The United Nations and the Evolution of Global Values
Spijkers, O.

1 INTRODUCTION

In Part II of this study, the UN Charter and the declarations of the UN General Assembly form the backbone for each chapter. Where relevant, these UN texts are compared with the scholarly literature about the same value. The cross-fertilization between the work of the United Nations and the scholarship is examined only when there has actually been such cross-fertilization. The following values are discussed: peace and security (Chapter IV), social progress and development (Chapter V), human dignity (Chapter VI), and self-determination (Chapter VII).

There is an important *Leitmotif* which runs through the entire work of the United Nations. The evolution of values can be characterized as an attempt to improve the world, primarily by avoiding a repetition of the evils of the past. From the beginning the main idea was to base a new world order on the solidarity revealed in the efforts to fight the common enemy during the war.[1] When the UN Charter was drafted, the war was nearly over. The common enemy was about to be defeated. The main challenge for the victorious States was to find "something better than an enemy to unite and hold them."[2] As Dulles had suggested as early as 1945, the UN Charter provided the solution to this problem by "propos[ing] to its members that they stay united to wage war against [abstract] evils," such as "intolerance, repression, injustice and economic want," as those were the "common enemies of tomorrow."[3] After the war the former enemy States also joined the fight against these new evils.

The evils of the Second World War were the main inspiration for the list of values on which the United Nations Charter is based. It has often been pointed out that evils can serve as a good source for defining values. For example, Friedrich von Weizsäcker wrote that "[t]he more [values] indicate the absence of an evil, the

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[1] See *e.g*., Commission to Study the Organization of Peace, *The United Nations and the organization of peace: third report* (1943), p. 22, and James B. Reston, "U.S Foreign Policy Set by Stettinus for Secure Peace," in *New York Times* of May 29, 1945.

[2] Anne O"Hare McCormick, "San Francisco: Battlefield for Peace" (1945). To honor the war-bond, the name "United Nations" was chosen, as a reference to the coalition that was fighting Nazi Germany and Japan. See Secretary of state for foreign affairs (UK), *A commentary on the Dumbarton Oaks proposals* (1944), p. 2.

[3] John Foster Dulles, "The United Nations: A Prospectus (The General Assembly)" (1945), p. 7. See also Porter, "Charter Stronger than Expected," in *New York Times* of June 17, 1945.

clearer they become. In wartime the desire for peace, in hunger the desire of satiation, under foreign domination the will to emancipation."[4] The only thing that needs to be done once the fundamental evils have been identified, is to imagine the alternative. It is not unrealistic to see the United Nations Charter as exactly that: a description, or blueprint, of a world that is almost exactly the opposite of the world at the time of the Second World War. Contemporary evils have continued to serve as an inspiration for the definition of the world's values, and have proved to be the most immediate inspiration for the subsequent evolution of these values.

The value of peace and security is the clearest example. In San Francisco, war was considered to be the greatest evil, and peace the primary purpose of the United Nations. This has not changed since that time. Peace and security are still considered to be the UN's "but des buts."[5] This chapter examines the value of peace and security as defined by the United Nations. First, there is a survey of the debates on this value during the San Francisco Conference of 1945. This shows how the value of peace and security ended up in the preamble and in the list of purposes and principles of the Organization. Secondly, it examines the evolution of this value, as well as the accompanying purposes and principles. Initially, peace was defined as a situation in which States do not use force against other States. Later, other threats to the peace were identified, such as domestic conflicts, the arms race, hijackers, hostage takers, mercenaries and terrorists. The United Nations came to realize that when maintaining peace and security, it should also deal with the root causes of threats to the peace, such as diseases of mass destruction, *apartheid*, natural disasters and environmental threats, poverty and underdevelopment, and genocide. Finally, the humanization of the value of peace and security is examined. In recent times, the value of peace and security has also been examined from the perspective, not of the State, but of the individual. The section on the human right to security discusses the approach to peace and security as a legal entitlement, the right of all individual human beings.

1.1 The Security Council's role in the evolution of the value of peace and security

The main organ of the United Nations responsible for the maintenance of international peace and security is the Security Council.[6] Since the "Members [of

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[4] See Carl-Friedrich von Weizsäcker, "A Sceptical Contribution" (1975), pp. 113-114. See also Richard A. Falk, Samuel S. Kim & Saul H. Mendlovitz, "General Introduction" (1982), pp. 2-3. See also Florence Kluckhohn & Fred Strodtbeck, *Variations in Value Orientations* (1961).

[5] Mohammed Bedjaoui, "Article 1" (2005), p. 314.

[6] See also Vaughan Lowe (editor), *The United Nations Security Council and war: the evolution of thought and practice since 1945* (2008).

the UN] 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," one might expect the Security Council to have played the leading role in the evolution of the value of peace and security.[7] That is not exactly what happened. There are two main reasons for this. First, in contrast with the General Assembly, the Council does not customarily adopt resolutions or have a mandate to do so, on abstract or "constitutional" issues, such as the interpretation of values. Secondly, the Security Council has basically been paralyzed for most of its existence by the two main rivals in the Cold War: the United States of America and the Soviet Union.[8] As early as 1948 the General Assembly considered that it was necessary to remind the great powers with seats in the Security Council of their pledges made in the UN Charter and in the declarations they signed during the war, such as the Atlantic Charter and the United Nations Declaration.[9] As the Cold War continued, the Assembly reiterated its appeal to the Security Council, and particularly its permanent members, to accept their responsibilities and act accordingly. In 1986, the Assembly "stresse[d] the necessity for the members of the Security Council, in particular its permanent members, to take appropriate and effective measures in carrying out their primary responsibility for the maintenance of international peace and security in accordance with the Charter."[10] But this was to no avail.

This stalemate, or "ice age of confrontation," as President Yeltsin so aptly described the situation, was only resolved in the early 1990s, when the Cold War came to an end.[11] This happy development was celebrated with the convening of the first ever Security Council meeting at the level of heads of State in 1992.[12] President Yeltsin, the first President of the new Russian Federation, referred to this unique meeting as "the first of its kind on the political Olympus of the contemporary world [and] a historic and unprecedented event."[13] Sitting on the political Olympus, many of the heads of State referred to the new opportunities for

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[7] Article 24, UN Charter.

[8] See also Hans J. Morgenthau, "The New United Nations and the Revision of the Charter" (1954), especially p. 7; Nico Schrijver, "Article 2, paragraph 4" (2005), p. 454.

[9] See Appeal to the Great Powers to renew their efforts to compose their differences and establish a lasting peace, General Assembly resolution 190(III), adopted 3 November 1948.

[10] Need for result-oriented political dialogue to improve the international situation, General Assembly resolution 41/91, adopted 4 December 1986.

[11] Verbatim Records of the 3046th meeting of the Security Council, 31 January 1992, UNDoc. S/PV.3046, p. 46.

[12] Not all States were represented on the highest level. President Mugabe of Zimbabwe, for example, could not come to New York because his wife, Sally Hayfron, had just passed away.

[13] Verbatim Records of the 3046th meeting of the Security Council, 31 January 1992, UNDoc. S/PV.3046, p. 43.

the Council resulting from the end of the Cold War.[14] The French President Mitterrand commented:

> Past experience has shown that nothing can be done without the determination of States, particularly the major Powers, to reject the law of the jungle and the principle that might is right. That determination is reflected in the Charter of the United Nations. For a long time, the Charter was hobbled, but today all its provisions are usable, and we must implement them immediately.[15]

Jeszenszky of Hungary even suggested finally establishing a UN army, as envisaged in Article 43 of the UN Charter. The Security Council had never managed to do so before. According to the Hungarian Prime Minister: "Due consideration should be given to the idea of the United Nations instituting a force readily and constantly available that could be mobilized on very short notice, at any given time, and deployed without delay in accordance with the purposes and principles of the United Nations Charter to any conflict-stricken region of the world."[16]

Similarly, the representative of Zimbabwe suggested that the Security Council should take a fresh look at Article 47 UN Charter, another of those provisions that had never been invoked before, and "put in place a system for the regulation of armaments."[17] Zimbabwe also suggested that "this could very well be the time to revive the idea of an international criminal code and to create an international criminal court."[18] A few years later, an international criminal court was established, but Zimbabwe has not become a party.

Other State leaders agreed that this meeting marked the true beginning of the Security Council. President Bush of the United States believed that it was "[f]or perhaps the first time since that hopeful moment in San Francisco [that] we can look at our Charter as a living, breathing document."[19] Similarly, Miyazawa of Japan noted that "[t]he cold war that divided East and West throughout the post-war period ha[d] finally ended," and that "the United Nations has [finally] begun to play, both in theory and in practice, a central role in efforts to achieve and maintain world peace."[20] Miyazawa did not fail to mention the potential of the UN Charter in this new world:

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[14] See also the Presidential Statement, adopted at the end of the meeting. *Idem*, pp. 141-142.
[15] *Idem*, p. 18.
[16] *Idem*, p. 119.
[17] *Idem*, p. 128.
[18] *Idem*, p. 133. Article 47 called for the establishment of a Military Staff Committee.
[19] *Idem*, 54-55.
[20] *Idem*, pp. 104-105.

> In securing a peaceful world order, the ideals and purposes of the United Nations Charter, which represent fundamental and universal values, will be of even greater relevance than ever before. It is incumbent on Member States to strive, constantly, to ensure that each of these values is respected in practice.[21]

Japan was one of the enemy States in 1945. This makes it even more significant that it now wholeheartedly adopted the principles and values of the Charter.

At this historic meeting, a Presidential statement was adopted on the responsibility of the Security Council in the maintenance of international peace and security. The UK, presiding the meeting, emphasized the potential of the Council in the maintenance of the peace, and encouraged all Members to start using the Council for the purpose it was set up.[22]

Since 1992, the Security Council has contributed to the further evolution of the value of peace and security. According to Schrijver, since the end of the Cold War, the "Council [was] taking on a quasi-legislative role, which hitherto was considered the prerogative of the General Assembly only."[23] The products of this quasi-legislative period of the Council, of which there are relatively few, are discussed below. It will be difficult for the Council to catch up with the Assembly, which has been adopting quasi-legislative declarations since 1945, also on the value of peace and security. The question arises whether it would be appropriate for the Council to compete with the Assembly in this way, considering that it only represents the views of a handful of countries, primarily those of the "Big Five."[24]

2 PEACE AND SECURITY IN SAN FRANCISCO

2.1 The Preamble

The evolution of the value of peace and security within the United Nations started with the drafting of the UN Charter in 1945. First, the *travaux préparatoires* are examined, beginning with the Preamble, and followed by the Purposes and Principles.

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[21] Idem.

[22] Presidential Statement, adopted at the end of the meeting. See Verbatim Records of the 3046th meeting of the Security Council, pp. 141-142.

[23] Nico Schrijver, "The Future of the Charter of the United Nations" (2006), p. 23.

[24] In the literature, the quasi-legislative action of the Council has often been criticized for the reason stated above. See e.g, Paul C. Szasz, "The Security Council Starts Legislating," (2002); Axel Marschik, "The Security Council as world legislator?" (2005); Keith Harper, "Does the United Nations Security Council have the competence to act as Court and legislature?" (1994); Björn Elberling, "The *ultra vires* character of legislative action by the Security Council" (2005); Martti Koskenniemi, "The Police in the Temple Order, Justice and the UN: A Dialectical View" (1995).

According to Smuts' first draft of the Preamble, the United Nations was established, *inter alia*, "to prevent a recurrence of the fratricidal strife which has twice in our generation brought untold sorrows and losses on mankind."[25] This was a clear reference to the two world wars, and the message was: "never again." The relevant subcommittee of the San Francisco Conference rephrased this paragraph, so that the Organization was established "to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind."[26] The Rapporteur of that committee emphasized that this paragraph did not imply that the Organization would only prevent such catastrophic wars as the First and Second World Wars. It would also concern itself with wars on a much smaller scale.[27] The Commission approved the text,[28] and this is how it ended up in the Charter. The "scourge of war" was thus recognized as the biggest evil, and "peace and security" as the most important value.

2.2 The Purpose

According to the Dumbarton Oaks proposals, the first – and most important – purpose of the UN was "[t]o maintain international peace and security."[29]

Unsurprisingly, very few amendments criticized this primary purpose. If the Second World War had shown anything, it was that there was nothing civil or sophisticated about modern wars; war had become an "all-consuming juggernaut."[30] Instead of being directed at this primary purpose, many smaller States suggested in their amendments that peace was not the only value worth striving for, and that in striving for peace, certain principles should be respected at all times. The major powers believed that the peace should be maintained, more or less at all costs. Of the big powers, the Soviet Union was the strongest defender of the idea that the United Nations was an "International Security Organization," concerned solely with

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[25] Draft Preamble to the Charter of the United Nations Proposed by the Union of South Africa, 26 April, 1945, UNCIO, vol. 3, pp. 474-475. See also Preamble to the Charter of the United Nations Submitted by the South African Delegation in Revision of Draft of April 26, 1945, May 3, 1945, *idem*, pp. 476-477.

[26] Draft Preamble (as Approved by Committee I/1/A), UNCIO, vol. 6, p. 694.

[27] Report of Rapporteur, Subcommittee I/1/A, Section 3, to Committee I/1, June 5, 1945, UNCIO, vol. 6, p. 359. See also Report of Rapporteur of Committee 1 to Commission I, *idem*, p. 450.

[28] First Session of Commission I, June 14, 1945, UNCIO, vol. 6, p. 20.

[29] Dumbarton Oaks Proposals for a General International Organization, UNCIO, vol. 3, p. 2. The terms "peace" and "security" are always used together, with "peace and security" a single concept. Wolfrum attempted to explain the difference between "peace" and "security" in Rüdiger Wolfrum, "Purposes and Principles" (2002), pp. 40-42.

[30] This expression was used in Senator Vandenberg, "Plea for Charter as the Only Hope of Averting Chaos in World," Text of Senator's Report to Congress, as reproduced in the *New York Times* of June 30, 1945.

maintaining international peace. It maintained this position even after the end of the San Francisco Conference, when many other purposes were added.[31]

The discussion as to how the peace was to be maintained continued when a decision was made on the powers of the Organization with regard to the maintenance of peace and security. The primary role was assigned to the Security Council.

According to the Dumbarton Oaks proposals, the way for the United Nations, and especially its Security Council, to help achieve international peace and security was

> To take effective collective measures for the prevention and removal of threats to the peace and the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means adjustment or settlement of international disputes which may lead to a breach of the peace.[32]

The first part of the sentence was not significantly changed in San Francisco, where it was explained that the addition of the words "other breaches" was necessary, because a "breach of the peace" was a much broader term than aggression alone. It was "an all-inclusive term which implie[d] the use of any means of coercion or undue external influence, which, through exertion or threat to security of a state, amounts to a breach of the peace."[33]

The Security Council had two principal tasks. One was of a "quasi-judicial" nature, and the other of an "executive" nature.[34] First, it was to assist Member States to settle disputes that threatened the international peace. Secondly, it was to take measures to maintain international peace and security. In a sense, even though the Dumbarton Oaks provision stated them in the reverse order, it is clear that the executive task became relevant only after the Council failed in its quasi-judicial task, *i.e.* when it failed to settle a dispute considered to be a threat to the peace. This was made clear in subsequent provisions. According to the Dumbarton Oaks proposals,

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[31] See "Introduction" to the booklet the *Soviet Union at the San Francisco Conference* (1945), p. 3.

[32] United Nations: Dumbarton Oaks Proposals for a General International Organization, UNCIO, vol. 3, p. 2. Both tasks of the Council, *i.e.* the settlement of disputes and the supervision of collective measures, are further elaborated upon in Sections A and B, respectively, of Chapter VIII. See United Nations: Dumbarton Oaks Proposals for a General International Organization, UNCIO, vol. 3, pp. 11-17.

[33] Report of Rapporteur, Subcommittee I/1/A, to Committee I/1, June 1, 1945, UNCIO, vol. 6, p. 703. See also Report of Rapporteur of Committee 1 to Commission I, UNCIO, vol. 6, p. 395.

[34] These terms were used in the Amendments to the Proposals for the Maintenance of Peace an Security Agreed on at the Four Powers Conference of Dumbarton Oaks Supplemented as a Result of the Conference of Yalta, Submitted by the Netherlands Delegation to the San Francisco Conference, UNCIO, vol. 3, p. 326. The Netherlands made this comment in the context of the Council's voting arrangement.

> Should the Security Council deem that a failure to settle a dispute […] constitutes a threat to the maintenance of international peace and security, it should take any measures necessary for the maintenance of international peace and security in accordance with the purposes and principles of the Organization.[35]

It was up to the Council to decide whether or not a particular dispute threatened the peace,[36] and if it did, the Council had to take the necessary measures.[37] This two-step procedure was complemented by a more general provision, stating that "[i]n general the Security Council should determine the existence of any threat to the peace, breach of the peace or act of aggression and should make recommendations or decide upon the measures to be taken to maintain or restore peace and security."[38]

When the Council considered something a threat to the peace or an act of aggression, it could take – or authorize – far-reaching measures. There were essentially two types of such measures, which had to be considered in a specific order. As a first step,

> The Security Council should be empowered to determine what diplomatic, economic, or other measures not involving the use of armed force should be employed to give effect to its decisions, and to call upon members of the Organization to apply such measures. Such measures may include complete or partial interruption of rail, sea, air, postal, telegraphic, radio and other means of communication and the severance of diplomatic and economic relations.[39]

Then, if necessary, the Council could take the second and final step:

> Should the Security Council consider such measures to be inadequate, it should be empowered to take such action by air, naval or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockades and other operations by air, sea or land forces of members of the Organization.[40]

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[35] Dumbarton Oaks Proposals for a General International Organization, UNCIO, vol. 3, p. 14.

[36] Some nations suggested to make this first step more explicit: Amendments to the Dumbarton Oaks Proposals Submitted by the Texts Adopted at Yalta, Submitted by the Greek Delegation, May 3, 1945, UNCIO, vol. 3, pp. 532-533, Amendments submitted by the Netherlands Delegation to the San Francisco Conference, UNCIO, vol. 3, p. 326.

[37] Comment of the Norwegian Government on the Dumbarton Oaks Proposals, UNCIO, vol. 3, p. 361. Norway wanted to avoid all ambiguity, and suggested that it be made clear that "the Council should not have only the right, but also the duty to take the necessary military measure against an aggression or a threat of aggression."

[38] Dumbarton Oaks Proposals for a General International Organization, UNCIO, vol. 3, pp. 14-15.

[39] *Idem*, p. 15.

[40] *Idem*.

Because these were far-reaching measures, Iran proposed that the Charter should make clear exactly what constituted a "threat to the peace," so that States would know what to do – and not to do – to avoid these measures. Iran gave its own definition:

> Any threat to the territorial integrity or independence of a Member State constitutes a threat to the maintenance of peace and international security.[41]

Bolivia focused more on defining "aggression." According to Bolivia, "[t]he efficacy of the security machinery is directly related to the need of designating the aggression as such and defining what is meant by aggressor state, a point which should be considered in the Charter of the General Organization."[42] Both the Iranian and the Bolivian suggestion gave the impression that the Security Council measures should be seen as a kind of punishment, a response to the violation of a legal principle, and not as the work of an international police force maintaining peace in the world.

