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13

United Nations' Efforts in Fighting Terrorism

By

Amira Masoud Chahrour

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Student Name: Amira Masoud Chahrour I.D. #: 200400011

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Approved by:

Thesis Advisor: Dr. Paul TABAR

Member : Sami Baroudi [redacted]

Member : Paul TABAR

Member : Shafik Masri

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Abstract

Since September 11, 2001, the threat of terrorism has become a topic of priority for the international community. However, the inability of the United Nations to agree upon a general definition of what constitutes terrorism has often been considered a major obstacle to effective countermeasures. Despite the fact that this failure has been the major flaw in the United Nations' effort pertaining to terrorism, the United Nations has proved to be useful in tackling the problem of terrorism in its different manifestations.

The United Nations has made decisive efforts to define and combat terrorism which has always been its foremost concern. It has developed countermeasures to meet the challenge posed by terrorism as a threat to the international peace and security. These countermeasures aim at bringing all perpetrators of terrorist acts, whether states or individuals, to justice. This thesis has tried to show that the role of the United Nations in fighting terrorism has been significant, despite some criticisms.

TABLE OF CONTENTS

Overview of Terrorism

1.1. Introduction

The marked increase in the transnational and destructive character of terrorist activities and the repercussions of some recent terrorist attacks have prompted legalists to inquire again as to whether international law is capable to deal with the challenge of international terrorism. Since September 11, renewed attention has been given to the phenomenon and the attacks have persuaded the international community to endorse certain binding measure to be implemented by states in order to combat terrorism.

Though terrorism is not yet officially defined, it has always been high on the international agenda. The United Nations has always proved to be successful in tackling the crime of terrorism in many of its manifestations. The United Nations since its establishment has often been at the forefront in battling against terrorism. Despite the fact that the major flaw in the United Nations counterterrorism efforts has repeatedly been its inability to reach a general consensus over the definition of terrorism, the world organization has developed an international legal framework compromised of twelve conventions and protocols applied to different types of terrorist activities. The main objective of these conventions and protocols is to prosecute terrorists and to deny them a safe haven. They define certain terrorist activities as criminal acts punishable under international law and must be addressed by states in their domestic criminal codes. Furthermore, the United Nations has issued various resolutions dealing with specific terrorist incidents.

Such acts of terrorism, as categorized in these treaties, could generate responsibility upon individuals as well as upon states for terrorist acts attributable to these states. States, like individuals, can be accused of acts of terrorism in case they sponsor a terrorist activity. Although terrorism as a crime is neither within the

jurisdiction of the International Criminal Court as well as the International Court of Justice, nor within the jurisdiction of any other international permanent court, the Security Council according to its discretional authority can take necessary actions as to restore the international peace and security. The Security Council can impose technical sanctions on individual terrorists and can establish ad hoc tribunals to prosecute them. Moreover, The Security Council can impose both economic and diplomatic sanctions on states accused of terrorist acts.

1.2. Need for the Study

The events of September 11, 2001 have brought the issue of international terrorism again to the forefront with the very debatable questions about its definition and countermeasures. Since then, the international community has engaged in the battle against international terrorism which it has carried out since decades.

The United Nations responded with unusual speed and unity. The next day of the terrorist act, the Security Council issued Resolution 1368 which regarded the terrorist attacks, like all acts of international terrorism, as a threat to international peace and security. The resolution urged member states to hold responsible all those who aid, support or harbor the perpetrators, organizers and sponsors of these acts (UN Doc. - SC Res. 1368).

Subsequently, on the 28th of September the Council issued Resolution 1373. The resolution was significant and rightly considered by many legalists as a piece of legislation. It was issued under chapter VII of the UN Charter, which gave it a binding nature, and reaffirmed "the need to combat by all means and in accordance with the Charter of the United Nations threats to international peace and security caused by terrorist acts ..." (UN Doc. - SC Res. 1373, Preamble).

Since then, terrorism has taken priority on the agenda of the United Nations which has issued a number of important resolutions concerning the phenomenon. The term

terrorism has been over used and has become heavily politicized especially after September 11. Its use has been generalized to the point of calling any international law violation or even civil acts, terrorism (Gareau 13; Farley 179). Terrorism is considered the most complicated issue under international law (Mathiesen 85). Calls for a definition of this phenomenon continue to be made, especially with the United States' war on terrorism (Mandel 82) which has provided a form of legitimacy for states violating human rights (Kellener 74; Mockaitis 71).

The United Nations has often been blamed for its inability to come over a common definition of what constitutes a terrorist act (Wessel 638). The lack of such global definition has been considered a major obstacle to effective countermeasures (UN Doc. - Report of the SG - In larger freedom, Para 91; Maogoto 51-6). It has also been argued that one cannot issue a resolution pertaining to a certain issue when the topic in question has not yet been defined. There is an urgent need for a comprehensive convention on terrorism which includes all practices of terrorist acts. The absence of such a convention hinders the proficient and effective response to terrorism (Bassiouni, Legal Control of International Terrorism, 101-102).

The anti–terrorist conventions and protocols that the international community has adopted over the years are considered to be insufficient for deterring terrorists, particularly with the spread of transnational terrorism in such a globalization era (Maogoto 2). These conventions and protocols were drafted in response to certain terrorist acts, and even though they address specific acts of terrorism, they neglect to address others. More importantly, these conventions are not general because many states did not ratify them; hence they are binding only to the parties involved. Additionally, they lack the sort of sanctions to be applied on state parties in case they refuse to extradite or prosecute the perpetrators of the terrorist acts or otherwise harbor terrorists (Association of the Bar of N.Y. 7).

A comprehensive convention on terrorism would end such incomplete response. In his survey of terrorism-related treaties, entitled, International Terrorism:

Multilateral Conventions and Documents, international law scholar Cherif Bassiouni calls for the essential need of a comprehensive convention on terrorism. Bassiouni considers that merging all the United Nations existing anti-terrorism conventions and protocols into one updated convention would significantly advance the general goals of all these conventions (Association of the Bar of N.Y. 7-8). Such a comprehensive convention, according to Bassiouni, would eliminate the ambiguities which exist in the current conventions. This convention would also help in the elimination of all the legal measures necessary when enforcing state party obligations (7). If this current trend of drafting conventions continues, there would be no end to the number of conventions adopted and little hope of improving the legal mechanisms contained within each convention (7-8).

Moreover, the anti–terrorist conventions and protocols address certain terrorist acts to be punished under the domestic laws of the states parties (Association of the Bar of N.Y. 6). However, prosecuting differs between the different United Nations member states and it is possible for terrorists to seek asylum or operate without detection (Bassiouni, Legal Control of International Terrorism, 94). Furthermore, the possibility of acquitting defendants, in addition, to the fact that many states' criminal laws are corrupted or the state itself intentionally harbors terrorists renders these conventions good only in theory (Zagaris 70). Most importantly, there is no international permanent tribunal to deal effectively with terrorist crimes (Wessel 638; Maogoto 53), not to mention the difficulty in prosecuting perpetrators (Goldstone & Simpson 20).

However, the United Nations and its specialized agencies have developed an effective mechanism to fight new forms of terrorism (Perera 571). Prevention has proved to be among the effective measures in combating terrorism for it brings perpetrators to justice (Bassiouni, Legal Control of International Terrorism, 94). According to international terrorism scholar John Murphy, an effective counterterrorism action could only be through agreeing on a general convention defining international terrorism and obliging state parties to implement the extradite

or prosecute rule (Association of the Bar of N.Y. 7). An international regime with extradition laws and no impunity, where there is no safe haven for terrorists, is considered effective in deterring all terrorist activities (UN Doc. - Report of Terrorism & Human Rights of 2001).

Moreover, the argument becomes more complicated whenever it comes to the nature of state responsibility under international law (Brownlie, International Law & the Use of Force, 150-4). State criminal responsibility has widely been debated (Tomuschat 261-5) and has received large opposition (Abi Saab, The Uses of Article (19) 344-46 ; Quigley 123) which then led the International Law Commission (ILC) to eliminate it from the current draft articles on state responsibility. Although state's criminal responsibility has not yet been officially accepted, it has been recognized whenever the Security Council of the United Nations determines that state's action is a breach of peace under Chapter VII of the UN Charter (Bassiouni, Legal Control of International Terrorism, 96). Measures that have been taken by the Council in respect to this determination might be interpreted in terms of criminal sanctions (Gilbert 352).

Additionally, the universal jurisdiction regime of the United Nations might, to a certain extent, violate states' sovereignty especially in case it is abused by powerful states in order to justify their interventions in other states' affairs. Sovereignty should not be against certain international concerns particularly while combating terrorism (Schulz 153). According to the scholar Kelsen, the purpose of enforcement measures is not essentially to maintain the law but rather to maintain peace (Wessel 651). The universal jurisdiction of the United Nations is sometimes misunderstood and it has various advantages in case not abused (Goldstone & Simpson 20). Because it is a jurisdiction of the last resort, it is useful for countries unable to carry out certain prosecutions (Gherardi; Schulz 150). The main objective of this jurisdiction is to bring all perpetrators of terrorist crimes to justice which could only take place without sovereignty claims (Cryer).

As the above literature indicates, the function of the United Nations regarding the definition of terrorism and its countermeasures is very arguable. In contrast, this thesis will illustrate that international terrorism has always been the major concern of the international community and the United Nations have made decisive efforts to define and combat terrorism.

The present thesis is divided into four chapters: Chapter one shows how defining and combating international terrorism has often been a major concern for the international community since its inception. It is divided into two sections: The United Nations' attempts to define terrorism and the reasons behind its failure to achieve a general consensus defining what constitutes an act of terrorism are argued in the first section. The whole role of the United Nations and the measures that have been adopted to combat both individual and state-sponsored terrorism are argued in the second section. Moreover, a special attention has been given in this section to the significant role that the Security Council of the United Nations has played in battling against terrorism as a threat to international peace and security.

The legal consequences of the crime of terrorism are discussed in chapters two and three. Terrorist crimes that might subject an individual or a state to criminal responsibility are discussed thoroughly in chapter two, with reference to certain cases examined by the International Court of Justice, the judicial sector of the United Nations. Chapter two is divided into two sections: terrorism as a crime committed by individuals is discussed in the first section, while the legal mechanism for placing criminal responsibility on a state for a terrorist crime is argued in the second section. The controversial debate over the nature of state responsibility and the relationship between this responsibility and the criminal responsibility of individuals has also been discussed.

Chapter three deals with the legal consequences of the crime of terrorism and is divided into two sections: The technical sanctions that have been imposed on individuals accused of terrorist acts and the tribunal with jurisdiction over the terrorist

crimes are mentioned in the first section. Sanctions to be applied on states that sponsor terrorist crimes are mentioned in the second section. The concluding chapter reveals that despite the existence of certain flaws in the United Nations' efforts to deal with international terrorism, the United Nations' role has been valuable.

Chapter One

The United Nations and Counterterrorism Measures

1.1. Defining Terrorism

There are certain offenses, such as terrorism, that the international law subjects their perpetrators to punishment (Von Glahn & Taulbee 386; Maogoto 190). Terrorism is not a new phenomenon; it has posed a threat to humanity for centuries (Laqueur 321-22; Bassiouni, Legal Control of International Terrorism, 101). Criminal acts intended to spread fear among civilians were also known in older times (Kellener 42). Terrorism dates back to the Jacobins Reign of Terror, a period in the French Revolution between 1792 and 1794 where the French State established its authority by instilling fear and terror in the general public (Cohan 78; Burgess).

Over the years terrorism has witnessed a marked change in its character (Laqueur 321; Lee 148), methods, means and weapons (Bassiouni, Legal Control of International Terrorism, 83), and has become growing concern for the international community. It has become, nowadays, an increasingly complex phenomenon (Dumas 73; Laqueur 72). There are many definitions of terrorism which vary among states and each state views terrorism from its own perspective. Experts have offered more than a hundred definitions of terrorism (Mockaitis 23); even the US administration lacks a single definition of terrorism (Cohan 78-9).

Terrorism started to become a focus of attention for the international community in the early sixties. It was the production of the progress that has taken place on the international transportation means (UN Doc. - Report of Terrorism & Human Rights of 2001; Saura 2) and the spread of ideological violence (UN Doc. - Report of Terrorism & Human Rights of 2001).

Terrorism as a term is not officially defined. The United Nations is still trying to reach an agreement over the definition of terrorism. But all attempts have failed so far

(Bassiouni, Legal Control of International Terrorism, 91; Golder & Williams 270). United Nations' resolutions regarding terrorism issued throughout the years on different occasions, either by the Security Council or the General Assembly, did not define terrorism. The reason is that terrorism is regarded from a political perspective (Hoffman 14-32; Mockaitis 114) rather than by analyzing what actually constitutes terrorism (Von Glahn & Taulbee 517).

Though terrorism as a term is not officially defined, it is frequently used (Cohan 78). Legalists, academics and scholars have made different attempts at defining terrorism. Most of them agree that terrorism has always the aim of targeting civilians and it is not only of political nature but also always involves a politically motivated objective (Cohan 94-5; Bassiouni, Legal Control of International Terrorism, 85-86). International Law scholar Cherif Bassiouni has defined terrorism as a "strategy of violence designed to instill terror in a segment of society in order to achieve a power outcome, propagandize cause or inflict harm for vengeful political purposes" (Bassiouni, Legal Control of International Terrorism, 101).

Violent acts aimed at inflicting fear in a group of people not for political reasons cannot be recognized as acts of terrorism even if they are dangerous acts. They are, instead, regarded as ordinary criminal acts. Terrorism can occur inside the terrorists' own country or in another country. Methods and ways may vary, but the goal is almost always political. The political aim is the major criterion in classifying a violent act as an act of terrorism (Bassiouni, Legal Control of International Terrorism, 101).

The United Nations has established an important mechanism to be used by all states to combat terrorism. Terrorism has been its foremost concern for decades (Cohan 78). Terrorism first appeared on the agenda of the international community when it had attempted to define terrorism in 1937 under the League of Nations (League of Nations, Peace Treaty of Versailles). This attempt was made following the assassinations of French statesman Jean Louis Barthou and King Alexander of Yugoslavia.

These two incidents persuaded the League of Nations to adopt two treaties defining and criminalizing terrorism. The treaties were drafted and finalized in 1937. These are the Convention for the Prevention and Punishment of Terrorism (CPPT) and the Convention for the Creation of an International Criminal Court which was supposed to have jurisdiction over terrorist offences defined in the first convention (Wouters & Naert 412). The convention of the League of Nations defined terrorism as "all criminal acts directed against a state and intended or calculated to create a state of terror in the minds of particular persons, a group of persons, or the general public" (League of Nations, CPPT, Art. 2). But none of these conventions were to be implemented.

In 1945, with the establishment of the United Nations (UN Doc. - UN Charter) member states have continued to seek a legal definition of terrorism. The United Nations' Charter has aimed at providing a new system of international peace and security, but, strangely, it did not mention terrorism by name. The absence of any reference to terrorism in the Charter coincides with the absence of a definition of terrorism. In the early sixties, terrorism became a growing concern for the international community. The marked advance of transnational means and the spread of ideological violence have facilitated the emergence of international terrorism (UN Doc. - Report of Terrorism and Human Rights of 2001).

The debate over the definition of terrorism has often been whether the definition of terrorism should include state actors or exclude the resistance against foreign occupation which always reflects the double edge of the term: that one state's terrorist is another state's freedom fighter (Rosand 606; Von Glahn & Taulbee 517). This dispute has existed since the United Nations first attempt to deal with the phenomenon of terrorism in the early 1970s. This was in the work of its Ad Hoc Committee on Measures to Eliminate International Terrorism which was established in 1972 by the United Nations under Resolution 3034 of the General Assembly (Bantekas & Nash 198). States, at that time, had approved that violent acts committed in the struggle against foreign occupation and characterized by a political motivation should not regarded as terrorist acts and that the definition of terrorism should

distinguishes them from acts of national liberation (Perera 567-568; Halberstam 573-4).

The United Nations General Assembly Declaration 51/210 passed in 1996, entitled, Measures to Eliminate International Terrorism (UN Doc. - GA Declaration 51/210) established an Ad Hoc Committee (Para. 9) for the purpose of drafting conventions pertaining to terrorism. Theses were a convention for the suppression of terrorist bombings targeting public buildings and facilities including public means of transportations and a convention for the suppression of terrorist financing. The Ad Hoc Committee was also authorized to draft a convention for the suppression of acts of nuclear terrorism (Para. 9).

Afterward, the committee was required to adopt a convention (Para. 9) defining terrorism and requiring states to criminalize terrorist acts. The main aim of the proposed convention was to be general by prohibiting all forms of terrorist activities and to also mention the offences which are not mentioned in the twelve anti-terrorist conventions. The draft comprehensive convention also follows the extradite or prosecute principle which forms the central part of the twelve anti-terrorist conventions.

But the Committee, though it has succeeded in elaborating the conventions on terrorist bombings and the financing of terrorism, has failed to complete the draft convention on nuclear terrorism and terrorism in general. In 2005, only a treaty was agreed on Nuclear terrorism (Bantekas & Nash 208) and two main issues prevented the completion of the draft convention on terrorism in general (UN Doc.- Report of the Ad Hoc Committee; Rosand 605):

1- Whether violent acts committed in the struggle for self-determination and against foreign occupation are considered terrorism.

2- Whether state terrorism, acts committed by armed forces which are already subject to the law of armed conflict, should be treated as terrorist acts under this convention.

The right of people to resist occupation or self-determination is, in fact, a legal right beyond dispute currently and has been acknowledged under international law (UN Doc. - UN Charter, Arts. 1 & 55; UN Doc. - Declaration on Friendly Relations).

State terrorism as a term has two meanings. It could be a weapon used by states to terrorize their own people through a policy of systematic use of violence and intimidation. This policy might include practices of torture and enforced disappearance and it is a different and separate subject. The ultimate goal of this policy is the total elimination of the target, whether a social or political group. It is usually carried out by state actors and characterized by its breach to the international humanitarian law and the Geneva conventions. War crimes, genocide and crimes against humanity are examples on state terrorism and they are within the jurisdiction of the International Criminal Court (Bassiouni, Legal Control of International Terrorism, 84). The international community responded to these crimes through various international legal instruments either by adopting international conventions prohibiting them or establishing tribunals to prosecute their perpetrators. The two United Nations' ad hoc tribunals that took place recently in Rwanda and former Yugoslavia are examples.

