified the Protocol.

In follow up to the decision of the Assembly of the Union [Assembly/AU/Dec.311(XV)] on the Prevention and Combating of Terrorism, adopted at its Kampala Session in July 2010, where it underscored the need for renewed efforts and increased mobilization, the Chairperson of the Commission of the African Union appointed, in October 2010, the AU Special Representative for Counter-Terrorism Cooperation. The Special Representative serves, concurrently, as the Director of the ACRST. Since his appointment, the Special Representative undertook a number of important assignments to mobilize support for the continent to fight the scourge of terrorism, assess the situation in various Member States and identify, with the concerned national authorities, priority security issues to be addressed.

As part of the implementation of the relevant provisions of the 2002 AU Plan of Action on the Prevention and Combating of Terrorism, which entrusts the Commission with providing advice on matters pertaining to counter-terrorism action, including preparation of model legislation and guidelines to assist Member States, the Commission developed the African Model Law on Counter Terrorism, which was endorsed by the decision [Assembly/AU/Dec.369(XVII)] adopted by the 17th Ordinary Session of the Assembly of the Union, held in Malabo, in July 2011. The decision welcomed the elaboration of the Model Law and encouraged Member States to fully take advantage of it to strengthen and/or update their national legislation. The Model Law is developed to assist Member States in implementing the provisions contained in the various continental and international counter-terrorism instruments, including the 1999 OAU Convention on the Prevention and Combating of Terrorism and its related Protocol.

3.3 The European Union (EU)

The EU approach to counter terrorism is unique, dependent on the fact that the EU is a very *sui generis* organization. Understanding its role in counter-terrorism depends very much upon understanding how the EU thinks and how it sees itself. While the EU as an entity is completely different from its member states: the way in which it views threats, the way in which it reacts to them; one cannot escape the fact that its approach to counter terrorism has nonetheless been formed by the varying
experiences, identities and preferences of its member states. The EU’s contribution as a global actor in counter terrorism then relates to its own acorns internally – how much of an impact is it able to make within its own territory.

The concept of ‘actress’ which traditionally stems from a realist view and evaluates the impact, nature and measure of a state’s foreign policy requires a unique set of criterion when applied to an entity as unique as the EU. The following four selected criteria appear valid:

1. **Opportunity** (Bretherton and Vogler) – The threat of Global Terrorism teamed with globalisation are conducive enough to serve as an opportunity for EU action as the EU emerges not only as a target but also as a base for terrorist activities.

2. **Internal Identity / Self Perception** (Wunderlich) – Who or what is the EU? Its role needs clear delimitation from its MS actions to correctly understand the EU’s action in the fight against terrorism.

3. **Preference** (Wessels) – What are the EU’s preferences which dictate which action it employs? How are these preferences formed?

4. **Institutional Architecture** (Wessels) – An evaluation of the EU’s institutional capacities allows for an estimation whether the EU is able to act or make an impact. its own territory.

The European Union’s (EU) counter terrorism approach is aimed at developing a common approach to counter terrorism. The EU Counter terrorism strategy was adopted in December 2005 and was laid down in an action in February 2006.

It structures more than 160 separate measures horizontally and according to sector along four critical strands, namely: prevent, protect, pursue and respond.12

The strategy is illustrated as follows:

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EU Member States support the strategy in four critical ways:

- Strengthening national capabilities: by using best practices; sharing knowledge and experiences to improve national capabilities. This is done by improved collection and analysis of information and intelligence;
- Facilitating European cooperation: establishing and evaluating mechanisms to facilitate cooperation including between police and judicial authorities, and through legislation;
- Developing collective capability: ensuring EU capacity to understand and make collective policy responses to terrorist threats, and making use of EU bodies including Europol, Eurojust, Frontex, the MIC and SitCen;
- Promoting international partnership: working with others beyond the EU, particularly the UN, and other international bodies to deepen international consensus on counter terrorism.

Inherent in the four critical elements of the EU Strategy – Prevent, Protect, Pursue and Respond is the elements ‘cooperation, collective capability and international partnership’. These elements are regarded as key in attempting to safeguard the European Union.

The ‘EU Identity’ becomes a fundamental consideration in the quest of its global actorness in counter terrorism. In essence the EU provides only that which comes across as an added value to its member states. Preferences are a culmination of various perceptions across its member states. Counter-terrorism policy started in the 1970s but remained unofficial through cooperation at an informal intergovernmental level – the TREVI Cooperation. The TREVI Group in 1976 to combat terrorism and coordinate police cooperation then became the forerunner of Europol through the concretisation of a German proposal put forth to the Luxembourg European Council Meeting of June 1991. Counter terrorism has since evolved to be institutionalized and expanded but nonetheless remains staunchly a member states preoccupation. Today, counter terrorism and security instruments are spread widely across the EU institutions. Terrorism is an ancient and persistent reality in EU countries ranging from groups like the Revolutionary Organization 17 November (17N) in Greece; First
of October Anti-Fascist Resistance Groups (GRAPO) in Spain; the Euskadi Ta Askatasuna (ETA) in France as well as Spain; the New Red Brigades Communist Combatant Party (BR/PCC) following the dissolution of the Red Brigades, in Italy; the Irish Republican Army (IRA) in Ireland; or the Rote Armee Fraktion (RAF) or Baader-Meinh of Gang in Germany. EU member states don’t share the same experience of terrorism. While Slovenia and Finland might have had just one incidence of terrorism from 1968 to 2006, France and Spain have experienced more than 1000 occurrences each. Thus as occurrences vary across member states, their perception are influenced too. Differing perceptions within the EU do at times hamper efficiency, but also acts as a reality check like in the case of the 2003 War on Iraq decision. The EU nonetheless allows for select groups of member states to coordinate and lead. All the more the member states approach to internal terrorist groups and external terrorist groups are different. They also have varying levels of sensitivities.

Moreover, while the EU has its own definition of terrorism, its member states have their own definitions besides having counter-terrorism laws of varyingly strictness. Some of its MS even have acts tougher than the US Patriot act.7 The European Union’s definition of terrorism, adopted on the 13th of June 2002, is based primarily on a list of terrorist offences.

Since terrorism is a transnational phenomenon, the EU is automatically implicated. In the EU, terrorism can no longer be contained within a single country. The EU’s role and responsibility is thus amplified. As Unlike elsewhere in the world, the EU acts as a forum where 27 countries sit down across a table and substantially discuss threats affecting their countries with a view to finding a joint solution. In the process, member states realise that others are experiencing the same problems as theirs and that a coordinated response may be productive. Or that a transnational solution is a must.

The European Union views terrorism principally as a crime. From the EU’s perspective, terrorism is best treated as an organised crime and counter-terrorism in the EU is structured accordingly. Supremacy is accorded to the rule of law, political, and financial means. For the EU terrorism is primarily a call for global action but not
global war. According to the EU, the best way would therefore be by tackling the root causes of terrorism through increased democracy, literacy, equality and economic growth would eradicate it. But the EU would then have to solve the world’s problems before effectively tackling terrorism. The EU comes across thus, in sharp contrast to its own member states, other states or NATO.