This idea of enforcement measures as punishment was foremost in the minds of the drafters. One of the central ideas of the collective security arrangement was that any threat to the peace or act of aggression would be followed by overwhelming collective measures, taken by the international community as a whole, under the supervision of the Security Council. It was thought that the fear of such overwhelming force would scare off any potential aggressor. Therefore, like criminal sanctions in domestic systems, the collective security mechanism was meant as a deterrent. In the words of the Bolivian delegate:

> World security is founded on the principle that a mere attempt at aggression is a policy contrary to good understanding, good neighbourliness, and the purposes of lasting peace. This principle can be put into practice only if all nations, great and small, admit that an act of violence on their part should be immediately countered by collective measures.[43]

This is reminiscent of the principle of the musketeers: all for one, and one for all. Many of the small powers understood that not all musketeers had equally big swords and were equally proficient swordsmen. It was understood that the world

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[41] Amendments Presented by the Delegation of Iran to the Dumbarton Oaks Proposals, UNCIO, vol. 3, p. 556.
[42] Proposals of the Delegation of the Republic of Bolivia for the Organization of a System of Peace and Security, UNCIO, vol. 3, p. 578.
[43] *Idem*.

needed to rely on the military might of the great powers, and it was necessary simply to trust them.[44]

It is clear that the Security Council had the most prominent role in the maintenance of peace and security. It acted on behalf of the entire UN membership. To avoid any ambiguity, this principal responsibility of the Security Council was outlined as follows:

> In order to ensure prompt and effective action by the Organization, members of the Organization should by the Charter confer on the Security Council primary responsibility for the maintenance of international peace and security and should agree that in carrying out these duties under this responsibility it should act on their behalf.[45]

Many of the smaller nations, who had little influence over the Security Council, were not very happy that it was so dominant.[46] Uruguay spoke on behalf of many smaller nations when it said that it "d[id] not share the idea of creating a super-state with its own police force and other attributes of coercive power."[47] Venezuela believed that "the intention of concentrating all powers in a small number of nations with prejudice to the legitimate interests of the others [was] the fundamental defect that is found in the Dumbarton Oaks draft."[48]

To solve this problem, many of the smaller States attempted to strengthen the role of the Assembly in the settlement of disputes and the maintenance of peace and security.[49] The central idea of those amendments was that the General Assembly,

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[44] However, many of these acknowledgements were followed immediately by a big "but," *i.e.* some form of "conditional trust." See *e.g.*, Suggestions of the Belgian Government, UNCIO, vol. 3, p. 331; Proposals of the Delegation of the Republic of Bolivia for the Organization of a System of Peace and Security, UNCIO, vol. 3, p. 577; Suggestions of the Egyptian Government on the Tentative Proposals of Dumbarton Oaks under Examination a the United Nations Conference at San Francisco, UNCIO, vol. 3, p. 448.

[45] Dumbarton Oaks Proposals for a General International Organization, UNCIO, vol. 3, p. 8.

[46] When commenting on the Dutch amendment proposals, the *New York Times* believed that the fundamental criticism of the Netherlands was the small role of the smaller nations in maintaining peace and security. See James B. Reston, "Dutch Oppose Idea of Oaks Big 5 Veto."

[47] Position of the Government of Uruguay Respecting the Plans of Postwar International Organization for the Maintenance of Peach and Security in the World, UNCIO, vol. 3, p. 29.

[48] Observations of the Government of Venezuela on the Recommendations Adopted at the Dumbarton Oaks Conferences for the Creation of a Peace Organization, UNCIO, vol. 3, p. 190.

[49] For such general amendments, see *e.g.*, the amendments proposed by Chile, UNCIO, vol. 3, p. 287; Cost Rica, *idem*, pp. 275 and pp. 278-279; Czechoslovakia, p. 467; Dominican Republic, pp. 567-568 and 572; Ecuador, pp. 403-408; Egypt, p. 450 and p. 456; Guatemala, pp. 256 and 258; Iran, p. 555; Mexico, pp. 134-135 and p. 160 and p. 175; Paraguay, p. 346; Turkey, pp. 481 and 484; and Venezuela, pp. 202 and 208. Venezuela believed that "such a delegation of powers [to the Council] can be admitted if there are attributed to the central organization, that is, the General Assembly, the necessary powers of control and if the member States are given the remedy of an appeal thereto; all the more because there will be represented in the Assembly all the members of the Council."

the "world town council," [50] could assert political control over the Security Council's activities in a way that was similar to the control that a domestic parliament has over the cabinet. In the Dumbarton Oaks proposals, the General Assembly had very few powers of its own. One observer called the Assembly "a mere 'rubber stamp' of the wishes of the Security Council." [51] The smaller States attempted to change the situation in San Francisco. Czechoslovakia suggested a prominent role for the "town meeting of the world" [52] whenever the maintenance of international peace and security required the Security Council to act in violation of international law. [53] This was to give at least some legitimacy to an illegal act. Egypt, Ecuador and others, made a similar point. [54] It was suggested that the General Assembly should have a mandate to "discuss any matter within the sphere of international relations," including the maintenance of international peace and security. Although the proposal was adopted with the required two-thirds majority, [55] an effective campaign of the Soviet Union led to a "reconsideration" of the proposal. Eventually, after a cumbersome procedure, an Australian amendment was unanimously accepted, [56] which stated that the General Assembly could not discuss a particular security issue when the Security Council was already doing so. [57] This rule ended up in Article 12 of the UN Charter.

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[50] Gerrit Jan de Voogd & Cornelis Willem van Santen, *Volkenbond en Vereenigde Naties* (1946), p. 24.

[51] Betty Jane Davis, *Charter for Tomorrow: the San Francisco Conference* (1945), p. 13.

[52] This expression for the General Assembly was coined by Arthur Vandenberg of the US Delegation (Fifteenth Meeting of Committee II/2, May 29, 1945, UNCIO, vol. 9, p. 108; Ninth Plenary Session, June 25, 1945, UNCIO, vol. 1, p. 621). See also: Leland M. Goodrich and Edvard Hambro, *Charter of the United Nations* (1946), p. 94. Nowadays, most General Assembly meetings can be followed "live" on the internet.

[53] Observations of the Czechoslovak Government on the Dumbarton Oaks Proposals, UNCIO, Vol. 3, p. 467.

[54] See the Third Plenary Session, April 28, 1945, UNCIO, vol. 1, p. 237 and the Amendments to the Dumbarton Oaks Proposals Presented by the Egyptian Delegation, UNCIO, vol. 3, p. 460; Fifth Plenary Session, April 30, 1945, UNCIO, vol. 1, pp. 369-370 and the Delegation of Ecuador to the United Nations Conference on International Organization, UNCIO, vol. 3, p. 403-404; Logical Arrangements of Amendments Relating to Chapters VIII, B and XII of Dumbarton Oaks Proposals, UNCIO, vol. 12, p. 637 (Report by Committee III-3). New Zealand, Mexico, Canada and Egypt also suggested that the General Assembly participated in decisions on enforcement action.

[55] Fifteenth Meeting of Committee II/2, May 29, 1945, UNCIO, vol. 9, pp. 108-110. A two-thirds majority was obtained, but all superpowers (USA, China, France, the Soviet Union and the United Kingdom) cast a negative vote.

[56] Revised Text of Paragraph 1, Chapter V, Section B, as Proposed to be Amended by Dr. Evatt of Australia following upon Action by a Subcommittee of the Executive Committee Composed of Mr. Stettinius, Mr. Gromyko, and Dr. Evatt, UNCIO, vol. 9, p. 230.

[57] See Articles 10 and 12 of the UN Charter. For a summary of the cumbersome procedure and the final adoption, see Twenty-Fifth Meeting of Committee II/2, June 20, 1945, UNCIO, vol. 9, p. 233-235. The Australian delegate said in a meeting of the Commission (Fourth Meeting of Commission II, June 21, 1945, UNCIO, vol. 8, pp. 208-209), that after "a long struggle in the committee and subcommittees" "[w]e have agreed upon a formula. It is established, I think, that this right of discussion [of the General

Therefore the small States had lost this battle. Venezuela defended the superpowers to some extent, by noting that an increasing influence of the small and medium countries in the maintenance of international peace and security meant that countries which could not take responsibility and act in accordance with their intentions, would still have a say. After all, the small countries had little military strength to maintain world peace.[58] Davis put forward the same argument in 1946, when she noted that the success of the collective security arrangement depended entirely on the great powers. It would be "their troops and planes and guns which [would] be used to maintain the security of the world."[59] The smaller States only acquiesced because the superpowers accepted their enormous responsibilities and agreed to act on them.[60] At San Francisco, the Dutch delegate remarked:

> The Netherlands Delegation fully realizes that in the present state of the international community, it may be necessary to invest certain powers with special rights if a new organization for the maintenance of peace and security is to be established at all. Such a position the great powers have in fact always enjoyed in the past. Now, however, this special status is going to be officially recognized and sanctioned. We believe this to be regrettable. Why? Because this new system legalizes the mastery of might which in international relations, when peace prevailed, has been universally deemed to be reprehensible. If, nevertheless, we acquiesce in giving the great powers this special status, we can only do so in the expectation that they will demonstrate in practice that they are conscious of the special duties and responsibilities which are now placed upon them.[61]

The Big Powers and their troops, planes and guns were to give the Organization the teeth it needed.[62] Both France and Iraq cited the famous French writer Pascal, who once said that "strength without justice is tyrannical, and justice without strength is

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Assembly] is so broad, that so long as the matter referred to comes within the scope of the Charter or any of its provisions, there will be no attempt on the part of anybody to block discussion or free criticism at the meeting of the Assembly."

[58] Observations of the Government of Venezuela on the Recommendations Adopted at the Dumbarton Oaks Conferences for the Creation of a Peace Organization, UNCIO, vol. 3, p. 208.

[59] Betty Jane Davis, *Charter for Tomorrow: the San Francisco Conference* (1945), p. 10. See also Paul Kennedy, *The Parliament of Man* (2006), p. 28.

[60] See *e.g.*, the UK Secretary of state for foreign affairs, *A commentary on the charter of the United Nations* (1945), p. 16, where the UK acknowledges that "the principle on which the Charter is based is that power must be commensurate with responsibility, and it is on the Great Powers that the Charter places the main responsibility for the maintenance of international peace and security."

[61] Fifth Meeting of Commission III, June 20, 1945, UNCIO, vol. 11, pp. 163-164.

[62] The "teeth" metaphor was often used in this context. See Keith R. Kane, "The United Nations: A Prospectus (The Security Council)" (1945), p. 18, and the article "UNCIO's Charter: The Final Tasks," in *New York Times* of June 17, 1945. See also Edward R. Stettinius, *United Nations will write charter for World Organization* (1945), p. 7. He said: "The only hope of the small countries, as of the large countries, lies in a world so organized that the industrial and military power of the large nations is used lawfully for the general welfare of all nations."

a mockery."[63] The League of Nations had been exactly that: a mockery. This had to be prevented at all costs.

The Assembly cannot control the Council when it maintains international peace and security.[64] What if the Council refrains from acting? Could there be a role for the General Assembly, or a group of States, to intervene? Not all amendments were aimed at controlling an overly *active* Security Council. Some delegations also considered the possibility of an overly *passive* Council. France (itself a future permanent member of the Council) suggested an amendment that "should the [Security] Council not succeed in reaching a decision, the members of the Organization reserve the right to act as they may consider necessary in the interest of peace, right and justice." [65] This amendment was not accepted. As the Netherlands realized,[66] the possibility of an inactive Council would be most relevant when one of its permanent members was itself causing a threat to international peace and security.[67] In such a case the relevant superpower could simply veto any Security Council action which it regarded to be against its interests. During the Cold War the Soviet Union and the United States of America used their veto extensively to prevent many potentially helpful interventions. Furthermore, the superpowers hardly ever sent troops abroad themselves.[68] Some commentators in San Francisco foresaw disaster as a result of the veto. In 1946, Davis wrote that a "connotation accompanied its two syllables [ve-to] which became suggestive of tyranny, of dark shadows and clouds of disaster, of an eternal curse thrust upon all that it concerned."[69]

There was no disagreement in San Francisco about the importance of maintaining international peace and security. The only thing that caused serious debate was the manner in which the international peace and security was to be maintained. The dominant role of the Big Powers was particularly controversial. But in the end this dominance was tolerated as long as the Big Powers accepted their heavy responsibilities. The Cold War prevented the Big Powers from keeping the promises they made in San Francisco. This changed only with the end of the Cold War.

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[63] Final Plenary Session, June 26, 1945, UNCIO, vol. 1, pp. 668-669. See also Iraq at the Seventh Plenary Session, May 1, 1945, UNCIO, vol. 1, p. 503.

[64] "General Assembly Powers Voted: It Loses Rigid Rule over Council," in *New York Times* of May 27, 1945.

[65] Comments of the French Ministry of Foreign Affairs, UNCIO, Vol. 3, p. 385.

[66] The Netherlands circulated a statement on this issue in Committee III-1. See Statement of Delegate of the Netherlands at Ninth Meeting - May 17, 1945, UNCIO, vol. 11, p. 329.

[67] Proposals to make it impossible for a permanent member to use the veto in case the member was himself involved in a threat to international peace and security were rejected, mainly because of the Soviet Union. See Evan Luard, *A History of the United Nations* (1982), pp. 28-29 (Dumbarton Oaks), and pp. 45-47 (San Francisco: the issue almost made the entire conference collapse).

[68] Paul Kennedy, *The Parliament of Man* (2006), p. 58.

[69] Betty Jane Davis, *Charter for Tomorrow: the San Francisco Conference* (1945), p. 5.

2.3 The Principle

One of the most important principles in the Dumbarton Oaks proposals is that "[a]ll members of the Organization shall refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes of the Organization."[70]

The exact meaning of the word "force" was not immediately obvious. Brazil suggested that the provision prohibiting the use of force should be rewritten, so as to include a prohibition on "any interference that threatens the national security of another member of the Organization, directly or indirectly threatens its territorial integrity, or involves the exercise of any excessively foreign influence on its destinies."[71] Such a comprehensive interpretation would turn the prohibition on the use of force into a general prohibition on intervention, with whatever means, be it military or economic, in the affairs of other States.[72] Such a principle had more to do with protecting the sovereign independence of States than with protecting international peace and security. An Australian amendment proposed that "[a]ll members of the Organization shall refrain in their international relations from the threat or use of force *against the territorial integrity or political independence of any member or State*."[73] This amendment was adopted unanimously by the Subcommittee,[74] but it did not clarify the meaning of the word "force," which remained undefined.

Interstate aggression is the least controversial example of the use of force. However, no authoritative definition of inter-State aggression could be agreed upon.[75] Certain States attempted to define aggression,[76] but no definition was acceptable to all the participants.

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[70] Dumbarton Oaks Proposals for a General International Organization, UNCIO, vol. 3, p. 3. For an overview of the *travaux* of this provision, see also Nico Schrijver, "Article 2, paragraph 4" (2005), pp. 442-445.

[71] Brazilian Comment on Dumbarton Oaks Proposals, November 4, 1944, UNCIO, vol. 3, p. 237.

[72] Amendments Submitted by Brazil, UNCIO, vol. 3, p. 253. Brazil suggested, as an amendment, that "[a]ll members of the Organization shall refrain in their international relations from the threat or use of force and from the threat or use of economic measures."

[73] Amendments Submitted by Australia, UNCIO, vol. 3, p. 543. Australia's suggested additions are in italics.

[74] See Text of Chapter II, as Agreed upon by the Drafting Committee, UNCIO, vol. 6, p. 687, and Report of Rapporteur of Subcommittee I/1/A, to Committee I/1, UNCIO, vol. 6, p. 720.

[75] A number of States emphasized the need for a definition. See *e.g.*, Amendments Submitted by Bolivia, UNCIO, vol. 3, p. 578; Egypt, *idem*, p. 459; Iran, *idem*, p. 557.

[76] See *e.g.*, Amendments Submitted by Bolivia, UNCIO, vol. 3, p. 582; Ecuador, UNCIO, *idem*, p. 399. See also James B. Reston, "Hemisphere Peace Sought at Parley," in *New York Times* of February 24, 1945. Bolivia, and a few other nations, also proposed a list of aggressive acts, as opposed to a general definition. See again Amendments Submitted by Bolivia, UNCIO, vol. 3, p. 579; and Czechoslovakia, UNCIO, *idem*, p. 469; and Philippines, *idem*, p. 538.

New Zealand suggested a new principle, obliging all Member States "collectively to resist every act of aggression against any member."[77] Once again, this is reminiscent of the motto of the musketeers: *un pour tous, tous pour un*.[78] If one member of the group is attacked, this is an attack on all the members of the group. Thus all the members have an obligation to respond.[79] The amendment was rejected by the subcommittee, because "[t]he amendment limit[ed] itself to the collective resistance of every act of aggression, aggression not being defined."[80] The amendment was then discussed in the full Committee.[81] There, New Zealand defended its amendment by arguing that "aggression" had been defined in various legal documents, and was used elsewhere in the Charter. More to the point, according to the New Zealand delegate, it was important to add a principle obliging States to respond collectively to an act of aggression, because "if nations in the past had been prepared to guarantee security collectively there would have been no war."[82] Therefore it was necessary to include a clear obligation for all States to respond to acts of aggression: "If it were left to an *ad hoc* decision to decide whether or not to take action, even after the Security Council had decided that an act of aggression had taken place, the door would be open to evasion, appeasement, weaselling and sacrifice on the part of small nations." [83] The New Zealand amendment was considered to be "the minimum obligation which would guarantee the success of the Organization in the maintenance of peace and security."[84] In support, the Belgian delegate said that the amendment "did not require each member to give the same kind of aid [to curb aggression], but simply to participate in measures which would protect the political independence and territorial integrity of the members."[85] The New Zealand amendment did get a substantial majority, but not the two-thirds majority required for its adoption.[86]

The Dumbarton Oaks principle stating that "[a]ll members of the Organization shall settle their disputes by peaceful means in such a manner that international

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[77] Amendments Submitted by New Zealand, UNCIO, vol. 3, p. 487.

[78] This motto can be found in Chapitre IX: d'Artagnan se Dessine, in Alexandre Dumas, *Les Trois Mousquetaires* (1844).

[79] Many amendments made this idea more explicit. See *e.g*., Amendments Submitted by Bolivia, UNCIO, vol. 3, p. 582; Ecuador, *idem*, p. 399; Mexico, *idem*, p. 127; Colombia made such a suggestion in the Documentation for Meetings of Committee I/1, UNCIO, vol. 6, pp. 528-529; Amendments Submitted by Chile, UNCIO, vol. 3, p. 293.

[80] Report of Rapporteur of Subcommittee I/1/A, to Committee I/1, UNCIO, vol. 6, p. 721.

[81] Twelfth Meeting of Committee I/1, June 5, 1945, UNCIO, vol. 6, pp. 342-346.

[82] *Idem*, p. 343.

[83] *Idem*.

[84] Twelfth Meeting of Committee I/1, June 5, 1945, UNCIO, vol. 6, p. 343. The UK and US spoke against the amendment. See Twelfth Meeting of Committee I/1, UNCIO, vol. 6, p. 344.

[85] *Idem*, p. 345.

[86] *Idem*, p. 346. The amendment got 26 votes in favour, 18 against. See also Report of Rapporteur of Committee 1 to Commission I, UNCIO, vol. 6, p. 400.

peace and security are not endangered" should also be mentioned.[87] The link between this provision and peace and security is clear: if disputes are settled peacefully, they do not threaten the peace.[88] The provision did not trigger much debate, and was not changed significantly in San Francisco.[89]

3 THE SEARCH FOR A SUBSTANTIVE DEFINITION OF INTERNATIONAL PEACE AND SECURITY

3.1 Introduction

In San Francisco, the maintenance of international peace and security was considered to be the most important purpose of the United Nations.[90] But what does "international peace and security" mean? This section examines attempts to define peace and security in positive, substantive terms.

3.2 Peace and security defined in positive terms

The Assembly generally refers to "peace *and* security" as a single notion. There are some reports in which "peace" is distinguished from "security." For example, in his Agenda for Peace, former Secretary-General Boutros-Ghali wrote that "[t]he concept of peace is easy to grasp," but that the concept of international security is "more complex."[91] "Security" was presented as a more comprehensive concept than "peace." The latter was mainly used to refer to some of the collective mechanisms,

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[87] Dumbarton Oaks Proposals for a General International Organization, UNCIO, vol. 3, p. 3. In their amendments, the sponsors added the word "international" before "disputes." See Amendments Submitted by the United States, the United Kingdom, the Soviet Union and China, UNCIO, vol. 3, p. 623.

[88] Some States also pointed this out. See *e.g*., Amendments Submitted by Chile, UNCIO, vol. 3, p. 293.