The other meaning of state terrorism includes the intentional sponsorship of a state of a terrorist act. In this case, the terrorist act was carried out under the instructions of the state (UN Doc. - GA Res. 56/83, Art.8). Thus, the terrorist act is imputable to the state and regarded as an act of the state (Kelsen 196).

Until now, the United Nations' efforts to draft a general convention defining terrorism have failed. Even the International Law Commission had eliminated the topic of terrorism from its work for it was unable to agree on its definition (UN Doc. - Report of Terrorism and Human Rights of 2003, Para. 53). Most recently in 2004, the United Nations' Security Council adopted Resolution 1566 entitled, Threats to international peace and security caused by terrorist acts. The resolution was sponsored by Russia, following the massacre of Beslan, Ossetia where Chechenyan

militants had seized a school and killed all the students and their teachers after they had held them hostages.

The resolution has been considered valuable and widely accepted. Although it does not establish a universally accepted definition of the term terrorism, it defines remarkably terrorist acts. The Resolution in its third paragraph defines what constitute terrorist acts as:

" criminal acts, including against civilians, committed with the intent to cause death or serious bodily injury, or taking of hostages, with the purpose to provoke a state of terror in the general public or in a group of persons or particular persons, intimidate a population or compel a government or an international organization to do or to abstain from doing any act, and all other acts which constitute offences within the scope of and as defined in the international conventions and protocols relating to terrorism, are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature, and calls upon all States to prevent such acts and, if not prevented, to ensure that such acts are punished by penalties consistent with their grave nature" (UN Doc.- SC Res. 1566, Para 3).

The resolution also condemns all "acts of terrorism as the most serious threats to peace and security" (Para. 1) and as constantly, the Council calls upon member states to abide by their obligations under international law and to hold responsible, according to the extradite or prosecute rule any individual who commits or finances a terrorist act (Para. 2). The resolution places great emphasis on member states to become parties to the twelve anti-terrorist conventions (Para. 4) and to accelerate their efforts to draft a convention on terrorism in general (Para. 5).

Resolution 1566 has been considered by many legalists and commentators to be important for many reasons (Conte 26-7):

First, though the resolution was very general and its purpose was not particularly to define terrorism, Resolution 1566 provides, for the first time, a comprehensive and precise definition of what constitutes a terrorist act. The resolution provides a wide-ranging prohibition on all forms of violence that target civilians intentionally and cause death or serious bodily harm apart from any motive. It summarizes a variety of violent acts that the international community considers terrorist in character according to the existing twelve anti-terrorist conventions and protocols. In addition, to the criminal acts that the international community considers of grave nature and obliges all states to prevent and punish them in their fight against international terrorism.

Second, because the resolution was issued under Chapter VII of the UN Charter, the definition included has been regarded official (Bianchi, Security Council's Anti-terror Resolutions, 1050). If the definition included were to be adopted, it could end all the definition attempts done since years.

In addition to efforts that the UN has made in order to define terrorism, it has played an important role in battling against international terrorism.

1.2. The Role of the United Nations

The UN has always been at the forefront in combating international terrorism. The world organization places a great deal of importance on understanding terrorism and on an educative response to it (UN Doc. - Report of the Policy Working Group). In its anti-terrorist efforts, the UN has focused on combating individual terrorism as well as state-sponsored terrorism. Additionally, the Security Council of the United Nations has played a critical role in combating international terrorism by adopting significant resolutions dealing with specific terrorist incidents.

1.2.1. The Role of the UN in Combating Individual Terrorism

It did not take long time after the United Nation's establishment in 1945 for terrorism to become its primary concern. The world organization has reacted to the crime of terrorism in two ways. On the one hand, it has defined specific terrorist

crimes to be penalized by states in their domestic laws (Maogoto 185), and on the other it has prohibited states to sponsor terrorism (Wouters & Naert 412).

The development in modern communications has contributed to the emergence of terrorism in the 1960s. In the wake of repeated attacks on civil aviation and individuals' safety which became threatened by hijacking, murder and kidnapping, the UN adopted its first conventions related to the aviation security and violence against internationally protected persons (Rehman 97).

The 1980s witnessed new challenges posed by terrorism on international airports such as the terrorist acts which targeted Rome and Vienna. These attacks highlighted the inadequacies of the Tokyo, Hague and Montreal conventions relating to hijacking which only dealt with violent attacks directed against aircrafts. The international community responded with an additional protocol adopted under the auspices of the International Civil Aviation Organization (ICAO), one of the UN agencies (Perera 570).

Following the hijacking of the Italian cruise liner Achille Lauro, the international community drew attention to the fact that maritime navigation is as vulnerable as the civil aviation to international terrorism. In that case, it had focused on maritime terrorism and issued the Convention for the Suppression of Unlawful acts against the Safety of Maritime Navigation which was agreed under the auspices of the International Maritime Organization (IMO).

The late 1990s which had witnessed a series of unprecedented terrorist incidents, three more conventions pertaining to the use of plastic explosives, terrorist bombings and terrorist financing were negotiated. These conventions reveal the United Nations' continuous efforts to counter terrorism and the growing international consensus in favor of adopting collective measures to deal with the issue of financing of terrorism, without which terrorist crimes would not be possible (Gilmore 193). At that time, it was generally believed that terrorist groups maintained their terrorist activities through the continuous flow of funds and illegal arms through a network of fund

raising and arms smuggling operations spread all over the world (Perera 571). Thus, the international community chose to avoid defining terrorism; instead, it has taken what is known as a piecemeal approach in the struggle against terrorism (569).

Hence, the United Nations' attempts have resulted in the adoption of twelve conventions and protocols negotiated between 1963 and 1999 under the auspices of the United Nations and its specialized agencies (Alexander & Brenner 35). These conventions deal with specific forms of violence which are often used in the context of terrorism without being necessarily of terrorist nature, like the convention on the financing of terrorism.

These treaties define almost fifty crimes. Most of them include aircraft hijacking, sabotage, airport violence, and other unlawful acts against the safety of civil aviation on international flights and in airports (UNTS: - Convention of 1963, Convention of 1970, Convention of 1971 & Convention of 1988). In addition to the conventions on the use of nuclear and chemical weapons, crimes against internationally protected persons, acts against the safety of fixed platforms on the continental shelf, and most importantly the financing of terrorism. All these treaties have many common things (Conte 23-4):

1- They prohibit specific terrorist acts related to certain situations, whether on board aircrafts, in airports or on maritime navigation. Although the term terrorism is not used in the title or even the text of all these treaties, these treaties are often used within the context of the battle against terrorism and are recognized as anti-terrorist treaties (Alexander & Brenner 35).

2- They all have a similar form and they are binding only to the state party to the convention.

3- They do not define terrorism in general, but rather the only crime they deal with. Thus, no general definition of terrorism can be concluded from any of them (Alexander & Brenner 35).

Due to the importance of these conventions and protocols, the United Nations has continuously urged member states in many of its declarations and resolutions to ratify them. United Nations' General Assembly Declaration on Measures to Eliminate International Terrorism contained in the annex to Resolution 49/60 adopted in 1994, urged member states to become parties to these conventions (UN Doc. - GA Res. 49/60, Annex, Preambular Para. 11; Para 8).

The declaration initiated an important mechanism to be applied by states in their fight against international terrorism. It recognizes that international terrorism not only violates the purposes and principles of the United Nations, but also jeopardizes friendly relations and violates human rights and fundamental freedoms (Para. 2). The declaration recognizes the growing and dangerous relation between terrorists and drug traffickers (Preambular Para. 4). The international community, at that time, was aware of the dangerous relationship between terrorism and its financing. As a result, the declaration calls upon member states to cooperate in combating not only terrorist crimes, but also crimes in relation with terrorism such as money laundry, drug trafficking and unlawful arms trade (Preambular Para 5). This reflects the international community's intention in penalizing acts aim at financing terrorist activities due to its significant role in international terrorism

Declaration 49/60 condemns all terrorist acts irrespective of their considerations (Para. 3) and obliges member states to adopt particular measures to combat terrorism. These are:

1- To abstain from sponsoring terrorism either through organizing and financing or accepting to terrorist preparations within their territories which aim at carrying out terrorist crimes against other states and their citizens (Para. a).

2- To apply the prosecution and extradition rule in order to bring all perpetrators of terrorist crimes to justice (Para. b) and to exchange cooperation with each other for

effective prevention of terrorist crimes (Para. d). States are under an obligation not to harbor perpetrators of terrorist crimes (Para. f).

3- To develop their domestic criminal codes so that they do not contradict the existing international conventions and protocols against terrorism to which they are parties. Member States are obliged to apply measures which enable them to implement these conventions effectively (Para. e).

4- To adopt a comprehensive legal framework covering the crime of terrorism in all its forms and manifestations. The main objective of this framework is to help out in the elimination and prevention of terrorism (Para. 7).

Furthermore, United Nations' General Assembly Declaration 51/210 issued in 1996, also on Measures to Eliminate International Terrorism (UN Doc. - GA Res. 51/210), recalls Declaration 49/60 (Preambular Para. 1) and requires member states to penalize all terrorist crimes mentioned in the conventions against terrorism. It obliges states to take measures to establish jurisdiction over these crimes. The declaration condemns all acts of terrorism (Para. 1) and calls member states to take domestic measures for countering the direct or indirect financing of terrorism (Para. 3 (f)). It also urges all states to ratify the anti-terrorism conventions and to develop their domestic criminal codes in order to enable them to hold responsible all perpetrators of terrorist crimes (Para. 6).

1.2.2. The Role of the UN in Combating State-sponsored Terrorism

Though, terrorism is basically a crime performed by individuals, the United Nations has criminalized not only acts of terrorism carried out by individuals, but also those carried out by states whenever they sponsor a terrorist activity. In this case, the terrorist act is performed by an individual who acted on the behalf of the state. The prohibition to sponsor terrorism was first appeared in the 1934 under the League of Nations' resolution. The resolution declared that "it is a duty of every state to neither encourage nor tolerate on its territory any terrorist activity with a political purpose"

and that "every state must do all in its power to prevent and repress acts of this nature and must for this purpose lend its assistance to governments which request it" (League of Nations, Res. of 1934). Since then, the prohibition to sponsor terrorism has become a general rule in international law.

States' duty to refrain from sponsoring terrorist activity was initially recognized by the United Nations in the 1970 Declaration on Friendly Relations (UN Doc. - GA Res. 2625; Brownlie, Basic Documents in International). The Declaration gained common agreement over its adoption and was considered a useful guide for the UN Charter interpretation (Murphy, State Support of International Terrorism, 34). The Declaration declares that states must "refrain from organizing, instigating, assisting or participating in acts of civil strife or terrorist acts in another state or acquiescing in organized activities within its territory directed towards the commission of such acts..." (UN Doc. - GA Res. 2625, Para. a).

The prohibition to sponsor terrorism was also mentioned by the UN General Assembly in 1981 when the general topic of international terrorism was in principal considered a General Assembly issue (Rosand 604). Like the Declaration on Friendly Relations, the UN Declaration on the Inadmissibility of Intervention and Interference in the Internal Affairs of States (UN Doc. - GA Res. 36/103) documented that a state's action of sponsoring terrorism is a violation of the UN Charter. The Declaration obliges states "to refrain from using terrorist practices as state policy against another state ... and to prevent any assistance to terrorist groups and avoid the use of or tolerance of terrorist groups, against third states" (Para. m).

Furthermore, the General Assembly of the United Nations in its effort in fighting terrorism had adopted universal declarations prohibiting states to sponsor terrorism. General Assembly Resolution 40/61 issued in 1985, entitled Measures to Prevent International Terrorism, recognized states' duty not to participate or even accept organizing of terrorist activities within their territories against other states (UN Doc. - GA Res. 40/61). The UN General Assembly Declaration on Measures to Eliminate International Terrorism (UN Doc. - GA Res. 49/60, Annex) endorses Resolution

40/61 and recognizes that battling against terrorism and its sponsorship by states is essential for the maintenance of international peace and security (Preambular Para. 7).

Declaration 49/60 recognizes the prohibition to sponsor terrorism which contradicts the purposes and principles of the UN Charter and the Declaration on Friendly Relations (Preambular Para. 1 & 2). It obliges all states to refrain from organizing and participating in terrorist acts in other states or to consent to the presence of terrorist activities within their territories directed toward the commission of terrorist acts in other states (Para. 4).

The United Nations has also affirmed on the prohibition to sponsor terrorism by the Council in the 1990s in Resolution 748 concerning Libya (UN Doc. - SC Res. 748). The UN in this resolution declared that the source of state's duty not to sponsor terrorism arose from Article 2, paragraph 4, of the UN Charter (Preambular Para. 6). According to Kelsen, the Security Council often relies on this article while determining breach of peace, even when it is not violated (Quigley 126-7).

United Nations' Security Council Resolution 1373 (UN Doc. - SC Res. 1373) has also acknowledged the prohibition to sponsor terrorism. It has expanded the requirements previously imposed on states to refrain from supporting terrorism. Resolution 1373 recognizes states' duties under the Declaration of Friendly Relations which acknowledges the duty of every state "to refrain from organizing, instigating, assisting or participating in terrorist acts in another state or acquiescing in organized activities within its territory" (UN Doc. - GA Res. 2625, Principle 1).

Additionally, the Security Council of United Nations has issued many important resolutions pertaining to international terrorism, either concerning particular incidents or the topic in general.

1.2.3. The Role of the Security Council

Terrorism is gaining increased attention in the international community as a threat to international peace and security which prompted the UNs' Security Council to adopt resolutions, such as resolution 1373, not pertaining to specific incidents, instead, to international terrorism in general. The Security Council of the UNs has often declared that terrorism is a crime of serious concern for the international community as a whole because it jeopardizes international peace and security (UN Doc. - SC Res. 1269, Preambular Para. 1).

The Security Council is the only United Nations' body responsible for maintaining international peace and security. It has performed a significant task while fighting terrorism since the end of the Cold War and has issued many resolutions under chapter VII of the UN Charter.

Under international law, the Security Council is the only body has legally the authority to determine the existence of a threat to peace (UN Doc.- UN Charter, Art. 39), which the Council has remarkably expanded lately (Bianchi, Assessing the Effectiveness, 890). The Security Council has determined in many of its resolutions that acts of international terrorism do constitute such threat.

In 1992, following the explosion of the Pan American flight 103 in 1988, the Security Council issued Resolution 748. The resolution considered state support of terrorism as a threat to international peace and security. In this resolution, the Council did not consider the terrorist attacks as a threat to peace. However, the Libyan refusal to abide by Security Council Resolution 731 to extradite the two suspects of the attacks for prosecution is considered by the Council as a threat to peace (UN Doc. - SC Res. 731). After that, in 1996, the Security Council passed Resolution 1054 in the wake of the 1995 attempted murder on the life of the Egyptian President, Mubarak, during an official trip to Ethiopia (UN Doc. - SC Res. 1054). The resolution was also

issued under Chapter VII of the UN Charter and recognized that fighting terrorist acts is necessary for preserving international peace (Preambular Para. 8).

The same paragraph is also found in Resolution 1070 passed in 1996 (UN Doc. - SC Res. 1070) where the Council has called for the suppression of state-sponsored terrorism (Preambular Para. 10). The resolution was issued under Chapter VII of the UN Charter. It considered Sudan's refusal to extradite the three suspects of the assassination attempt on the life of President Mubarak, who were sheltering in Sudan, constitutes a threat to peace (Preambular Para. 11).

Recently, in Resolution 1269 passed in 1999 on the responsibility of the Security Council in the maintenance of international peace and security (UN Doc. - SC Res. 1269), the Council acknowledged that terrorism not only jeopardizes individuals' lives but also the peace and security of all states (Preambular, Para. 1). Moreover, the Council decided that preserving world peace depends on the elimination of international terrorism (Preambular Para. 8).

September 11 terrorist attacks have also generated new Security Council resolutions pertaining to terrorism, most of which are entitled threats to international peace and security caused by terrorist acts. This new tendency of characterizing any act of terrorism as a threat to international peace and security has been often repeated by the Council since September 11 attacks. It has sometimes even been regarded as a prerequisite to every single terrorist attack. Previously, state's behavior pertaining to terrorists perpetrator of terrorist attack and providing them with safe haven was considered a threat to peace not the terrorist attacks (Bianchi, Assessing the Effectiveness, 889).

Resolution 1368 adopted on 12 September 2001, the next day of the attacks, considered the attacks, just like all terrorist acts, a threat to international peace and security (UN Doc. - SC Res. 1368, Para. 1). Resolution 1377 went further to consider

terrorism as "one of the most serious threats to peace in the twenty-first century" (UN Doc. - SC Res. 1377, Preambular Para. 2).

The most important among these resolutions is Resolution 1373, passed two weeks after the September 11 attacks and has been considered the cornerstone of the UNs' counterterrorism efforts (Rosand 604). The action taken in this resolution was not against Afghanistan or Bin Laden and his organization but rather against international terrorism in general (Gilmore 195). Resolution 1373 neither defines terrorism nor determines measures against a specific state, individual or group. Instead, it deals with terrorism in general and introduces binding obligations on all states.

Resolution 1373 was issued under Chapter VII of the UN Charter and has regarded terrorism as a threat to peace (UN Doc. - SC Res.1373, Preambular Para. 8). It has established a full mechanism to combat terrorism and been regarded as a considerable achievement by the international community for it has addressed the issue of financing of terrorism, which has worried the international terrorism since years (Perera 581). Resolution 1373 has regarded terrorism as well as its financing as contradictions to the purpose and principle of the United Nations (Para. 5).The Council in this resolution has taken unprecedented measures against international in general.