The EU counter-terrorism strategy states expressly that the EU is committed to combat terrorism globally but while respecting the core fundamentals of human rights.11 ‘Prevent’, ‘Protect’, ‘Pursue’ and ‘Respond’. These four words form the mainstay of the EU’s Counter-terrorism Strategy adopted in December 2005, which basically categorise all counterterrorism activities carried out by the EU. These four broad headings encompass various actions taken by the EU in fight against terrorism:

**Prevent:** To tackle the root causes of terrorism i.e. to effectively prevent radicalisation, and terrorist recruitment in Europe and around the world;

**Protect:** To do the utmost to shield citizens and critical infrastructure from terrorist attacks, by being well-prepared and by minimizing the risk through increased security.

**Pursue:** To track down terrorists wherever they might be; hinder their efforts and their modus operandi and to ensure that justice prevails;

**Respond:** To work together as a union in the wake of a terrorist attack, and cooperate beforehand so that if an attack does take place, the EU is well prepared to respond in an effective way, thereby reducing the ill-effects that might be felt.

The role of the EU therefore as such is to create conditions for law enforcement officials to work together. What the EU can concretely offer, is its own experience in coordination and cooperation, especially to complex federal states like India per se. The EU model of facilitating regular information sharing amongst 27 countries is indeed impressive. EU programs like EPCIP –European Programme for Critical Infrastructure Protection under the Prevention, Preparedness and Consequence
Management of Terrorism and other Security Related Risks Programme are transnational in nature and offer much in terms of lessons in cooperation amongst police and emergency teams.

Politically the EU carries some weight. It’s list of banned terrorist organisations and persons give it and its member states leverage in its relations with third countries. Its role in the UN too is magnified by the fact that it represents 27 countries and has 2 UNSC members. It has indeed been instrumental in supporting the adoption of the UN Counter Terrorism Strategy and its implementation. It conducts counter terrorism dialogues with a variety of countries. With a view to reinforcing its holistic approach to counter terrorism, it lays great emphasis on its human rights dialogues through the support of NGOs and the empowerment of civil society. In some countries like Yemen for instance it becomes increasingly clear that EU efforts in terms of development cooperation will have a much greater effect. But while the EU is the biggest donor in the world (it has especially been monumental in rebuilding the Palestinian territories for instance), it needs to invest massively in advertising externally. Common people in these regions might see European soldiers and planes but they might not be as aware of the EU’s positive side through efforts at erecting schools or training police.

The EU directly contributes to strengthening counter terrorism efforts in third countries like Pakistan, Yemen, Algeria or Afghanistan through technical knowhow, institution building, governance, financial aid and training amongst other measures. In particular, EU aid has been crucial in enhancing human resource and reinforcing prison structures and border control. It has supported counter terrorism centres like the regional counter terrorism centre established in Bangladesh, or the African Centre for the Study and Research of Terrorism (ACSRT) in Algiers. It has also been keen on addressing radicalisation through cooperation with third countries.

In conclusion, the EU as a global actor in the sphere of counter terrorism is gaining prominence. An assessment of the EU’s global actress must come with a just consideration of its sui generis nature and the margin it is allowed to operate in. One of the EU’s biggest handicaps today is becoming its biggest advantage – its undefined
nature which permits the EU to adapt itself to the growing threat of terrorism. It faces many challenges in itself. Firstly it is eclipsed by its member states, as third countries still prefer bilateral cooperation. It is not yet a completed structure itself and hence in a state of mutation and development which might not reassure third countries. It does not have the same competences as a country, and it is vital in the case of the EU to balance fundamental rights against security, more so than for its member states.

3.4 Group of Eight (G8)

The Role of Combating Terrorism in the Group of Eight Originally, the Group of Eight (G8) was intended as a forum for the personal exchange of views on economic-policy issues at the highest governmental level. For some time now, there have been efforts in the G8 to coordinate security policy among Member States as well.*

This summit of governments has been dealing with questions relating to international cooperation in the fight against terrorism already since 1978. In 1996, at the conference of the seven foreign ministers of what then still was the G7, a catalogue of 25 measures against terrorism was passed. In view of the new challenges, it was updated in June 2002. The catalogue refers to national as well as international measures. They comprise the promotion of international treaties and conventions for combating terrorism, measures to prevent attacks with chemical, biological, radiological and nuclear weapons, the control of explosives and firearms, steps designed to prevent the financing of terrorism, the improvement of transportation security, the enhancement of domestic coordination at the national level, increased international cooperation, including the prevention of the abuse of the right to asylum by members of terrorist groups, the abolition, to the greatest extent possible, of obstacles to extradition, as well as effective mutual legal assistance, the investigation of potential links between terrorism and organized crime, and the support of other countries in their fight against terrorism, especially concerning the implementation of Security Council resolution 1373.

In preparation for the G8 summit on Sea Island in June 2004, the justice and interior ministers of the participating countries put together a list of recommendations, which,
among other things, called for the greatest possible extension of investigating authority in the fight against terrorism. In doing so, however, they also stressed legal checks and control mechanisms. It was also in this connection that they recommended the flexible handling of rules excluding evidence obtained improperly from being used in court. The use of evidence gathered by investigating methods that are legal in one country should not be automatically prohibited if these methods are not permissible in the country where that particular case is being tried.*

Recommendations, statements, and common positions made or adopted at the summit meetings and during preparatory, as well as subsequent, evaluation sessions are not legally binding for the participating countries. Rather, they are “solely” political in nature. Still, their significance should not be underestimated, as they indicate, to say the least, the views and the approach not only of the economically most influential countries.

3.5 North Atlantic Treaty Organization (NATO)

The North Atlantic Treaty Organization was born shortly after World War II ended. At that time, large numbers of Soviet troops remained in Eastern Europe as occupation forces. Governments set up by these forces were pro-communist and have come to be called the Warsaw Pact countries. Besides the USSR, these countries include Bulgaria, Hungary, Rumania, Poland, Czechoslovakia and East Germany. Fifteen Western nations formed the North Atlantic Treaty Organization, or as it's sometimes called, the Atlantic Alliance, in 1949. The member nations agreed that an attack on any one of them would be considered an attack against all. NATO, itself, is made up of ambassadors from the 15 countries involved and not the military.

NATO's policy is based on two principles. The first is to maintain adequate military strength and political unity to deter aggression and other forms of military or political pressure. The second is to pursue a policy aimed at a relaxation of tensions between East and West - a policy based to a large extent on general military strength. Terrorism poses a direct threat to the security of the citizens of NATO countries, and to international stability and prosperity more broadly and will remain a threat for the
foreseeable future. Terrorists have demonstrated their ability to cross international borders, establish cells, reconnoiter targets and execute attacks. Modern technology increases the potential impact of terrorist attacks employing conventional and unconventional means, particularly as terrorists seek to acquire chemical, biological, radiological or nuclear (CBRN) capabilities and cyber abilities.