[89] The main addition was a reference to "justice." During a Committee meeting, it was suggested that the text of the provision was repetitive, in the sense that "since members were to settle their disputes by peaceful means, international peace and security could not thus be endangered." See Seventh Meeting of Committee I/1, May 16, 1956, UNCIO, vol. 6, p. 305. The Rapporteur of the relevant Subcommittee explained – but not too convincingly - why it was not repetitive: see Report of Rapporteur of Subcommittee I/1/A, to Committee I/1, UNCIO, vol. 6, pp. 719-720.

[90] See *e.g*., Leland M. Goodrich, *The United Nations and the maintenance of international peace and security* (1955); Evgheny V. Bougrov, *The United Nations and the maintenance of international peace and security* (1987); Nigel D. White, *Keeping the peace: the United Nations and the maintenance of international peace and security* (1997); Vaughan Lowe (editor), *The United Nations Security Council and war : the evolution of thought and practice since 1945* (2008).

[91] An Agenda for Peace: Preventive diplomacy, peacemaking and peace-keeping, Report of the Secretary-General, UNDoc. A/47/277, distributed 17 June 1992, p. 3.

such as peacekeeping. The former was mainly defined by presenting a long list of causes for insecurity, including "the proliferation of weapons of mass destruction [and] conventional arms," "racial tensions," "ecological damage, disruption of family and community life, greater intrusion into the lives and rights of individuals," "unchecked population growth, crushing debt burdens, barriers to trade, drugs and the growing disparity between rich and poor," "[p]overty, disease, famine, oppression and despair," "[a] porous ozone shield," and "[d]rought and disease."[92]

This is not the Assembly's approach. Generally the Assembly does not distinguish at all between peace and security. When it does, it does exactly the opposite of what Boutros-Ghali suggested. It uses "security" to refer to the collective security mechanism of the UN Charter. Peace is used in more general, non-technical, contexts.[93] Although none of the other main UN organs have ever distinguished peace from security in a general sense, there are some indications that the Security Council shares the Assembly's view that if a distinction must be made between the two, security is used in a more technical sense, and peace in a more "philosophical" sense.[94]

The Assembly never defined the value of peace and security. The Essentials of Peace, the earliest declaration of the General Assembly on peace and security, does not provide any definition.[95] Instead, the declaration reiterated the Charter's basic principles, compliance with which was considered necessary for an enduring peace. In another resolution, adopted at about the same time, the Assembly gave the impression that peaceful relations among States was very similar to peaceful relations among neighbours in an apartment complex.[96] As long as neighbours leave one another alone, they live at peace with each other. Therefore it is necessary to tolerate the unusual habits of neighbours, and refrain from

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[92] *Idem.*

[93] There are some exceptions to this general rule. See, for example Creation of a global culture of cybersecurity, General Assembly resolution 57/239, adopted 20 December 2002, and Creation of a global culture of cybersecurity and the protection of critical information infrastructures, General Assembly resolution 58/199, adopted 23 December 2003.

[94] See *e.g.*, the minutes of the first meeting of the Council, UNDoc. S/PV.1(1). This first meeting was held in Westminster, London, on 17 January 1946. It was only in April 1952 that the Council first convened in its current location. We read, *e.g.*, that it is the UN's ultimate purpose to "build[…] the kind of world in which lasting peace will be possible" (Stettinus, USA), or that the Council should be regarded as the "guardian of world peace" (Koo, China), or that it is the Council's task to "ensure lasting peace among nations" (Gromyko, USSR), that the Council is the "safeguard of lasting peace" (Badawi, Egypt). None of the delegates saw the establishment of security as the ultimate aim of the Security Council.

[95] Essentials of Peace, General Assembly resolution 290(IV), adopted 1 December 1949.

[96] Peaceful and neighborly relations among States, General Assembly resolution 1236(XII), adopted 10 December 1957. See also Measures aimed at the implementation and promotion of peaceful and neighborly relations among States, General Assembly resolution 1301(XIII), adopted 10 December 1958.

interference. The idea was to "develop peaceful and tolerant relations among States, in conformity with the Charter, based on mutual respect and benefit, non-aggression, respect for each other's sovereignty, equality and territorial integrity and non-intervention in one another's international affairs."[97]

Most resolutions on peace and security require a more proactive attitude from the neighbours. In Peace through Deeds, the General Assembly recognized "the profound desire of all mankind to live in enduring peace and security," and expressed its confidence that "if all governments faithfully reflect this desire and observe their obligations under the Charter, lasting peace and security can be established."[98] The Assembly added that "for the realization of lasting peace and security it [was] indispensable [that] prompt united action be taken to meet aggression wherever it arises," and that every State should agree to "regulate all armaments and armed forces under a United Nations system of control and inspection, with a view to their gradual reduction," and that all States should use the resources that would otherwise be spent on weapons "for the general welfare, with due regard to the needs of the under-developed areas of the world."[99] This time, the neighbours were obliged to actively cooperate to secure peace and security.

This more comprehensive approach to peace and security was promoted for a while under the heading of a "culture for peace." The Assembly defined the culture for peace as consisting of a "set of values, attitudes, traditions and modes of behavior and ways of life."[100] This "transdisciplinary" approach to peace and security was inspired by the work of the United Nations Educational, Scientific and Cultural Organization (UNESCO).[101] The Director of UNESCO explained that the fundamental principle of this culture of peace was the "transformation from conflict to cooperation through a process of dialogue leading to cooperation for shared goals of human development."[102] After all, in UNESCO's view, "the most effective means to end or avoid a conflict is the engagement of the contending parties in collaboration for a shared higher goal."[103] Thus the culture of peace reflected this higher goal, which was basically to make the world a better place. This culture of peace, *i.e.* this set of values, attitudes, traditions*, et cetera*, encompassed everything: it included respect for life, respect for the principles of sovereignty, territorial integrity and political independence, respect for human rights, the obligation to

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[97] *Idem.*

[98] Peace through Deeds, General Assembly resolution 380(V), adopted 17 November 1950.

[99] Idem.

[100] Declaration on a Culture of Peace, part one of General Assembly resolution 53/243, adopted 13 September 1999.

[101] The word "transdisciplinary" is used by UNESCO. See *e.g.*, Report of the Director-General of the United Nations Educational, Scientific and Cultural Organization on educational activities under the project "Towards a culture of peace", UNDoc. A/51/395, distributed 23 September 1996, p. 5.

[102] *Idem*, p. 4.

[103] *Idem.*

settle disputes peacefully and the obligation to meet the developmental and environmental needs of both present and future generations. [104] Such an all-encompassing definition of peace is hard to work with. In any case, UNESCO's "culture for peace" did not have a major impact on the work of the United Nations, or on scholarship. [105]

3.3 Conclusion

From the very few resolutions that did deal with peace and security in a more general sense, it is possible to distil two approaches to the value, which are both adopted by the General Assembly. One approach sees a peaceful world as a world in which States merely tolerate each other's presence, and leave each other alone. The other sees a peaceful world as an ideal world, a world in which all global values are realized through joint efforts.

4 THE USE OF FORCE AS A THREAT TO INTERNATIONAL PEACE AND SECURITY

4.1 Introduction

The Assembly has clearly stated what it means by *threats to* peace and security. Presumably then, peace and security can be defined as a situation in which all such threats are absent. The most direct threat, the one which was hotly debated in San Francisco, was the use of (military) force by one State against another.

4.2 The prohibition on the use of force

According to Article 2(4) UN Charter: "All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state."[106] This provision does not explicitly define such threats or uses of force as threats to peace and security, but this can be

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[104] See also UNESCO, *Mainstreaming the Culture of Peace* (2002), p. 5. The ensuing obligations are equally comprehensive, and include the promotion of sustainable development, respect for all human rights, the equality of men and women, democracy, tolerance, solidarity, the free flow of information, and international peace and security.

[105] In 2010, the Assembly attempted to revitalize the culture of peace. See Implementation of the Declaration and Programme of Action on a Culture of Peace, General Assembly resolution 65/11, adopted 23 November 2010.

[106] See Taslim Olawale Elias, "Scope and meaning of article 2(4) of the United Nations Charter" (1988); Nico Schrijver, "Article 2, paragraphe 4," (2005).

assumed when the provision is read in conjunction with Chapter VII of the Charter, especially Article 39.

The United Nations never really dealt with the rules of warfare (*jus in bello*). Traditionally this has been a subject regulated outside the UN framework, primarily in the series of Conventions adopted in Geneva.[107] In recent times, this has changed to some extent.[108]

The United Nations does concern itself with the prohibition on going to war in the first place (*jus ad bellum*). Some efforts have been made, especially by the General Assembly, to interpret and elaborate on the prohibition on the use of force as prescribed in Article 2(4) UN Charter in more detail.[109] The Declaration on the Duties of States in the Event of the Outbreak of Hostilities is an interesting early example.[110] The Assembly recommended that all States, if they became "engaged in armed conflict with another State or States," should "take all steps practicable in the circumstances and compatible with the right of self-defence to bring the armed conflict to an end at the earliest possible moment," and "make a public statement wherein [they] proclaim [their] readiness, provided that the States with which [they are] in conflict will do the same, to discontinue all military operations and withdraw all [their] military forces which have invaded the territory." Apparently, the duty to stop an armed conflict as soon as possible was part of the prohibition on the use of force in international relations.

In 1965, the Assembly adopted the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty.[111] This Declaration dealt with both armed intervention, as well as economic or political pressure. It suggested that any "violation of the principle of non-intervention [could] pose a serious threat to the maintenance of peace." This is consistent with a broad interpretation of the

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[107] The most important by far are the Geneva Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, the Geneva Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, the Geneva Convention (III) relative to the Treatment of Prisoners of War, and the Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War. All four were adopted in Geneva, on 12 August 1949. On 8 June 1977, three additional protocols were adopted, of which the Protocol relating to the Protection of Victims of International Armed Conflicts (Protocol I), and the Protocol relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) are the most important.

[108] In Security Council resolution 1674, adopted 28 April 2006, the Council reaffirmed the need to comply with international humanitarian law and stressed that ending impunity was essential. In a Presidential Statement made on 14 January 2009, the Council condemned all violations of international humanitarian law and called for an end to impunity. See also S.PV/6066, where the Council discussed the protection of civilians, with a central role for international humanitarian law.

[109] As Schrijver rightly pointed out, the Security Council has never defined in general terms what constitutes a prohibited use of force. Nico Schrijver, "Article 2, paragraph 4" (2005), p. 451.

[110] General Assembly resolution 378(V), adopted 17 November 1950.

[111] General Assembly Resolution 2131(XX), adopted 21 December 1965.

prohibition on the use of force, including interventions not involving the use of military force. [112]

By far the most authoritative and best-known interpretation of the prohibition on the use of force can be found in the Friendly Relations Declaration adopted in 1970.[113] As this is such an important interpretation of the prohibition on the use of force, the *travaux préparatoires* of the declaration are examined below. [114] The declaration was essentially drafted by a Special Committee, working for the General Assembly. [115] Most of the debates in this Special Committee focused on defining the prohibition on the use of force.

The main issue, which had already been discussed during the Special Committee's first session, was the search for the correct interpretation of the word "force" as used in Article 2(4) of the UN Charter.[116] The smaller States believed that it included non-military force, such as political pressure and economic sanctions. This would have been consistent with the resolution on the inadmissibility of intervention adopted in 1965, and with the views of many smaller States in San Francisco. Other States, mainly from the West, believed that the framework of the UN Charter, and especially the relationship between Articles 2(4), 51 and Chapter VII, as well as the *travaux préparatoires* of the Charter, showed that "force" should be interpreted as referring to military force alone. [117] The discussion about the definition of the word "force" continued during the second session. [118] During the third session, it was once again suggested that a broad definition of the word "force" was required, as economic coercion was just as devastating as the use of armed force. The counter-argument was, once again, that the intention of the UN Charter was to prohibit only armed force, and that any other

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[112] See also section 5.4 of Chapter VII, on the general prohibition for States to intervene in the affairs of other States.

[113] Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, General Assembly resolution 2625(XXV), adopted 24 October 1970 ("Friendly Relations Declaration").

[114] See also Vekateshwara Subramanian Mani, *Basic principles of modern international law* (1993), pp. 9-48.

[115] See also section 5.5 of Chapter III.

[116] Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States, Report, A/5746, adopted 16 November 1964 ("First Report"), paras. 47-63. See also Gaetano Arangio-Ruiz, "The normative role of the General Assembly" (1972), pp. 529-530; and p. 9 of Edward McWhinney, "The 'New' Countries and the 'New' International Law" (1966); Vekateshwara Subramanian Mani, *Basic principles of modern international law* (1993), pp. 11-16.

[117] Mani, *Basic principles of modern international law* (1993), pp. 12-14. This was also the more traditional view. See *e.g.*, Alfred Verdross, "Idées directrices de l'Organisation des Nations Unies" (1955), pp. 12-13.

[118] Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States, Report, A/6230, adopted 27 June 1966 ("Second Report"), paras. 64-76. See also Piet-Hein Houben, "Principles of International Law Concerning Friendly Relations and Co-Operation Among States" (1967), pp. 707-708.

interpretation would upset the system of the UN Charter.[119] During the fourth session of the Special Committee, the discussion about the meaning of the word "force" in Article 2(4) UN Charter continued.[120] There was now general agreement that the prohibition on the use of force also prohibited "indirect aggression," *i.e.* armed assistance to irregular forces causing civil strife in another State, and assistance to terrorist groups operating on another State's territory.[121] Once again it was suggested that other forms of coercion, such as certain political and economic pressure, should also be regarded as "force," but this view was still not universally accepted.[122] During the fifth session of the Special Committee, a compromise was sought. According to this proposed compromise, a statement on the prohibition of undesirable forms of political or economic pressure should be included in the principle on non-intervention, not as part of the prohibition on the use of force.[123] During the sixth and last session of the Committee, the debate on the interpretation of the word "force" had to be settled in some way. The delegates simply agreed to disagree. No definition of the word "force" was to be found in the final declaration. However, the Preamble states that it is the duty of States to refrain from military, political, economic or any other form of coercion aimed against the political independence or territorial integrity of any State.[124] So that is where an extensive definition of "force" can be found.[125] In their final comments many representatives wanted to clarify what they believed the word "force" meant as used in Article 2(4) UN Charter. According to Argentina, "the use of force referred only to armed or physical force." But this "did not of course mean that other kinds of pressure should be accepted, since they were contrary to the principle of non-intervention."[126] Thus Argentina had chosen to join the Western States. Nigeria, on the other hand, regretted that the Committee could not reach a consensus on the idea that the term force "denoted economic and political prejudice as well as every kind of armed force."[127]

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[119] Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States, Report, A/6799, adopted 26 September 1967 ("Third Report"), paras. 51-57.

[120] Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States, Report, A/7326, adopted 30 September 1968 ("Fourth Report"), paras. 49-54.

[121] Special Committee, Fourth Report, para. 47. See also Vekateshwara Subramanian Mani, *Basic principles of modern international law* (1993), pp. 31-33.

[122] Special Committee, Fourth Report, para. 52.

[123] Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States, Report, A/7619, adopted 19 September 1969 ("Fifth Report"), para. 93.

[124] Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States, Report, A/8018, adopted 1 May 1970 ("Sixth Report"), p. 63.

[125] Vekateshwara Subramanian Mani, *Basic principles of modern international law* (1993), p. 16.

[126] Special Committee, Sixth Report, para. 106. See also UK, para. 227, and USA, para. 256.

[127] Special Committee, Sixth Report, para. 187. See also Czechoslovakia, para. 194, and Mexico, para. 210.

The Friendly Relations Declaration as finally adopted, uses a restrictive definition of the use of force. The Declaration also explicitly prohibits the use of force as a "reprisal," *i.e.* as a means to respond to a wrongful act committed by another State. In addition, the declaration makes it clear that "every State has the duty to refrain from organizing or encouraging the organization of irregular forces or armed bands including mercenaries, for incursion into the territory of another State." This is interesting because it is not evident that the prohibition of Article 2(4) also covers such assistance to armed bands acting abroad. The same can be said of the duty "to 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, when [these acts] involve a threat or use of force." Finally, the Declaration emphasized that "no territorial acquisition resulting from the threat or use of force shall be recognized as legal;" this cannot be found in Article 2(4) either.

The Declaration on the Inadmissibility of Intervention and Interference in the Internal Affairs of States was, as the title suggests, mainly about the non-intervention principle.[128] However, it also dealt with the prohibition on intervening with the use of armed force. The distinction between the general non-intervention principle and the prohibition on the use of force in international relations became blurred.[129]

In 1987, the Assembly adopted the Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations.[130] This Declaration was much more detailed than the Friendly Relations Declaration. The first part contained a list of prohibitions that followed from Article 2(4) UN Charter. First, the Declaration reaffirmed the duty, also stated in the Friendly Relations Declaration, that "States shall […] refrain from organizing, instigating, or assisting or participating in paramilitary, terrorist or subversive acts, including acts of mercenaries, in other States, or acquiescing in organized activities within their territory directed towards the commission of such acts." The Declaration also broadened the interpretation of the prohibition, or at least linked it to the general non-intervention principle in the same way as the 1981 Declaration on the Inadmissibility of Intervention and Interference in the Internal Affairs of States had done. It referred to a prohibition for all States on the use or encouragement of "the use of economic, political or any other type of measures to

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[128] General Assembly resolution 36/103, adopted 9 December 1981.

[129] This dual nature of the Declaration is nicely summarized in the Preamble, as follows: "any violation of the principle of non-intervention and non-interference in the internal and external affairs of States poses a threat to the freedom of peoples, the sovereignty, political independence, territorial integrity of States to their political, economic, social and cultural development, and also endangers international peace and security."

[130] General Assembly resolution 42/22, adopted 18 November 1987.

coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind." In San Francisco, many States denied that such coercion fell within the scope of Article 2(4) UN Charter, which was said to be only about armed or military force.

Although some issues were left unresolved, these declarations give a general idea of what constitutes a prohibited use of force. The use of force probably has to involve military measures, and must be directed at a target across the State boundary. It is not entirely clear whether non-military intervention, such as economic sanctions and pressure, can also be said to constitute force, and thus a threat to the peace. There are various indications that "force" should not be defined so broadly, and consequently that peace and security should also be interpreted as describing a situation in which States refrain from intervening in each other's affairs through military measures.

The prohibition on the use of force, as defined in the UN Charter, is one of the most important norms of international law.[131] In the view of the community of States, it was a popular example of a peremptory norm .[132] When Waldock, the Rapporteur of the International Law Commission on the Law of Treaties, suggested adding some examples to the provision on *jus cogens* in the Vienna Convention on the Law of Treaties, the first example he suggested including was "the use or threat of force in contravention of the principles of the Charter of the United Nations".[133] The International Court of Justice referred to this view, without adopting it.[134] Judge Schwebel pointed out that "[w]hile there [was] little agreement on the scope of *jus cogens*, it is important to recall that in the International Law Commission and at the Vienna Conference on the Law of Treaties there was general agreement that, if *jus cogens* has any agreed core, it is Article 2, paragraph 4 [of the UN

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[131]See *e.g.*, Bernard Victor Aloysius Röling, "On the prohibition of the use of force" (1983). For a critical view, see Nicholas Rostow, "International Law and the Use of Force: a Plea for Realism" (2009).

[132] For Bulgaria, see UNDoc. A/Conf.39/5 (Vol. II), p. 298; Cyprus, *idem*, p. 301, Czechoslovakia, p. 304, Iraq, p. 310, Pakistan, p. 312, Poland, p. 315, Ukraine, p. 319, USSR, p. 321; USSR, p. 294 of UNDoc. A/Conf.39/11[A], Greece, p. 295, Kenya, p. 296, Uruguay, p. 303, United Kingdom, p. 304, Cyprus, p. 306, Byelorussian Soviet Socialist Republic, p. 307, Italy, p. 311, Romania, p. 312, Federal Republic of Germany, p. 318, Ukraine, p. 322, Philippines, p. 323, Canada, p. 323.