Resolution 1373 places a set of binding obligations on all states, not only those who are United Nations' members. These range from the prevention and repression of the financing of terrorism, the prevention and criminalization of acts of terrorism to international cooperation and the duty to ratify the twelve anti-terrorist conventions and protocols. It had expanded states' duties listed under these conventions and protocols, mainly those listed in the convention on the financing of terrorism and merged them into one resolution binding to all states (Gilmore 195). Because these conventions do not list all terrorist crimes and they are only binding to their parties,

the resolution's general character has made it commonly approved (Wouters & Naert 426).

Resolution 1373 has been regarded as a piece of legislation (Bianchi, Security Council's Anti-terror Resolutions, 883). This legislative character was probably prompted by the fact that the existing treaties do not comprehensively cover all terrorist offences and, even though they are widely ratified, they are only binding to state parties that ratified them.

Resolution 1373 calls for the combating of international terrorism as well as its financing. It is made up of a number of binding obligations which includes legislative, administrative, and judicial measures for the suppression of terrorism and its financing. Terrorism financing has been given an outstanding position in the resolution by which binding obligations to counter the financing of terrorism where, except of what mentioned in the 1999 Convention, not previously existed (Gilmore 194). The importance of Resolution 1373 is based on several grounds:

1- The resolution was issued under Chapter VII of the UN Charter which gives it a binding nature on one side, and reveals the Security Council's authority to adopt binding measures on the other. According to Articles 24 and 25 of the UN Charter, member states are obliged to abide by all Security Council decisions, including its binding resolutions, whenever the Council determines the existence of a threat to peace.

2- The resolution provides the issue of financing of terrorism with a special attention. It requires states to prevent and suppress the financing of terrorism which constitutes the main obligation of the resolution (Bianchi, Security Council's Anti-terror Resolutions, 1052). In its first paragraphs, the resolution requires states to combat the financing of terrorism and lays down a set of obligations to be applied by states in this respect. States are obliged to (Para. 1):

a- Criminalize all acts taking place in their territories and by their nationals which aim at collecting funds with the intention or the knowledge to be used in carrying out terrorist acts.

b- Freeze all funds or financial assets related to individuals or entities owned by individuals who either commit or attempt to commit terrorist acts, or even participate in or facilitate their commission.

c- Prohibit the use of their territories for carrying out the crime of financing of terrorism. States are obliged to prevent their nationals or other persons and entities from making financial funds or assets in their territory for the benefit of individuals or entities controlled by individuals who commit or take part in the execution of terrorist crimes.

3- Resolution 1373 also imposes on all states common obligations pertaining to the battle against international terrorism in general. These obligations go beyond the twelve conventions and protocols against terrorism. Under these obligations, states are required to:

a- Refrain from providing any support or supply of weapons to terrorists and to take measures to prevent terrorist crimes (Para. 2 (a)). Resolution 1373 calls for the cooperation between states in security, intelligence, investigations and criminal proceedings (Para. 3 (a, b & c)).

b- Ratify as soon as possible the twelve anti–terrorist conventions and protocols especially the International Convention for the Suppression of the Financing of Terrorism of 1999 (Para. 3 (d & e)).

c- Apply prosecute and extradite rule. States are obliged to prosecute all perpetrators of terrorist crimes. This includes also those who participate in the financing and execution of the crime. This duty reflects the international community's

intent to punish all perpetrators of a crime which it regards as a threat to peace (Para. 2 (e)). The resolution calls for the prosecution of all individuals responsible for terrorist crimes with penalties reflect the seriousness of these crimes (e). States are obliged to deny who finance, support and commit terrorist crimes a safe haven (c) even with political offence exception (Para. 3 (g)).

Resolution 1373 established the Counter Terrorism Committee (CTC) which is made up of the Security Council member states. Its task is to examine the implementation of the resolution and to enhance states' capacity to combat terrorism (Para. 6), particularly by ratifying the twelve anti-terrorist conventions and protocols. States were required to report to the CTC the steps taken to implement Resolution 1373. Since the creation of the CTC, many states have ratified the twelve anti-terrorist conventions mainly the terrorist bombings and the financing of terrorism conventions (Rosand 616; Association of the Bar of N.Y. 7-8).

Resolution 1456 issued in 2003 (UN Doc. - SC Res. 1456) repeats the text of Resolution 1377, which recognizes international terrorism as the most serious threats to peace in the 21st century. It also introduces the objectives of the twelve conventions and calls for the implementation of the extradition or prosecution rule and reminds states to their duty to make terrorist crimes punishable in their domestic laws. Resolution 1456 requires states to ratify the anti-terrorist conventions especially, the convention of terrorism financing (Para. 2 (a)), and to abide by all relevant Security Council's resolutions, mainly Resolution 1373 (Para. 1).

From the abovementioned resolutions, it is clear that the major effect of international terrorism is that it constitutes a threat to international peace and security. Thus, In spite of the non consensus over the issue of defining terrorism, the United Nation has played an important role in the fight against international terrorism.

Chapter Two

Responsibility for Terrorist Crimes under International Law

A terrorist crime, either as defined in the twelve treaties against terrorism or as classified a threat to peace by the Security Council, generates responsibility not only to the individual who commits this crime but also, in certain situations, to the state in case the terrorist crime is attributable to it.

2.1. Individual Criminal Responsibility

Despite its different types, techniques, practices and weapons (Bassiouni, Legal Control of International Terrorism, 83), terrorism is a crime punishable under international law. It is carried out by individuals (Maogoto 151) or groups acting within their own country or in another country. More recently, terrorism has been used by ideologically motivated individuals or groups either acting inside or out side their national country (Bassiouni, Legal Control of International Terrorism, 84).

Terrorism is basically an individual criminal activity that subjects its perpetrators to criminal responsibility (Perera 269) and, according to the existing anti-terrorist conventions, it should be penalized by states according to their domestic criminal codes (Murphy, State Support of International Terrorism, 37). Terrorism has acquired lately, since September 11 attacks, a special attention for it has been regarded by the UN Security Council as an international crime threatening the international peace and security and subjects its perpetrators to international law (Von Glahn & Taulbee 386).

The criminal responsibility of individuals for terrorist crimes results, according to international law, from the intentional execution of either any of the terrorist crimes as defined in the twelve treaties against terrorism or any other crime classified by the Council as a terrorist crime. The twelve treaties against terrorism are:

1. The Convention on Offences and Certain Other Acts Committed On Board Aircraft (UNTS- Convention of 1963):

This convention is known as the Tokyo Convention or the Aircraft Convention and is concerned only with the safety of civil aviation (Art.1(4)). It was approved by the General Assembly of the United Nations and signed in Tokyo in 1963. The convention does not define specific offenses. Instead, it broadly covers all offences against penal law that affect in flight civil safety (Art.1). The convention criminalizes all acts that could endanger the security of the aircraft in flight. These include acts on persons or property or other acts that jeopardize the "good order" on board the aircraft, even if they are not regarded as offences (Art. 1). These acts are considered crimes under the Tokyo Convention only when they are committed on board an aircraft in flight or on the surface of the high seas (Art. 2(3)). According to the Tokyo Convention, the aircraft is considered to be in flight, "from the moment when the power is applied for the purpose of take-off until the moment when the landing run ends" (Art. 1(3)).

In order to protect the security of the aircraft in flight, persons and property, the convention empowers the aircraft leader to take action against any individual suspected to have committed the illegal act (Arts. 6, 9 & 11). The convention also obliges state parties to provide the aircraft leader with the needed assistance, including the restore of the aircraft control to its authority and the taking into custody of the offenders (Art. 11).

2. Convention for the Suppression of Unlawful Seizure of Aircraft (UNTS-Convention of 1970):

This convention is also known as the Hague Convention or the Aircraft Hijackings and signed in The Hague in 1970. The increase in terrorist attacks against the civil aviation and the shortage found in Tokyo Convention had prompted the international community to adopt this convention. Unlike the Tokyo Convention, the Hague Convention does not only elaborate the elements of the offence, but it also

calls for effective suppression. Because, most civil aviation terrorist attacks were committed by individuals embarking an aircraft with weapons allowing them to easily seize its control after the close of its external doors, the international community paid this danger careful attention. It was the main topic of the convention because the airport security was not equipped, at that time, with sophisticated detection machinery (Bantekas & Nash 199).

Like the Tokyo Convention, the Hague Convention applies only to the safety of civil aviation (Art. 3). It deals exclusively with acts of aviation sabotage committed by individuals on board an aircraft in flight (Art. 1). The notion of an aircraft in flight is broader in the Hague Convection than in the Tokyo Convention (Bantekas & Nash 200). Under the Hague Convention, the aircraft is considered to be in fight "since the period of time when all its external doors are closed following embarkation until the moment that any of its doors is opened for disembarkation" (Art. 3(1)).

The convention criminalizes the unlawful use or threat of use of force or any other form of intimidation by any person on board an aircraft in flight aiming at seizing its control. Attempts to commit this act or to be a partner to an individual who commits or tried to commit this act is also a crime under this convention (Art. 1). The inclusion of phrase "any other form of intimidation" in the convention reflects the international community's intention to penalize every possible situation aiming at seizing an aircraft even without the use of force. Such a case would be possible if the aircraft seizure was occurred through collaboration with the aircraft's pilot or the cabin crew (Bantekas & Nash 200).

This convention requires state parties to penalize aircraft hijackings with harsh punishments (Art. 2). It also obliges the state party who captured the perpetrator to either extradite him or submit the case for prosecution (Art. 10).

3. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (UNTS- Convention of 1971):

This convention is identified as the Civil Aviation Convention or the Montreal Convention signed in Montreal in 1971. Its objective was to combat all forms of aerial sabotage which jeopardizes the safety of civil aviation. The convention subjects to criminal responsibility any individual who:

1- Carries out a violent act against a person on board an aircraft in flight whenever this act endangers the safety of this aircraft. An individual who either destroys or damages an aircraft or endanger its safety in flight is also responsible under this convention (Art. 1(a & b)).

2- Places an explosive device or any other substance on board an aircraft in service which might destroy, damage or jeopardize its safety in flight (Art. 1, Para c).

3- Damages the services of air navigation or even interfere in their operation, or else gives information with the knowledge that is wrong, whenever the implementation of such acts might endanger the security of an aircraft in flight (Art. 1(d & e)). Attempts to commit such acts or being a partner, are also covered (Art. 1(2)).

The notion of an aircraft in flight is similar to that mentioned in the Hague Convention (Art. 2(a)), whereas the aircraft is considered to be in service according to the Montreal Convention from the "beginning of its preflight preparation until twenty-four hours after its landing". Thus, the time of an aircraft in service is longer than that in flight and it extends to encompass the whole period during which the aircraft is considered to be in flight (Art. 2(a)). In addition to the different new offences that the Montreal Convention covers, the inclusion of the notion of an aircraft in service in the convention was new (Bantekas & Nash 202).

4. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons (UNTS- Convention of 1973):

This convention is known as the Diplomatic Agents Convention and was agreed by the United Nations General Assembly in New York in 1973. The convention covers a special international offense. It criminalizes what is often regarded as a customary duty upon host states to protect diplomats and officials from any attack during their official missions (Bantekas & Nash 206). The convention outlaws attacks on senior government officials and diplomats as well as their family members whenever they are abroad in order to provide them with the necessary protection and security to perform their missions successfully. The convention distinguishes between two groups of internationally protected persons. The first group is Heads of State, Heads of Government or Foreign Affairs Ministers. The second group includes representatives or officials of states or international organizations supposed have particular safety under international law (Art. 1).

The convention requires state parties to penalize under their domestic laws any illegal and intentional violent act, including murder or kidnapping on the person or freedom of the internationally protected person. The convention also criminalizes other violent attacks against official premises, private accommodation, or means of transportation related to the internationally protected persons. Attempted acts, making threats or participating in committing such acts are also crimes under this convention (Art. 2).

5. International Convention against the Taking of Hostages (UNTS- Convention of 1979 of Taking of Hostage):

The convention is known as the Hostages Convention and was adopted by the UN General Assembly in New York in 1979. It penalizes the taking of persons as hostages and considers the offence of taking hostages is performed by:

"any person who seizes or detains and threatens to kill, to injure, or to continue to detain another person in order to compel a third party ... to do or abstain from doing any act as an explicit or implicit condition for the release of the hostage" (Art. 1).

The third party intended to be stimulated could be a state, an international intergovernmental organization, a natural or juridical person, or any other group of persons (Art. 1). The Hostages Convention is neither applied on acts of kidnapping carried out in the course of armed conflicts as defined in the Geneva Conventions of 1949 and its protocols (Art. 12), nor in the case where the offence of taking hostages is executed in one country and both the victim and the criminal, who found in its territory, are their national citizens (Art. 13).

The convention's provisions cannot be applied in purely internal situations of hostage taking and they require at least one international factor (Art. 13). Furthermore the crime of taking hostages has already been prohibited in armed conflicts under both customary law and the 1949 Geneva Conventions (Art. 12).

State parties are required to make the crime of hostage taking punishable under their domestic criminal laws by severe penalties taking into account its grave nature (Art. 2). An attempt to commit this crime or participating with an individual who commits or tries to commit this crime is also punished under this convention (Art. 2).

The convention requires the state party where the hostage is detained by the criminal to try all means to relieve his situation, particularly his release and departure, and to return to him any object seized by the criminal and was the reason for the crime (Art. 3). Since the adoption of this convention, many states have adopted a policy of denying all kidnappers' demands, but this policy should not, in any way, complicate or put in danger the hostage situation (Bantekas & Nash 206).

Furthermore, the convention requires state parties to penalize within their domestic laws the illegal activities of persons, groups and organizations that encourage, organize and participate in the preparation of crimes of hostage taking (Art. 4). For effective implementation of the convention's provisions, state parties are

obliged to cooperate with each other for the prevention of this crime and to take all the necessary measures to prevent preparations in their territories aim at the execution of this offence inside or outside their territories (Art. 4).

The state party where the offender is found is obliged to exercise jurisdiction over the offence (Art. 5). If the state party does not want to extradite the offender, it is under obligation to prosecute him as soon as possible and without any excuse whether or not the hostage taking crime was performed on its land (Art. 7).

6. International Convention on the Physical Protection of Nuclear Material (UNTS-Convention of 1979):

The convention is known as the Nuclear Material Convention and was adopted in Vienna in 1979. The convention outlaws standards for the protection of nuclear material being utilized for peaceful purpose. It considers the crime pertaining to nuclear material of grave concern which needs effectual measures to guarantee its prevention, recognition and punishment (Preambular Para 4). The objective of the convention is to protect the nuclear material utilized for peaceful purposes while in international nuclear transport (Arts. 2 & 3) as well as in domestic use, storage and transport (Arts. 7-11).

The convention defines, in its first article, what is recognized as nuclear material. It subjects to criminal responsibility every individual who either illegally posses, uses, transfers, modifies, eliminates or diffuses nuclear material, or threatens to use the nuclear material to kill or to hurt any person or property (Art. 7). Furthermore, the convention criminalizes the theft, misuse, and the threat to use force or any act of intimidation in order to obtain the nuclear material.

The convention calls state parties to fully cooperate in order to locate and identify stolen nuclear material and to adopt measures to prevent and combat these crimes (Art. 5). The theft of the nuclear material for the purpose of compelling an individual or an international organization or a state to do or to refrain from doing any act is also

considered a crime under this convention (Art. 7).Attempted acts and participations are also covered (Art. 7).

7. Protocol for the Suppression of Unlawful Acts of Violence at Airports (UNTS-Protocol of 1988):

The following protocol was signed in Montreal in 1988 and supplements the Montreal Convention of 1971 (Art. 1). The protocol's objective is to broaden the provisions of the Montreal Convention to include all illegal activities taking place at international airports in order to secure the safety of international civil aviation. The protocol criminalizes the unlawful and intentional use of any device, weapon, or substance for the purpose of committing a violent act at an airport against:

a- Any individual who is serving the international civil aviation whenever this act causes his death or injury (Art. 2).

b- Airport services or an aircraft not in service whenever this act results in the destruction of theses services and the aircraft. Additionally, the performance of any act that might disrupt the airport services and endangers the safety of the airport is also penalized (Art. 2).

8. The Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (UNTS- Convention of 1988):

The convention was adopted in Rome in 1988 in response to the hijacking of the Italian cruise liner, Achille Lauro, in 1985. It deals with all terrorist acts taking place on board civil ships (Art. 2). The convention does not apply to ships employed for military purposes. It creates a legal regime deals with illegal acts performed against the safety of international civil maritime navigation which is similar to that of international aviation. The convention defines the ship as any vessel which is not attached to the sea-bed (Art. 1). It criminalizes any illicit and intentional act intending to seize or exercise control on board a ship through the use of power or by making threats (Art. 3).

The convention subjects to criminal responsibility any individual who willfully commits any criminal act against either a person on board a ship or against the ship. This includes placing on its board a destructive device or substance which destroys or damages it or its cargo and above all endangers its safety. Attempted acts, participations and making threats to execute any of these acts for compelling an individual to do or abstain an act which jeopardizes the safe navigation of the ship are also covered (Art. 3).

The convention requires state parties to penalize these crimes by severe sentences because of their graveness (Art. 5). Furthermore, the 2005 supplement protocol to this convention penalizes not only the use of the ship as a device, or as a means of transport for materials aiming at performing terrorist acts, but also the transferring of individuals perpetrators of terrorist acts.

9. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (UNTS- Protocol of 1988):

This protocol is also known as the Fixed Platform Protocol and was adopted in Rome in 1988 to supplement the Convection for the Suppression of Unlawful Acts against the Safety of Maritime Navigation. It applies to illegal acts against fixed platforms on the continental shelf and establishes a regime similar to that established for international aviation. The convention defines the fixed platforms as the artificial islands, installations or structures which are permanently attached to the sea-bed for exploration or exploitation of resources or other economic purposes (Art. 1 Para. 3). According to this protocol, the crime is committed by any individual who illicitly and intentionally (Art. 2):

1-Seizes a fixed platform using force or intimidation.

2- Carries out a violent act against an individual on board a fixed platform which endangers the security of this platform.

3- Places a device or a substance on board a fixed platform which destroys or damages the fixed platform or jeopardizes its safety.