1. NATO’s response to terrorism has been largely shaped by the terrorist attacks of 11 September 2001, which prompted Allies to launch Operation Active Endeavour, to adopt the Military Concept for Defence against Terrorism (MC472) and to initiate various capability and institutional changes. In the past decade, NATO has made considerable progress in areas of importance to the Alliance such as operations, enhanced intelligence exchange and the development of technology solutions through the Defence against Terrorism Programme of Work and the Science for Peace and Security Programme.

2. Through the Alliance Strategic Concept, Allies reaffirmed that the Alliance must “deter and defend against emerging security challenges where they threaten the fundamental security of individual Allies or the Alliance as a whole”. Allies have, therefore, decided to review NATO’s approach to counter-terrorism and to enhance both the political and the military aspects of NATO’s contribution to national and international efforts.

3. The aim of these policy guidelines is to:

   o Provide strategic and risk-informed direction to the counter-terrorism activities ongoing across the Alliance as part of NATO’s core tasks of collective defence, crisis management and cooperative security.

   o Identify the principles to which the Alliance adheres.

   o Identify key areas in which the Alliance will undertake initiatives to enhance the prevention of and resilience to acts of terrorism with a focus on improved
awareness of the threat, adequate capabilities to address it and engagement with partner countries and other international actors¹.

Following the adoption of these Policy Guidelines, an Action Plan for Implementation will be developed.

- **Compliance with International Law**: NATO will continue to act in accordance with international law, the principles of the UN Charter and the Universal Declaration of Human Rights. The UN Global Counter-Terrorism Strategy, International Conventions and Protocols against terrorism and relevant UN Resolutions provide the framework for all national and multilateral efforts to combat terrorism, including those conducted by the Alliance.

- **NATO’s Support to Allies**: Individual NATO members have primary responsibility for the protection of their populations and territories against terrorism. Cooperation through NATO can enhance Allies’ efforts to prevent, mitigate, respond to, and recover from acts of terrorism. NATO, upon request, may support these efforts.

- **Non-Duplication and Complementarity**: NATO will promote complementarity with and avoid unnecessary duplication of existing efforts by individual nations or other International Organisations. NATO will seek to coordinate and leverage its expertise and resources and will focus on targeted programmes where it can contribute to and/or reinforce the actions of Allied nations and other international actors, as appropriate.

NATO, as an international organisation, has unique assets and capabilities that can support Allied efforts in the fight against terrorism. As set out in the aim of these Policy Guidelines, NATO will contribute more effectively to the prevention of terrorism and increase resilience to acts of terrorism. NATO’s work on airspace security, air defence, maritime security, response to CBRN, non-proliferation of Weapons of Mass Destruction and protection of critical infrastructure is well established. The Alliance will strive to ensure that it has adequate capabilities to
prevent, protect against and respond to terrorist threats, based on the level of ambition as defined in the Political Guidance. To enhance Allies’ security, NATO will continue to engage with partner countries and other international actors in countering terrorism. The Alliance will strengthen its outreach to and cooperation with partner countries as well as international and regional organisations, in particular the UN, EU and OSCE, in accordance with the Comprehensive Approach Action Plan, to promote common understanding of the terrorist threat and to leverage the full potential of each stakeholder engaged in the global counter terrorism effort.

- **NATO’s Response**

The North Atlantic Council will guide NATO’s counter-terrorism efforts and implementation of these Policy Guidelines. The Terrorism Task Force will report on an annual basis on the implementation of these Policy Guidelines. NATO will maintain flexibility as to how to counter terrorism, playing a leading or supporting role as required. Allies’ capabilities represent an essential component of a potential response to terrorism. Collective defence remains subject to decision by the North Atlantic Council (NAC).

1. NATO will undertake all its activities related to partners and other international organisations in accordance with the Comprehensive Approach Action Plan and the relevant decisions, including those taken at the Lisbon Summit.\(^{13}\)

2. Any possible emerging requirements for NATO common funding will be considered in accordance with standard processes.

3. A good example is the Cooperative Airspace Initiative within the framework of the NRC.

\(^{13}\) [http://www.3ad.com/history/cold.War/nato.mission.htm](http://www.3ad.com/history/cold.War/nato.mission.htm)
4. One example of such cooperation is the Science for Peace and Security (SPS) multi-year NRC project on “Programme for Stand-off Detection of Explosives (STANDEX)”.

3.6 International Police (INTERPOL)

INTERPOL is an organization that aims to provide and promote mutual assistance between criminal police authorities within the limits of national laws and the Universal Declaration of Human Rights. Originally formed in Vienna in 1923, the organization has steadily grown in membership but never substantially changed in form or objectives. INTERPOL is not a supranational police agency with investigative powers, but a cooperative network intended to foster collaboration and to provide assistance in police work among law enforcement agencies in many.

There have been trends of structural reorganizations within INTERPOL to deal effectively with existing and potential terrorist threats. In the aftermath of September 11, INTERPOL reorganized in several key respects. Most concretely, during a press conference in Madrid on September 14, 2001, Secretary General Noble announced the creation of ‘11September Task Force’ at INTERPOL’s Headquarters in Lyon, France. The objective of this special task force is to coordinate international criminal police intelligence received at INTERPOL’s Headquarters. The creation of the task force is meant to ensure that information received is processed as quickly as possible for immediate forwarding to the INTERPOL National Central Bureau in Washington, DC, and, through it, to the Federal Bureau of Investigations (FBI).

Also instituted following the September 11 attacks was a General Secretariat Command and Co-ordination Center which is operational 24 hours a day, 7 days a week. A new Financial and High Tech Crimes Sub-Directorate tasked with monitoring money laundering was also created. In April 2002, INTERPOL announced the creation of an INTERPOL Terrorism Watch List, which provides direct access by police

14 http://www.nato.int/cps/en/natoqc/official_texts_87905.htm?
agencies to information on fugitive and suspected terrorists who are subject to red (arrest), blue (location) and green (information) notices.

On June 22, 2001, Interpol established a system for member agencies to automatically upload and retrieve information from a database encompassing cases on stolen travel documents. Further to this, at a Cameroon meeting of 2002, the establishment of a new global communications project was announced as Interpol’s highest priority. This project involved the launching of a new internet-based Global Communications System, called ‘I-24/7,’ to provide for a rapid and secure exchange of data among Interpol’s member agencies. Now operational, the I-24/7 system allows for the searching and cross-checking of data submitted to Interpol by the organization’s members over a virtual private network system that transmits encrypted information over the internet.

Clearly, Interpol has undergone significant changes since September 11 as part of a renewed and vigorous effort to more efficiently; organize international police cooperation against the terrorist threat. As illustrated above, new systems of information exchange among police across the world have also been instituted. As such, formal policy resolutions have been developed to offer a foundation to these new counter-terrorist arrangements.

3.7 International Committee of the Red Cross (ICRC)

The International committee of the Red Cross established in 1863, works worldwide to provide humanitarian help for people affected by conflict and armed violence and to promote the laws that protect victims of war. An independent and neutral organization, its mandate stems essentially from the Geneva Conventions of 1949.