[133] Yearbook of the International Law Commission, Vol. II (1963), p. 52. In his view, "the principles stated in the Charter are generally accepted as expressing not merely the obligations of Members of the United Nations but the general rules of international law of today concerning the use of force." *Idem*, p. 53.

[134] Reference can be made to para. 190 of International Court of Justice, Case Concerning Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America), Merits, Judgment of 27 June 1986, in which an ILC Report is cited (p. 247 of the Yearbook of the International Law Commission, 1966, Volume II, A/CN.4/SER. A/1966/Add. 1), which labels the prohibition on the use of force as *jus cogens*.

Charter].”[135] Judge Elaraby referred to it as the “most important principle that emerged in the twentieth century,” one which was “universally recognized as a *jus cogens* principle.”[136] This strong support for the provision contrasts with the lack of agreement regarding exactly what kind of behaviour constitutes a violation of the prohibition on the use of force.

4.3 Aggression and the prohibition on the use of force

The Assembly considered aggression to be the “the most serious and dangerous form of the illegal use of force, being fraught, in the conditions created by the existence of all types of weapons of mass destruction, with the possible threat of a world conflict and all its catastrophic consequences.”[137] This suggests that there is a “normal” type of illegal use of force, as well as a more serious and dangerous type, which is qualified as aggression. Aggression was considered to be the worst thing one State could do to another, but it was not so easy to define this “evil” in legal or technical terms.[138]

Article 2(4) UN Charter does not use the word “aggression.” However, the word is used in Article 39. When that article was discussed during the San Francisco Conference, it was suggested that a more specific definition of aggression should be found, so that States would know what not to do to be free from Security Council sanctions and force.[139] In 1974, the Assembly finally came up with a definition of aggression:

> Aggression is the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations […].[140]

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[135] See p. 615, Dissenting Opinion of Judge Schwebel, in the Case Concerning Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America), Jurisdiction of the Court and Admissibility of the Application, Judgment of 26 November 1984.

[136] Separate Opinion of Judge Elaraby, Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, International Court of Justice, Advisory Opinion of July 9, 2004. See also Dissenting Opinion of the same judge in the Case Concerning Oil Platforms (Islamic Republic of Iran v. United State of America), Judgment of 6 November 2003, where he remarked that it was “the most important principle in contemporary international law to govern inter-State conduct” and “the cornerstone of the [UN] Charter.”

[137] Definition of Aggression, General Assembly Resolution 3314 (XXIX), adopted 14 December 1974.

[138] See also Special Committee responsible for the drafting of the Friendly Relations Declaration, Third Report, paras. 58-61. See also Special Committee, Second Report, paras. 77-81.

[139] See section 2.3 of Chapter IV, above.

[140] Article 1, Definition of Aggression, General Assembly Resolution 3314 (XXIX), adopted 14 December 1974. For the coming into being of this definition, see Bengt Broms, “The definition of aggression” (1977), pp. 315-335. See also Stephen M. Schwebel, “Aggression, intervention and self-defence in modern international law” (1972), for a comment on the earlier drafting stages.

Thus aggression was seen as a violation of the prohibition on the use of armed force. The difference between the prohibition on the use of force of Article 2(4) UN Charter and the prohibition on aggression was, first of all, that reference was made explicitly to "armed force" in the definition of aggression. This effectively prevented a repetition of the debates on a more extensive interpretation of the word "force." Secondly, the *threat* of the use of force was not sufficiently grave to be labelled aggression.[141] The Assembly gave some examples of potential acts of aggression, which differed, though only slightly, from the examples of the prohibition on the use of force provided earlier in the Assembly's Friendly Relations Declaration. The use of the Assembly's list of examples of aggression is limited, as the Assembly itself presented the list as non-exhaustive. It was up to the Security Council to decide whether a particular use of armed force by one State against another constituted an act of aggression. The Assembly merely recommended that the Security Council "should, as appropriate, take account of th[e] Definition as guidance in determine[ing], in accordance with the Charter, the existence of an act of aggression."[142]

The word "aggression" has criminal connotations.[143] However, suggestions to explicitly include an *animus aggressionis*, or an "aggressive intent," in the definition were rejected.[144] The issue resurfaced when the International Criminal Court was authorized to "exercise jurisdiction over the crime of aggression once a provision is adopted [...] defining the crime and setting out the conditions under which the Court shall exercise jurisdiction with respect to this crime."[145] This has

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[141] When the definition was being drafted, some States suggested including economic aggression in the definition, but this was clearly not done. See Bengt Broms, "The definition of aggression" (1977), p. 342.

[142] Definition of Aggression, General Assembly Resolution 3314 (XXIX), adopted 14 December 1974.

[143] This is why it was the prototype of a State crime, at least until the notion was abandoned. It then became the prototype of an international crime. See *e.g.*, International Court of Justice in the Case Concerning the Barcelona Traction, Light and Power Company, Limited (Belgium v. Spain), Judgment of 5 February 1970, paras. 33-34; "Fifth report on State responsibility by Mr. Roberto Ago," in the Yearbook of the International Law Commission 1976, vol. II (Part I), p. 26; "Summary records of the twenty-eighth session (3 May-23 July 1976)," in Yearbook of the International Law Commission 1976, vol. I, p. 239; "Report of the International Law Commission on its twenty-eighth session," in the Yearbook of the International Law Commission, 1976, Volume II (Part Two), pp. 95-96; State responsibility: Comments and observations received from Governments, UNDoc. A/CN.4/515, 19 March 2001, p. 44; Report of the Ad Hoc Committee on the Establishment of an International Criminal Court, General Assembly Official Records, Fiftieth Session, Supplement No. 22 (A/50/22), distributed on 6 September 1995, pp. 11-18; and, finally, Article 5, Rome Statute of the International Criminal Court.

[144] See Bengt Broms, "The definition of aggression" (1977), pp. 344-346.

[145] Article 5, Rome Statute of the International Criminal Court.

led to an immense amount of literature on the crime of aggression.[146] In 2010, the parties to the Rome Statute of the International Criminal Court finally adopted a definition of the international crime of aggression. It used the Assembly's definition of 1974 as a starting point. The crime of aggression is defined as

> The planning, preparation, initiation or execution, by a person in a position effectively to exercise control over or to direct the political or military action of a State, of an act of aggression which, by its character, gravity and scale, constitutes a manifest violation of the Charter of the United Nations.[147]

An act of aggression is then defined as "the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations."[148] This is an exact copy of the Assembly's definition of 1974.

4.4 Conclusion

How can the efforts to define the prohibition on the use of force help to create an understanding of the value of peace and security? The Charter itself suggests that the threat or use of force, as prohibited in Article 2(4) UN Charter, disturbs international peace and security. A world without "force" is therefore a more peaceful world. This raises the question as to what is meant by "force". Aggression can certainly be qualified as the use of force. But what about non-military interference by one State in another State's affairs? Should this also be qualified as the use of "force," and a disturbance of international peace and security?[149] The answer to this question indirectly defines what is meant by a peaceful world. Is it a world without military force? Or is it a world without economic interference and other types of unwelcome intervention by one State in the internal affairs of another?

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[146] See *e.g.*, Larry May, *Aggression and crimes against peace* (2008); Niels Blokker, "The Crime of Aggression and the United Nations Security Council" (2007).

[147] The Crime of Aggression, resolution RC/Res.6, adopted at the 13th plenary meeting, on 11 June 2010, by consensus. The ICC can exercise jurisdiction over the crime of aggression after 1 January 2017, and only if at least two-thirds of the States party to the Rome Statute confirm such exercise of jurisdiction at that time. For a discussion of the ICC meeting, see the contributions in the *Leiden Journal of International Law*, vol. 23 (2010), no. 4.

[148] *Idem*.

[149] Instead, it will be seen as a violation of the sovereign independence of States. See especially section 5.4 of Chapter VII.

5 OTHER THREATS TO INTERNATIONAL PEACE AND SECURITY

5.1 Introduction

The use of force, whether defined broadly or restrictively, is not the only possible way in which peace and security can be disrupted. Threats to peace and security not caused by a State violating the principle prohibiting the use of force in international relations are discussed below. Domestic conflicts (civil war) are examined, as well as the arms race. Threats posed by hijackers, hostage takers, mercenaries and terrorists are also analyzed. An examination of these "evils" provides a better understanding of what is entailed by the value of peace and security.

5.2 Domestic conflicts and genocide

The Security Council has qualified various domestic conflicts as threats to international peace and security, particularly since the early 1990s.[150] It has consistently justified its interference in domestic conflicts with two arguments, summarized by the representative of Cape Verde:

> National conflicts are sometimes as destructive as the fiercest international conflicts. The enormous loss of life and the human tragedy they produce demand no less attention and appeal for no less speedy a response from the international community. Apart from the loss of human lives, every national conflict has an international dimension, for it generates massive numbers of refugees, thus creating enormous social pressure in neighbouring countries, threatening their peace and stability.[151]

It is (1) the gravity of the situation and (2) the flow of refugees that turn a domestic conflict into a threat to *international* peace and security.[152]

One of the worst domestic conflicts in recent history was the genocide in Rwanda.[153] In May 1994, the Council for the first time "determin[ed] that the situation in Rwanda constitute[d] a threat to peace and security in the region," and

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[150] It can be argued that the Council already did so when responding to the minority regime in Rhodesia (1966-1979) and the *apartheid* regime in South Africa. See sections below.

[151] Verbatim Records of the 3046th meeting of the Security Council, 31 January 1992, UNDoc. S/PV.3046, p.81.

[152] See Thomas M. Franck, *Recourse to Force* (2002), pp. 43-44.

[153] For a definition of genocide, see Prevention and punishment of the crime of genocide, General Assembly resolution 260 (III), adopted 9 December 1948. See further Draft convention on genocide, General Assembly resolution 180(II), adopted 21 November 1947; Status of the Convention on the Prevention and Punishment of the Crime of Genocide, General Assembly resolution 40/142, adopted 13 December 1985; Fiftieth anniversary of the Convention on the Prevention and Punishment of the Crime of Genocide, General Assembly resolution 53/43, adopted 2 December 1998.

invoked Chapter VII.[154] The "situation" was considered to be a threat to the peace, not the fact that genocide was being committed.[155] A month later, the Council referred to "the magnitude of the humanitarian crisis in Rwanda [as] a threat to peace and security in the region."[156] A few weeks earlier, the Council had already "underscor[ed] that the internal displacement of some 1.5 million Rwandans facing starvation and disease and the massive exodus of refugees to neighbouring countries constitute[d] a humanitarian crisis of enormous proportions."[157] Therefore the flow of refugees was part of the humanitarian crisis which posed a threat to the peace.

In the resolution that established the International Criminal Tribunal for Rwanda at a time when the genocide was effectively over, the Council "express[ed] its grave concern at the reports indicating that genocide and other systematic, widespread and flagrant violations of international humanitarian law ha[d] been committed in Rwanda," and "determin[ed] that this situation continue[d] to constitute a threat to international peace and security."[158] It is not clear what "this situation" referred to exactly this time. In any case, the Council did not adopt the view that genocide had been committed, leaving it to the International Criminal Tribunal, which it had just established, to determine this instead. Therefore it can be concluded that the Council never qualified the situation in Rwanda as genocide, and did not identify genocide as a threat to the peace. Instead, it was the gravity of the humanitarian crisis, combined with the international flow of refugees, which turned the domestic conflict in Rwanda into a threat to international peace and security.[159]

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[154] Security Council resolution 918 (1994), adopted on 17 May 1994.

[155] There was an implicit mention of genocide in the preamble. Later on, reference was made to reports indicating that genocide was committed. See Security Council resolution 925 (1994), adopted on 8 June 1994, and Security Council resolution 935 (1994), adopted 1 July 1994, and, most importantly, Security Council resolution 955 (1994), adopted 8 November 1994, which established the International Tribunal for Rwanda.

[156] Security Council resolution 929 (1994), adopted 22 June 1994.

[157] Security Council resolution 925 (1994), adopted on 8 June 1994.

[158] Security Council resolution 955, adopted 8 November 1994. See also Larissa Jasmijn van den Herik, *The contribution of the Rwanda Tribunal to the development of international law* (2005).

[159] The violent break-up of a State might also be so destructive, that it constitutes a threat to international peace and security. See: The maintenance of international security - prevention of the violent disintegration of States, General Assembly resolution 51/55, adopted 10 December 1996. See also Marc Weller, "The international response to the dissolution of the Socialist Federal Republic of Yugoslavia," (1992).

5.3 Apartheid

The United Nations labelled *apartheid* as a root cause of conflict.[160] But is it not also a direct threat to international peace and security? In 1960, the Security Council referred to the "situation in the Union of South Africa" as one that "led to international friction and if continued might endanger international peace and security."[161] The Council referred to the "situation," and not to the policies of *apartheid*. The Assembly was much more direct. In 1961, it noted that the policies of *apartheid* had led to "international friction" and that "their continuance endanger[ed] international peace and security."[162] In a resolution in 1962, the Assembly reaffirmed this view, and requested States to take certain economic measures in order "to bring about the abandonment of those policies."[163] The Assembly also "request[ed] the Security Council to take appropriate measures, including sanctions."[164]

In response, the Council referred to the Assembly's resolution as a reflection of "world public opinion," and expressed its conviction that "the situation in South Africa [was] seriously disturbing international peace and security," and imposed a non-mandatory arms embargo.[165] The Council still referred to the "situation" as opposed to *apartheid*. In 1970, the Council expressed its belief that the "continued application of the policies of *apartheid* and the constant build-up of the South African military and police forces […] constitute[d] a potential threat to international peace and security."[166] It considerably strengthened the arms embargo, without, however invoking Chapter VII. This time, the "situation" was a combination of an arms build-up and the policies of *apartheid*.

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[160] For example, in 1991, the Assembly labelled apartheid as the "root cause of the conflict in southern Africa. Status of the International Convention on the Suppression and Punishment of the Crime of Apartheid, General Assembly resolution 46/84, adopted 16 December 1991.

[161] See Security Council resolution 134 (1960), adopted on 1 April 1960.

[162] Question of race conflict in South Africa resulting from the policies of apartheid of the Government of the Union of South Africa, General Assembly resolution 1598 (XV), adopted 13 April 1961. Earlier, a Commission had referred to apartheid as "constitut[ing] a grave threat to the peaceful relations between ethnic groups in the world." See Question of race conflict in South Africa resulting from the policies of apartheid of the Government of the Union of South Africa, General Assembly resolution 820 (IX), adopted 14 December 1954.

[163] The policies of apartheid of the Government of the Republic of South Africa, General Assembly resolution 1761(XVII), adopted 6 November 1962.

[164] Idem.

[165] Security Council resolution 181(1963), adopted 7 August 1963. It was not mandatory in the sense that the Council did not invoke Chapter VII of the UN Charter, and could thus not bind the Member States. One year later, the Council expressed its conviction that "the situation in South Africa [was] continuing seriously to disturb international peace and security." Security Council resolution 191(1964), adopted 18 June 1964.

[166] Security Council resolution 282(1970), adopted 23 July 1970. See also Security Council resolution 311(1972), adopted 4 February 1972.

In 1977, the Council stated that "the policies and acts of the South African Government [were] fraught with danger to international peace and security," and invoked Chapter VII for the first time, imposing mandatory sanctions.[167] This suggests that the Security Council considered *apartheid* as a threat to the peace, but the Council invoked Chapter VII after "determin[ing], having regard to the policies and acts of the South African Government, that the acquisition by South Africa of arms and related *matériel* constitute[d] a threat to the maintenance of international peace and security."[168] Thus the Council emphasized the danger of the arms build-up.

One can conclude that, in contrast with the Assembly, the Council, hesitated to refer explicitly to the policies of *apartheid* as in themselves constituting a threat to the peace,[169] although it can be argued that the Council at least did so indirectly. This view was certainly expressed by States when a convention was drafted on the subject. The preamble to the Apartheid Convention states that the States party to that convention "observe[d] that the Security Council ha[d] determined that *apartheid* and its continued intensification and expansion seriously disturb[ed] and threaten[ed] international peace and security."[170] Moreover, all States party to the Apartheid Convention expressly agreed that *apartheid* ought to be seen as "constituting a serious threat to international peace and security."[171] In other contexts, *apartheid* was also consistently considered as a threat to peace and security.[172] Together with the Assembly's resolutions, this leads to the conclusion that *apartheid* in and of itself constitutes a threat to peace and security. A world in which one State imposes an *apartheid* regime on (parts of) its population is therefore not a world in which the value of peace and security is upheld.

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[167] Security Council resolution 418(1977), adopted 4 November 1977.

[168] *Idem.*

[169] In 1976, the Security Council explicitly referred to apartheid as "seriously disturb[ing] international peace and security," but it did not refer to Chapter VII. See Security Council resolution 392(1976), adopted 19 June 1976.

[170] International Convention on the Suppression and Punishment of the Crime of Apartheid, General Assembly resolution 3068 (XXVIII), adopted on 30 November 1973.

[171] Idem.

[172] Apartheid was especially mentioned, also as threat to the peace, in the discussions about whether States can commit crimes. See *e.g*., "Fifth report on State responsibility by Mr. Roberto Ago," in the Yearbook of the International Law Commission 1976, vol. II (Part I), p. 26; "Draft Code of Offences against the Peace and Security of Mankind", in Yearbook of the International Law Commission 1984, vol. II(1), p. 91; Report of the Preparatory Committee on the Establishment of an International Criminal Court, vol. 1, pp. 25-27.

5.4 The arms race

During the Cold War the arms race was considered to be one of the most important threats to international peace and security. This led to various calls for disarmament and the prohibition of many different kinds of weapons.[173] In the Declaration on the Preparation of Societies for Life in Peace, the Assembly stated that "[a] basic instrument of the maintenance of peace is the elimination of the threat inherent in the arms race, as well as efforts towards general and complete disarmament."[174] Thus it explicitly stated that there was a link between the arms race and the value of peace and security. In 1986, the Assembly was "deeply concerned at the tense and dangerous situation in the world and the danger of continuing down the path of confrontation and the arms race towards the abyss of the nuclear self-destruction of mankind."[175] The Assembly considered this arms race to be a "consequent threat posed to the security of all States."[176]

The Security Council was paralyzed by the Cold War and could not take action to combat the arms race. Two of its permanent members were directly responsible for the threat. At the same time, the Assembly continued to be very active, and adopted a large number of resolutions on the topic, both during and after the Cold War.[177]

Many conventions calling for the elimination or reduction of various types of weapons were adopted or recommended by the Assembly, both during and after the Cold War. Most of those conventions had been prepared by the UN Conference on Disarmament.[178] Sometimes the actual drafting took place at a global conference

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[173] See *e.g.*, Keith Krause, "Disarmament" (2007); United Nations Centre for Disarmament Affairs, *The United Nations and disarmament since 1945* (1996).

[174] Declaration on the Preparation of Societies for Life in Peace, General Assembly resolution 33/73, adopted 15 December 1978.

[175] Establishment of a comprehensive system of international peace and security, General Assembly resolution 41/92, adopted 4 December 1986.

[176] *Idem.*

[177] See *e.g.*, the Declaration on the Strengthening of International Security, General Assembly resolution 2734(XXV), adopted 16 December 1970; the Friendly Relations Declaration; and the Declaration on de Occasion of the Twenty-fifth Anniversary of the United Nations, General Assembly resolution 2627 (XXV), adopted 24 October 1970.