An attempt to commit these crimes or assistance in their execution, or even making threats to commit them for compelling an individual to perform or abstain an action, is also penalized under the present protocol (Art. 2(2)).

10. International Convention on the Marking of Plastic Explosives for the Purpose of Detection (UNTS- Convention of 1991):

This Convention was signed in Montreal in 1991 under the aegis of the ICAO, one of the UN agencies, following the 1988 Pan Am 103 bombing over Lockerbie, Scotland. The convention has a Technical Annex and its objective is to control and limit the use of unmarked plastic explosives after the role it had played in terrorist bombings in the late 1980s. Under the present convention, state parties are obliged to mark explosives with a detection agent which enables their detection and to control these explosives within their territories (Arts. 2 & 3).

Each state party must take effective measures to prevent the movement (Art. 3), possession, transfer, and manufacture of unmarked plastic explosives (Art. 4). It is obliged to guarantee that all its unmarked explosives' stocks which are not for military purposes are damaged within three years, while those for the military purposes are destroyed within fifteen years (Art. 4).

State parties are obliged to destroy in their territories all unmarked explosives manufactured after the convention's date of force according to each state (Art. 4). The convention established an International Explosives Technical Commission to evaluate the technical developments relating to the production, marking and detection of explosives (Arts. 5 & 6).

11. The International Convention for the Suppression of Terrorist Bombings (UNTS-Convention of 1997):

The convention is known as the Terrorist Bombings Convention and was approved by the UN General Assembly Resolution 52/164 in 1997. It develops a legal framework for international cooperation in the investigation, prosecution and extradition of individuals perpetrator of terrorist bombings. The convention applies to the illegal and intentional use explosives or other deadly device against public places which destroys the public place and causes major economic loses. The convention defines the public place as a state or government facility, a public transportation system or an infrastructure facility (Art. 2).

For its implementation, the convention requires at least one international factor. The convention is not applied in two cases (Art. 3):

1- If the crime is carried out within a single state and both the criminal and the victim are nationals of this state.

2- If the crime is carried out within a single and the criminal is found on its territory and no other has the basis to exercise jurisdiction.

The convention creates a regime for extradition and prosecution and requires state parties to take steps to establish jurisdiction over the offences proscribed under the convention (Arts. 6, 7, & 8). For effective prevention of terrorist bombings, the convention requires state parties to counter preparations taking place within their territories which aim at the execution of those crimes inside or outside their territories. State parties are also required to assist each other through the exchange of information and investigation. Assistance also includes expertise on methods of detection of explosives and on the progress of standards for making of explosives in order to identify their origin (Art. 15).

12. International Convention for the Suppression of Financing of Terrorism (UNTS-Convention of 1999):

The convention is known as the Terrorist Financing Convention and was adopted in 1999 by the General Assembly of the UN in Resolution 54/109 on the basis of a proposal made by France. The objective of the convention is to penalize the financing of terrorist activities which the international community is concerned in prohibiting due to its role in international terrorism. The international community has been convinced that the capability and seriousness of most international terrorist attacks often depends on the source of money that the terrorists may obtain (Preambular Para 10).

The importance of this convention is that it obliges state parties to adopt effective measures to prevent and counteract the financing of terrorists and terrorist organizations. The convention covers all means of financing, whether it is lawful through associations claiming charitable, social or cultural goals, or unlawful through groups engaged in illegal activities such as arms trafficking, drug dealing and racketeering (Preambular Para 6). The convention specifically deals with the front organizations which are utilized by terrorist organizations for fund-raising activities.

The convention has been regarded as the most significant among the international anti-terrorism treaties and it creates a new crime of terrorist financing (Bantekas & Suzan 212). The convention makes it a crime to illegally and willfully provide or collect funds, either directly or indirectly, with the intention or knowledge that these funds will be used in full or in part to perform:

1- Any of the terrorist acts defined in the various anti-terrorist conventions and protocols and range from the unlawful seizure of aircraft to terrorist bombings with the exception of the 1963 Tokyo Convention and the 1991 Convention on Plastic Explosives (UNTS- Convention of 1999, Annex). Thus, the Terrorist Financing Convention reinforces once again the existing anti-terrorist conventions and protocols

by making it an offence to willfully and unlawfully finance any of the activities included in these conventions (Art. 2(1)).

2- Any other unlawful act with the aim of intimidating a general population or to force a government to do or abstain from a certain act (Art. 2(1)). It is also a crime to either organize or participate in those crimes (Art. 2(5)) or attempt to commit (Art. 2(4)) any of the crimes described above.

The innovation in this convention is that it criminalizes the act of fund-raising by itself and it makes it a crime, irrespective of whether the financed terrorist act is actually executed or not (Art. 2). This provision has been considered the key element of the convention (Perera 580).

The convention imposes on state parties obligations of a very specific nature related to monitoring and controlling the financing of terrorist activities. The convention calls for the suppression of the financing of terrorism through sanctioning the perpetrators criminally, civilly or administratively in addition to monetary sanctions (Art. 5). The convention requires state parties to hold responsible the legal entities located in their territories or organized under their laws whenever the individual responsible for the management or control of that legal entity has in that power committed any of the crimes defined in this convention (Art. 5). State parties are also obliged to adopt appropriate measures for the identification, detection and freezing or seizure of any assets or proceeds used or owed for performing a terrorist activity (Art. 8).

For effective prevention of the crime of the financing of terrorism, state parties are required to cooperate by obliging financial institutions and all other professions involving financial transactions located in their territories to develop particular measures. These includes the identification of their clients, whether they are natural or legal persons, and to give special attention to unusual or suspicious transactions (Art. 18). Banks and financial institutions within state parties are required to adopt

strict regulatory measures and to sustain all essential records on domestic and international transactions for at least five years (Art. 18(iv)).

The main objective behind all these provisions is to identify and take action against the real sources of the financing of terrorism and to freeze the assets of terrorists groups. The convention permits the freezing of funds and proceeds used or allocated for carrying out a terrorist crime. Bank secrecy or the financial nature of the crime is no longer a sufficient pretext for refusing to cooperate (Arts. 12 & 13).The cooperative measures required by state parties are explicated in very specific terms in the convention (Art. 18).This is clearly distinguished from the other conventions where measures of international cooperation were stated in very general terms (Perera 581).

The Terrorist Financing Convention has been considered of utmost importance. The convention reflects in its obligations those included in Security Council Resolution 1373 of 2001. Because Resolution 1373 was issued under Chapter VII of the UN Charter, it is binding for all member states and has a considerable effect on the position of the Terrorist Financing Convention. Previously, before the adoption of Resolution 1373, only few countries ratified the Terrorist Financing Convention which prohibited it from being in force. Because of Resolution 1373, associated with the function of the Counter-Terrorism Committee, many states have lately ratified it (Conte 23-4).

In brief, the twelve anti-terrorist conventions and protocols have a similar form and many provisions in common. In general, they reflects the international community's interest to draw attention to certain terrorist crimes by making them punishable by the domestic laws of the state parties. Furthermore, they activate the rule of prosecution and extradition of perpetrators (Maogoto 194) and call to eliminate legislations that include exceptions to such crimes on political grounds. Accordingly, they commonly:

1- Define in their first articles certain types of unlawful acts against the penal law (UNTS- Convention of 1963, Art. 1) which are of grave concern to the international community (UNTS: - Convention of 1970, Preambular Para 2, Convention of 1973, Art. 2(2)). These defined crimes make the topic of each convention while combating them makes its objective (UNTS: - Convention of 1963, Art. 1, Convention of 1970, Art. 1 & Protocol of 1988, Art. 1)

State parties are obliged to make the crimes defined in these conventions and protocols punishable under their domestic laws by sentences that reflect the grave nature of these crimes (UNTS: - Convention of 1970, Arts. 2 & 6, Convention of 1971, Arts. 3 & 7, Convention of 1973, Art. 2, Convention of 1979 of Taking of Hostages, Art. 2, Convention of 1979 of Nuclear Material, Art. 7(2), Convention of 1988, Art. 5, Protocol of 1988, Art. 5, Convention of 1997, Arts. 4 & 5 & Convention of 1999, Art. 4) and to ensure that their domestic criminal codes are competent to deal with such types of crimes .

For effective implementation of these conventions and the prevention of those crimes, state parties are required to forbid preparations in their territories aiming at carrying out those crimes either inside or outside their territories (UNTS: - Convention of 1971, Art. 10, Convention of 1973, Art. 4, Convention of 1997, Art. 15).

2- Oblige state parties to adopt measures to establish jurisdiction over the crimes covered under these conventions on the basis of territory, registration and nationality (UNTS- Convention of 1979, Art. 6). State parties are required to deal with the crime committed on the territory of any state party as committed not only in the place where it has occurred, but also in the territories of states required to establish jurisdiction (UNTS: - Convention of 1963 Art. 16, Convention of 1971, Art. 8 (4), Convention of 1973, Art. 8 (4) & Convention of 1979, Art. 9). State party which has jurisdiction to prosecute the perpetrators of the terrorist crimes defined under the conventions is:

a- The state party where the crime defined in the convention has taken place (UNTS: - Convention of 1973, Art. 3 (1) (a), Convention of 1979 of Nuclear Material, Art. 8 (1) & Convention of 1997, Art. 6).

b- The state party where the aircraft or the vessel, aboard which the crime was occurred, is registered or the state of the flag if the crime is committed on board an aircraft or vessel carrying the flag of this state (UNTS: - Convention of 1963, Art. 3, Convention of 1970, Art. 4 (1) (a), Convention of 1973, Art. 3 (1) (a) & Convention of 1979 of Nuclear Material, Art. 8 (1).

c- The state of nationality for both, the alleged offender (UNTS- Convention of 1979 of Nuclear Material, Art. 8 (1)) or the person whom the crime is committed against (the victim). The state party which territory constitutes the habitual residency of the stateless person who committed the terrorist crime has also the right to exercise jurisdiction over the crime (UNTS: - Convention of 1973, Art. 3 (1) (b) & Convention of 1997, Art. 6 (2)).

d- The state party which is the victim of the terrorist crime whether this crime was committed against it had taken place on its land or abroad. This includes a terrorist crime against its embassy or diplomatic premises to force that country to carry out, or refrain, a certain action (UNTS- Convention of 1997, Art. 6 (2)).

e- The state party where the criminal is found and does not extradite him to other state party (UNTS: - Convention of 1970, Art. 4(2), Convention of 1971, Art. 5, Convention of 1973, Art. 3(2), Convention of 1979 of Taking of Hostages, Art. 5, Convention of 1979 of Nuclear Material, Art. 8(2), Convention of 1988, Art. 6, Protocol of 1988, Art. 3, Convention of 1997, Art. 6(4), Convention of 1999, Art. 7 & Convention of 1997, Art. 6).

3- Oblige state parties, according to their jurisdiction, to either prosecute or extradite the perpetrator of any of the terrorist crimes covered under the conventions.

State party where the accused is found must apply procedures in accordance with its domestic laws including the investigation of his attendance (UNTS- Convention of 1997, Art. 7). Thus, state party where the suspected offender is found must either extradite him or submit the case for persecution. It is obliged to implement this provision without any exception or delay even if the crime was occurred outside its boundaries (UNTS: - Convention of 1970, Art. 7, Convention of 1971, Art. 7, Convention of 1973, Arts. 3(2) & 7, Convention of 1997, Art. 8; Bassiouni, Legal Control of International Terrorism, 94 & Murphy, The Future of Multilateralism, 45).

Furthermore, state parties must recognize these terrorist crimes as extraditable between them and can consider the convention a legal basis for extradition whenever there is no extradition treaty (UNTS- Convention of 1997, Art. 9). Because of the principle of extradition or mutual legal assistance, none of these crimes can be regarded as a political crime. The anti-terrorist conventions and protocols do not consider these crimes as political (UNTS: - Convention of 1970, Art. 8, Convention of 1971, Art. 8, Convention of 1973, Art. 8, Convention of 1979 of Taking of Hostage, Art. 10, Convention of 1979 of Nuclear Material, Art. 11, Convention of 1988, Art. 11, Convention of 1997, Arts. 4 & 5, Convention of 1997, Arts. 9 & 11 & Convention of 1999, Arts. 3 & 14).

This provision, which is relatively new, recognizes that the perpetrator of these terrorist crimes cannot be given the protection provided by the normal laws governing extradition. According to this provision the fugitive offender cannot claim that the crime was committed for political reasons in case of extradition. The claim of political crime has been rejected for it is inconsistent with the general purpose of the anti-terrorist treaties. Political offence exception is invalid for international terrorism charges (Bianchi, Security Council's Anti-terror Resolutions) and is not available to individual terrorists seeking refuge in another state which does not have extradition treaties (Cohan 78).

However, the political crime exception is counter-balanced by what is known as the non-persecution safeguard (UNTS- Convention of 1997, Art. 12). This provision obliges state parties to refuse extradition whenever it believes that it has been asked for or done for punishing an individual according to his race, religion, nationality or political opinion. While the political crime exception relates to the nature of the crime, the non-persecution safeguard relates to the motivation of the requesting state in seeking to extradite the offender. This provision intends to protect those individuals who might be extradited upon a request for illegitimate reasons (Perera 573). Finally, state parties to any conflict pertaining to the interpretation or application of the treaties must submit it to arbitration if it was not settled through negotiations; otherwise any of state parties can refer the dispute to the ICJ (UNTS- Convention of 1997, Art. 20).

The last obligation, namely, to either extradite or prosecute the offender is the main objective of these conventions (Perera 569). It is known as the principle of non-providing a safe haven for terrorists. It has also been recognized by the UN Security Council in Resolution 1373 of 2001 which has made it binding to all states though not parties to the international conventions. Member states according to Articles 24 and 25 of the UN Charter (UN Doc. - UN Charter) are also obliged to fulfill Security Council resolutions. Consequently, all states are obliged now to abide by this obligation which acts as an enforcement mechanism aiming at punishing and deterring individuals perpetrator of terrorist crimes (Perera 569; Maogoto 194).

Therefore, these conventions have filled the gap regarding the absence of the international criminal law standards in one convention. These standards are extradition, legal assistance, transfer of criminal proceeding, recognition of foreign penal judgments, transfer of sentenced persons, and freezing of assets. Although these standards are not found in a single convention, they were acknowledged and distributed in the provisions of the twelve conventions and protocols (Bassiouni, Legal Control of International Terrorism, 94). Furthermore, the 1961 Vienna Convention on Diplomatic Relations (UNTS- Convention of 1961), and the 1963

Vienna Convention on Consular Relations (UNTS- Convention of 1963) are relevant to these conventions.

2.2. State's Criminal Responsibility

State responsibility is an agreed upon principle under international law (Brownlie, Principles of Public International Law, 6th ed., 419) and terrorist crimes can be done by private individuals as well as states' agents (Bassiouni, Legal Control of International Terrorism, 84). Criminality means responsibility of a criminal nature which appears whenever the criminal act is attributed to a suspected individual. According to national and international law, criminal responsibility is often attributed to natural persons and, in certain cases, to legal persons or entities. In such a case, the legal person is held responsible through the individual who committed the crime and is a membership in this entity (Bantekas & Nash 15).

The International Law Commission (ILC) since its first meeting in 1949 when it has chosen state responsibility as one of its topics for codification has acknowledged the responsibility of a state (Brownlie, System of the Law of Nations, 32; UN Doc. GA Res. 799). Though the commission submitted its first draft after five years, the General Assembly did not take any action until the late 1970s when it invited the ILC to restart its work (Von Glahn & Taulbee 301). In 2001, the General Assembly adopted Resolution 56/83 entitled, Responsibility of States for International Wrongful acts (UN Doc. GA Res. 56/83) which introduces certain legal penalties on states' having committed international crimes. According to Article 2 of this resolution, state's wrongful act arises in two cases:

1- If the illegitimate behavior of the state which constitutes either an action or an omission is attributable to the state under international law.

2- If this illegitimate behavior constitutes a breach of an international obligation of the state.

Under international law, states are responsible for all breaches of their international obligations (Von Glahn & Taulbee 301). Just as individuals are criminally responsible for a terrorist act, states will have the same responsibility for their involvement in such acts (Cohan 95). For example, the state itself, like individuals, might commit the crime of hostage taking or the use of explosives as proscribed in the anti-terrorist treaties. A state is criminally responsibility for a terrorist crime under international law in three cases which will be argued thoroughly in this section. These are:

1- Whenever the state orders the terrorist act. This case is known as Imputabiliy.

2- Whenever the state knows about the terrorist act, but it neither penalizes its perpetrators nor forbids its occurrence. In this case, the state has violated its legal obligation under international law.

3- Whenever the state endorses or approves the terrorist act even if it did not order its execution.

2.2.1. Imputability

Imputability means "the legal assignment of a particular act, done by a person or group of persons, to the state for the purpose of determining responsibility" (Von Glahn & Taulbee 310). The concept of imputability is essential under international law to attribute responsibility to a state. It is known as the technical process through which an action is formally attributed to the state in order to determine responsibility (310).

According to Article 2 of Resolution 56/83, state responsibility results from an international law violation done by an individual whose behavior is regarded as the behavior of the state. This responsibility is known as direct and original responsibility (Kelsen 199). Act imputable to the state is called act of state and includes action as

well as omission of an action (196). Classifying state's action as wrong goes back to international law (UN Doc. - GA Res. 56/83, Art. 3) and a state cannot resort to its domestic law to evade responsibility even if it legalizes this action (UN Doc.- GA Res. 56/83, Art. 3; Brownlie, Principles of Public International Law, 6th ed. 387).

In order to place responsibility on a state, international law requires the illegal act to be imputable to the state. In other words, the perpetrator of the terrorist crime must either be a state's agent or an individual or a group of individuals who acted under the order of this state; otherwise the terrorist act will be regarded as an ordinary criminal act. Thus, the conduct of any state agent or individual is regarded as the conduct of the state, and consequently exposes the state to responsibility in the following cases (UN Doc. - GA Res. 56/83):

1- If the terrorist crime was carried out by any of the state's organs or an individual or a group of individuals. According to Article 4 of Resolution 56/83, the organ of the state is defined as any person or entity designated as a state organ according to its internal law. This organ could be the legislative, executive, judicial or any other organ with no importance neither to its position, nor its character.