Based in Geneva, Switzerland, it employs some 12,000 people in 80 countries; it is financed mainly by voluntary donations from governments and from national Red Cross and Red Crescent societies. Since its foundation, the ICRC has played a humanitarian role in most of the conflicts that have taken place around the world. It

has continuously worked to persuade States to expand the legal protection of war victims, to limit suffering. The ICRC, the national societies and their International Federation form the International Red Cross and Red Crescent Movement. In situations of armed conflict the ICRC coordinates the response by its Movement partners.

The ICRC has a permanent international mandate for its work. This derives from the 1949 Geneva Conventions agreed to by every State in the world and from the Statutes of the Movement. However, the ICRC remains a private organization governed by Swiss law and strictly independent in its governance and operational decisions. The Committee itself consists of up to 25 co-opted members, all Swiss. The ICRC’s work respects the Movement’s fundamental principles, notably those of neutrality, impartiality and independence. The ICRC can encourage states to implement rules of International Humanitarian Law on a national level and monitor the behavior of those involved in armed conflicts thanks to its experience and the ICRC’s reputation for impartiality.

The ICRC can directly contact state authorities, deliver protests and if necessary verify alleged violations of International Humanitarian Law, especially if the ICRC acts under Art. 5(4) of the 1st Additional Protocol to the Geneva Conventions. Furthermore, also national RC Societies play a key role in the process of disseminating knowledge of International Humanitarian Law with the aim of creating an environment in which there is not only space for International Humanitarian Law but which could best be described as a "culture of compliance" with International Humanitarian Law has an international commissioned been established by Art. 90 of the same Protocol which is tasked with the examination of all facts which allegedly constitute a grave violation of International Humanitarian Law within the meaning of the four Geneva Accords or the 1st Additional Protocol of an other significant violation of these texts.

The ICRC worked in India at the time of partition (1947-48) and in the ensuing conflicts between India and Pakistan (1965, 1971). A Regional Delegation was established in New Delhi in 1982, today covering India, Bhutan and Maldives.
main focus is on visiting detainees held in Jammu and Kashmir and in Bhutan, assisting civilians affected by violence in various parts of India and promoting international humanitarian law (IHL). The ICRC supports the activities of the Indian Red Cross and Maldivian Red Crescent Societies.

In India, ICRC delegates visit people arrested in connection with the situation in Jammu and Kashmir, who are held both within the state and in other parts of India, to monitor their treatment and living conditions. According to need, the ICRC distributes basic assistance to detainees as well as to their close relatives. In India and Bhutan, the ICRC helps detainees to re-establish and maintain contact with their families. The ICRC supports the humanitarian activities of the Indian Red Cross Society18, such as emergency response, first aid, livelihood support and community health programmes. The ICRC strengthens the operational capacity of local IRCS branches in States affected by emergencies to help them provide the appropriate humanitarian response. It promotes Red Cross/Red Crescent principles and respect for the emblems and advocates in favour of neutral and independent humanitarian action. It also supports the Family News Service of the IRCS, which seeks to trace and reunite family members separated because of migration, displacement and disasters.

The ICRC offers its support and expertise to India’s National Disaster Management Authority, concerning the management of dead bodies during natural and man-made disasters. The ICRC assists in medical and health programmes, as well as safe water and sanitation projects in Assam, Nagaland and Chhattisgarh. A team of ICRC doctors and nurses supports the Primary Health Centre of Kutru, in Bijapur district, Chhattisgarh. Community workers increase awareness of hygiene among local communities in Bijapur district.

The ICRC also supports the IRCS and the Ministry of Health in physical rehabilitation activities run by a district rehabilitation center in Dimapur, Nagaland. It also maintains one physical rehabilitation programme in Jammu and Kashmir, and supports one center in the city of Raipur/Chhattisgarh.19 An ICRC report noted a

18 Indian Red Cross Society [hereinafter IRCS]
19 http://www.icrc.org/eng/where-we-work/asia-pacific/india/overview–new–delhi.htm,
pattern of excessive force used by U.S. soldiers during raids at home or business, frequently occurring after midnight. The report noted that “ill treatment during capture was frequent “and that included “pushing people around, insulting, taking aim with rifles, punching and kicking and striking with rifles”. All of which looked like boy scouts picnic pranks compared to what happened at the infamous Abu Gharib.\textsuperscript{20}

Yet although this commission seems to be highly efficient in theory, things look different in practice. Therefore although the ICRC theoretically has a number of means to enforce International Humanitarian Law, the practical value of the ICRC's means can be limited, making them a potential that cannot always be used fully.\textsuperscript{21}

3.8 Amnesty International (Amnesty and AI)

Amnesty International is a non-governmental organisation focused on human rights with over 7 million members and supporters around the world. The stated objective of the organisation is "to conduct research and generate action to prevent and end grave abuses of human rights, and to demand justice for those whose rights have been violated."

Amnesty International was founded in London in 1961, following the publication of the article "The Forgotten Prisoners" in The 28 May 1961, by the lawyer Peter Benenson. Amnesty draws attention to human rights abuses and campaigns for compliance with international laws and standards. It works to mobilise public opinion to put pressure on governments that let abuse take place. The organisation was awarded the 1977 Nobel Peace Prize for its "campaign against torture," and the United Nations Prize in the Field of Human Rights in 1978.

\textsuperscript{21} Kirchner Stefan, International Humanitarian Law in Modern Asymmetry Conflicts, http://www.papers.ssrn.com/ssrn-id757089,
In the field of international human rights organisations Amnesty has the longest history and broadest name recognition, and is believed by many to set standards for the movement as a whole.\textsuperscript{22}

Amnesty International insists that states must respect human rights in any actions they take in the name of national security or countering terrorism. Where states fail to respect human rights, governments and individuals responsible must be held to account. They will also work for the rights of victims of terrorism and other violence by armed groups, supporting them in their struggle for truth, justice and reparation.

They will expose and oppose unlawful detentions carried out in the name of national security or countering terrorism. They demand that states and individuals responsible for human rights violations committed in the name of national security or countering terrorism are held to account, to the victims, to the public and to the law. The deliberate targeting of civilians for attack can never be justified and is always an abuse of human rights. They will support victims of terrorism and armed groups by working for their rights to truth, justice and reparation.\textsuperscript{23}

According to the amnesty international report there was increasing concern at the erosion of human rights protection in the context of “anti-terrorism” measures against armed political groups, and continuing communal tensions. Systematic discrimination against vulnerable groups—including women, religious minorities, dalits and adivasis (tribal people) was exacerbated by widespread use of security legislation, political interference with criminal justice system and slow judicial proceedings in a continuing climate of impunity.

Tensions remained high in the state of Gujarat in the aftermath of widespread communal violence in 2002. Witness to the violence and human rights defenders were threatened and concern grew about the impartiality of institutions of the criminal justice system in the state, including the police, prosecution service and elements of the judiciary. A committee constituted by the ministry of home affairs suggested

\textsuperscript{22} \url{https://en.wikipedia.org/wiki/Amnesty_International}
\textsuperscript{23} \url{www.amnestyusa.org/our-work/issues/security-and-human-rights}
recommendations for the reform of the criminal justice system which would potentially undermine human rights protection even further.  