[178] On the conference, see Toma Galli, "The Conference on Disarmament: its Glorious History, Non-existent Present and Uncertain Future" (2010). The conventions included the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, General Assembly resolution 2826 (XXVI), adopted on 16 December 1971; the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques, General Assembly resolution 31/72, adopted 10 December 1976; and the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, General Assembly resolution 47/39, adopted 30 November 1992.

organized outside the UN framework.[179] A substantial number of those convention texts related specifically to nuclear weapons.[180]

The General Assembly also adopted a number of non-binding declarations on disarmament, mainly in response to and during the Cold War.[181] The 1970s, 1980s, and 1990s were all "baptized" as Disarmament Decades.[182] In addition, the Assembly endorsed certain declarations made elsewhere, such as the Hague Code of Conduct against Ballistic Missile Proliferation.[183]

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[179] On 19 December 1977, the Assembly adopted a resolution on Incendiary and other specific conventional weapons which may be the subject of prohibitions or restrictions of use for humanitarian reasons, General Assembly resolution 32/152, which was followed by General Assembly resolution 33/70, adopted 14 December 1978, in which the Assembly suggested to convene a Conference on the topic. During this conference, the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be Excessively Injurious or to have Indiscriminate Effects was made (the conference took place in Geneva, on 10 October 1980). Subsequently, the Assembly continued to adopt resolutions on this topic. See further the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction, General Assembly resolution 52/38[A], adopted 9 December 1997; and the Convention on Cluster Munitions, General Assembly resolution 63/71, adopted 2 December 2008. This convention was adopted at the Convention on Cluster Munitions, held in Dublin on 30 May 2008. In its resolution, the Assembly merely "not[ed] that the Convention [would] be opened for signature."

[180] See the Treaty on the Prohibition of the Emplacement of Nuclear Weapons and other Weapons of Mass Destruction on the Sea-Bed and the Ocean Floor and in the Subsoil Thereof, General Assembly resolution 2660 (XXV), adopted 7 December 1970; Treaty on the Non-Proliferation of Nuclear Weapons, General Assembly resolution 2373(XXII), adopted 12 June 1968; and the Comprehensive Nuclear-Test-Ban Treaty, General Assembly resolution 50/245, adopted 10 September 1996. The text can be found in an Annex to a Letter dated 22 August 1996 from Australia to the Secretary-General, UNDoc. A/50/1027. See already The Urgent Need for a Treaty to Ban Nuclear Weapons Tests under Effective International Control, General Assembly resolution 1649(XVI), adopted 8 November 1961

[181] See *e.g.*, the Declaration on the Conversion to Peaceful Needs of the Resources Released by Disarmament, General Assembly resolution 1837 (XVII), adopted 18 December 1962; Declaration on the Deepening and Consolidation of International Detente, General Assembly resolution 32/155, adopted 19 December 1977; Declaration on International Co-operation for Disarmament, General Assembly resolution 34/88, adopted 11 December 1979; Declaration on the Prevention of Nuclear Catastrophe, General Assembly resolution 36/100, adopted 9 December 1981; and the Principles that Should Govern Further Actions of States in the Field of the Freezing and Reduction of Military Budgets, annexed to Reduction of military budgets, General Assembly resolution 44/114[A], on 15 December 1989.

[182] Question of General and Complete Disarmament, General Assembly resolution 2602 (XXIV)[E], adopted 16 December 1969, proclaimed the 1970's as the First Disarmament Decade (without a disarmament declaration); Declaration of the 1980s as the Second Disarmament Decade, General Assembly resolution 35/46, adopted 3 December 1980, proclaimed the 1980s as the Second Disarmament Decade; Declaration of the 1990s as the Third Disarmament Decade, General Assembly resolution 45/62[A], adopted 4 December 1990, proclaimed the 1990s as the Third Disarmament Decade.

[183] The Code was introduced to the Assembly by the Netherlands. See Annex to Letter dated 30 January 2003 from the Netherlands to the Secretary-General, UNDoc. A/57/724. In The Hague Code of Conduct against Ballistic Missile Proliferation, General Assembly resolution 60/62 of 8 December

The Assembly adopted general resolutions on essentially all aspects of disarmament. Through its resolutions, the Assembly has encouraged a multilateral approach in the field of disarmament and non-proliferation.[184] It also adopted a series of resolutions on compliance with non-proliferation, arms limitation and disarmament agreements and commitments.[185] Furthermore, the Assembly adopted resolutions on the relationship between disarmament and development[186] and on the economic and social consequences of the armaments race and its extremely harmful effects on world peace and security.[187] Finally, the Assembly called for objective information and transparency on States' activities relating to armaments and military expenditure.[188]

Apart from the adoption of these general resolutions on disarmament, the Assembly also concerned itself with more specific issues, including some for which no convention had been drawn up. For example, the Assembly called for the adoption of an arms trade treaty for conventional arms,[189] and on control mechanisms relating to these arms at the regional and subregional levels.[190] In addition, it adopted a series of resolutions on the problems arising from the accumulation of conventional ammunition stockpiles.[191] It also adopted a series of resolutions on global efforts to curb the illicit traffic in small arms,[192] and finally, the Assembly called for a prohibition on the development and manufacture of new types of weapons of mass destruction.[193]

2005, the Assembly invited all States that had not yet subscribed to the Hague Code of Conduct against Ballistic Missile Proliferation to do so, and since then the item has been on its agenda.

[184] Promotion of multilateralism in the area of disarmament and non-proliferation, General Assembly resolution 57/63, adopted 22 November 2002, and subsequent resolutions (only the first such resolution will be referred to here and in the following footnotes).

[185] Compliance with arms limitation and disarmament agreements, General Assembly resolution 44/122, adopted 15 December 1989.

[186] Relationship between disarmament and development, General Assembly resolution 38/71, adopted 15 December 1983.

[187] Economic and Social Consequences of Disarmament, General Assembly resolution 1516 (XV), adopted 15 December 1960.

[188] See Transparency of military expenditures, General Assembly resolution 46/25, adopted 6 December 1991; and Objective information on military matters, including transparency of military expenditures, General Assembly resolution 49/66, adopted 15 December 1994.

[189] Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms, General Assembly resolution 61/89, adopted 6 December 2006.

[190] Conventional arms control at the regional and subregional levels, General Assembly resolution 61/82, adopted 6 December 2006.

[191] Problems arising from the accumulation of conventional ammunition stockpiles in surplus, General Assembly resolution 61/72, adopted 6 December 2006.

[192] Assistance to States for curbing the illicit traffic in small arms and collecting them, section H of General and complete disarmament, General Assembly resolution 50/70, adopted 12 December 1995.

[193] Prohibition of the Development and Manufacture of New Types of Weapons of Mass Destruction and New Systems of Such Weapons, General Assembly resolution 3479 (XXX), adopted 11 December 1975.

An examination of resolutions dealing specifically with the threat of nuclear weapons reveals a series of resolutions on decreasing the operational readiness of nuclear weapons systems, [194] and on the conclusion of effective international arrangements to safeguard non-nuclear weapon States against the use or threat of use of nuclear weapons. [195] More ambitious resolutions include those on the renewed determination to totally eliminate nuclear weapons, [196] and those aimed at a world free of nuclear weapons. [197]

Reference should be made to resolutions aimed at the prevention of an arms race in outer space. [198] In 1963, the Assembly "solemnly call[ed] upon all States to refrain from placing in orbit around the earth any objects carrying nuclear weapons or any other kinds of weapons of mass destruction, installing such weapons on celestial bodies, or stationing such weapons in outer space in any other manner." [199] This obligation later ended up in the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, adopted by the Assembly in 1966. [200]

As noted above, the Security Council's contributions started only after the end of the Cold War, though there are some exceptions. As early as 1947, the Council "recognize[d] that the general regulation and reduction of armaments and

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[194] Decreasing the operational readiness of nuclear weapons systems, General Assembly resolution 62/36, adopted 5 December 2007.

[195] Conference of Non-Nuclear-Weapons States, General Assembly resolution 2456 (XXIII), 20 December 1968; Implementation of the results of the Conference on Non-Nuclear Weapon States, General Assembly resolution 2664 (XXV), adopted 7 December 1970; and Conclusion of an international convention on the strengthening of the security of non-nuclear-weapon States against the use or threat of use of nuclear weapons, General Assembly resolution 36/94, adopted 9 December 1981. In 1986, the Assembly ceased to refer to a Convention, and instead only referred to international agreements. See Conclusion of effective international arrangements on the strengthening of the security of non-nuclear-weapon States against the use or threat of use of nuclear weapons, General Assembly resolution 41/51, adopted 3 December 1986.

[196] A path to the total elimination of nuclear weapons, General Assembly resolution 57/78, adopted 22 November 2002.

[197] Towards a nuclear-weapon-free world: the need for a new agenda, General Assembly resolution 57/59, adopted 22 November 2002 .

[198] Conclusion of a treaty on the prohibition of the stationing of weapons of any kind in outer space, General Assembly resolution 36/99, adopted 9 December 1981. The idea of a treaty was changed into a more general strategy in subsequent years: see Prevention of an arms race in outer space, General Assembly resolution 37/83, adopted 9 December 1982.

[199] Question of General and Complete Disarmament, General Assembly resolution 1884 (XVIII), adopted 17 October 1963.

[200] Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies, General Assembly resolution 2222 (XXI), adopted 19 December 1966. See especially article IV. The obligation to use outer space for peaceful purposes only was also included in the Declaration of Legal Principles Governing the Activities of States in the Exploration and Uses of Outer Space, General Assembly resolution 1962 (XVIII), adopted 13 December 1963.

armed forces constitute[d] a most important measure for strengthening international peace and security," but did not take any significant measures in this respect.[201] In 1968, the Council "recognize[d] that aggression with nuclear weapons or the threat of such aggression against a non-nuclear weapon State would create a situation in which the Security Council, and above all its nuclear-weapon State permanent members, would have to act immediately."[202]

Despite some activity during the Cold War, it was the end of the Cold War that opened up an enormous window of opportunity for the Council when it came to disarmament. This was noted by many of the speakers during the summit of 1992. Rao of India, for example, said that "[t]he Cold War [was] now over: the nuclear stand-off [was] a thing of the past [and] the doctrine of nuclear deterrence [was] no longer relevant." [203] This gave the world a "historic opportunity to exercise statesmanship and move, quickly, to eliminate nuclear weapons altogether from the face of the Earth."[204]

According to the Zimbabwean representative, the focus of disarmament should not be on nuclear weapons alone. Instead, it should cover all aspects of arms:

> The route we should take in the area of disarmament is to demilitarize consistently both the domestic and the international situations. The manufacturers as well as the recipients and users of dangerous weapons should be stopped from trading in death. We should demilitarize our societies in the new world order.[205]

One of the most successful demilitarization efforts was the conclusion of the Chemical Weapons Convention. The Assembly proposed such a convention in 1992.[206] With regard to these efforts to prohibit chemical weapons, King Hassan II of Morocco said that

> The progress achieved by the United Nations in the nuclear sphere should not prevent us from redoubling our efforts to ensure the success of the Geneva negotiations on the prohibition of chemical weapons and their destruction in order to rid ourselves of a devastating weapon that constitutes a negation of civilization and noble human values.[207]

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[201] Security Council resolution 18(1947), adopted 13 February 1947.
[202] Security Council resolution 255(1968), adopted 19 June 1968.
[203] Verbatim Records of the 3046th meeting of the Security Council, 31 January 1992, UNDoc. S/PV.3046, p. 101.
[204] *Idem*.
[205] *Idem*, p. 128.
[206] Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, General Assembly resolution 47/39, adopted 30 November 1992.
[207] *Idem*, p. 37.

The two former Cold War rivals did not go as far as to call for complete disarmament, or the complete abolition of nuclear weapons. Nevertheless their ambitions were impressive.[208] Yeltsin, for example, outlined his post-Cold War disarmament plan:

> The new political situation in the world makes it possible not only to advance new, original ideas but also to make even the most ambitious of them practicable. […] Russia believes that the time has come to reduce considerably the presence of means of destruction on our planet. […] Today there are real opportunities for implementing deep cuts in strategic offensive arms and tactical nuclear weapons; resolutely moving towards significant limitations on nuclear testing and even towards its complete cessation; making anti-ballistic-missile defences less complicated and costly and eliminating anti-satellite systems; considerably reducing conventional armaments and armed forces; ensuring practical implementation of international agreements on the prohibition of chemical and bacteriological weapons; and enhancing the reliability of barriers to the proliferation of weapons of mass destruction.[209]

President Bush of the United States also devoted a large part of his speech to disarmament.[210] So too did Li Peng of China, who believed that "[e]fforts should be stepped up to attain the complete prohibition and thorough destruction of nuclear and chemical weapons at an early date and to ban the development of space weapons," and that "[a]ll nuclear-weapon States should undertake not to be the first to use nuclear weapons and not to use or threaten to use such weapons against non-nuclear-weapon States or nuclear-free zones."[211]

Some of the smaller countries also expressed their hope that with the end of the Cold War, the Council could promote disarmament as one of its key objectives. For example, Vranitzky of Austria saw "a more active involvement in the areas of arms control, non-proliferation and disarmament" as "one of the most important future tasks of the Security Council."[212]

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[208] In 2003, the Council adopted a Declaration on the Proliferation of Small Arms and Light Weapons and Mercenary Activities, which was particularly concerned with the situation in West Africa. Security Council resolution 1467 (2003), adopted on 18 March 2003, has the declaration annexed to it. See also Resolution 1209(1998), adopted by the Security Council on 19 November 1998, in which the Council "expresses its grave concern at the destabilizing effect of illicit arms flows, in particular of small arms, to and in Africa and at their excessive accumulation and circulation, which threaten national, regional and international security and have serious consequences for development and for the humanitarian situation in the continent."

[209] Verbatim Records of the 3046th meeting of the Security Council, 31 January 1992, UNDoc. S/PV.3046, p. 43.

[210] *Idem*, pp. 51-53.

[211] *Idem*, p. 93.

[212] *Idem*, pp.64-65.

At the end of the 1992 Summit, the Security Council adopted a Presidential Statement.[213] The following text on disarmament was added to that statement:

> The members of the Council underline the need for all Member States to fulfil their obligations in relation to arms control and disarmament; to prevent the proliferation in all its aspects of all weapons of mass destruction; to avoid excessive and destabilizing accumulations and transfers of arms; and to resolve peacefully in accordance with the Charter any problems concerning these matters threatening or disrupting the maintenance of regional and global stability.[214]

In the same statement, the Council proclaimed that "[t]he proliferation of all weapons of mass destruction constitutes a threat to international peace and security," and thus becomes a matter the Security Council can legitimately consider.[215] In 2004 the Council considered that the "proliferation of nuclear, chemical and biological weapons, as well as their means of delivery, constitute[d] a threat to international peace and security," and, acting under Chapter VII, adopted measures binding on all States.[216]

Some years later, during the third high-level summit, President Kirchner of Argentina noted that "[t]he proliferation of weapons of mass destruction and the danger of their falling into the hands of terrorists [was] one of the greatest threats to international peace and security."[217] Similarly, the Prime Minister of Denmark, Rasmussen, believed that "[t]he threat of terrorists or irresponsible dictators armed with weapons of mass destruction [was] a shared nightmare for all mankind," and that the "Council ha[d] the obligation to ensure that the nightmare never materialize[d]."[218]

What conclusion can be drawn from all these Assembly resolutions, conventions, and statements made in the Security Council? What does this mean for the value of peace and security? What is of most concern here is whether the existence of weapons can be considered an "evil" which threatens the value of peace. Does the existence of various weapons itself pose a threat to the peace? If that is the case, it must be concluded that, as the United Nations submits, a world in peace and security would be a weapon-free world. It is not possible to reach such a

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[213] This has also been issued separately, as Note by the President of the Security Council, UNDoc. S/23500, distributed on 31 January 1992.

[214] Verbatim Records of the 3046th meeting of the Security Council, 31 January 1992, UNDoc. S/PV.3046, p. 145.

[215] *Idem*. This view was reiterated in the Statement by the President of the Security Council, UNDoc. S/PRST/1998/12. distributed 12 May 1998.

[216] Resolution 1540 (2004), adopted by the Security Council on 28 April 2004. See also Resolution 1673 (2006), adopted by the Security Council on 27 April 2006.

[217] Verbatim Records of the 5261st meeting of the Security Council, 14 September 2005, UNDoc. S/PV.5261, p. 7.

[218] *Idem*, p. 15.

general and sweeping conclusion on the basis of the many conventions, declarations, resolutions and statements referred to. Although the use and possession of various weapons has been restricted, and an increasing number of such restrictions have been imposed over the years, it is difficult to see why this process would ultimately lead to the complete prohibition of all weapons. The UN's efforts in maintaining peace and security do not require a weapon-free world.

5.5 Hijackers, hostage takers, mercenaries and terrorists

The General Assembly and the Security Council of the United Nations have regarded a number of activities of particular groups of individuals as threats to peace and security.

For example, in 1970, the Security Council was "gravely concerned at the threat to innocent civilian lives from the hijacking of aircraft" by the Popular Front for the Liberation of Palestine.[219] The Council "appeal[ed] to all parties concerned for the immediate release of all passengers and crews." To prevent such hijacking in the future, the Council "call[ed] on States to take all possible legal steps to prevent further hijackings or any other interference with international civil air travel."[220] One month later, States responded by signing the Convention for the Suppression of Unlawful Seizure of Aircraft.[221]

In 1979, the General Assembly adopted the text of an International Convention against the Taking of Hostages.[222] The taking of hostages was considered to be "an offence of grave concern to the international community," and a "manifestation[…] of international terrorism."[223] A hostage taker was defined as "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, namely, a State, an international intergovernmental organization, a natural or juridical person, or a group of persons, to do or abstain from doing any act as an explicit or implicit condition for the release of the hostage."[224] All States pledged to make this a punishable offence within their jurisdiction.

Ten years later in 1989, the General Assembly adopted the text of an International Convention against the Recruitment, Use, Financing and Training of

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[219] Security Council resolution 286, adopted 9 September 1970.
[220] *Idem.*
[221] The Convention for the Suppression of Unlawful Seizure of Aircraft was signed in the Hague, Netherlands, on 16 December 1970.
[222] International Convention against the Taking of Hostages, annexed to General Assembly resolution 34/146, adopted 17 December 1979.
[223] Idem.
[224] *Idem*, Article 1.

Mercenaries.[225] A mercenary was defined as "any person who [was] motivated to take part in the hostilities essentially by the desire for private gain."[226] In 1986 the Assembly had already "recogniz[ed] that mercenarism [was] a threat to international peace and security."[227] The topic has been on the Assembly's agenda ever since. Mercenaries are frequently employed, especially in Africa. In 2008, the Assembly expressed its "alarm[…] and concern[…] at the danger that the activities of mercenaries constitute to peace and security in developing countries, in particular in Africa and in small States."[228]

The most pertinent of this category of threats is certainly that caused by terrorists.[229] It is also the threat that the United Nations has paid most attention to. Although it had been on the UN's agenda before, it was in the 1990s that the United Nations first came up with a comprehensive response to terrorism. In 1995, the General Assembly adopted a Declaration on Measures to Eliminate International Terrorism.[230] In that declaration, the General Assembly said it was

> Deeply disturbed by the world-wide persistence of acts of international terrorism in all its forms and manifestations, including those in which States are directly or indirectly involved, which endanger or take innocent lives, have a deleterious effect on international relations and may jeopardize the security of States.[231]

Using Security Council language, the Assembly also expressed its conviction that "the suppression of acts of international terrorism [was] an essential element for the maintenance of international peace and security." [232] In addition, the Assembly stated that "criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes [were] in any circumstance unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or any other nature that may be

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[225] International Convention against the Recruitment, Use, Financing and Training of Mercenaries, annexed to General Assembly resolution 44/34, adopted 4 December 1989. See also Marie-France Major, "Mercenaries and international law" (1992).

[226] *Idem*, Article 1. As Article 1 makes clear, the hostilities referred to could be qualified as a war between two nations, but also as an armed conflict between a secessionist movement and a local government.

[227] Use of mercenaries as a means of violating human rights and to impede the exercise of the right of peoples to self-determination, General Assembly resolution 41/102, adopted 4 December 1986.

[228] General Assembly resolution 63/164, adopted 18 December 2008.

[229] See also Jane Boulden & Thomas G. Weiss, *Terrorism and the UN: before and after September 11* (2004).

[230] Measures to eliminate international terrorism, General Assembly resolution 49/60, adopted 9 December 1994.

[231] Declaration on Measures to Eliminate International Terrorism, annexed to General Assembly resolution 49/60, adopted 9 December 1994.