2- If the agent or official of the state as defined under article 4, or the individual or a group of individuals has carried out the terrorist crime under the command or authority of the state. In order to the terrorist crime to be imputable to the state, the perpetrator of this terrorist act must have performed the terrorist act, according to Article 8 of Resolution 56/83, on the instructions of that state.

Recalling the Iran Hostage Case, the ICJ refused to consider the statement declared by the former Iranian leader, Khomeini, as a command or authorization by the state of Iran to the militants to carry out their terrorist act. The Iran Hostage Case was a case before the ICJ in 1979 and was related to the seizure of the US embassy in Tehran by an armed group that took the embassy's officials and premises as hostages (UN Doc. - ICJ- US vs. Iran- Judgment, p.5-13). In justifying their acts, the

embassy's attackers declared that they had relied on Khomeini's statement which calling upon the fighting against the United States (UN Doc. - ICJ- US vs. Iran - Judgment, Para. 59, p. 30).

The court pointed out that, at the time when the militants had performed their attack on the US's embassy, there wasn't any reference to their official status to regard them as organs or agents of the state of Iran. It added that Iran could bear responsibility only if it were recognized or documented that the embassy's attackers were actually "acting on its behalf" and executed the attack upon its command. Thus, their conduct cannot be considered as a conduct of the Iranian state and, hence, imputable to it on that basis (UN Doc. - ICJ- US vs. Iran- Judgment, Para. 58, p. 30).

The ICJ refused to consider the statement of Khomeini as a command to the embassy's attackers to carry out their terrorist act. Even though this statement was admirable to the Iranian people, the court considered it insufficient evidence to hold Iran responsible for the embassy's attack. It acknowledged that "it would be going too far to interpret such general declarations of Khomeini to the people or students of Iran as amounting to an authorization". If it were to do so, the court added it "would conflict with the assertions of the militants who are reported to have claimed credit for having devised and carried out the plan to occupy the embassy". The court approved that the embassy's attackers had taken full credit for their operation without making any attribution of their acts to the state of Iran (UN Doc. - ICJ- US vs. Iran- Judgment, Para 59, p. 31).

Thus, in order to place responsibility on a state for a terrorist crime under international law, the terrorist crime should be carried out by one of the state's agents or other individuals who executed the terrorist act under the state's command and authority.

2.2.2. Breach of a legal obligation

State's responsibility under international law results from all breaches of its legal obligations whether codified in treaties, both bilateral and multilateral, or in customary international law (Von Glahn & Taulbee 301). Furthermore, it results not only from state's overt actions, but also its omissions (UN Doc. - GA Res. 56/83, Art. 2).

As mentioned earlier in chapter two, the UN in its effort to combat terrorism has developed twelve conventions and protocols which place certain obligations on states. Under these conventions, state parties are obliged within their jurisdiction either to extradite or prosecute individuals suspected of committing a terrorist act. The state party where the suspected offender is found, though the crime was not committed on its territory, must either extradite him or submit the case for prosecution (Bassiouni, Legal Control of International Terrorism, 94; Murphy, The Future of Multilateralism, 45).

This obligation has been regarded as an enforcement mechanism, clarifying that the main purpose of all these conventions is to punish and deter individuals' perpetrators of terrorist crimes. It has become a principle under international law because of the wide recognition of these conventions (Perera 569). Furthermore, this obligation has also been reaffirmed by Resolution 1373 of 2001 by which member states are obliged in accordance with Article 25 of the UN Charter to accept and carry out decisions of the Security Council (UN Doc. - Charter of the UN, Art. 25; Bantekas & Nash 11).This clearly includes implementing the obligations under several Security Council resolutions pertaining to terrorism.

Furthermore, in accordance with Article 24 of the UN Charter UNs' member states "confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf" (UN Doc. –UN Charter , Art.

24). As a result, all states now are, according to Articles 24 and 25 of the UN Charter, obliged to abide by this obligation whether they are parties or not to all the anti-terrorist conventions.

Even though state parties under the anti-terrorism conventions agree to either extradite or prosecute terrorist perpetrators and to prevent the use of their territories for terrorist acts (UNTS: - Protocol of 1988, Art.13 & Convention of 1999, Art.18), they might violate these obligations.

As a result of the explosion of the Pan Am flight 103 in 1988 over Lockerbie in Scotland, which killed all its 259 passengers and the crew as well as 11 people from Lockerbie, investigations done by the US and the UK revealed the involvement of two Libyans, Al-Megrahi and Fhimah. The two suspects did not board flight 103, but they had placed plastic explosives, designed to explode by an electronic timer, in a suitcase on the flight which was intended to fly to JFK airport in New York. Both The US and the UK demanded that Libya should surrender the two suspects so that they could stand trial in either of the two countries (Bantekas & Nash 577).

Because of Libyan refusal to extradite the two suspects, the Security Council issued Resolution 731 in 1992 (UN Doc. - SC Res. 731). The resolution, after condemning the terrorist act (Para 1) asked Libya to cooperate and extradite the two Libyan suspects involved in the bombings (Para 2). As for Libyan non-compliance with Resolution 731, specifically its rejection to extradite the two suspects, the Security Council, two months later, issued Resolution 748 which regarded Libya's sheltering of the two suspects as a threat to peace and imposed sanctions on Libya (UN Doc.- SC Res. 748).

Moreover, the state is responsible under international law for its inactions or omissions (UN Doc. - GA Res. 56/83, Art. 2). State's omission results from its inaction over certain acts or individuals either to forbid the terrorist act or to take practical measures to prevent its occurrence (Von Glahn & Taulbee 301, 311). This

usually occurs whenever the state is aware of the illegal act but has does nothing to prevent it (Kelsen 201). Customary international law obliges states to exercise due diligence by preventing the use of their territories to harming another countries and, when necessary, to punish the offenders (200). A state which knows about the illicit act and does not forbid it exposes itself to sanctions even if this act is not imputable to it (201). A state fulfills its duties under international law only when it takes all the practical measures to prevent the terrorist act, even if it later failed to stop its occurrence (Romano 1034) or if it lacks the power over the terrorists (Von Glahn & Taulbee 605).

Recalling again the Iran Hostage Case, which reflects a violation of a state for its contractual obligations (Brownlie, Principles of Public International Law), the ICJ recognized that Iran was under obligation to apply actions to prevent attack on the inviolability of the US embassy in Tehran (UN Doc. - ICJ- US vs. Iran- Judgment, Para. 76, p. 36).

The US submitted on November 29, 1979 an application before the ICJ accusing Iran of violating Articles 22 "Immunity of Diplomatic Premises" and 29 "Inviolability of Diplomatic Personnel" of the 1961 and 1963 Vienna Conventions on Diplomatic and Consular Relations (UNTS- Vienna Conventions on Diplomatic & Consular Relations, Arts. 22 & 29) and of Articles 2, 4 and 7 of the Diplomatic Agents Convention (UNTS- Convention of 1973; UN Doc.- ICJ- US vs. Iran, Judgment, Paras 1 & 8, p. 5-9). The main idea of these articles is that any illegal attack on the official premises, including kidnapping of internationally protected persons, is punishable under international law. These articles authorize state parties to take measures to prevent such attacks and to either extradite the offender suspected of committing them or prosecute him before their competent authorities (Arts. 2, 4 & 7).

The court in its decision of 1980 pointed out that Iran was aware of its duties under the conventions mentioned above, which required its action (UN Doc.- ICJ- US v. Iran, Judgment, Paras. 63 -64; Von Glahn & Taulbee 497). Iran, as a host state, was

under a duty to protect the diplomatic mission from any attack (UNTS- Vienna Convention on Diplomatic, Arts. 22 (2)) or arrest (UNTS- Vienna Convention on Diplomatic, Art. 29). It, instead, did not take any measure either to forbid the attack or to release the hostages (UN Doc. - ICJ- US v. Iran, Judgment, Paras. 64-65).

In its final judgment of May 24, 1980, the ICJ acknowledges that Iran's inaction was a violation of its contractual obligations under the Vienna Conventions on Diplomatic and Consular Relations (UNTS- Vienna Convention on Diplomatic Arts. 22 (2), 24, 25, 26, 27 & 29 & Consular Relations Arts. 5 & 36). Accordingly, the ICJ ordered Iran to end the detention of the USs' embassy, to release the diplomatic and consular staff and to pay compensations to the US (UN Doc. - ICJ- US vs. Iran, Judgment, Para. 95, p. 45).

Thus, under international law a state can be held responsible for a terrorist act even if this act is not imputable to it, but it was aware of its happening and does nothing to forbid it.

2.2.3. Endorsement of the Terrorist Act

There is another case where it is possible to place criminal responsibility on a state because of a terrorist act under international law. In this case, the terrorist act was not committed upon the command of the state or under its authority; however, the state endorsed and approved the terrorist act (UN Doc. - G.A. Res. 56/83, Art. 11; Maogoto 60). The Special Rapporteur on state responsibility, Crawford, has recognized that state's acceptance to illegal acts even not imputable to it, renders it responsible under international law (UN Doc. - Draft Articles on State Responsibility (1988), Paras. 283-4).

According to Article 11 of Resolution 56/83 on Responsibility of States for International Wrongful acts, a "conduct which is not attributable to a state under the preceding articles shall nevertheless be considered an act of that state under

international law if and to the extent that the state acknowledges and adopts the conduct in question as its own" (UN Doc. - GA Res. 56/83, Art. 11). A state could be subjected to responsibility whenever it approves an illegal conduct and accepts it as if it were its own, even though this conduct is not imputable to it under Article 2 of Resolution 56/83 (UN Doc. - GA Res. 56/83, Art. 2(1)).

Recalling again the US Diplomatic and Consular Staff in Tehran Case, the ICJ pointed out that in order to place responsibility on a state there should be an explicit endorsement by the state to the terrorist act that has taken place. The ICJ ruled that a state can be charged with responsibly in the cases where it explicitly approves and accepts the terrorist act despite the fact that it did not order its execution. The ICJ refused to consider the admiring remarks of the Iranian leader as approve or endorsement for the terrorist act and they were not enough to create responsibility on the state of Iran (UN Doc. - ICJ- US vs. Iran, Judgment, Paras. 56-68). So, once the state of Iran endorsed the terrorist act of the militants, it became legally responsible for their attack (Brownlie, Principles of Public International Law. 6th ed., 387).

2.3. The Nature of State Responsibility under International

As mentioned above, state responsibility for terrorist crimes is an agreed upon issue under international law (Cohan 95). However, the dispute often arose on the nature of this responsibility (Brownlie, International Law & the Use of Force, 150-4). State responsibility is different from the responsibility recognized by the national law for the later could be sanctioned either civilly or criminally (Kelsen 196). Criminal Law has never been applied to a state. It is often declared that a state cannot be detained. According to Professor Bassiouni, state criminal responsibility is still an arguable issue and has not yet developed under international law (Bassiouni, Legal Control of International Terrorism, 97).

State responsibility is regarded as a collective responsibility characterized by imposing specific sanctions. This fact creates difficulty in holding a state criminally

responsible. It is generally agreed under most legal systems that a corporate body or collective entity cannot be held criminally responsible (Bassiouni, Book Reviews and Notes, 518).

State responsibility was traditionally of civil nature (Bassiouni, Legal Control of International Terrorism, 96). However, the International Law Commission (ILC) has acknowledged in 1976 under Article 19 of the Draft Articles on State Responsibility, the concept of state criminal responsibility (U.N. Doc. - Draft Articles on State Responsibility (1980); Meron 2). According to Article 19 as first adopted by its architect Professor Roberto Ago (UN Doc. - Draft Articles on State Responsibility (1976), Paras. 72-155):

1- An act of a state which constitutes a breach of an international obligation is an internationally wrongful act, regardless of the subject-matter of the obligation breached.

2- An internationally wrongful act which results from the breach by a State of an international obligation so essential for the protection of fundamental interests of the international community that its breach is recognized as a crime by that community as a whole constitute an international crime.

Then the Commission clarified the situation of paragraph 2 in paragraph 3. It states that an international crime may result, from:

a- A serious breach of an international obligation of essential importance for the maintenance of international peace and security.

b- A serious breach on a widespread scale of an international obligation of essential importance for safeguarding the human being, such as those prohibiting slavery, genocide and apartheid.

4- An internationally wrongful act which is not an international crime in accordance with paragraph 2 constitutes an international delict (Brownlie, System of the Law of Nations, 32-3).

According to Article 19 violating an obligation with grave concern for the international community is an international crime (Para. 3) whereas any other violation falling below this standard is an international delict (Para. 4). The commission intended to mention through Article 19 that there are certain crimes by their graveness differ from other ordinary breaches, and, thus, they deserve to be punished with special sanctions (Tomuschat 265; Graefrath 238). According to this differentiation, the gravity of each act or omission is important for determining responsibility (Amador 345; Quigley 122; Noorani) which could be normal or aggravated (Nollkaemper 627).

However, the concept of state criminal responsibility was broadly criticized (Abi Saab, The Uses of Article (19), 344-46; Quigley 123) which led then to its elimination from the current draft. The General Assembly when adopted the document on December 12, 2001 had dropped Article 19 as well as any reference to the term crime from the text in the second reading (UN Doc.- GA Res. 56/83). The document deals, currently, with the responsibility of states for internationally wrongful acts (UN Doc. - GA Res. 56/83) with no mention to any differentiation between criminal and delictual responsibility (Bantekas & Nash 17).Commentators have referred this attitude to two reasons:

1- Many states mainly those who are not permanent members of the Security Council are afraid of its abuse by the Security Council or a super power to justify specific interventions (Graefrath 237).

2- That Article 19 might mislead one to think that the main aim is to criminalize public international law. Such a false impression contradicts the current international law which is characterized by compensations. Furthermore, opposers of Article 19

add that there is no police at the international level to impose criminal responsibility on states (UN Doc.-Draft Articles on State Responsibility (1998); Tomuschat 261).

Though Article 19 was generally opposed, the idea that violating certain obligations related to the interests of the whole international community should generate special consequences, has been widely accepted (Bantekas & Nash 17).

Many legal scholars have been also convinced, like the ILC, in the concept of state criminal responsibility (Quigley 146). Lauterpacht and Eagleton have called for penal compensations (Quigley 146; Lauterpacht 356-57) and Triffterer has regarded it as preserving world peace (Quigley 146; Triffterer 103,107). The United Nations Charter has also recognized the difference in the hierarchy of crimes. This hierarchy clearly appears with the authorities given to Security Council, either in determining the existence of a threat to peace or in the appropriate measures to be taken (Graefrath 238).

These measures have been regarded as penalizing because of their punitive nature (Bassiouni, Legal Control of International Terrorism, 96). They have been also regarded as declaratory judgments and satisfaction, which have been recognized as criminal sanctions (Gilbert 353-54; Bederman 356). Thus, despite the elimination of Article 19, it can be stated that the criminal responsibility of state have existed under international law (Abi Saab, The Uses of Article (19), 346; Bassiouni, Book Reviews and Notes, 522).

2.3.1. The Relationship between State and Individual Criminal Responsibility

The probability of introducing together the criminal responsibility of an individual and a state has been also recognized in work of the ILC. The ILC has acknowledged that the responsibility of a state organ does not eliminate the responsibility of the state (UN Doc.-Draft Articles on State Responsibility (1984), Para. 32). The state remains criminally responsible and cannot evade this responsibility by punishing the agent who committed the crime. State responsibility supplements individual responsibility

(Quigley 147; Nollkaemper 621) and both can be applied at the same time (Nollkaemper 627). State responsibility and individual responsibility are linked (639) and punishing the individual whose act is imputable to the state has been regarded as a form of remedy by the state for its responsibility (637).

Bringing to mind the bomb attacks in La Bella Discotheque in Berlin in 1986, the German Court who examined the case had convicted four Libyans in November 2001. The Court has placed responsibility on Libya because Libyan agents from the secret service have participated principally in the bombings (Nollkaemper 619). Accordingly, Germany has the full right to ask Libya for compensation (619-28). State responsibility and individual responsibility are linked (639). Punishing the individual whose act is imputable to the state has been regarded as a form of remedy by the state for its responsibility (637).

Additionally, the relation between both responsibilities has been realized in the Lockerbie case. Even though Libya had surrendered the two Libyan suspects for prosecution, the US and UK demanded Libya to compensate (Nollkaemper 619-23). Thus, criminal responsibility could be implemented, against the state and the individual whose conduct generates the responsibility to the state.

Chapter Three
Sanctions

Sanctions are the only alternative to the military action when other peaceful settlements do not succeed (Wessel 635). They may include measures ranging from the freezing of financial assets, requiring visas to certain countries, to the suspension of trade and to the cutting of diplomatic and economic relations (Wessel 635). Though the term sanction is not mentioned by name in the UN Charter, sanctions are imposed according to the Chapter VII authorities of the UN Charter, which give the Security Council full power to act to preserve the world peace and security (Bassiouni, Legal Control of International Terrorism, 96 -97).

Thus, after determining the international criminal responsibilities for both, individuals and states in case they commit a terrorist crime, it is imperative to mention how the responsible perpetrators will be punished under international law. Sanctioning individuals responsible for terrorist crimes are argued in the first section of this chapter while sanctioning a state for the same crime is argued in the second section.

3.1. Sanctioning Individuals Responsible for Terrorist Crimes

Sanctioning individuals perpetrator of terrorist acts include two types of sanctions. In addition to punishing them before courts, technical sanction can also be applied whenever there is a need to their application.

3.1.1. Technical Sanctions

The Security Council has taken recently, in the wake of September 11 attacks, measures aimed at imposing certain sanctions on individuals accused of terrorist acts. These may include financial sanctions, travel and aviation bans and arms embargoes (Wallensteen & Carina. 15). Financial sanctions aim at freezing the financial assets of

targeted individuals or entities accused of terrorism in order to weaken their capabilities. In this case, the imposed sanctions have consequences only on the targeted individual whose name is on the list of persons accused of terrorism and not on the whole population of a targeted state (Wessel 641).