In 2011, Amnesty International termed the Public Security Act 1978 \textsuperscript{25} ‘lawless law’. In 2012, this assessment continues to hold true. Despite seemingly positive political and legal developments in recent months, the PSA and its implementation in J&K continue to violate India’s obligations under international human rights law. Several provisions in the PSA facilitate arbitrary detention, in violation of India’s obligations under the ICCPR. Amnesty International’s subsequent research in 2012 has also found that the manner in which authorities use the PSA in J&K results in further human rights violations. These include unlawful deprivations of liberty through the practice of ‘revolving door detentions’, detentions of children, torture and other ill treatment, the denial of medical care while in detention, and a limited realization of the right to reparations. Furthermore, instead of charging and trying persons suspected of committing offences in a fair trial in a court of law, the J&K authorities continue to circumvent the rule of law and the criminal justice system by resorting to detentions under the PSA.  

Recent data disclosed by the National Human Rights Commission (NHRC) on people killed in clashes with the police between 1993 and 2008, showed that of the 2,560 deaths reported, 1,224 occurred in “faked encounters” implying they were extrajudicial executions. By the end of the year, the NHRC had awarded compensation to the relatives of 16 victims. Convictions of those responsible for extrajudicial executions were exceptionally rare and proceedings in such cases remained slow. 

In January, the Supreme Court ordered a Central Bureau of Investigation probe into the 2005 killings, allegedly by the Gujarat police, of Sohrabuddin, his wife Kausar Bi and accomplice Tulsiram Prajapati, after finding the state police investigation shoddy. In November, the Gujarat government constituted a new special police team to

\textsuperscript{24} Sing, Kavita, Human Rights and Anti-terrorism Laws in India (2010) p. 49; see also. Malimath committee Report of Criminal Justice System Reform Committee, Ministry Of Home Affairs, Government of India

\textsuperscript{25} Public Security Act[Hereinafter PSA]

\textsuperscript{26} http://amnesty.org.in/human-rights/research,
investigate the killings of Ishrat Jahan and three others at the hands of the Gujarat police in 2004.27

3.9 Counter Terrorism in Developed Countries

This section provides an overview of counter terrorism approaches in developed countries. The countries identified are the United States of America (US), the United Kingdom (UK) and Russia. Their approach to terrorism will be analysed with the underlying aim of determining aspects that have been successful in countering terrorism. These three countries are considered superpowers within the international arena, as they command enormous political and economic influence within the multilateral fora. Both the US and the UK have been victims of recent devastating acts of terrorism on their home soil. Russia, as well, has a persistent history of terrorism originating from the Chechnyan struggle. The experiences of the above-mentioned countries, which have both the resources and the expertise to counter the terrorist threat, may provide valuable insights on ascertaining relevant and appropriate counter terrorism strategies.

3.9.1 United States of America (US)

No group or nation should mistake America’s intentions: We will not rest until terrorist groups of global reach have been found, have been stopped, and have been defeated -

President George W. Bush, November 6, 2001

While all democracies may be particularly good targets for attacks by terrorists, the US is particularly appealing to a wide variety of dissidents. The US has the dubious distinction of being the most favoured target of international attacks as it remains symbolic of the ‘West, modernization, democracy, capitalism, and multinational corporations’; key elements which often form the focus of terrorist organisations. The biggest threat to the US is Al-Qaeda. Most of its attacks have been undertaken outside the US since they are easier to undertake in those locations, but there is no doubt that

the US and its national interest as encapsulated in its foreign policy objectives are the targets. However, apart from international threats, the US is also prone to acts of domestic terror.\textsuperscript{28}

\subsection*{3.9.1.1 US Counter Terrorism Strategic Approach}

The approaches to the phenomenon of counter terrorism are as many and as diverse as they are definitions of the problem of terrorism. For academics such as Wilkinson (2006:6), a counter terrorism strategy is a multi pronged approach for a ‘liberal state’ (otherwise herein referred to as democratic states), which does not undermine or seriously damage the democratic process and the rule of law, while providing sufficient flexibility to cope with a whole range of threats. The following are considered as key elements in the US approach to counter terrorism:

\begin{itemize}
  \item \textbf{a) Increased security}
\end{itemize}

Increasing security, especially around critical targets or personnel is one solution to counteract the threat of terrorism as it reduces the appeal of vulnerable targets. Potential targets may include any government or party official or any member of the security services. In most cases, no defence system is completely effective; however, it does not imply that improved security is not important. For instance, targeted persons can vary their routines or take suitable precautions to prevent kidnappings or assaults. While such actions are eminently wise, they cannot grant immunity. Any measure ‘that would preclude every possible terrorist group for every possible motive is not even theoretically conceivable’.\textsuperscript{29}

Whilst enhanced security and prevention can limit the damage that attacks will generate; the possibility still exists that enhanced security will only have temporary effects in reducing attacks as terrorist groups will limit their activities until such time

\begin{footnotesize}

\end{footnotesize}
that security is relaxed. In addition, Enders and Sandler (2002: 152) argue that increased security can have negative ramifications, for instance, the widespread use of metal detectors in airports led to more deadly attacks with bombs against airlines. Greater security can help but there are far too many targets for security measures to be effective.

b) Intelligence gathering-detection and prevention

Prevention through intelligence gathering and infiltration of dissident groups is another possible measure in the battle against terrorism. The role of counter terrorism intelligence is to retrieve timely and credible information on details of a terrorist attack and prevent such attacks. Intelligence, which identifies terrorist targets, the securing of these targets, preventing of the terrorist attack and or locating and prosecuting of perpetrators, is extremely valued. Such details have proven to be central in disrupting terrorist attacks. Intelligence that disrupts successive terrorist cells and terrorists is regarded as the most fruitful counter terrorism exercise. Intelligence obtained regarding a target of terrorism can ensure that the target is secured. Disrupting a terror cell is considered fundamentally more effective in countering terrorism. However, obtaining intelligence to achieve these objectives remains difficult.

3.9.1.2 Specific Counter Terrorism Strategies

All of the above-mentioned components are encapsulated in two crucial US counter terrorism strategies, these being, the US Department of State’s National Counter Terrorism Strategy and the US National Counter Intelligence Strategy. These are discussed below.

a) The US Department of State (DoS) National Strategy for Combating Terrorism


This strategy was developed in 2003 adopts a four dimension strategy (4D strategy) which seeks to ‘defeat, deny, diminish and defend’. The first tenet of the strategy is aimed at the ‘Defeat of Terrorists and their Organizations’. This tenet calls for defeating terrorist organizations with a global reach through the direct or indirect use of diplomatic, economic, information, law enforcement, military, financial, intelligence, and other instruments of power. This tenet seeks to:

- **Identify terrorists and terrorist organizations**: The Intelligence Community and law enforcement agencies continue their aggressive efforts to identify terrorist and their organizations, map their command and control and support infrastructure, and then ensure appropriate distribution of the intelligence to federal, state, and local agencies as well as to international US allies.