[232] Idem.

invoked to justify them." [233] Although not presented as such, this is a good definition of acts of terrorism. It was reiterated two years later, in a declaration calling for the drafting of a variety of conventions on different legal aspects of terrorism.[234] The texts of these conventions were adopted by the General Assembly in the years that followed. In 1997, the Assembly adopted the International Convention for the Suppression of Terrorist Bombings.[235] In 1999, it adopted the text of an International Convention for the Suppression of the Financing of Terrorism.[236]

One day after the terrorist attacks in New York, the Security Council finally followed the Assembly's suggestion, and labelled all acts of terrorism as a threat to international peace and security.[237] Two weeks later, it invoked its powers under Chapter VII to essentially oblige all States to accept as binding the obligations under the above-mentioned terrorism conventions, which most States had not yet ratified.[238] The Council also adopted a Declaration on the Global Effort to Combat Terrorism.[239] In that declaration the Council "declare[d] that acts of international terrorism constitute[d] one of the most serious threats to international peace and security in the twenty-first century." [240] It "reaffirm[ed] its unequivocal condemnation of all acts, methods and practices of terrorism as criminal and unjustifiable, regardless of their motivation, in all their forms and manifestations, wherever and by whomever committed." In January 2003, the Council adopted yet another declaration on terrorism.[241] In this the Council reaffirmed that "terrorism in all its forms and manifestations constitutes one of the most serious threats to peace and security," and that "any acts of terrorism are criminal and unjustifiable, regardless of their motivation, whenever and by whomsoever committed and are to be unequivocally condemned, especially when they indiscriminately target or injure

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[233] Idem.

[234] See the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism, annexed to General Assembly resolution 51/210, adopted 17 December 1996.

[235] International Convention for the Suppression of Terrorist Bombings, General Assembly resolution 52/164, adopted 15 December 1997.

[236] International Convention for the Suppression of the Financing of Terrorism, General Assembly resolution 54/109, adopted 9 December 1999.

[237] See Security Council resolution 1368, adopted on 12 September 2001. In earlier resolutions, the Council did come close. For example, in 1999, it noted that "the suppression of acts of international terrorism [was] an essential contribution to the maintenance of international peace and security." See Security Council resolution 1269, adopted 19 October 1999, and Security Council resolution 1267, adopted 15 October 1999.

[238] Security Council resolution 1373, adopted on 28 September 2001. The Council also established a Counter-Terrorism Commitee.

[239] Declaration on the global effort to combat terrorism, Security Council resolution 1377, adopted on 12 November 2001.

[240] Idem.

[241] Declaration on the issue of combating terrorism, annexed to Security Council resolution 1456, adopted 20 January 2003.

civilians."[242] In line with this tough approach to terrorism, the Security Council once again determined, in its response to the terrorist bombing that killed the former Lebanese Prime Minister Hariri, "that [a] terrorist act and its implications constitute a threat to international peace and security."[243]

Terrorism was also one of the two main themes during the third high-level summit of the Security Council held in 2005.[244] The UN Secretary-General Annan addressed the Security Council at that summit. In his view, "[t]errorism constitute[d] a direct attack on the values for which the United Nations stands."[245] All Member States agreed with the Secretary-General that the Council should take the lead in combating terrorism. According to Putin, the President of the Russian Federation, the Council should become the "headquarters for the international antiterrorist front."[246] The Secretary-General set out a counter-terrorism strategy which consisted of five pillars:[247]

First, the Security Council and all its members should "dissuade disaffected groups from choosing terrorism as a tactic," essentially by clearly prohibiting all forms of terrorism;

Secondly, the Council should "deny terrorists the means – above all, weapons of mass destruction – to carry out their attacks;"

Thirdly, the Council should make sure that "all States […] know that if they provide support for terrorists in any form, this Council will not hesitate to take coercive measures against them;"

Fourthly, the Council should "develop State capacity to prevent terrorism,"
Fifthly and finally, the Council should "defend human rights."[248]

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[242] *Idem.*

[243] Security Council resolution 1757, adopted 30 May 2007.

[244] See the Verbatim Records of the 5261st meeting of the Security Council, 14 September 2005, UNDoc. S/PV.5261. The second topic of that meeting was conflict prevention, particularly in Africa.

[245] Verbatim Records of the 5261st meeting of the Security Council, 14 September 2005, UNDoc. S/PV.5261, p. 3.

[246] *Idem*, p. 4.

[247] These five pillars had guided the Secretary-General's thinking for quite some time. See also *A more secure world: our shared responsibility*, Report of the High-level Panel on Threats, Challenges and Change, distributed 2 December 2004, UNDoc. A/59/565, para. 148 ("*A more secure world*") ; *In larger freedom: towards development, security and human rights for all*, Report of the Secretary-General, distributed 21 March 2005, UNDoc. A/59/2005, para. 88 ("*In larger freedom*"); and especially Uniting against terrorism: recommendations for a global counter-terrorism strategy, report of the Secretary-General, distributed 27 April 2006, UNDoc. A/60/825.

[248] Verbatim Records of the 5261st meeting of the Security Council, 14 September 2005, UNDoc. S/PV.5261, p. 3.

The President of the People's Republic of China, Hu Jintao, believed there was something missing in this list, namely the Council's obligation to tackle the root causes of terrorism. He believed that it was essential "to earnestly address problems such as poverty, ignorance and social injustice in order to eliminate the breeding grounds for terrorism."[249] Similarly, De Villepin, the French Prime Minister at that time, said that "resolute action with respect to everything that fuels terrorism" was necessary, "including inequality, on-going violence, injustice, conflict and cultural misunderstanding."[250] The French considered that, "[f]orce alone [would] never defeat terrorism, for it does not address people's frustrations or go to the roots of evil."[251]

This is a truism. So why not address the root causes of terrorism in the Counter-terrorism Strategy? Blair of the United Kingdom gave a reason why this aspect should not be addressed:

> [Terrorism] will not be defeated until we [*i.e.* the Members States of the Security Council] unite not just in condemning the acts of terrorism, which we all do, but in fighting the poisonous propaganda that the root cause of this terrorism somehow lies with us around this table and not with them. [The terrorists] want us to believe that, somehow, it is our fault and that their extremism is somehow our responsibility. They play on our divisions; they exploit our hesitations. This is our weakness, and they know it. We must unite against this ghastly game with our conscience. There are real injustices in our world: poverty, which it is our duty to eradicate; conflicts […], which it is our duty to help resolve; and nation-building, […] which it is our responsibility to help deliver. But none of this has caused this terrorism. The root cause [of terrorism] is a doctrine of fanaticism, and we must unite to uproot it by cooperating on security, […] by taking action against those who incite, preach or teach this extremism, wherever they are in whichever country; and also by eliminating our own ambivalence by fighting not just the methods of this terrorism, but also the terrorists' motivation, twisted reasoning and wretched excuses for terror.[252]

At the end of this third high-level meeting, unusually strong words were used in a Security Council resolution on terrorism.[253] The Council "condemn[ed] in the strongest terms all acts of terrorism irrespective of their motivation, whenever and by whomsoever committed, as one of the most serious threats to peace and

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[249] *Idem*, p. 8.

[250] *Idem*, p. 14.

[251] *Idem*.

[252] *Idem*, p. 10.

[253] Security Council resolution 1624, adopted 14 September 2005. In this resolution the Council called upon all States, *inter alia*, to "prohibit by law incitement to commit a terrorist act or acts," "prevent such conduct," and "deny safe haven to any persons with respect to whom there is credible and relevant information giving serious reasons for considering that they have been guilty of such conduct."

security." [254] It also condemned "in the strongest terms the incitement of terrorist acts and repudiating attempts at the justification or glorification (*apologie*) of terrorist acts that may incite further terrorist acts." This indicates that Blair's approach was followed here.

It was now the Assembly's turn to come up with its own strategy to combat terrorism. In 2006, the Assembly adopted the comprehensive United Nations Global Counter-Terrorism Strategy. [255] First, the Assembly "[r]eiterated its strong condemnation of terrorism in all its forms and manifestations, committed by whomever, wherever and for whatever purposes, as it constitute[d] one of the most serious threats to international peace and security." [256] The Assembly also reaffirmed that "terrorism cannot and should not be associated with any religion, nationality, civilization or ethnic group." This was to counterbalance the fact that many people associated terrorism with Islam. In addition, the Assembly included a paragraph to appease those States that believed the United Nations should not ignore the root causes grounds of terrorism.[257] In general, the Assembly's strategy consisted mainly in a resolve of all States to "consider becoming parties […] to the existing international conventions and protocols against terrorism," and to cooperate with the Council and implement its resolutions.[258] The actual strategy was based on a revised version of the strategy of the Secretary-General. [259] It addressed the "conditions conducive to the spread of terrorism," for example, by promoting a culture of peace, by eradicating poverty and by promoting sustained economic growth, sustainable development and global prosperity for all. At the same time, the Assembly emphasized that nothing could "excuse or justify acts of terrorism." The Strategy also included a long list of preventive measures; means to

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[254] *Idem.*

[255] The United Nations Global Counter-Terrorism Strategy, General Assembly resolution 60/288, adopted 8 September 2006.

[256] *Idem.* See also para. 81 of the 2005 World Summit Outcome, resolution adopted by the General Assembly on 16 September 2005, UNDoc, 60/1 ("2005 World Summit Outcome").

[257] The Assembly thus "affirm[ed] Member States" determination to continue to do all they can to resolve conflict, end foreign occupation, confront oppression, eradicate poverty, promote sustained economic growth, sustainable development, global prosperity, good governance, human rights for all and rule of law, improve intercultural understanding and ensure respect for all religions, religious values, beliefs or cultures." The United Nations Global Counter-Terrorism Strategy, General Assembly resolution 60/288, adopted 8 September 2006.

[258] By that time, the General Assembly had proposed yet another treaty text on terrorism to the UN Member States. See International Convention for the Suppression of Acts of Nuclear Terrorism, annexed to General Assembly resolution 59/290, adopted 13 April 2005. In that convention text, the Assembly "not[ed] that acts of nuclear terrorism may result in the gravest consequences and may pose a threat to international peace and security [but that] existing multilateral legal provisions [did] not adequately address those attacks."

[259] It was based on Uniting against terrorism: recommendations for a global counter-terrorism strategy, report of the Secretary-General, distributed 27 April 2006, UNDoc. A/60/825.

strengthen all States' efforts to fight terrorism; and it included a list of obligations for all States to respect human rights whilst fighting terrorism.[260]

It can be concluded from the above-mentioned conventions, declarations and resolutions that the United Nations has recognized that non-State actors can pose a threat to international peace and security. When it comes to terrorists and mercenaries, the United Nations has explicitly labelled their actions as threats to international peace and security. A world with active terrorists and mercenaries is not a peaceful world.

5.6 Conclusion

The approach of the General Assembly, when it comes to the value of peace and security, has been to recognize various threats to this value, define them as accurately as possible, and ensure universal agreement on measures to contain them. This has been the approach with regard to domestic conflict, *apartheid*, the arms race, and threats posed by hijackers, hostage takers, mercenaries and terrorists. By clearly defining these threats, the Assembly has indirectly defined the value of peace and security. It can now be concluded that a peaceful world is not just a world in which States do not go to war with each other, but also requires the absence of domestic conflicts, the absence of certain weapons, and the absence of individuals and groups of individuals who pose a threat to international peace.

6 THE ROOT CAUSES OF THREATS TO INTERNATIONAL PEACE AND SECURITY

6.1 Introduction

It is often suggested that the Security Council has considerably broadened its interpretation of threats to peace and security in recent times. Some "new" threats have already been discussed, such as domestic conflicts and terrorist threats. These do not fit easily into the framework of the UN Charter. Other, more "imaginative" threats have also been mentioned in the literature. A closer look at the Council's resolutions shows that it is rather conservative. Some of the more imaginative threats are seen by the Council as root causes of conflict, not as threats to the peace. The Assembly is more flexible, but the difference between the two principal organs of the United Nations is not all that great. This difference can be explained by the fact that a qualification by the Council of a particular situation as a threat to the

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[260] The Secretary-General himself noticed that his five-pillar edifice was replaced by a four pillar version in para. 2 of United Nations Global Counter-Terrorism Strategy: activities of the United Nations system in implementing the Strategy, Report of the Secretary-General, distributed 7 July 2008, UNDoc. A/62/898.

peace has legal consequences, while a similar qualification by the Assembly does not. After all, as soon as the Security Council determines that a certain situation is a threat to the peace, it can impose sanctions and authorize the use of armed force.[261] This section examines some of the root causes of conflict which have been addressed by the General Assembly and the Security Council. None of these root causes has been qualified as a threat to the value of peace and security.

6.2 Diseases of mass destruction

The typhus epidemic was one of the main preoccupations of the Council of the League of Nations.[262] The League Council considered that "the matter [was] one of such magnitude and [bore] on the welfare of so many countries that it seem[ed] eminently one with which the League of Nations should deal."[263] The epidemic soon spread across the whole of Central and Eastern Europe, including Russia.[264] The arguments that supported the pledge for assistance made by the Council to all members of the Assembly of the League combined references to self-interest, common interest and moral values.[265] In the end, it was decided to organize a Global Health Conference to find worldwide support to fight the disease. The experts assembled at this conference reiterated that both self-interest, common interest, and moral values required a joint effort to combat typhus.[266] Unfortunately, the League Council could not contribute all that much to combatting the epidemic. It could only ask States to provide goods, such as food, clothes and medicine. These goods were distributed in Poland and elsewhere by the League of Red Cross Societies, not the League of Nations.[267]

The disease of mass destruction facing the Security Council of the United Nations is a different disease. It is the human immunodeficiency virus which causes the immunodeficiency syndrome (HIV/AIDS).[268] Even this disease was never considered as a threat to peace and security. Instead, the Security Council did

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[261] This follows from Article 39 UN Charter and the remainder of Chapter VII, UN Charter.

[262] For an overview of the events, see League of Nations, *Report of the Endemic Commission of the League of Nations* (1921).

[263] League of Nations Official Journal, volume 1, issue 2 (March 1920), p. 67. Resolution adopted 13 March 1920.

[264] League of Nations Official Journal, volume 1, issue 6 (September 1920), p. 367.

[265] Letter from Balfour containing a further appeal from the Council to the Members of the League, in the League of Nations Official Journal, volume 1, issue 6 (September 1920), p. 367.

[266] Letter by Viscount Astor, Chairman of the Conference, League of Nations Official Journal, volume 1, issue 3 (April-May 1920), p. 91.

[267] League of Nations Official Journal, volume 1, issue 4 (June 1920), p. 122.

[268] See also Kenneth Marvin Manusama, *The United Nations Security Council in the post-cold war era: applying the principle of legality* (2006), p. 33.

"stress[…] that the HIV/AIDS pandemic, if unchecked, may pose a risk to stability and security."[269] Stability and security is not the same as peace and security.

At about the same time, the General Assembly adopted a Declaration of Commitment on HIV/AIDS. In that declaration the Assembly said that it was

> Deeply concerned that the global HIV/AIDS epidemic, through its devastating scale and impact, constitutes a global emergency and one of the most formidable challenges to human life and dignity, as well as to the effective enjoyment of human rights, which undermines social and economic development throughout the world and affects all levels of society – national, community, family and individual.[270]

The Assembly was particularly concerned about the situation in sub-Saharan Africa, "where HIV/AIDS [was] considered a state of emergency which threaten[ed] development, social cohesion, political stability, food security and life expectancy and impose[d] a devastating economic burden, and that the dramatic situation on the continent need[ed] urgent and exceptional national, regional and international action." [271] To tackle this threat, the General Assembly came up with a comprehensive plan which focused on prevention.[272]

Even though the gravity of the issue was recognized, the Assembly and the Security Council did not qualify the global HIV/AIDS epidemic as a threat to international peace and security.[273]

6.3 Poverty and underdevelopment

The link between poverty and peace is often emphasized. Vranitzky of Austria said in the Council that "[o]ur search for peace cannot be separated from the need to

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[269] Security Council resolution 1308, distributed 17 July 2000. Five years later, the Security Council debated the issue of HIV/AIDS awareness among peacekeeping personnel. See the Statement by the President of the Security Council, distributed 18 July 2005, UNDoc. S/PRST/2005/33, and the Verbatim Records of the 5228th meeting of the Security Council, 18 July 2005, UNDoc. S/PV.5228, pp. 2-23.

[270] Declaration of Commitment on HIV/AIDS, resolution adopted by the General Assembly on 27 June 2001, UNDoc. S-26/2.

[271] *Idem.*

[272] Nowhere in this comprehensive document was there any mention of the Security Council, or of the idea that it might be considered, by the Security Council, as a threat to the peace in the sense of Article 39 UN Charter.

[273] In the Political Declaration on HIV/AIDS: Intensifying our Efforts to Eliminate HIV/AIDS, General Assembly resolution 65/277, adopted 10 June 2011, the disease was described as a "global emergency, pos[ing] one of the most formidable challenges to the development, progress and stability of our respective societies and the world at large" (para. 4). But the words " peace" and " security" were not at all used in the lengthy declaration. In Security Council resolution 1983 (2011), adopted 7 June 2011, the Council "recognize[ed] that the spread of HIV can have a uniquely devastating impact on all sectors and levels of society," but that was as far as it went.

improve economic and social conditions everywhere in the world."[274] Rao of India remarked that "[l]asting peace and security necessarily require comparable levels of human happiness across the globe," and that it was therefore "impossible to think of a United Nations functioning usefully or harmoniously while humankind continues to be riddled with ever-increasing disparities and while the world's natural resources [were] getting fast depleted by thoughtless acts of overexploitation and environmental degradation."[275] However, the fact that the two are related does not mean that poverty should be regarded as an immediate threat to the peace.

Some States did suggest that poverty should be seen as a threat to the peace. In the words of President Boria of Ecuador:

> We must be clear about the idea that behind poverty there lurk serious threats to the peace because – as they had not in times gone by – the peoples of today have passed value judgments on poverty. People used to view poverty as a household object and with the familiarity with which one views a household object, but they do not do so today. The conviction that poverty can be avoided leads to rebellion, and thus a dangerous and explosive political equation has now arisen: poverty plus a value judgment on it plus rebellion equal the breaking of the peace.[276]

King Hassan II of Morocco noted that "[w]e must not forget that underdevelopment has been and remains the greatest threat to world peace and security and that at the present time it represents the greatest challenge the international community must meet."[277] Despite labelling poverty and underdevelopment as a potential threat to the peace, none of these speakers had any suggestions about what the Council should do to tackle this "new" threat, on the basis of the mandate in Chapter VII.

In the Presidential Statement adopted at the 1992 High-level summit, the Council "recognize[d] that peace and prosperity are indivisible and that lasting peace and stability require effective international cooperation for the eradication of poverty and the promotion of a better life for all in larger freedom."[278] This statement does not suggest that poverty is considered to be a threat to the peace, let alone something the Council can respond to with the use of its powers under Chapter VII of the UN Charter.

The same issue arose during the second high-level meeting of the Security Council. There the Jamaican President, Patterson, stated that "[p]overty and social injustice constitute[d] the greatest threat to global peace and international

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[274] Verbatim Records of the 3046th meeting of the Security Council, 31 January 1992, UNDoc. S/PV.3046, p. 67.
[275] *Idem*, pp. 96-97.
[276] *Idem*, p. 31.
[277] *Idem*, p. 37.
[278] *Idem*, p. 147.

security."[279] At the end of this debate on the role of the Council in tackling the root causes of conflict the Security Council adopted a Declaration on Ensuring an Effective Role for the Security Council in the Maintenance of International Peace and Security, particularly in Africa.[280] In that declaration, the Council "[p]ledge[d] to enhance the effectiveness of the United Nations in addressing conflict at all stages from prevention to settlement to post-conflict peace-building," and "[s]trongly encourage[d] the development within the United Nations system and more widely of comprehensive and integrated strategies to address the root causes of conflicts, including their economic and social dimensions."[281] What the Council did *not* do was to see itself as the focal point of the United Nations when it comes to tackling the root causes of conflict. It also refrained from labelling poverty as a threat to peace and security.