This new trend of technical sanctions which targets individuals, instead of states, reveals the Security Council's intent to shift away from multilateral sanctions and their effects on the whole nation (Wessel 634; Wallensteen & Carina 15). Particularly, with the wide criticism that faced the UN sanctions imposed in the 1990s, especially with those imposed on Iraq (Wallensteen & Carina 15). These sanctions have acquired wide support and the Security Council has acknowledged the probability of applying them together with measures to be taken against states. The Security Council has the power to impose these sanctions under Chapter VII of the UN Charter, specifically Article 41 which has been used as the legal basis of these measures (Wessel 651).

These sanctions are known as smart sanctions, which the former UN Secretary General Kofi Annan called for, in order to eliminate sufferings associated with state's sanctioning. Annan declared that there is "an emerging consensus among member states that the design and implementation of Security Council sanctions need to be improved and their administration enhanced to allow a more prompt and effective response to present and future threats to international peace and security. Future sanctions regimes should be designed so as to maximize the chance of inducing the target to comply with Security Council resolutions, while minimizing the negative effects of the sanctions of the civilian population and neighboring and other affected states" (UN Doc.-Report of SG on the Work of the Organization, p.13).

The Security Council applied these sanctions even before September 11 attacks. In 1999 by Resolution 1267, concerning the Taliban, the Security Council sanctioned the Taliban's regime in Afghanistan by freezing its financial funds (UN Doc. - SC Res. 1267, Para. 4(b)). The Council considered Taliban's non-compliance with

paragraph 13 of Resolution 1214 (UN Doc. - SC Res. 1214), relating to stop providing the Afghan territory as safe haven for terrorists, is by itself a threat to peace. The resolution created a committee (Para. 6) to watch the functioning of the sanctions regime.

In 2000, the Security Council issued Resolution 1333, under Chapter VII of the UN Charter (UN Doc.- SC Res. 1333), which extended the financial embargo on Bin Laden and individuals linked with him or Al-Qaeda. The resolution requested the sanctions committee to establish a blacklist consists of individuals related to the Taliban, Al-Qaeda and Osama bin Laden (Para. 16(b)). In 2002, the Council issued Resolution 1390 and renewed the Taliban and Al-Qaeda blacklist and extended the travel and arms embargo sanctions on individuals on the list (UN Doc. - SC Res. 1390). Thus, it has become known that the Security Council has moved in the direction of taking decisions that have also an impact on individuals (Wessel 638).

3.1.2. Tribunal with Jurisdiction

The state victim of a terrorist act or the state that terrorist act has taken place on its territory, has the jurisdiction, in accordance with the anti-terrorism conventions, to prosecute the perpetrators before its domestic courts ((UNTS: - Convention of 1997, Art. 6(2), Convention of 1973, Art. 3(1) (a), Convention of 1979 of Nuclear Material, Art. 8(1) & Convention of 1997, Art. 6). However, there are certain cases where complexity in prosecuting terrorist perpetrators could arise for there is no international permanent court to have jurisdiction over terrorist crimes.

The country whose nationals were victims of a terrorist act might not trust the second country's legal system which might be lenient with the perpetrators. Conversely, unfairness prosecutions might concern to another involved state. The objectivity of the court could also be suspicious, especially when the court with the right to have jurisdiction, is the court of the country where the terrorist act has taken place and harmed severely (Goldstone & Simpson 20).

Moreover, there could be two more problems. Here, though the country has the right to exercise jurisdiction through its authorities, is unable to initiate prosecutions due to its insufficient competency. The other case appears when the court which is exercising jurisdiction is the court of the state that sponsored the terrorist act. So, In spite of the state's claims to be neutral and sincere while prosecuting, the fairness of its court will be doubted.

This last concern was acknowledged by Judge Bedjaoui in the Lockerbie case before the ICJ. Bedjaoui has recognized the incompetent of such prosecutions because the accused in the Lockerbie case was a state agent. According to Bedjaoui, "prosecuting the accused offender by the involved state itself and before its own courts is not acceptable for the state is actually judging itself" (Bedjaoui; Wouters & Naert 423).

The International Court of Justice has jurisdiction only in disputes between states. According to its Statute, the Court has power to rule only in cases between states and the statute requires, as a major precondition, the consent of both states involved in the dispute to the Court's jurisdiction (U.N. Doc. - ICJ Statute, Art. 36). The court's decisions are only binding to parties of the dispute and in relation to the case before the court (Art. 59). Thus, terrorist acts performed by individuals are not within its jurisdiction, unless they are sponsored by states (Dellapenna 13). Though, the UN Security Council has the power, under Article 94 of the UN Charter, to determine measures to enforce ICJ judgments (UN Doc.- UN Charter, Art. 94(2)), the Council has never forced a judgment of the ICJ.

Furthermore, terrorism is not within the authority of International Criminal Court (Rome Statute of ICC). The suggestion to include terrorism to the ICC jurisdiction has been rejected by the Rome Conference for four reasons (Von Glahn, & Taulbee 605):

1- There is no definition of terrorism.

2- The addition of terrorism to the ICC might politicize the Court.

3- There are certain terrorist acts that do not need persecutions by international court.

4- Prosecution within the domestic laws has proved to be more effective.

Though, the court has jurisdiction over crimes referred to it by the UN Security Council (Rome Statute of the ICC, Para c) according to its authorities under Chapter VII, the ICC can refuse this jurisdiction whenever the crime referred to it is not based on these authorities on two grounds:

1- If the crime referred to it does not fall within its jurisdiction, such as the crime of terrorism.

2- If the Council classified the crime as to fit in any of the ICC crimes and the Court found that the Council's classification contradicts those crimes that have already been defined and classified under its jurisdiction.

Thus, which tribunal has jurisdiction over acts of terrorism under international law?

The tribunal to have jurisdiction over terrorist acts could be a national court located in a third country. This was the solution implemented for the trial of the individuals accused of the Pan American Flight 103 bombings over Lockerbie in 1988 and accepted by Security Council Resolution 1192 (UN Doc. SC Res. 1192, Para. 2).

The Resolution required states to cooperate and gave the Netherlands the right to detain the suspects after their surrender in order to stand trial (Bantekas & Nash 578). The trial was held by a Scottish Court sitting in the Netherlands in The Hague and it was the result of political settlement. At that time, Libya refused to extradite the two

Libyan suspects and agreed only if the trial would take place in a third country (Goldstone & Simpson 20).

An agreement was signed between the UK and the Netherlands on 18 September 1998 (Agreement between the Netherlands and UK). According to this agreement, the court which is known as the Scotch High Court of Justiciary neither has an authorization from the UN Security Council, nor is located in a country exercising territorial jurisdiction. Thus it was exceptional for it had fulfilled the requirement needed to resolve the Lockerbie case (Bantekas & Nash 579). Libya, then, surrendered the two Libyan suspects in 1999 and the trial proceedings began until the Court has issued its decision on 31 January 2001 (578).

The Court applied its national law. It found Abdel Basset al-Megrahi guilty beyond a reasonable doubt because he had placed an explosive device on board the airplane which led to its explosion and resulted in the murder of the flight's passengers and crew as well as 11 residents from Lockerbie. Abdel Basset was sentenced to serve life imprisonment which he appealed. The case was finally closed in 2002, after the appeal court had rejected the plea submitted by Abdel Basset (Bantekas & Nash 580). Regarding the other offender, Al-Amin Kalifa Fahima, the court documented that it did not succeed to provide sufficient evidence to hold him responsible (Scotch High Court; Bantekas & Nash 578).

A second probable solution pertaining to the tribunal to have jurisdiction over the crime of terrorism is the ad hoc tribunals that can be established by the Security Council of the United Nations. According to its authorities under chapter VII of the UN Charter, the Council has the authority to establish ad hoc tribunals. The Security Council used this authority in the 1990s when it established the two ad hoc tribunals for the Former Yugoslavia (ICTY) (UN Doc. - SC Res. 827) and Rwanda (ICTR) (UN Doc. - SC Res. 955). The purpose of these tribunals was to prosecute individuals guilty of genocide, war crimes and crimes against humanity committed in those countries.

Because acts of terrorism have been recognized as a threat to peace, the Council has the authority to establish an ad hoc tribunal to prosecute terrorist crimes. In order to support these tribunals in their missions, they have been given the right to exercise full authority over terrorist perpetrators. Furthermore, the Security Council can interfere and employ its chapter VII authority when necessary in order to oblige member states to cooperate with the tribunal, just as it has done in the Lockerbie case where it had used its powers and sanctioned Libya. It was for the sanctions that Libya had cooperated and accepted to extradite the two suspects. However, the authority to prosecute and issue sentences remains to the tribunal not to the Security Council (Wessel 639).

Recently in 2007, following the terrorist attack which resulted in the assassination of former Lebanese Prime Minister Rafiq Hariri and in a murder of other persons on 14 February 2005, the Security Council issued Resolution 1757 (UN Doc. - SC Res. 1757). The resolution was issued under Chapter VII of the UN Charter and establishment a special tribunal of an international character to try all those who are found responsible for this terrorist crime. This tribunal is located abroad, in Holland, in accordance with an agreement between the United Nations and the host state (Annex, Art. 8).

The purpose of this tribunal is to prosecute individuals responsible for this terrorist crime. Also the tribunal might have jurisdiction over individuals responsible for other assassinations occurred in Lebanon between 01 October 2004 and 12 December 2005, or any later date decided by the parties and with the Security Council consent on a condition that they are of a nature and gravity similar to the attack of 14 February 2005 (UN Doc. - SC Res. 1757- Tribunal Statute, Art. 1). The tribunal will apply the provisions of the Lebanese Criminal Code relating to the prosecution and punishment of acts of terrorism, crimes and offences against life and personal integrity (Art. 2).

3.2. Sanctioning States Responsible for Terrorist Crimes

Sanctions are the only option to the military action in case other means have failed (Wessel 635).The UN Charter provides the primary basis to place responsibility on states. The "Security Council" has "under chapter VII of the UN Charter" full authority to respond to threat to peace (Bassiouni, Legal Control of International Terrorism, 96 -97) through both economic and diplomatic sanctions or to take other necessary measures to restore peace and security (UN Doc. - UN Charter, Arts. 39, 41 & 42). The issue of imposing sanctions on member states dates back to the 1960 when the Security Council had used this authority against Southern Rhodesia in 1966 and obliged all states cut their economic relations with Rhodesia (UN Doc. - SC Res. 221).

3.2.1. Diplomatic Means

Sanctioning a state for its involvement in a terrorist act is possible under international law through imposing certain measures (Murphy, State Support of International Terrorism, 32). The United Nations has critical options which vary from legal means to diplomatic ones to the use of force (UN Doc. – UN Charter, Arts. 40 & 41; Gilmore 193). Sanctions, as defined by the ILC are "reactive measures applied by virtue of a decision taken by an international organization following a breach of international obligation having serious consequences for the international community as a whole, and in particular…certain measure which the UN is empowered to adopt, under the system established by the Charter, with a view to the maintenance and security" (UN Doc. - Draft Articles on State Responsibility (1979); Wessel 636).

When a situation endangering world peace arises, the UN Security Council, alone, has the power to decide whether to declare the situation a threat to peace and international security and to make recommendation, or to decide what measures shall be taken in accordance with Articles 41 and 42 of the UN Charter in order to restore international peace (UN Doc. - UN Charter, Arts. 41 & 42; Kelsen 43). As a precondition for imposing sanctions on a member state, the Security Council

according to Article 39 of the UN Charter must regard the situation as an "act of aggression, breach of the peace or as a threat to international peace and security" (UN Doc. - UN Charter, Art. 39). This determination does not mean the use of military force to restore the world peace, but to take appropriate measures, including the use force, to restore international peace.

According to article 41, the Security Council has the authority to decide what measures should be taken other than the use of force so that its decisions are implemented. These may include "complete or partial interruption of economic relations...and other means of communication, and the severance of diplomatic relations" (UN Doc. - UN Charter, Art. 41). If the Council considers that measures provided for it in Article 41 are inadequate, the Council, in accordance with Article 42 of the UN Charter, may take other actions including blockade and other operations by United Nations' forces (UN Doc. - UN Charter, Art. 42; Kelsen 43).

In the Libyan case and its non–compliance with Resolution 731, specifically, Libya's refusal to extradite the two Libyan suspects in the Lockerbie incident, the Council issued Resolution 748 under Chapter VII of the UN Charter which imposed sanctions on Libya (UN Doc. - SC Res. 748). The employment of the Council to its Chapter VII authorities has clearly been introduced in the Lockerbie case (Gilmore 194). Resolution 748 considered Libya's rejection to extradite the two suspects, according to Resolution 731, a threat to peace (UN Doc. - SC Res. 748, Preambular Para. 7).

Resolution 748 required Libya to stop supporting terrorists (UN Doc. - SC Res. 748, Para. 2; Pillar 76), imposed sanctions on Libya and authorized member states to implement certain measures unless the Council determines that Libya had complied. These measures were:

1- Air blockade and ban on commercial flights (Para. 4).

2- Arm embargo and restriction on the transfer of technical information (Para. 5). Members States are obliged to stop supplying Libya with weapons.

4- Reduction in the number of Libyan diplomatic missions and restriction on their movements in the host countries (Para.6).

Later, in November 1993, after more than twenty months and in accordance with Libya's non-cooperation with resolutions 748 and 731, the Council adopted a third resolution against Libya. Resolution 883 freezed the Libyan government's funds and prohibited the supply of certain equipment to Libya (UN Doc. SC Res. 883, Para. 3). The resolution confirmed Security Council decision regarding the reduction of Libyan diplomatic missions (Para. 7). It also declared that the sanctions against Libya are only eliminated if Libya were to abide by the Council's decisions by extraditing the two suspects for prosecution. Because Libya had extradited the two Libyan suspects, the sanctions were lifted by Resolution 1506 (UN Doc. - SC Res. 1506).

More recently, In October 1999 after the 1998 terrorist bombings of the American embassies in Nairobi (Kenya) and Dar-es-Salaam (Tanzania), the Security Council issued Resolution 1267 under Chapter VII of the UN Charter (UN Doc.- SC Res. 1267) The Council has imposed sanctions on the Taliban's regimes in Afghanistan. The resolution has recalled state party's duties under the twelve treaties against terrorism to extradite or prosecute terrorists perpetrator (Preambular, Para 4). The Council considered the Taliban's failure to respond to paragraph 13 of Resolution 1214 (UN Doc. - SC Res. 1214), which required Afghanistan to stop providing a safe haven to terrorists in its territory, is by itself a threat to peace (UN Doc. - SC Res. 1267, Preambular, Para. 8).

The Council called Afghanistan to stop providing a safe haven to terrorists (Para.1) and to surrender Bin Laden to a country for prosecution (Para. 2). In case of non-compliance, the Council imposed sanctions that include the banning of Ariana Afghan Airlines flights except for the hajj and for previously approved humanitarian missions (Para. 4(a)) and the freezing of Taliban's financial assets (Para. 4(b)).

As Afghanistan's non-cooperation had continued, the Council issued Resolution 1333 which raised the sanctions on Afghanistan (UN Doc. - SC Res. 1333). Resolution 1333 was issued under Chapter VII of the UN Charter and demanded Afghanistan to abide by Resolution 1267 of 1999 (Para. 1) and required member states to keep the imposed sanctions. Moreover, the resolution imposed arms embargo, technical assistance (Para. 5) and reduction of diplomatic missions (Para. 7).

Sudan was also sanctioned by the international community in 1996 by Resolution 1054. As a result of the terrorist murder which attempted to kill President Mubarak of Egypt in Addis Ababa, Ethiopia, the Council issued Resolution 1044 (UN Doc.- SC Res. 1044). The resolution in its Preamble recalled the 1973 Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons (Preambular, Para. 3) and required the government of Sudan to extradite to Ethiopia the three suspects of this terrorist crime for prosecution and to stop providing safe haven to terrorists (Para. 4).

Because of Sudan's non-compliance with Resolution 1044, the Council, three months later, adopted Resolution 1054 under Chapter VII of the UN Charter which imposed sanctions on Sudan (UN Doc. - SC Res. 1054). The resolution urged Sudan to extradite the perpetrators of the terrorist act who were sheltering in Sudan to Ethiopia (Para. 1) and declared that Sudan's refusal to extradite them constitutes a threat to peace (Preambular Para. 10). The Resolution sanctioned Sudan and authorized all states to reduce the diplomatic and consular relations and to restrict the movement of its political leaders and officials (Para. 3).

The seriousness of the situations in Libya and Afghanistan, comparing with Sudan, validates the specific sanctions adopted against each country. But, they were all sanctioned in resolutions sharing similar structure and requirements. They all demanded the involved states to stop providing a safe haven in their territory and to extradite the suspects of terrorist acts.

Thus, the Security Council while imposing sanctions decides between a variety of measures the sanctions to be applied. The Security Council takes measures after a careful examination which terrorist crime requires its action (UN Doc. - Statements by the SC of (1994), (1995) & (1996)). This discretion criterion relates to the type and level of sanctions which appears in both resolutions sanctioning Libya and Afghanistan. These resolutions include armed embargoes, whereas Sudan was not subjected to sanctions of the same type.

Thus, these resolutions reflect the intent of the Security Council in regarding terrorism as a threat to international peace and security and to adopt resolutions dealing with terrorism in general such as Resolution 1373.

Chapter Four
Conclusion

International terrorism has benefited from globalization. It has developed from being performed by individual groups to being performed by highly organized networks with large capabilities. Despite the fact that the major flaw in the United Nations' efforts pertaining to terrorism has often been its failure to reach a general consensus over a definition of terrorism, the United Nations and its main bodies and agencies have always proved to be successful in tackling the crime of terrorism. The United Nations has dealt with individual terrorism as well as state-sponsored terrorism. It has adopted important counterterrorism measures and has prohibited states from sponsoring terrorism.

The United Nations has succeeded in meeting the challenges posed by new forms of terrorism. A consensus has been reached to the effect that international terrorism constitutes one of the most serious threats to international peace and security nowadays. International action has been taken on the topic of terrorism financing, and a set of binding obligations has been determined under Security Council Resolution 1373 covering the gaps that the existing anti–terrorist treaties has been criticized for. Furthermore, Security Council Resolution 1566 includes an official and comprehensive definition of terrorism. The resolution is authoritative and could considerably reduce the ambiguity regarding the lack of a universally accepted definition of international terrorism.