- **Locate terrorists and their organizations**: For intelligence to succeed the US relies on technical intelligence and other types of intelligence needed to get inside terrorist organizations, locate their sanctuaries, and disrupt their plans and operations. The law enforcement community, using the advantage provided by the US criminal justice system, identifies and locates terrorist organizations operating in the US and abroad.

- **Destroy terrorist and their organizations**: The US and its allies aim to utilize available mechanisms to disrupt, dismantle, and destroy terrorists’ capacity to conduct acts of terror. In collaboration with its partners and appropriate international organizations, the US aims to eliminate the sources of terrorist financing. To synchronize these efforts, the Department of State takes the lead in developing specific regional strategies for defeating terrorism.

The second tenet seeks to ‘Deny Sponsorship, Support, and Sanctuary to Terrorists’. The goal of this tenet is to eliminate terrorist groups – their access to territory, funds, equipment, training, technology, and unimpeded transit. The objectives are to:

- **End the state sponsorship of terrorism**: The US assumes a pragmatic approach in prosecuting the campaign against terrorism. This includes incentives for ending state sponsorship.
• **Establish and maintain an international standard of accountability with regard to combating terrorism:** UNSCR 1373 clearly establishes states’ obligations for combating terrorism.

Additionally, the 12 international counter terrorism conventions and protocols, together with UNSCR 1373, set forth a compelling body of international obligations relating to counter terrorism. The US aims to encourage all states to become parties to and fully implement these conventions and protocols.

• **Strengthen and sustain the international effort to fight terrorism:** Through a ‘coalition of the willing’ the US will aim for a united international front to fight terrorism.

• **Implement the National Strategy for Homeland Security:** The establishment of the US Department of Homeland Security will help mobilize and organize the US’s ability to secure the U.S. homeland from terrorist attacks. The recommendations of the National Strategy for Homeland Security and the national Strategy for Combating Terrorism compliment and reinforce each other. From enhancing the analytical capabilities of the FBI and recapitalizing the U.S. Coast Guard, to preventing terrorist use of WMD through better sensors and procedures and integrating information sharing across the federal government, the objectives in these national strategies are vital to the US’s future success in the war on terrorism.

The third tenet is aimed at ‘**Diminishing the underlying conditions that terrorists seek to exploit**’. Two objectives underlie this tenet:

• **Partnering with the international community to strengthen weak states:** The US State will ensure that efforts are designed to identify and diminish conditions contributing to state weakness and failure are a central US foreign policy goal.

• **Winning the war of ideas:** The US government will use the political influence of its State to delegitimise terrorism.
The fourth tenet of the strategy is to ‘Defend US Citizens interests within the US and abroad’. Four objectives underpin this tenet:

- **Attaining domain awareness**: the key element within this objective is the need to attain effective knowledge of all activities, events and trends within the specified domain.

- **Enhance measures to ensure the integrity, reliability, and availability of critical physical and information-based infrastructure in the US and abroad**: Emphasis within this element is placed on the protection of vital systems within the US.

- **Integrate measures to protect US citizens abroad**: Emphasis is placed on the protection of citizenry abroad as a mechanism to secure economic vitality abroad.

- **Ensure an integrated incident management capability**: Solid plans, preparations, and immediate response are key to mitigating acts of terrorism.

b) **The US National Counter Intelligence Strategy, 2005**

Counterintelligence, as defined in the National Security Act of 1947, is ‘information gathered and activities conducted to protect against espionage, other intelligence activities, sabotage, or assassinations conducted by or on behalf of foreign governments or elements thereof, foreign organizations or foreign persons, or international terrorist activities.’ The *National Security Strategy of the United States* seeks to defend the peace by fighting terrorists and tyrants, to preserve the peace by building good relations among the great powers, and to extend the peace by encouraging free and open societies on every continent.

In essence, four major points encapsulate the current U.S. Counter Terrorism policy. Firstly, the policy makes no concessions to terrorists and strikes no deals. Secondly, it results in terrorists being brought to justice for their crimes. Thirdly, it isolates and applies pressure on states that sponsor terrorism to force them to change their behaviour, and lastly, it bolsters the Counter Terrorism capabilities of those countries
that work with the U.S. and that require assistance. Yet, within the key elements encapsulated in US Department of State’s National Counter Terrorism Strategy and the US National Counter Intelligence Strategy, an important feature is the proactive nature of these strategies and their prospective applications to acts of terrorism.

3.9.1.3 The Counter Terrorism Approach

The Office of the Coordinator for Counterterrorism works with all appropriate elements of the U.S. Government to ensure integrated and effective counterterrorism efforts. The US key element of its counter terrorism operational approach is inter-agency operations which plan, conduct and structure operations, from the very outset, as part of an intimately connected ‘whole-of-government’ approach. The U.S. Government Counterterrorism Team includes:

List of US Departments involved in the US Counter Terrorism Approach

**The White House**
- Homeland Security
- National Security

**Department of State**
- Bureau of Diplomatic Security
  - Anti-Terrorist Assistance Program
  - Overseas Advisory Council
  - Rewards for Justice Program
- Bureau of Economic and Business Affairs
  - Counterterrorism Finance and Economic Sanctions Policy
- Bureau of Intelligence and Research
- Bureau of International Narcotics and Law enforcement Affairs
- Foreign Service Institute
- U.S. Mission to the United Nations Department of Defense

• Defense Intelligence Agency
• The War on Terrorism Department of the Treasury
• Office of Terrorist and Financial Intelligence

Department of the Treasury
• Office of Terrorist and Financial Intelligence Department of Justice
• Counterterrorism Training and Resources for law Enforcement
• Federal Bureau of Investigation—Counterterrorism
• FBI—Most Wanted Terrorists

National Counterterrorism Center
Office of the Director for National Intelligence
Agency for International Development

Joint New York Police Department (NYPD)/FBI Joint Task Team is One of the important integrated approach to counter terrorism. The biggest achievement of the NYPD/FBI’s joint initiative came in June 2007, when the alliance foiled a new Islamic plot against New York, which entailed the bombing of fuel tank farms at John F. Kennedy International Airport. The NYPD had penetrated the plot from inception and their ability to curb the threat revealed that both Trinidad and other Caribbean ports had become fertile ground for Islamic militancy. Nevertheless, the joint task team has foiled at least seven terror plots since 9/11.33 The joint task force is illustrative of the importance of law enforcement in any national counter terrorism strategy.

3.9.2 United Kingdom (UK)

The UK’s armed forces and police have gained invaluable experience and expertise in counter terrorism through decades of involvement in efforts to suppress terrorism in Northern Island and its spillover effects into the British mainland. Irish dissidents have a long history of opposing the British presence on the Island. In the years after World War I, the Irish Republican Army (IRA) successfully used guerrilla attacks and

terrorism to convince the British to negotiate the peaceful separation of most of Ireland from the United Kingdom.