Some States, particularly Latin American States, persisted. At the third high-level meeting, President da Silva of Brazil remarked that "there [would] be no peace or security in the world as long as a billion people are oppressed by hunger." He explained as follows:

> I insist that that evil [*i.e.* hunger] can be considered the most devastating of all weapons of mass destruction. Hunger and poverty affect people's capacity to work, as well as their health, their dignity and their hopes; they also break down families, tear apart societies and weaken economies. Hunger and poverty fuel a vicious circle of frustration and humiliation that sets the stage for violence, crises and conflicts of all sorts.[282]

Poverty is a great evil. It affects not only peace and security, but the realization of all other values as well. The Assembly and the Council are therefore correct to label poverty as a root cause of conflict, rather than as an immediate threat to peace and security.

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[279] Verbatim Records of the 4194th meeting of the Security Council, 7 September 2000, UNDoc. S/PV.4194, p. 16.

[280] Declaration on ensuring an effective role for the Security Council in the maintenance of international peace and security, particularly in Africa, declaration attached to Security Council resolution 1318 (2000), adopted on 7 September 2000.

[281] Idem.

[282] Verbatim Records of the 5261st meeting of the Security Council, 14 September 2005, UNDoc. S/PV.5261, p. 13.

6.4 Climate change

Does climate change constitute a threat to international peace and security? The possibility was already suggested in 1989.[283] Christopher Penny believed that the Council had begun to address "emerging non-traditional security challenges" in the 1990's, and that it would be part of its "evolving institutional practice" if the Council were to take measures, invoking Chapter VII of the UN Charter, to tackle the threat posed by climate change.[284] Knight agreed, especially when climate change could be linked to a particular State policy, such as a policy of deforestation or massive pollution.[285] In such cases, the responsible State or non-State actor could be identified, and the Council could impose legally binding sanctions, invoking Article 41 UN Charter.[286] Authorizing the use of force was not an option, said Knight.[287]

In the 1992 statement on the responsibility of the Security Council in the maintenance of international peace and security, the Council already noted that "the non-military sources of instability in the economic, social, humanitarian *and ecological fields* ha[d] become threats to peace and security." [288] And in 2007, at the initiative of the United Kingdom, the Security Council held its first-ever debate on the impact of climate change on peace and security.[289] However, the General Assembly and Security Council have not determined until now that climate change constitutes a threat to international peace and security. The Assembly recently "recognize[d] that climate change poses serious risks and challenges to all countries." [290] Around the same time, the Security Council debated the relationship between climate change and international peace and security. At the end of the debate, the President of the Council made a statement, in which the Council "expresse[d] its concern that possible adverse effects of climate change may, in the long run, aggravate certain existing threats to international peace and security," and that

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[283] See Nico Schrijver, "International Organization for Environmental Security" (1989).

[284] Christopher K. Penny, *Climate change and the Security Council: a preliminary framework for implementing remedial measures through Chapter VII of the UN Charte* (2007), p. 7.

[285] Alexandra Knight, "Global Environmental Threats: can the Security Council protect our Earth?" (2005).

[286] *Idem*, pp. 1575-1577, and p. 1585.

[287] *Idem*, pp. 1563-1564.

[288] Emphasis added. Presidential Statement, adopted at the end of the meeting. See Verbatim Records of the 3046th meeting of the Security Council, pp. 141-142.

[289] Letter dated 5 April 2007 from the United Kingdom, 5 April 2007, UNDoc. S/2007/186. For the debate, see Verbatim Records of the 5663rd meeting of the Security Council, 17 April 2007, UNDoc. S/PV.5663.

[290] Protection of global climate for present and future generations of humankind, General Assembly resolution 65/159, adopted 20 December 2010.

> In matters relating to the maintenance of international peace and security under its consideration, conflict analysis and contextual information on, *inter alia*, possible security implications of climate change [was] important, when such issues [were] drivers of conflict, represent[ed] a challenge to the implementation of Council mandates or endanger[ed] the process of consolidation of peace.[291]

For some States, this careful statement was clearly a disappointment. The President of Nauru, representing the Pacific small island developing States, had come especially to New York to address the Council. He explained that rising sea levels actually threatened the very existence of Nauru. He suggested that the Council "formally recogniz[ed] that climate change is a threat to international peace and security," or at the very least that it constituted one of the "root causes of conflict," and that the Council should deal with the "security implications" of climate change effectively.[292]

6.5 Conclusion

It is difficult to accept that in theory a world with diseases of mass destruction and mass poverty can nonetheless be qualified as a peaceful world. This conclusion appears to trivialize the impact of diseases and poverty on people's lives. On the other hand, it is important to distinguish issues that directly threaten international peace from other, equally urgent, global challenges. This results in a more specific and therefore more useful definition of peace and security.

When addressing the Security Council in 2000, the former US President Bill Clinton remarked that AIDS, malaria, tuberculosis, poverty and climate change were all issues the Security Council should concern itself with. In response to potential critics of this new approach,[293] he remarked:

> Now let me just say in closing that some people will listen to this discussion [about these new threats to the peace] and say, "Well, peacekeeping has something to do with security, but these other issues do not have anything to do with security and do not belong in the Security Council." […] I just have to say that I respectfully disagree. These issues will increasingly be considered by the Security Council. Until we confront the iron link between deprivation, disease and war, we will never be able to create the peace that the founders of the United Nations dreamed of. […] I hope

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[291] Statement by the President of the Security Council, 20 July 2011, UNDoc. S/PRST/2011/15.

[292] Verbatim records of the 6587th meeting of the Security Council, 20 July 2011, UNDoc. S/PV.6587, pp. 22-24.

[293] President Bush, his predecessor, had a more traditional approach. See *e.g.*, Verbatim Records of the 3046th meeting of the Security Council, 31 January 1992, UNDoc. S/PV.3046, p. 50.

that the Security Council increasingly will have a twenty-first century vision of security that we can all embrace and pursue.[294]

There was a great deal of support for this comprehensive approach. Supporters included France, Namibia, Ukraine, Bangladesh and Mali.[295] Similarly, the Prime Minister of the United Kingdom, Blair believed that the Council

> Cannot deal with these problems of security and conflict without dealing with the causes of conflict too. Whether it is poverty, debt, aid and development, infectious diseases or Governments and the rule of law, we need a far broader concept of how we deal with these security issues for today's world. We cannot isolate a conflict from its root causes.[296]

It is striking that Tony Blair emphasized the importance of tackling the root causes of conflict here, whilst he criticized the idea that terrorism had to be fought by tackling its root causes in his address to the Council five years later.[297] In any case, the problem is that the Security Council was never set up to deal with these root causes. It does not even have the competence to deal with them. The fight against poverty and the promotion of development are more suitable tasks for the UN system as a whole, supervised by the General Assembly.

Not everything is by definition a threat to peace and security. The term "international peace and security," as used in the Security Council's mandate, has a technical meaning. It defines the scope of activity of the Security Council. Therefore it is confusing that in its Presidential Statement adopted at the very end of the 1992 meeting, the Council stated that "[t]he non-military sources of instability in the economic, social, humanitarian and ecological fields have become threats to peace and security," but that it did not believe the Security Council should deal directly with such threats. Instead, the Statement said that "[t]he United Nations membership as a whole, working through the appropriate bodies, need[ed] to give the highest priority to the solution of these matters."[298] The General Assembly can play a crucial role here. However, even for the Assembly it is important to make a meaningful distinction between promoting international peace and security, and promoting social progress and development, or universal respect for human rights.

An overstretched interpretation of the value of peace and security only leads to confusion. Diseases of mass destruction, poverty and underdevelopment,

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[294] Verbatim Records of the 4194th meeting of the Security Council, 7 September 2000, UNDoc. S/PV.4194, p. 5.
[295] *Idem*, pp. 8, 10, 13, 14, 21.
[296] *Idem*, p. 18.
[297] See section 5.5 of Chapter IV, above.
[298] Verbatim Records of the 3046th meeting of the Security Council, 31 January 1992, UNDoc. S/PV.3046, p. 143.

and climate change can be seen as "root causes" of armed conflicts rather than as threats to peace and security. This was neatly explained by the representative of Cape Verde:

> The Council's role will be facilitated when, and only when, the root causes of instability and conflicts are properly addressed. Therefore, if we, Members of the United Nations, are to succeed in creating a safer and more stable world, we should be prepared to couple the efforts of the Security Council with those of the United Nations system and the international community in general to help find an urgent and satisfactory answer to poverty, underdevelopment and social problems, all of them natural ferments that brew frustration and violence and spawn constant instability in world affairs.[299]

This is the most helpful approach.[300] A peaceful world can then be defined in narrow terms, namely as a world without inter-State wars, without domestic conflict, without the arms race and various weapons of mass destruction, and without mercenaries and terrorists.[301] But a peaceful world is not the same as an ideal world. There are other global values that also need to be achieved. An ideal world is a peaceful world, *and* a world without poverty, climate change, disease and underdevelopment. It is a world in which universal respect for the dignity of all individuals is guaranteed, as well as the right of all peoples to freely determine their own future.

7   THE HUMAN RIGHT TO PEACE AND SECURITY

7.1 Introduction

At one point or another, the UN proposed a human rights approach to all the global values dealt with in this study. The consequences of this approach in terms of concepts are examined in separate sections in each chapter on a particular value. This section analyzes the human rights approach to the value of peace and

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[299] *Idem*, pp. 82-85.

[300] There is evidence of such a view also in some General Assembly resolutions. See *e.g*., Articles 10 and 11, Declaration on de Occasion of the Twenty-fifth Anniversary of the United Nations, General Assembly resolution 2627 (XXV), adopted 24 October 1970.

[301] Apartheid is already something that might better be characterized as a root cause of conflict, rather than a threat to the peace itself. The Council and the Assembly appear to disagree when it comes to the appropriate categorization of apartheid in this distinction between threats and root causes.

security.[302] The following sections are devoted to a discussion of the "right to peace" and the concept of "human security."

7.2 The right to peace

According to the Declaration on the Preparation of Societies for Life in Peace, "[e]very nation and every human being [had] the inherent right to life in peace."[303] Peace was presented both as a right of States, and as a human right. The right to peace as a human right was affirmed in a number of subsequent resolutions.[304] States had the corresponding obligation to secure a life of peace for all their citizens. The Declaration also referred to peace as "mankind's paramount value, held in the highest esteem by all principal political, social and religious movements."[305] According to the Assembly, peace was a global value, and all States had a direct duty to their citizens to achieve this.

A few years later, the General Assembly also presented peace as a peoples' right. The Assembly did so in its Declaration on the Right of Peoples to Peace.[306] It proclaimed that "the peoples of our planet have a sacred right to peace," and that the "preservation of the right of peoples to peace and the promotion of its implementation constitute a fundamental obligation of each State."[307] In more concrete terms, this required that "the policies of States be directed towards the

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[302] For the other values, see section 6 of Chapter V (social progress and development) and section 6 of Chapter VII (self-determination of peoples). The global value of human dignity (chapter VI) is all about human rights.

[303] Declaration on the Preparation of Societies for Life in Peace, General Assembly resolution 33/73, adopted 15 December 1978.

[304] In a subsequent resolution, the General Assembly reaffirmed that peace was an "inalienable right of every human being." See Right of peoples to peace, General Assembly resolution 40/11, adopted 11 November 1985. This same idea, *i.e.* that the right to a life in peace is a human right, was reiterated in a follow-up resolution of 1987. See the Implementation of the Declaration on the Preparation of Societies for Life in Peace, General Assembly resolution 42/91, adopted 7 December 1987.

[305] Declaration on the Preparation of Societies for Life in Peace, General Assembly resolution 33/73, adopted 15 December 1978. The tenth anniversary of the declaration was celebrated with a reaffirmation of its "lasting validity." See the Tenth anniversary of the adoption of the Declaration on the Preparation of Societies for Life in Peace, General Assembly resolution 43/87, adopted 7 December 1988.

[306] Declaration on the Right of Peoples to Peace, General Assembly resolution 39/11, adopted 12 November 1984. In Right of Peoples to Peace, General Assembly resolution 43/22, adopted 11 November 1988, the Assembly emphasized the Declaration's "lasting importance and validity." See also Implementation of the Declaration on the Right of Peoples to Peace, General Assembly resolution 45/14, adopted 7 November 1990.

[307] Declaration on the Right of Peoples to Peace, General Assembly resolution 39/11, adopted 12 November 1984. See also Promotion of the Right of Peoples to Peace, Human Rights Commission resolution 2002/71, adopted 25 April 2002; and see Promotion of the right of peoples to peace, Human Rights Council resolution adopted 10 June 2011.

elimination of the threat of war, particularly nuclear war, the renunciation of the use of force in international relations and the settlement of international disputes by peaceful means on the basis of the Charter of the United Nations."[308]

This "right to peace" approach has had some success. Most importantly, the African Charter on Human and Peoples' Rights, adopted by the Organization of African Unity (now the African Union) on 27 June 27 1981, reflected this idea of peace as a peoples' right.[309] In recent times, the General Assembly has moved away from the idea of peace as a human and people's right. Instead, the Assembly emphasized that "peace [was] a vital requirement for the promotion and protection of all human rights for all."[310] Peace and human rights were then seen as separate but related issues.[311]

7.3 Human security

In the United Nations it is often noted that international armed conflicts are increasingly rare.[312] This is good news, of course. It is a clear sign that the UN's collective security mechanism, which basically started to operate as intended in the early 1990s, is working properly as a deterrent. However, it does not mean that all people live their lives in security. Annan pointed this out as follows:

> How far we have moved from a strictly international world is evidenced by the changed nature of threats to peace and security faced by the world's people today. The provisions of the Charter presupposed that external aggression, an attack by one State against another, would constitute the most serious threat; but in recent decades far more people have been killed in civil wars, ethnic cleansing and acts of genocide, fuelled by weapons widely available in the global arms bazaar. Technologies of mass

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[308] *Idem.* In a subsequent resolution, the focus was more on obligations relating to disarmament. Promotion of the right of peoples to peace, General Assembly resolution 57/216, adopted 18 December 2002.

[309] In Article 23 of that Charter, it is stated that "all peoples shall have the right to national and international peace and security." Note that the Charter does not refer to a right to peace, but to a right to peace and security.

[310] Promotion of peace as a vital requirement for the full enjoyment of all human rights by all, General Assembly resolution 58/192, adopted 22 December 2003. See also General Assembly resolution 62/163, adopted 18 December 2007.

[311] Nevertheless, in General Assembly resolution 60/163, adopted 16 December 2005, the Assembly went back to its previous approach, and affirmed that the right to peace was a human right, and declared "that the peoples of our planet have a sacred right to peace."

[312] For some statistics, see *A more secure world*, paras. 1-16; and the "Overview" in Human Security Centre, *Human Security Report* (2005). Both reports rely on the Uppsala Conflict Database of the Department of Peace and Conflict Research, Uppsala University (http://www.pcr.uu.se/database/).

destruction circulate in a netherworld of illicit markets, and terrorism casts shadows on stable rule. We have not yet adapted our institutions to this new reality.[313]

These are threats of a traditional, military nature. [314] But there are other threats and root causes as well. There are natural disasters, and the spread of HIV/AIDS and other diseases of mass destruction.[315] And there is poverty. It is suggested that none of these threats has a place in the paradigm of an inter-State order. The deprivation caused by all these threats, often threatening the existence of large groups of individuals rather than the existence of the State, shows "the need to reframe security in human terms."[316] In the past, it was believed that poverty had little to do with security, and that it was simply a fact of life. Nowadays it is intellectually and morally indefensible to regard threats such as poverty and disease as "a sad but inescapable aspect of the human condition."[317]

The problem is that these threats do not have a place in the UN paradigm. The classic interpretation of the UN rules on the use of force, which is based on the idea that security is about securing the State and not the individual, is out-dated. [318] The question therefore arises whether a paradigm shift is necessary. Should the focus of the world's efforts to maintain a more secure world remain on the State, or

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[313] Kofi Annan, *We, the Peoples: the Role of the United Nations in the Twenty-first Century* (2000), para. 31. For data to substantiate this remark, see *e.g.*, Commission on Human Security, *Human security now* (2003), Chapter 2; and Human Security Centre, *Human Security Report* (2005). According to the latter report, "during the last 100 years far more people have been killed by their own governments than by foreign armies," thereby suggesting that this phenomenon is not so new after all.

[314] The statistics show a sharp increase in the number of civil wars from 1950 up to the end of the eighties/early nineties (the end of the Cold War and the beginning of an impressive increase in the number of UN peacekeeping missions), and then starts a significant decline in civil wars, a trend that continues up to the present day. Human Security Centre, *Human Security Report* (2005) also shows a decrease in the number of battle deaths, although these deaths sometimes include only 6% of the total number of deaths during a certain conflict. See p. 128.

[315] See the Address on behalf of the European Union by the Minister of Foreign Affairs of the Kingdom of the Netherlands, H. E. Dr. Bernard Bot, at the 59th session of the General Assembly of the United Nations, on 21 September 2004.

[316] Ramesh Thakur, *The United Nations, Peace and Security* (2006), p. 71. MacFarlane and Khong list six factors in the field of international relations that explain the historic shift from state security to human security. See S. Neil MacFarlane and Yuen Foong Khong, *Human Security and the UN* (2006). See also Commission on Human Security, *Human security now* (2003), pp. 2 and 5.

[317] *In larger freedom*, para. 27.

[318] The human security debate is not the first effort to introduce a new view on security. Commission on Global Governance, *Our Global Neighborhood* (1995), has gathered various types of "security": people security, planet security, common security, collective security, comprehensive security and human security. And then, of course, there's always the "old-fashioned" concept of national security.

should it shift to the individual? This has been one of the central questions in modern debates about security. [319]

This section attempts to define what is meant by "human security." To do so, it examines the most influential reports and declarations on the issue of security of the last two decades, focusing on the publications and declarations made within the UN system.[320] This debate is analyzed in some detail, because it provides an example of a discussion in which there is cross-fertilization between the scholarly community, Non-Governmental Organizations, and the United Nations.

What is human security? It is not the kind of security that sees individuals as pawns of the State, required to make the ultimate sacrifice, often involuntarily.[321] Security should no longer be seen solely as security of the State, *i.e.* as "security of territory from external aggression, or as protection of national interests in foreign policy or as global security from the threat of a nuclear holocaust."[322] The State-centred approach to security is not a given. It is a product of a particular historical context and type of thinking: the consolidation of the nation State and the ideological hegemony of nationalism.[323] Thus there is room for change.

It is not that there is no definition of human security, as was the case with the more traditional "international peace and security." The problem is rather that there are too many definitions of human security.[324] One of the first descriptions of human security – one can hardly call it a definition – can be found in the Human Development Report of 1994: [325]

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[319] For a very convincing argument that the concept of human security, or the theory that underlies it, is not a recent invention, see S. Neil MacFarlane and Yuen Foong Khong, *Human Security and the UN* (2006).

[320] These are (in chronological order): Mahbub ul-Haq, *People's participation* (human development report 1993); Mahbub ul-Haq, *New dimensions of human security* (human development report 1994); Kofi Annan, *We, the Peoples: the Role of the United Nations in the Twenty-first Century* (2000); Millennium Declaration, resolution adopted by the UN General Assembly, 18 September 2000. UNDoc. A/RES/55/2 ("Millennium Declaration"); International Commission on Intervention and State Sovereignty (ICISS), *Responsibility to Protect* (2001); Commission on Human Security, *Human security now* (2003); High-level Panel on Threats, Challenges and Change, *A more secure world: Our shared responsibility* (2004); *Kofi Annan, In larger freedom: towards development, security and human rights for all* (2005); Human Security Centre, *Human Security Report* (2005); 2005 World Summit Outcome, General Assembly resolution 60/1, adopted 16 September 2005.

[321] Presumably, that was how things were seen in the past. See *e.g.*, Ramesh Thakur, *The United Nations, Peace and Security* (2006), p. 72.

[322] Mahbub ul-Haq, *New dimensions of human security* (human development report 1994), p. 22.

[323] S. Neil MacFarlane and Yuen Foong Khong, *Human Security and the UN* (2006), p. 15. See also Chapter 1 of this book.