Though the universal jurisdiction of the United Nations creates fears that it might intrude upon the sovereignty of states, sovereignty claims fall short behind certain international concerns like terrorism. The main objective of this jurisdiction is to bring all perpetrators of terrorist crimes to justice which could only take place without sovereignty claims. International terrorism as a threat to international peace and security is a concern for the international community as a whole. The terrorist crime does not only affect the interest of the individual state but also the interests of the whole international community which cannot be lenient in punishing terrorist crimes.

Furthermore, member states are obliged in accordance with Articles 24 and 25 of the UN Charter to abide by the Security Council decisions in order to ensure prompt and effective UN action. The United Nations' member states agree under these articles to permit the Security Council to take action on their behalf in performing its obligation to restore international peace and security. The universal jurisdiction of the United Nations in addition to being complementary is safeguarded by the veto power of the other Security Council member states. In case of the abuse of this jurisdiction by one of the five Security Council permanent members, any of the other four members can use the veto power to prevent this abuse.

Thus, it can be stated that the United Nations has made decisive efforts in fighting terrorism. So, it is important to regain trust in its valuable role, as the only international body capable of eliminating global threats like terrorism.

IV. Bibliography

1. Books

Alexander, Yonah, and Brenner, Edgar H. Terrorism and the Law. Ardsley, NY: Transnational Publishers, 2001.

Bantekas, Ilias and Nash Suzan. International Criminal Law. 3rd Ed. London & New York: Routledge-Cavendish, 2007.

Brownlie, Ian. System of the Law of Nations: State Responsibility. Oxford :Clarendon Press, 1983.

Brownlie, Ian. International law and the Use of Force by States. Oxford :Clarendon Press, 1991.

Brownlie, Ian. Basic Documents in International Law. 5th ed. Oxford: Oxford University Press, 2002.

Brownlie, Ian. Principles of Public International Law. 6th ed. Oxford: Oxford University Press, 2003.

Burbach Roger and Clarke Ben. September 11& the US War Beyond the Curtain of Smoke. City Light Books & Freedom Voices Press. 2002.

Burgess, Mark. A Brief History of Terrorism. Washington DC: Center for Defense Information, 2003.

Dumas, Lloyd J. "Is Development an Effective Way to Fight Terrorism." War after September 11. Ed. Verna Gehring. Rowman & Littlefield Publishers, INC., 2003. 65.

Eagleton, Clyde. The Responsibility of States in International Law. New York: New York University Press (1928) .191.

Farley, Jonathan. "My fellow Americans: Looking Black on Red Tuesday." Beyond September 11: An Anthology of Dissent. Ed. Phil, Scraton. Pluto Press, London, 2002. 179.

Gareau, Frederick. State Terrorism and the United States: From Counterinsurgency to the War on Terrorism. Atlanta: Clarity Press, 2004. 225.

Gilmore, W. "International financial Counterterrorism Initiatives." Legal Instruments in the Fight against international Terrorism: A Transatlantic Dialogue. Ed. Cyrille Fijnaut, Jan Wouters & Frederik Naert. Boston: Martinus Nijhoff Publishers, 2004. 189 - 201.

Graefrath, Bernhard. "International Crimes and Collective Security." International Law: Theory and Practice –Essays in Honour of Eric Suy. Ed. Wellens ,Karel . The Hague: Kluwer, 1998 .237.

Hoffman, Bruce. Inside Terrorism. New York: Columbia University Press.1998.

Kellener, Douglas. From 9/11 to the Terror War: The Dangers of the Bush Legacy. Lanham: Rowman & Littlefield, 2003.

Kelsen, Hans. Principles of International Law. 2nd ed. Ed. Robert W.Tucker. New York: Holt, Rinehart and Winston, 1966.

Laqueur, Walter .The Age of Terrorism. London: Weidenfeld & Nicolson, 1987.

Lauterpacht H. 1 Oppenheim's International Law .8th ed. (1955) .356-57.

Lee, Martin A. "Questions about America's Anti-Terrorism Crusade." September 11 & the US War: Beyond the Curtain of Smoke. Ed. Roger Burbach & Ben Clarke. San Francisco: City Light Books, 2002.

Lefeber, René. "Trans-boundary Environmental Interference and the Origin of State Liability." 1996.

Mandel, Michael. "This war is Illegal and Immoral, and it won't prevent terrorism." Beyond September 11: An Anthology of Dissent. Ed. Phil, Scraton. Pluto Press, London, 2002. 82.

Maogoto, Jackson N. Battling Terrorism: Legal Perspective on the Use of Force and the War on Terror. Ashgate Publishing Limited, 2005.

Mathiesen, Thomas. "Expanding the concept of terrorism." Beyond September 11: An Anthology of Dissent. Ed. Phil, Scraton. Pluto Press, London, 2002. 85.

Meron, Theodor . "Is International Law Moving towards Criminalization?"

Mockaitis, Thomas R. and Rich, Paul B. Grand Strategy in the War against Terrorism. 1st ed. London: Frank Cass & Co. Ltd, 2003.

Murphy, John F. State Support of International Terrorism. 1989.

Perera, Amreth Rohman. "Reviewing the Conventions on Terrorism: Towards a Comprehensive Terrorism Convention." Legal Instruments in the Fight against international Terrorism: A Transatlantic Dialogue. Eds. Cyrille Fijnaut, Jan Wouters and Frederik Naert. Boston : Martinus Nijhoff Publishers, 2004. 567 - 587.

Pillar, Paul R. Terrorism and US foreign policy. Washington: Brookings Institution Press, 2001.

Rehman, Javiad. Islamic State Practices, International Law and the Threat from Terrorism: A critique of the 'Clash of Civilizations' in the New World Order. Oxford & Portland, Oregon, 2005.

Rosand, Eric. "Security Council Resolution 1373 and the Counter-Terrorism Committee: The Cornerstone of the United Nations Contribution to the Fight against Terrorism." Legal Instruments in the Fight against international Terrorism: A Transatlantic Dialogue. Ed. Cyrille Fijnaut, Jan Wouters & Frederik Naert. Boston: Martinus Nijhoff Publishers, 2004. 603 - 631.

Thomas, Mockaitis R. and Rich, Paul B. Grand Strategy in the War against Terrorism. 1st ed. London: Frank Cass, 2003.

Tomuschat, Christian. "International Crimes by States: An Endangered Species ?." International Law: Theory and Practice –Essays in Honour of Eric Suy. Wellens, Karel Martinus. The Hague: Nijhoff Publishers, 1998. 265.

Triffterer, Otto, "Prosecution of States for Crimes of States." International Criminal Law. Ed. Bassiouni, Cherif M. Irvington-on-Hudson, Transnational Publishers (1986): 103-107.

Von Glahn, Gerhard and Taulbee, James Larry. Law Among Nations: An Introduction to Public International Law. 8th ed., New York: Pearson/Longman, 2007.

Wallensteen, Peter and Carina Staibano. International Sanctions between Words and Wars in the Global System. London & New York: Frank Cass, 2005.

Wessel, Ramses. "Debating the Smartness of Anti-Terrorism Sanctions: The UN Security Council and the Individual Citizen." Legal Instruments in the Fight against international Terrorism: A Transatlantic Dialogue. Eds. Cyrille Fijnaut, Jan Wouters and Frederik Naert. Boston : Martinus Nijhoff Publishers, 2004. 633-665.

Wouters Jan and Naert Frederik. "Shockwaves through International Law after 11 September: Finding the Right Responses to the Challenges of International Terrorism." Legal Instruments in the Fight against international Terrorism: A Transatlantic Dialogue. Eds. Cyrille Fijnaut, Jan Wouters & Frederik Naert. Boston : Martinus Nijhoff Publishers, 2004.411-545.

Zagaris, Bruce. "International Judicial Cooperation and Counterterrorism in the US." Legal Instruments in the Fight against international Terrorism: A Transatlantic

Dialogue. Ed. Cyrille Fijnaut, Jan Wouters & Frederik Naert. Boston : Martinus Nijhoff Publishers, 2004.39 -99.

2. Journals

Abi Saab, George "The Uses of Article 19". European Journal of International Law (EJIL) Vol. 10(2) (1999): 344-346.

Amador, Garcia. "State Responsibility in the Light of the New Trends of International Law." The American Journal of International Law. Chapter IV-Nature and Scope of Responsibility. 345.

Association of the Bar of the City of New York. " The Prevention and Prosecution of Terrorist Acts: A Survey of Multilateral Instruments." Standing Committee on International Security Affairs. (June 2006). 04 October 2007. <http://www.nycbar.org/pdf/report/mult_insts_july_06.pdf>.

Bassiouni, Cherif M. "Book Reviews and Notes." The American Journal of International Law Vol.81. (1987): 518.

Bassiouni Cherif M., "Legal Control of International Terrorism: A Policy –Oriented Assessment." Harvard International Law Journal Vol.43 (1) (2002): 83-103.

Bederman, David J. "Contributory Fault and State Responsibility." Virginia Journal of International Law Vol.30 (1990):335-356.

Bianchi, Andrea. "Security Council's Anti-terror Resolutions and their Implementation by Member States." Journal of International Criminal Justice (JICJ): 1044 -1073. Oxford University Press. (2006). 07 July 2007.

Bianchi, Andrea. "Assessing the Effectiveness of the UN Security Council's Anti-terrorism Measures: The Quest for Legitimacy and Cohesion." The European Journal of International Law Vol. 17 No.5 (2007): 881-919. 01 September 2007. <http://www.ejil.org/journal/Vol17/No5/art1.pdf>.

Cohan, John Alan. "Formulation of a State's Response to International Terrorism and State-Sponsored Terrorism." Pace International Law Review 14(1) (2002): 77- 93.

Conte, Alex. "Counter-Terrorism and Human Rights in New Zealand" Chapter II – The Nature and Definition of Terrorism. University of Southampton, England, 2007. <http://www.lawfoundation.org.nz/awards/irf/conte/ch02-ct-hr-nz.pdf>.

Cryer, Robert. "International Criminal Law vs. State Sovereignty: Another Round?" The European Journal of International Law (EJIL) Vol. 16 no.5 (2006): 979–1000. 01 November 2007. <http://www.ejil.org/journal/Vol16/No5/art8.pdf >.

Dellapenna, Joseph. "Legal Remedies for Terrorist Acts." 22 Syracuse J. Int'l L. & Com. 13 (1996).

Gherardi, Alaine. "The International Criminal Court: Out of the Blocks or on the Block?". Public Justice Report (2003). 01 October 2007. <http://www.cpjustice.org/stories/storyReader$935>.

Gilbert, Geoff. "The Criminal Responsibility of States." The International Law and Comparative Law Quarterly (ICLQ) Vol.39 (2) (1990): 352. 05 October 2007. <http://www.jstor.org>.

Golder, Ben and Williams, George. "What is Terrorism? Problems of Legal Definitions." University Law Review UNSW Law Journal Vol.27 (2) 2004: 270. <http://www.tamilnation.org/terrorism/terrorism_definition.pdf>.

Goldstone, Richard J. and Simpson, Janine. "Evaluating the Role of the International Criminal Court as a Legal Response to Terrorism." Harvard Human Rights Journal Vol.16 (2003): 20. 28 October 2007. <http://www.law.harvard.edu/students/orgs/hrj/iss16/goldstone.shtml#fn3>.

Halberstam, Malvina. "The Evolution of the UNs' Position on Terrorism: From Exempting National Liberation Movements to Criminalizing Terrorism Wherever and by Whomever Committed".J. TRANSNAT'L L. COLUM. 41 (2003): 573-574.

Murphy, John F. "The Future of Multilateralism and Efforts to Combat International Terrorism." Columbia Journal Transnational Law (1986):35-99 .Berkeley Electronic Press .08 June 2007. <http://works.bepress.com/john_murphy/37/>.

Nollkaemper, Andre. "Concurrence between Individual Responsibility and State Responsibility in International law". International and Comparative Law Quarterly Vol.52 (2003): 627. Oxford Journals. 05 October 2007. <http://iclq.oxfordjournals.org/cgi/reprint/52/3/615>.

Noorani A.G. "The State as Criminal", Review Article. <http://www.flonnet.com/fl2009/stories/20030509001107500.htm> .

Quigley, John "The International Law Commission's Crime-Delict Distinction: A Toothless Tiger." Revue de Droit International de Science Diplomatiques et politiques Vol. 66 (1988): 126-27.

Romano, John-Alex. Combating Terrorism and Weapons of Mass Destruction: Reviving the Doctrine of a State of Necessity. 87 Geo. L.J. 1034.

Saura, Jaume. "Some Remarks on the Use of Force against Terrorism in Contemporary International Law and the Role of the Security Council." Loyola of Los Angeles International & Comparative Law Review Vol. 26:7 (2003): 2. 01 August 2007.
<http://ilr.lls.edu/issues/26/SAURA.pdf>.

Schulz, William. "Tainted Legacy: 9/11 and the Ruin of Human Rights." Thunder's Mouth Press 2003. 01 October 2007.
<httwp://ww.thirdworldtraveler.com/Human_Rights/National_Sovereignty_TL.html>.

3. United Nation Publication

a- United Nation Documents

Charter of the UN, 59 Stat 1031, JS No 933, 3 Bevans 1153, done at San Francisco, 26 June 1945.
<http://www.un.org/aboutun/charter/index.html>.

Draft Articles on State Responsibility. ILC. Yearbook II. Part I: 24. (1976): Paras. 72-155.

Draft Articles on State Responsibility. ILC.Yearbook .Part II: 121. 1979.

Draft Articles on State Responsibility. ILC. Year Book .Article 19. ILC Part II. Doc. A/CN.4/SER.A/1980/Add.1 .1980.

Draft Articles on State Responsibility . Report of the ILC .36th Sess. 39 UN GAOR Supp. (No.10). UN Doc.A/39/10 (1984) ILC. Year Book. II. Part II. 11(1984): Para 32.

Draft Articles on State Responsibility. Report of the ILC. 50th Sess. A/ CN.4/490/ Add. 5. (1988): Paras 283-4.

Draft Articles on State Responsibility. Report of the ILC. 50th Geneva, 20 April-12 June 1998, New York, 27 July-14 August 1998.ILC.A/CN.4/488. "Comments by France under Article 19". UNGA May 1 (1998). Draft Articles of the ILC. UNGA A/CN.4/490/Add.1. First Report on State Responsibility by Mr. James Crawford-Special Rapporteur.
<http://untreaty.un.org/ilc/documentation/english/a_cn4_490_add1.pdf >.

League of Nations, Treaty of Peace between the Allied and Associated Powers and Germany (Peace Treaty of Versailles). 28 June 1919. Res. of 10 December 1934. <http://www.munfw.org/archive/40th/spc1.htm>.

League of Nations (CPPT). "Convention for the Prevention and Punishment of Terrorism" 16 November 1937, art.1 (2), 19 League of Nations Official Journal 23 (CPPT) (1938). United Nations Office on Drugs and Crime "Definitions of Terrorism". 19 June 2002. <www.odccp.org/terrorism_definitions.html>.

Report of the Secretary General on the Work of the Organization. U.N. Doc. A/55/1, 30 August 2000, New York 2000. <http://www.un.org/documents/sg/report00/a551e.pdf>.

Report of Terrorism and Human Rights. Report of the Special Rapporteur Ms. Koufa, Kalliopi K. E/CN.4/Sub.2/2001/31. 27 June 2001:12 United Nations High Commissioner for Human Rights. 02 November 2007. <http://www.hri.ca/forthereCord2001/vol1/terrorism.htm>.

Report of the Ad Hoc Committee established by GA Resolution 51/210 of 17 December 1996. 28 January -01 February 2002. U.N. GAOR, 57th, Sess.UN Doc. A/57/37. Summary of the Recent Debate on the Comprehensive Convention of International Terrorism in the Ad Hoc Committee (AHC). Established by UN Doc. A/RES/51/210. 17 December 1996. <http://www.un.org/law/terrorism/index.html>.

Report of Terrorism and Human Rights. (Report of the Special Rapporteur) E/CN.4/Sub.2/2003/WP.1. 2003.

Report of the Policy Working Group on the United Nations and Terrorism. 2003. 20 October, 2003. <http://www.un.org/terrorism/>.

Report of the Secretary-General. "In Larger Freedom: Towards Development, Security and Human Rights for All." Submitted to the UN General Assembly on 21 March 2005.

Rome Statute of the International Criminal Court. Doc. A/CONF.183/9 of 17 July 1998.Entered into force in 2002. <http://www.un.org/law/icc/statute/romefra.htm>.

Statement by the President of the SC on July 29, 1994, U.N. SCOR, U.N Doc. S/PRST/1994/40 (1994).

Statement by the President of the Security Council on May 30, 1995, U.N. SCOR, U.N. Doc. S/PRST/1994/40 (1995).

Statement by the President of the Security Council on March 4, 1996, U.N. SCOR, U.N. Doc. S/PRST/1994/40 (1996).

Treaty Series. Convention on Offences and Certain Other Acts Committed On Board Aircraft. "Tokyo Convention." Signed in Tokyo on 14 September 1963 U.N.T.S 219, Vol.704, No.10106. <http://untreaty.un.org/English/Terrorism/Conv1.pdf>.

Treaty Series. Convention for the Suppression of Unlawful Seizure of Aircraft. "Hague Convention." Signed in The Hague on 16 December 1970, U.N.T.S. 107, Vol.860, No.12325. <http://untreaty.un.org/English/Terrorism/Conv2.pdf>.

Treaty Series. Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation. "Montreal Convention." Signed in Montreal on 23 September 1971 U.N.T.S. 178. Vol. 974. No.14118. <http://untreaty.un.org/English/Terrorism/Conv3.pdf>.

Treaty Series. Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents. Adopted by the UN General Assembly at New York on 14 December 1973. U.N.T.S. 167, Vol. 1035. No.15410.