3.9.2.1 Counter Terrorism Approach

The UK defines terrorism as ‘the use of threat, for the purpose of advancing a political, religious, ideological course of action, of serious violence against any person or property’. The UK’s statutory definition is contained in the Terrorism Act 2000 and reads as follows:

(1) In this Act ‘terrorism’ means the use or threat of action where:
(a) The action falls within subsection (2);
(b) The use or threat is designed to influence the government or intimidate the public, and
(c) The use or threat is made for the purpose of advancing a political, religious, or ideological cause.

(2) Action falls within this subsection if it:
(a) Involves serious violence against a person, (b) involves serious damage to property,
(c) Endangers a person’s life other than that of the person committing the action,
(d) Creates a serious risk to the health or safety of the public or a section of the public, or
(e) Is designed seriously to interfere with or seriously disrupt an electronic system.

(3) The use or threat of action falling within subsection (2) which involves the use of firearms or explosives is terrorism whether or not subsection (1) (b) is satisfied (Terrorism Act 2000, Part 1, (1)-(3)).

Essentially, anti-terrorism legislation is designated as an important strategy towards increasing the level of protection of life and property by providing law enforcement

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authorities with the powers needed to assist them in apprehension and conviction. Legislation serves as a symbolic or psychological function expressing public revulsion by reassuring the public that something is being done, such as, Britain’s prevention of terrorism act was meant to give legislative expression to public revulsion against the threats of terrorism. However, if key legislation becomes outdated then it will hamper anti terrorism efforts. In 1990, the UK’s prevention of terrorism act was rendered outdated. It was felt that anti-terrorism legislation needed to incorporate the safeguards of the European convention on human rights (introduced in the UK by the Human rights act) as well as the Police Criminal Evidence Act. Lord Lloyds Legislation against terrorism proposed much needed measures to deal with international terrorism and the Terrorism Act of 2000 was based on these proposals. After 9/11, the Home secretary David Blunkett introduced the Anti-Terrorism Crime and Security Act, which enables detention without trial in section 4 of the Act permitting confinement of a small number of foreigners.35

The legislation broadly focuses on three levels:

- Specific crimes that are associated with terrorists, have been targeted by specific legislation, both to prevent them from occurring and to subject the perpetrators to increased penalties if they are committed e.g. the hijacking of commercial aircraft.
- An increasingly diverse number of activities that terrorists need to engage in if they are too function, have been newly criminalised e.g. engaging in money raising, eliciting support or openly recruiting.
- Extraordinary investigative powers have been given to the numerous law enforcement and other investigative agencies whose responsibility it is to deal with crime committed by terrorists.

The experiences of the UK in counter terrorism and counter insurgency over the past century, both in the UK itself and abroad, have determined its current holistic approach to counter terrorism. The UK has three foremost strategies which were

developed and refined in the context of terrorism in Northern Ireland and, since 1972, has affected the British mainland.\textsuperscript{36}

\section*{3.9.2.2 Counter Terrorism Approach}

A key element in the prevention of terrorism strand is counter terrorism operations. Here there is a nuance of activity, ranging from purely intelligence gathering operations, in which the primary objective is to gather evidence to put before court or the eventual arrest of perpetrators. The UK already has in place an impressive national structure of coordination to deal with terrorism, which includes the following institutions:

\begin{itemize}
\item \textit{MI5 and MI6}: The United Kingdom, according to, the MI5 (Ministry of Intelligence) deals with domestic threats while MI6, undertakes foreign operations. In this case, however, while the two sections may disagree and have different agendas, there is some central control.
\item \textit{New Scotland Yard}: The police carry the main burden of containing and defeating terrorism in democratic States. Fighting terrorism is similar to combating serious violent crimes. The task requires extensive knowledge of modus operandi; weaponry; tactics of terrorist groups and specialised knowledge such as the crime scene investigation in a bomb scenario may require more specialised units. Scotland Yard in particular has as one of its specialized units, the Anti-terrorist Unit which falls under the Metropolitan Police Service’s (MPS) Special Operations (SO) Counter Terrorism Command.
\item \textit{EUROPOL}: The next major step in enhancing police cooperation in the EU and probably the most significant and far-reaching came with the establishment of EUROPOL. The initial role was to assist in improving effectiveness in combating drug trafficking and organized crime. After sustained pressure from Spain, the remit of Europol was expanded to include
\end{itemize}

terrorism from 1 January 1999. Article 29 of the Treaty on the European Union specifically refers to terrorism as one of the serious forms of crime to be subject to common action by closer cooperation between police, customs and other authorities. On 22 June 2002, a Framework Decision on Combating Terrorism came into force throughout the EU and is currently binding on member states. The framework indicates which crimes are terrorist offences; penalties and the authority to investigate. After September 11, a Counter Terrorist Task Force was established. The objective was to research and refine threats to the EU.

- **Joint Terrorism Analysis Centre (JTAC):** JTAC provides threat assessments for all departments and agencies concerned with preventing and combating terrorism. Since 11 September 2001, more than ten planned terrorist attacks have been thwarted in the UK with the assistance of JTAC.37

- **Metropolitan Police Services (MPS) (Counter Terrorism Command):** Prior to the establishment of the Counter Terrorism Command, the MPS undertook counter terrorism operations through its Anti Terrorism Branch and the Special Branch. Post-July 2005, the MPS had started to review how these commands operated and interacted with one another to deliver a counter terrorist response. Thereafter, it was agreed to create a new multi-faceted, single counter terrorism command with better capability and capacity to meet ongoing and future threats. As a result, the new Counter Terrorism Command was created. The new command brings together intelligence analysis and development with investigations and operational support activity. It is also known as “SO15”, an internal police service designation reflecting the fact that it is one of fifteen Specialist Operations branches within the MPS.

The nature of terrorism is continually changing and evolving and therefore, the threat response should be innovative, flexible and utilize all resources. The primary response to terrorism by democratic states must be the criminal justice system, supported by intelligence and military. These responses must operate within the ambits of the rule

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of law. Democracies have well developed legislation, systems and structures to deal with crime, and consequently the criminal justice system should be at the ‘heart’ of counter terrorism efforts. The experience of UK has led to the current concept of operations where policy, strategy, operation and tactics are anchored in the criminal justice system and the implementation includes all organs of state.

3.9.3 Russia

Much of the terrorist activity in Russia has been home-grown and linked to both the Chechen separatist and the North Caucasus-wide extremism. The Russians have a decade long experience of dealing with terrorism emanating from the Taliban-controlled Afghanistan – terrorism that has received strong support from Pakistan. Chechen terrorists are known to have received ideological indoctrination and military training in Akhora Khattak in Pakistan’s North-West Frontier Province. The Russians also have no illusions about the mutually reinforcing nexus that exists between the ISI, the Pakistani religious political parties and the jihadi groups like the Jaish-e-Mohammad and the Lashkar-e-Toiba on the one hand and Bin Laden’s Al-Qaeda, the Taliban and their associates in Central Asia, Philippines, Indonesia and Chechnya on the other. It is in this context, that President Putin made it clear that Russia would not hesitate to strike against those set to promote terrorism on its soil. The Russians are keeping their options of dealing with and persuading Pakistan to change its course of action.

3.9.3.1. Counter Terrorism approach

The Russian government continues to take steps to improve coordination of counter terrorism activities and expand law enforcement responsibilities domestically. In February 2006, President Putin signed a decree creating the National Counter terrorism Committee (NCC), headed by the Federal Security Service (FSB). The NCC was an effort to rationalize the decision-making process following the 2004 Beslan school siege, and was designed to establish a single chain of command and centralize
the decision-making process at the national level, subordinating the Regional Counterterrorism Committees headed by governors.\(^{38}\)

In March 2006, the Russian legislature approved the law “On Counteracting Terrorism”, which further defined the role of the NCC. The legislation expanded the concept of terrorism under Russian law, going beyond physical involvement in planning or carrying out terrorist attacks. Under the law, terrorism also included promotion of “terrorist ideas” and distributing materials or information to encourage terrorist activity or inciting individuals to commit a terrorist act (US Department of State, 2007).

As stated above, at the helm of Russia’s counter terrorism approach is the Federal Security Service (FSB). The afore-mentioned law also reiterates President Putin’s decree of February 2006, which calls for the establishment of the National Counter Terrorism Committee (NCTC), and replaces the Federal Counter Terrorism Commission. The new NCTC falls under the leadership of FSB’s director Nikolai Patrushev. The NCTC will serve as an organization that coordinates the activities of federal, regional and municipal agencies in the counter terrorism field. The President’s decision to establish such a committee was based on the need to build a strictly organized vertical system of operation to prevent counter terrorism and deal with the aftermath of terrorist attacks.\(^{39}\)

The Russian government provided further transparency to its counterterrorist approach in July 2007 by releasing, for the first time, a list of 17 organizations it designated as terrorist entities. All entries to the list are subject to approval by the Supreme Court, and must meet the following criteria:

- Activities aimed at changing Russia's constitutional system through violence, including terrorism;
- Links to illegal armed groups and other extremist organizations operating in the North Caucasus; and

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\(^{39}\) http://xinhua.net/200602/17/eng2006021.html
• Association with, or links to, groups regarded as terrorists by the international community.

There were three known organizations operating within the Russian Federation that the United States designated terrorist entities in February 2003, under Executive Order 13224. These include:

• The Special Purpose Islamic Regiment (SPIR).
• Riyadus-Salikhin Reconnaissance and Sabotage Battalion of Chechen Martyrs.
• Islamic International Peacekeeping Brigade (IIPB).

In addition to listing terrorist organizations, the Russian criminal justice system has also proved effective. Noteworthy court cases involving terrorist suspects. Apart from this international cooperation on combating terrorism has also been a strong pillar in Russia’s counter terrorism approach. Russia used its position in international fora to build cooperative mechanisms and programs to counter terrorism. Russia has also promoted counter terrorism within the framework of the Organization for Security and Cooperation in Europe, the G8, and the United Nations. Thus far, the following cooperation agreements are in place:

• The United States and Russia continue to cooperate on a broad range of counter terrorism issues, including efforts to destroy, safeguard, and prevent the proliferation of Weapons of Mass Destruction (WMD). The U.S.- Russian Counter terrorism Working Group (CTWG) met for its fifteenth session September 13-14, 2006 in Washington where it fostered cooperative, operational links between numerous U.S. and Russian agencies. Law enforcement, intelligence, and policy cooperation have increased as a result of the work of the CTWG. At the St. Petersburg G8 Summit in July, the United States and Russia jointly announced the Global Initiative to Combat Nuclear Terrorism (US Department of State, 2007).

• Russia is an active member of the Financial Action Task Force on Money Laundering and Terrorist Financing (FATF). Russia fulfilled its pledge to

create a Eurasian FATF-style regional body (FSRB) in 2004, known as the Eurasia Group on Money Laundering (EAG), and as the group's leading force remained its chair. The EAG, whose members also include Belarus, China, Kazakhstan, Kyrgyzstan, and Tajikistan, made significant progress toward building Financial Intelligence Units (FIUs) and established the necessary legislative and regulatory frameworks in member states to help those states improve their compliance with international standards (US Department of State, 2007).

- The Conference of Heads of Commonwealth of Independent States (CIS) Security and Special Services is one of the most productive organizations in combating terrorism in CIS member-countries. Russia’s FSB came up with an initiative in 1995 to set up a conference of heads of CIS member-nations security and special services. The fight against the smuggling of weapons, military hardware, radioactive, explosive and toxic substances and drug trafficking, as well as measures to ensure information security are high on the organizations agenda.41

- India and Russia signed a Memorandum of Understanding (MoU) which establishes and inter-Agency Joint Working Group on terrorism. This will supplement the existing arrangements between the National Security Councils of the two countries. In terms of the agreement, India and Russia agreed to cooperate in taking preventative and deterrent measures against common terrorist threats (such as those posed by Al-Qaida, the ISI, etc).42

Russia has opted for an integrated approach incorporating the federal, regional and municipal agencies in the counter terrorism field instead of relying solely on the FSB. Looking at Graph 3.3, from January – October 2007, the MIPT has only recorded twenty incidents as compared to 2006, which recorded more than 80 incidents. This

41 http://www.militarynews.ru
reinforces the argument, and as noted in the US and UK examples, that integration and coordination and a greater role for local law enforcement in counter terrorist measures is an important measure to consider.

Multilateral initiatives have, at best, been effective in increasing the awareness of the global nature of terrorist threats. It has facilitated a sense of common purpose, motivated states to take precautionary measures against terrorist threats and expand their counter terrorism capacities, and encouraged coordination efforts among states and regional organisations. However, whilst the broader framework exists for conceptualising terrorist threats, there are still a number of hurdles that impact on developing a fully functional coherent and robust global approach to counter terrorism. It is apparent that terrorist incidences have increased seven-fold since 9/11. One argument for the increase in terrorist incidences rests on the challenge that Al-Qaeda has transformed from a unitary entity into a movement or something more akin to an ideology. As Al-Qaeda spreads, it becomes a more dispersed, hidden and persistent target, which is more difficult to combat.\textsuperscript{43} The lack of a coherent multilateral approach to counter terrorism has been identified as the chasm that enables terrorist groups like al-Qaeda to operate within the global realm.

At the regional level, functional organisations like the AU, EU and Interpol, whilst improving efforts to address threats in the last few years, have likewise been faced with the similar stumbling blocks as the UN. The AU in particular has had difficulty engaging with classification of rebel movements within Africa as terrorists.

In terms of measuring effectiveness, the development of appropriate global initiatives to counterterrorism is still undergoing fundamental theoretical and practical transformations. Multilateral initiatives remain at the level of infancy and a good deal has to be done to facilitate the transition from theoretical debate to practical application. As a result, the room and gap exists for terrorist organisations to monopolize on inherent weaknesses to further their own strategic objectives. In the

interim, and given existing impediments, it is deemed vital that States work towards strengthening their counter terrorism capabilities and capacities. Working from a bottom-up approach of solidifying the base of counter terrorism from the state level will assist in enhancing the overall global response to terrorism.

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