<http://untreaty.un.org/English/Terrorism/Conv4.pdf>.

Treaty Series. The International Convention Against the Taking of Hostages. Adopted by the UN General Assembly in Resolution 34/145 on 18 December 1979. U.N.T.S. Vol. 1316. No. 21931.
<http://untreaty.un.org/English/Terrorism/Conv5.pdf >.

Treaty Series. Convention on the Physical Protection of Nuclear Material. Adopted by the General Assembly by Resolution A/34/146 on 17 December 1979. U.N.T.S., Vol. 1456, No.24631.

<http://untreaty.un.org/English/Terrorism/Conv6.pdf>.

Treaty Series. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation .10 March 1988. Vol.1678. No. I-29004. IMO Doc.SUA/CONF/15/Rev.1.
<http://untreaty.un.org/English/Terrorism/Conv8.pdf>.

Treaty Series. Convention on the Marking of Plastic Explosives for the Purpose of Detection. Adopted by the International Civil Aviation Organization (ICAO) in 01 March 1991. U.N.T.S/22363,annex I.

<http://untreaty.un.org/English/Terrorism/Conv10.pdf>.

Treaty Series. International Convention for the Suppression of Terrorist Bombings. Adopted by the UN General Assembly on 15 December 1997 by Res. A/52/164 <http://untreaty.un.org/English/Terrorism/Conv11.pdf>.

Treaty Series. Convention for the Suppression of the Financing of Terrorism. Adopted by the General Assembly of the United Nations by Resolution 54/109 of 9 December 1999.
<http://untreaty.un.org/English/Terrorism/Conv12.pdf>.

Treaty Series. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving Civil Aviation. (1988). ICAO Doc. 9518 Vol. 1589. No.A-14118. <http://untreaty.un.org/English/Terrorism/Conv7.pdf>.

Treaty Series. Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf. Done in Rome in 1988. IMO Doc.SUA/CONF/16/Rev.2.Vol.1678. No. I-29004.

<http://untreaty.un.org/English/Terrorism/Conv9.pdf>.

Treaty Series. Vienna Convention on Diplomatic Relations .Done at Vienna on 18 April 1961. Vol. 500. p. 95, Articles 22 (2), 24, 25, 26, 27 & 29.
<http://untreaty.un.org/ilc/texts/instruments/english/conventions/9_1_1961.pdf>.

Treaty Series . Vienna Convention on Consular Relations. Done at Vienna on 24 April 1963. vol. 596. p. 261.
<http://untreaty.un.org/ilc/texts/instruments/english/conventions/9_2_1963.pdf>.

b- General Assembly Documents

Res. 799 (VIII) of 7 December 1953. "Requesting the Commission to undertake the codification of the principles of international law governing State responsibility." <http://untreaty.un.org/ilc/summaries/9_6.htm#_ftn19>.

Res. 2625. "Declaration on Friendly Relations." U.N. GAOR. 25th Sess. Supp.No.28. UN Doc. A/RES/2625(1970).
<http://www.un.org/documents/ga/res/25/ares25.htm>.

Res. 36/103. "Declaration on the Inadmissibility of Intervention and Interference in the Internal Affairs of States". Annex II, U.N. GAOR, 36th Sess. Supp. No. 51. U.N. Doc. A/RES/36/103. 09 December 1981.
<http://www.un.org/documents/ga/res/36/a36r103.htm>.

Res. 40/61. "Measures to Prevent International Terrorism." U.N. GAOR, 40th Sess. Supp. No. 53. U.N. Doc. A/40/61. 09 December 1985.

<http://daccessdds.un.org/doc/RESOLUTION/GEN/NR0/477/68/IMG/NR047768.pdf?OpenElement>.

Res. 49/60. "Measures to Eliminate International Terrorism." U.N. GAOR, 49th Sess., Supp. No. 49, U.N. Doc. A/RES/49/60. 09 December 1994. <http://daccessdds.un.org/doc/UNDOC/GEN/N95/768/19/PDF/N9576819.pdf?OpenElement >.

Res. 51/210. "Declaration Supplement the 1994 Declaration on Measures to Eliminate International Terrorism." U.N. GAOR. 51th Sess. U.N. Doc. A/RES/51/210. 17 December 1996. <http://daccessdds.un.org/doc/UNDOC/GEN/N97/761/65/PDF/N9776165.pdf?OpenElement >.

Res. 56/83. "Responsibility of States for Internationally Wrongful Acts." U.N. GAOR, 56th Sess., Supp. No. 49, U.N. Doc. A/RES/56/83. 12 December 2001. <http://untreaty.un.org/ilc/texts/instruments/english/draft%20articles/9_6_2001.pdf >.

c- ICJ Documents

Bedjaoui. Dissenting Opinions of Judge Bedjaoui. "Questions of Interpretation and Application of the 1971 Montreal Convention Arising from the Aerial Incident at Lockerbie." Libya v. UK and Libya v. US. Orders of 14 April 1992. Sec.10. <http://www.icj-cij.org>.

Case Concerning United States Diplomatic and Consular Staff in Tehran (U.S. v. Iran) (Judgment of 24 May 1980).

<http://www.icj-cij.org/docket/files/64/6291.pdf>.<http://www.icj-cij.org/docket/index.php?sum=334&code=usir&p1=3&p2=3&case=64&k=c9&p3=5>.

Statute of the International Court of Justice." 59 Stat. at 1060, 3 Bevans at 1186.

<http://www.icj-cij.org/documents/index.php?p1=4&p2=2&p3=0>.

d- Security Council Documents

Res. 221. "Question concerning the situation in Southern Rhodesia", U.N. Doc. S/RES/221(1966). <http://daccessdds.un.org/doc/RESOLUTION/GEN/NR0/227/44/IMG/NR022744.pdf?OpenElement>.

Res. 731. "Libyan Arab Jamahiriya" "Security Council condemns destruction of Pan American flight 103 and Union de transports aerens flight 772", U.N. SCOR, 47th Sess., 3033d mtg., U.N. Doc. S/RES/731 (1992). <http://daccessdds.un.org/doc/RESOLUTION/GEN/NR0/010/90/IMG/NR001090.pdf?OpenElement>.

Res. 748. "Libyan Arab Jamahiriya.", "Arms embargo and selective travel ban imposed; Security Council Sanctions Committee established", U.N. SCOR, 47th Sess., 3063d mtg., U.N. Doc. S/RES/748(1992). <http://daccessdds.un.org/doc/RESOLUTION/GEN/NR0/011/07/IMG/NR001107.pdf?OpenElement>.

Res. 827. "Statute for the International Tribunal for the Former Yugoslavia", U.N. SCOR, 48th Sess. 3217th mtg., U.N. Doc. 5/Res/827(1993). <http://daccessdds.un.org/doc/UNDOC/GEN/N93/306/28/IMG/N9330628.pdf?OpenElement>.

Res. 883. "Libyan Arab Jamahiriya", U.N. SCOR, 3312mtg, U.N. Doc. S/RES/883 (1993). <http://daccessdds.un.org/doc/UNDOC/GEN/N93/626/78/PDF/N9362678.pdf?OpenElement>.

Res. 955. "Statute for the International Tribunal for Rwanda", U.N. SCOR, 49th Sess., 3453d mtg., U.N. Doc. S/Res/955 (1994).

Res. 1070. "Letter dated 9 January 1996 from the Permanent Representative of Ethiopia to the United Nations addressed to the President of the Security Council concerning the extradition of the suspects wanted in the assassination attempt on the life of the President of the Arab Republic of Egypt in Addis Ababa, Ethiopia, on 26 June 1995", U.N.SCOR, 3690th mtg, U.N. DOC. S/RES/1070(1996). <http://daccessdds.un.org/doc/UNDOC/GEN/N96/214/20/PDF/N9621420.pdf?OpenElement>.

Res. 1044. "Letter dated 9 January 1996 from the Permanent Representative of Ethiopia to the United Nations addressed to the President of the Security Council concerning the extradition of the suspects wanted in the assassination attempt on the life of the President of the Arab Republic of Egypt in Addis Ababa, Ethiopia, on 26 June 1995", U.N. SCOR, Sess., 3627th mtg., U.N. Doc. S/RES/1044 (1996) (S/1996/10). <http://daccessdds.un.org/doc/UNDOC/GEN/N96/021/72/PDF/N9602172.pdf?OpenElement>.

Res. 1054. "Pertaining to Sudan", U.N. SCOR, 51st Sess., 3660th mtg., U.N.Doc.S/RES/1054(1996). <http://daccessdds.un.org/doc/UNDOC/GEN/N96/107/86/PDF/N9610786.pdf?OpenElement>.

Res. 1192. "On Lockerbie case", U.N. SCOR, 3920th mtg., U.N. Doc. S/RES/1192(1998). <http://daccessdds.un.org/doc/UNDOC/GEN/N98/251/64/PDF/N9825164.pdf?OpenElement>.

Res. 1214. "On the situation in Afghanistan", U.N. SCOR, 3952nd mtg., U.N. Doc. S/RES/1214 (1998). <http://daccessdds.un.org/doc/UNDOC/GEN/N98/387/81/PDF/N9838781.pdf?OpenElement >.

Res. 1267. "On the Situation on Afghanistan", U.N. SCOR, 4051st mtg., U.N. Doc. S/RES/1267(1999). <http://daccessdds.un.org/doc/UNDOC/GEN/N99/300/44/PDF/N9930044.pdf?OpenElement>.

Res. 1269 "On the responsibility of the Security Council in the maintenance of international peace and security", U.N. SCOR, 54th Sess., 4053d mtg., U.N. Doc. S/RES/1269 (1999). <http://daccessdds.un.org/doc/UNDOC/GEN/N99/303/92/PDF/N9930392.pdf?OpenElement>.

Res. 1333. "The situation in Afghanistan", U.N. SCOR, 55th Sess., 4251st mtg., U.N. Doc. S/RES/1333 (2000). <http://daccessdds.un.org/doc/UNDOC/GEN/N00/806/62/PDF/N0080662.pdf?OpenElement>.

Res. 1368. "Threats to international peace and security caused by terrorist acts", U.N. SCOR, 56th Sess., 4370th mtg., U.N. Doc. S/RES/1368 (2001). <http://daccessdds.un.org/doc/UNDOC/GEN/N01/533/82/PDF/N0153382.pdf?OpenElement>.

Res. 1373. "Threats to international peace and security caused by terrorist acts", U.N. SCOR, 56th Sess., 4385th mtg., U.N. Doc. S/RES/1373(2001). <http://daccessdds.un.org/doc/UNDOC/GEN/N01/557/43/PDF/N0155743.pdf?OpenElement>.

Res. 1377. "Threats to international peace and security caused by terrorist acts", U.N. SCOR, 56th Sess., 4413th mtg., U.N. Doc. S/RES/1377 (2001). <http://daccessdds.un.org/doc/UNDOC/GEN/N01/633/01/PDF/N0163301.pdf?OpenElement>.

Res. 1390. "Situation in Afghanistan." U.N. SCOR, 4452mtg., U.N. Doc. S/RES/1390(2001).
<http://daccessdds.un.org/doc/UNDOC/GEN/N02/216/02/PDF/N0221602.pdf?OpenElement>.

Res.1506 "Letter dated 20 and 23 December 1991 from France, the UK, and the U.S..." U.N. SCOR, 3rd mtg., U.N. Doc. S/RES/1506(2003).
<http://daccessdds.un.org/doc/UNDOC/GEN/N03/498181/N0349881.pdf?OpenElement>.

Res. 1456. "High-level meeting of the Security Council: combating terrorism." U.N. SCOR, 58th Sess., 4688th mtg., U.N. Doc. S/RES/1456(2003).
<http://daccessdds.un.org/doc/UNDOC/GEN/N03/216/05/PDF/N0321605.pdf?OpenElement>.

Res. 1566. "Threats to International Peace and Security Caused by Terrorist Acts", U.N. SCOR, 59th Sess., 5053 rd mtg., U.N. Doc. S/Res/1566 (2004).
<http://daccessdds.un.org/doc/UNDOC/GEN/N04/542/82/PDF/N0454282.pdf?Open Element>.

Res.1757. "The situation in the Middle East" U.N. SCOR, 5685th mt, 30 May 2007, U.N. Doc. S/RES/1757 (2007).
<http://daccessdds.un.org/doc/UNDOC/GEN/N07/363/57/PDF/N0736357.pdf?OpenElement>.

e- Other Documents

Agreement between the Netherlands and UK Concerning a Scotch Trial in the Netherlands, 38 ILM (1999), 926.

Scotch High Court of Justiciary at Camp Zeist (the Netherlands), "Her Majesty's Advocate v. Abdelbaset Ali Mohmed Al Megrahi and Al Amin Khalifa Fhimah" Case No. 1475/99 (Jan .31, 2001).

f- Reading Books

Abi Saab, George. "The Concept of International Crimes and its Place in Contemporary International Law." International Crimes of State. J.H.H. Weiler et al. (eds.), 1989: 141-146.

Bennis, Phyllis. Before & After: US foreign policy and the September 11th crisis. N.Y.: Olive Branch Press, 2003.

Brownlie, Ian. Principles of Public International Law. 4th ed. Oxford: Clarendon Press, 1990.

Clark, Ramsey. The Fire This Time: US War Crimes in the Gulf. New York, 1994.

Elagab, Omer Yousif and Elagab, Jeehaan. International Law Documents Relating to Terrorism. London: Routledge-Cavendish, 2007.

Fullinwider, Robert K. "Terrorism, Innocence, and War." War after September 11. Ed. Verna Gehring. Rowman & Littlefield Publishers, INC., 2003. 12.

Kegley, Charles W. International Terrorism: characteristics, causes, controls. N.Y.: St. Martin's, 1990.

Laqueur, W. No End to War: Terrorism in the Twenty-First Century. (New York: Continuum. 2003.

Matar, Khalil and Thabit, Rober W. Lockerbie and Libya: a study in international relations .Jefferson, N.C.: Mcfarland & Co., 2004.

Nesi, Giuseppe. International Cooperation in Counter Terrorism: the UN and regional organizations in the fight against terrorism. Burlington, Vt: Ashagte, 2006.

Ratner, Steven and Abrams, Jason. Accountability for Human Rights Atrocities in International Law :Beyond the Nuremberg Legacy. Oxford, 1997.

Shelton, Dinah. International Crimes, Peace, and Human Rights: The Role of the International Criminal Court. Transnational Publishers, 2000.

Schmid, Alex P. and Jongman, A.J. Political Terrorism: a new guide to actors, authors, concepts, data bases, theories, and literature. Amsterdam: North-Holland Pub. Co., 1988.

Williams, Phil and Savona U. Ernesto. The United Nations and Transnational Organized Crime. , Frank Cass & Co. Ltd, 1996.

Yates, George T. State Responsibility for Non wealth Injuries to Aliens in the Postwar Era, in International Law of State Responsibility for Injuries to Aliens. Richard B. Lillich ed., 1983.

Yee, Sienho. International Crime and Punishment: Selected Issues Volume 2. U.S.A., 2004.

g- Reading Articles

Abbott, Kenneth W. "Economic Sanctions and International Terrorism." 20 Vand. J. Transnat'l L. 1987.

Arab Convention for the Suppression of Terrorism. Cairo. 22 April 1998.

Beard, Jack M. America's New War on Terror: The Case for Self-Defense under International Law. 25 Harv. J.L. & Pub. Pol'y 559, 582.2002.

Becker –Bosner Blog. "Terrorism and Poverty: Any Connection?" (May 29, 2005) 20 April 2007.
<http://www.becker-posner-log.com/archives/2005/05/terrorism_and_p_1.html>.

Beck, Robert J. & Arend, Anthony C. "Don't Tread on US: International Law and Forcible State Responses to Terrorism."12 Wis. Int'l L.J. 1994.

Clark, Anthony A. "International Law and Rogue States: The Failure of the Charter Framework." 36 New Eng. L. Rev. 2002.

Convention to Prevent and Punish acts of terrorism Taking the Form of Crimes against Persons or Related Extortion that are of International Significance. Organization of American States (OAS). Washington , 2 February 1971. <http://www.oas.org>.

Convention of the Organization of the Islamic Conference (OIC) on Combating International Terrorism. 01 July 1999.

European Convention on the Suppression of Terrorism. Strasburg, 27 January 1977,ETS No.90.& Protocol 2003.
<http://conventions.coe.int>.

Hoffman, Bruce. "Al- Qaeda, Trends in Terrorism and Future Potentialities: An Assessment". Published by Rand Corporation: Washington, D.C. (2003) 01 April 1, 2007.
<http://www.rand.org/pubs/papers/P8078/P8078.pdf>.

Hoye, William . (2002), Fighting Fire with . . . Mire? Civil Remedies and the New War on State-Sponsored Terrorism, 12 Duke J. Comp. & Int'l L. p. 113.

Kelsen, Hans. 'Sovereignty and International Law', Georgetown Law Journal. 48 (1960). p.627.

Laqueur, W. "Postmodern Terrorism: New Rules for an Old Game." Foreign Affairs, September/October.1996. 20 October, 2003. <http://www.fas.org/irp/news/1996/pomo-terror.htm>.

Marek, Krystyna, "Criminalizing State Responsibility", Revue Beige de Droit International Vol. 14 (1978-1979). p.479

Peters, Michael A. "Postmodern Terror in a Globalized World."University of Glasgow. 01 April 2007. <http://globalization.icaap.org/volume4issue1.php>.

Protocol Amending the European Convention on the Suppression of Terrorism.1977 Strasburg. 15 May 2003. ETS No 190. <http://convenion.coe.int>.

Scheinin, Martin. "The Protection and Promotion of Human Rights While Countering Terrorism", Report of the UN Special Rapporteur, UN Doc E/CN.4/2006/098 2005.

U.N. Doc. Report of the Working Group on Measures to Eliminate International Terrorism: Report of the Working Group (2004). U.N. GAOR 6th Comm. 59th Sess., Annex, Agenda Item 148. U.N. Doc. A/C.6/59/L.10 (2004). <http://daccessdds.un.org/doc/UNDOC/GEN/N97/761/65/PDF/N9776165.pdf?OpenElement>.