[324] An overview of some of these definitions can be found in Table 1: Selected Descriptions of Human Security, annexed to Sabina Alkire, *A Conceptual Framework for Human Security* (2003).

[325] The Report of 1993 already prepared the world for next year's report. See especially Mahbub ul-Haq, *People's participation* (human development report 1993), pp. 1-2.

> [Human security means] first, safety from such chronic threats as hunger, disease and repression. And second, it means protection from sudden and hurtful disruptions in the patterns of daily lives – whether in homes, in jobs or in communities.[326]

As this description shows, human security is people-centered. It is "concerned with how people live and breathe in society, how free they are to exercise their many choices, how much access they have to market and social opportunities – and whether they live in conflict or in peace."[327] This shift is made more explicit in later literature. For example, Thakur wrote that

> By contrast [to state security], human security puts the individual at the centre of the debate, analysis and policy. He or she is paramount, and the State is a collective instrument to protect human life and enhance human welfare. The fundamental components of human security – the security of *people* against threats to personal safety and life – can be put at risk by external aggression, but also by factors within a country, including "security" forces.[328]

That is essentially what human security entails. It means putting the individual at the centre of security.[329]

This shift in focus is sometimes called a paradigm shift.[330] The most important consequence of this paradigm shift is that threats to security become much more diverse. After all, the life of an individual can be threatened by nuclear catastrophe, but also by ordinary crime, pollution, starvation, or even suicide.[331]

To bring some order into this wide range of potential threats to security, a distinction is made, following the former US President Roosevelt, between threats to the individual's freedom from fear and threats to his or her freedom from want.[332]

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[326] Mahbub ul-Haq, *New dimensions of human security* (human development report 1994), p. 23.

[327] *Idem*.

[328] Ramesh Thakur, *The United Nations, Peace and Security* (2006), p. 72.

[329] Surprisingly, the Commission on Global Governance, *Our Global Neighborhood* (1995), does not use the concept of human security. It chose to use the concepts of people security and planet security instead. See Chapter 3.

[330] See Sadako Ogata, *State Security – Human Security* (2001), pp. 8 and 10. See also Thomas Kuhn, *The Structure of Scientific Revolutions* (1962). He introduced the idea of "paradigm shifts": one scientific paradigm is suddenly replaced by another, thereby creating a scientific revolution and a whole new way of thinking.

[331] Mahbub ul-Haq, *New dimensions of human security* (human development report 1994), chapter 2.

[332] *Idem*, p. 24. The origin of these freedoms is the speech "The Four Freedoms", delivered by Franklin Delano Roosevelt on January 6, 1941, to the members of the 77th US Congress. This distinction has proven to be very influential, and resurfaces in many of the human security literature that followed, albeit sometimes under different headings. See, *e.g.*, Commission on Human Security, *Human security now* (2003), p. 10; Kofi Annan, *We, the Peoples: the Role of the United Nations in the Twenty-first Century* (2000), and *In larger freedom* (although these reports do not refer to "human security" explicitly); MacFarlane and Khong refer to the "development dimension" and the "protection

Some reports use a narrow concept of human security, focusing on freedom from fear.[333] Others prefer a broad concept of human security, which includes – and often focuses on – freedom from want.[334]

Essentially, the freedom from fear component of human security is about the right of the individual to be protected against military violence. The traditional rules protecting the security of the State, *i.e.* the prohibition on the use of force and the rules of the collective security mechanism, are useful here, as they indirectly also protect the individual from aggression by a foreign State. State security is therefore a derivative of human security: "The notion of human security is based on the premise that the individual human being is the only irreducible focus for discourse on security," and consequently "the security claims of other referents, including the State, draw whatever value they have from the claim that they address the needs and aspirations of the individuals who make them up."[335] There is no better way of guaranteeing human security than an effective State.[336]

The freedom from fear does not stop there. It also aims to protect the individual from military violence committed against him by his own State.[337] This second aspect is generally connected to the human rights tradition, "which sees the State as the problem and the source of threats to individual security."[338] It is this second component which creates tensions and frictions with the classical, purely State-based, concept of security. The UN has tried to explain away such frictions. Attempts are made to explain why threats to human security could be characterized as threats to peace and security, interpreted in the traditional sense. The human security concept then remains faithful to that of its predecessor, "international peace

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dimension" of human secuirty in their book: S. Neil MacFarlane and Yuen Foong Khong, *Human Security and the UN* (2006).

[333] The two influential reports that are based in Canada have deliberately been restricted to dealing with the "freedom from fear" component of human security. For an explanation of this restriction, see the section on "What is Human Security?" in Human Security Centre, *Human Security Report* (2005). International Commission on Intervention and State Sovereignty, *The responsibility to protect* (2001), does mention – and embraces – a broader concept of human security (p. 15), but the report is about humanitarian interventions, which explains the emphasis on the "freedom from fear" in the report.

[334] The Human Development Reports and the Report of the Commission on Human Security focus on the freedom from want.

[335] S. Neil MacFarlane and Yuen Foong Khong, *Human Security and the UN* (2006), pp. 2 and 5.

[336] A well-functioning State can best guarantee human security; and in that case State security and human security do not contradict one another at all. See Ramesh Thakur, *The United Nations, Peace and Security* (2006), p. 90. As MacFarlane and Khong point out, even Hobbes acknowledged that when a State fails to protect its citizens, these citizens no longer owe obedience to their State (S. Neil MacFarlane and Yuen Foong Khong, *Human Security and the UN* (2006), pp. 39-40 and pp. 58-59).

[337] See Human Security Centre, *Human Security Report* (2005) (in Section on "What is Human Security?"); Commission on Human Security, *Human security now* (2003), p. 4; Ramesh Thakur, *The United Nations, Peace and Security* (2006), p. 90. See also Neil MacFarlane and Yuen Foong Khong, *Human Security and the UN* (2006), pp. 2 and 5.

[338] Ramesh Thakur, *The United Nations, Peace and Security* (2006), p. 72.

and security." The reasoning is usually that some acts are so gruesome, that even if committed against a limited group of individuals, they nevertheless destabilize the entire international legal order, causing a threat to international peace and security.[339] The advantage of this approach is that it does not require the old legal framework of collective security to be revised. But is it feasible to perceive threats to human security as international threats in that traditional sense? Is it plausible to argue that the mistreatment of a group of individuals constitutes a threat to international peace and security? Additional criteria have been proposed, other than the gruesome character of the treatment concerned, to justify qualifying essentially domestic conflicts as threats to international peace and security. It has been suggested that the threat must affect a significant number of people.[340] However, focusing on the scale of misery is a way of avoiding rather than solving the issue. Human security requires a different theory from the theory of common interest that supports the interstate approach to security. Human security is based more on the principle of global solidarity rather than on the collective interests of all human beings in effectively tackling all threats to human security wherever they occur.[341]

The Responsibility to Protect Report is more traditional in its approach. It sees poverty, political repression and the uneven distribution of resources, both within a State and at the global level, essentially as causes of threats to security, where the resulting military conflict is the direct threat to security.[342] However, in the literature on human security, this is a minority position. Emma Rothschild called for a considerable expansion of the concept of security, downwards (focusing on the individual, with a secondary role for the State) and upwards (focus on the global order), and horizontally (to include a varied horizon of different security threats), as well as an expansion in terms of responsibilities.[343] The concept of human security, as used in the Human Development Reports and the report of the Commission on Human Security, certainly reveals the horizontal extension of the

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[339] *Idem*, para. 203. See also *In larger freedom*, paras. 122-126; and the 2005 World Summit Outcome, paras. 77-80 and paras. 138-140. For insightful commentary, see Nico Schrijver, "The Future of the Charter of the United Nations" (2006), pp. 23-25.

[340] See Sabina Alkire, *A Conceptual Framework for Human Security* (2003), p. 4.

[341] This crucial issue is underappreciated in the reports. The last part of Commission on Human Security, *Human security now* (2003), only mentions this question, very briefly and succinctly, under the heading Clarifying the need for a global identity, p. 141. See also *In larger freedom*, paras. 18 and 220.

[342] See especially the Chapter on the Responsibility to Prevent (Chapter 3), in International Commission on Intervention and State Sovereignty (ICISS), *Responsibility to Protect* (2001). Unfortunately the Commission did not add a research essay on the concept of security, or human security, to the report (there are three research essays: one on "sovereignty", one on "intervention", and one on "prevention".) See also *A more secure world*, para. 22.

[343] Rothschild, "What is security?", p. 53. For references to the idea of "extensive security", see *e.g.*, Ramesh Thakur, *The United Nations, Peace and Security* (2006), p. 72; S. Neil MacFarlane and Yuen Foong Khong, *Human Security and the UN* (2006), pp. 1-2.

concept of security. According to these reports, threats to human security come in many shapes and sizes. For example, the Commission believes that human security is threatened, not only by violent conflicts, but also by hunger, scarcity of (unpolluted) fresh water, the ageing of the world population, the degradation of natural resources and environmental crises.[344]

The horizontal broadening of the concept of security in every direction has often led to the criticism that it has caused a conceptual overstretch, *i.e.* that "the concept has been stretched to cover almost every imaginable malady affecting human beings," [345] and that it has become "so vague that it verges on meaninglessness." [346] The Human Security Centre, itself using a narrow interpretation of human security, wrote that "a concept that lumps together threats as diverse as genocide and affronts to personal dignity may be useful for advocacy, but it has limited utility for policy analysis."[347]

There is some truth in these objections. The concept of security, as traditionally used by the United Nations, had a specific, technical meaning: it was used to refer to the collective security mechanism. It is not immediately apparent that this mechanism should also be used to respond to certain human security threats such as poverty, famine, etc. This kind of criticism can be countered by pointing out, first of all, that international peace and security is just as hard to define as human security.[348] Secondly, it can be argued that this broadening of security has not created a new dilemma in world politics, but it has forced an already existing dilemma to emerge from the shadows. Statistics show that most people do not consider the traditional threats to State security, such as nuclear war and interstate aggression, to be the most urgent or pertinent threats they face in their lives.[349] Therefore we should look at the entire range of security threats, rather than stubbornly focusing on the same threat. At first this new view may be overwhelmingly confusing. Thakur summarized the new situation as follows:

> The militarized and statist concept of security serves to disguise the reality of intervalue competition; a multidimensional concept highlights the need for

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[344] Commission on Human Security, *Human security now* (2003), pp. 14-19.

[345] S. Neil MacFarlane and Yuen Foong Khong, *Human Security and the UN* (2006), p. 237.

[346] Roland Paris, "Human Security: Paradigm Shift or Hot Air?" (2001), pp. 87-102.

[347] The authors immediately add that "it is no accident that the broad conception of human security articulated by the UN Development Programme in its much-cited 1994 Human Development Report has rarely been used to guide research programs." See section: What is Human Security? in Human Security Centre, *Human Security Report* (2005).

[348] The concept of "human security" is often criticized for its vagueness. "State security", however, is also rather vague. There is no agreed definition of this classic concept. See Neil MacFarlane and Yuen Foong Khong, *Human Security and the UN* (2006), p. 12.

[349] See Human Security Centre, *Human Security Report* (2005), p. 51. Less than 10% of the people interviewed said they considered war to be the greatest single threat to their personal security; criminal violence (27%) is what people fear the most.

integrative strategies that resolve or transcend values conflicts. Most individuals, societies and countries hold core values in addition to territorial integrity and there are domains of social activity in addition to the military which should be factored into the concept of security. As well as trade-offs, there are opportunity costs: allocation of resources to cope with military security is at the cost of promoting socio-economic security. A multidimensional conceptualization of security compels scholars and policymakers alike to explicate value trade-offs.[350]

What is the point of conceptual clarity if it does not accord with reality? The number of lives threatened by poverty and hunger dwarfs the number of lives threatened by military conflict.[351] The number of deaths caused by (easily) preventable diseases, given the world's existing knowledge, technologies and health resources, is equally alarming.[352]

What has been the UN's response to these new approaches to the value of peace and security? A brief summary of how the value ended up in the most influential documents of the United Nations follows below. First of all, A More Secure World, a report published by a high-level panel, did not explicitly embrace the shift from inter-State security to human security. It combined both approaches to security in the concept of "international security."[353] According to the report, "any event or process that leads to large-scale death or lessening of life chances and undermines States as the basic unit of the international system is a threat to international security."[354] As the UN Charter already makes many references to international security and allows this concept to be interpreted in accordance with contemporary circumstances and perceptions, the high-level panel did not suggest any drastic changes specifically intended to adapt the United Nations system to deal with human security.[355] Nor did it suggest that the Security Council drastically change its interpretation of the concept of security."[356] Even before the report was

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[350] Then Thakur referred to the damage and loss of life caused by hurricane Katrina in relation to the war in Iraq. Ramesh Thakur, *The United Nations, Peace and Security* (2006), p. 83. See also International Commission on Intervention and State Sovereignty (ICISS), *Responsibility to Protect* (2001), p. 15.

[351] See Commission on Human Security, *Human security now* (2003), p. 73.

[352] 26 million deaths could be avoided annually. See *idem*, p. 95.

[353] The report interpreted state security in terms of human security. See, *e.g.*, *A more secure world*, para. 29-30.

[354] *Idem*, para. 25.

[355] That may be surprising, considering that in Part 1: Towards a new security consensus, the report remarks that "although the United Nations gave birth to the notion of human security, it proved poorly equipped to provide it." See *idem*, para. 12.

[356] The main conclusion of *A more secure world*, is that "the Security Council is fully empowered under Chapter VII of the Charter of the United Nations to address the full range of security threats with which States are concerned." (*idem*, para. 198.) Yes, but what about human security? In the report human security is always mentioned together with State security, as if there really is no distinction to be made (see *e.g.*, *idem*, paras. 165, 184, 197, 207).

published, it was already clear that the Security Council and other security organs had extended their interpretation of security.[357] The report simply suggested that the Council continue on this path.

A few months after A More Secure World was published the Secretary-General published his own report on security, In Larger Freedom.[358] Annan embraced the broad list of threats to international security of the high-level panel report.[359] Annan emphasized that a broad interpretation of security was in line with the UN Charter:

> In setting out to save succeeding generations from the scourge of war, [the framers of the UN Charter] understood that this enterprise could not succeed if it was narrowly based. They therefore decided to create an organization to ensure respect for fundamental human rights, establish conditions under which justice and the rule of law could be maintained, and "promote social progress and better standards of life in larger freedom". [...This larger freedom] implies that men and women everywhere have the right to be governed by their own consent, under law, in a society where all individuals can, without discrimination or retribution, speak, worship and associate freely. They must also be free from want — so that the death sentences of extreme poverty and infectious disease are lifted from their lives — and free from fear — so that their lives and livelihoods are not ripped apart by violence and war.[360]

In addition to the freedom from fear (security in the narrow sense) and the freedom from want (referred to as development), Annan added the freedom to live in dignity, which in his view included the rule of law, democracy, and respect for human rights. He did not explicitly refer to human security.[361] Nevertheless, considering all the previous reports, the above citation describes the logical conclusion of the concept of human security: a life lived in larger freedom is a life lived in security. The concept of human security could be criticized for having become so broad that it could vanish into thin air without anyone even noticing. From a non-critical perspective, it could be argued that the concept of human security has come to

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[357] See the Secuirty Council resolutions mentioned at Nico Schrijver, "the Future of the Charter of the United Nations" (2006), p. 17. Thakur referred among other examples to the Security Council's discussions on HIV/AIDS and the rights of the child. See Ramesh Thakur, *The United Nations, Peace and Security* (2006), pp. 85-86.

[358] The aim of the report was to assist the General Assembly with establishing an agenda for the 2005 World Summit.

[359] *In larger freedom*, para. 78.

[360] *Idem*, paras. 13–15. As Schrijver rightly pointed out, the founding fathers of the UN Charter were ahead of their time by already making the link between peace and security and socio-economic development and respect for human rights. See Nico Schrijver, "The Future of the Charter of the United Nations" (2006), p. 10.

[361] Interestingly enough, Annan wanted to return to a clear division between security, development, and respect for human rights, without however denying the interconnectedness. See *e.g.*, *In larger freedom,* paras. 17, 81 and 140.

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dominate our way of thinking in such a way that it is no longer necessary to refer to it explicitly every time we discuss security issues.

Many of the report's recommendations and ideas were adopted by the Member States of the United Nations in the 2005 World Summit Outcome Document. They "acknowledge[d] that peace and security, development and human rights are the pillars of the United Nations system and the foundations for collective security and well-being."[362] One paragraph dealt explicitly with human security:

> We stress the right of people to live in freedom and dignity, free from poverty and despair. We recognize that all individuals, in particular vulnerable people, are entitled to freedom from fear and freedom from want, with an equal opportunity to enjoy all their rights and fully develop their human potential. To this end, we commit ourselves to discussing and defining the notion of human security in the General Assembly.[363]

It is worth pointing out here that this paragraph is not in the section on peace and security, but in the section on human rights. One important consequence of the shift in the thinking about peace and security from the State to the individual is the change of language that necessarily accompanies this change. Now that the individual has become the focus of security, it is logical to formulate security demands in the language of human rights.[364] Most of the reports on human security explicitly suggest this change in the language.[365] Furthermore, they suggest that existing human rights documents may help define the new concept of security.[366] The dominance of human rights in modern international discourse is evidence of an emerging human approach to security.[367] However, the two should not blur into each other too much. Not all human rights violations constitute a threat to human security. Human security is defined by MacFarlane and Khong as the "freedom from threat to the core values of human beings, including physical survival, welfare, and identity."[368] This reference to "core values" is also found in the definition of the Commission on Human Security, which defines human security as the protection of

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[362] Annexed to *In larger freedom* is a draft resolution, following the structure of the report (using the headings "freedom from want", "freedom from fear", etc.) The 2005 World Summit Outcome did not adopt this language, and used more objective headings: development; peace and collective security; human rights and the rule of law. Collective security is clearly an interstate interpretation of security, as para. 72, 2005 World Summit Outcome, showed.

[363] 2005 World Summit Outcome, para. 143.

[364] See Commission on Human Security, *Human security now* (2003), p. 10.

[365] In the International Commission on Intervention and State Sovereignty (ICISS), *Responsibility to Protect* (2001), p. 15, human security is defined as "the security of people – their physical safety, their economic and social well-being, respect for their dignity and worth as human beings, and the protection of their human rights and fundamental freedoms."

[366] See Bertrand G. Ramcharan, *Human Rights and Human Security* (2002), p. 3.

[367] S. Neil MacFarlane and Yuen Foong Khong, *Human Security and the UN* (2006), pp. 62-63.

[368] *Idem*, p. 14.

the vital core of all human lives in ways that enhance human freedom and human fulfillment.[369] One of the principal difficulties of this human rights based approach to security is to determine which human rights violations affect these core values and in this way constitute a threat to human security. Various attempts have been made to distinguish a "vital core" of human rights from the rest. In any case, even a very strict interpretation of this "vital core" leads to a considerable broadening of security threats, to include things above and beyond military-type threats to the individual's life.[370]

7.4 Conclusion

Instead of looking only at peaceful relations between States, it is also worth looking at what it means for individuals to live a life in peace and security. This approach comes with a significant broadening of the meaning of peace and security. After all, it is suggested that the biggest threat to the security of most individual human beings is not inter-State war, nor domestic conflict, nor the arms race. Although this "humanization" of the value of peace and security is popular, it is not clear where this definition of "human security" will lead, and it is equally unclear what consequences this new approach to the value of peace and security could have for the UN's efforts to promote it.

8 CONCLUSION

In San Francisco the maintenance of international peace and security was seen as the most important purpose of the post-war order. This was the reason that all the States assembled there in 1945. The value of peace and security was based on a strong universally shared sentiment that war was the greatest evil and that a collective attempt was required to avoid its reoccurrence. In 1945, many States were represented in the discussion on how to prevent such a new global war, and how exactly to define the alternative: a peaceful world. Since 1945, the Assembly has continuously searched for ways and strategies to achieve a peaceful world. New threats to peace and security have emerged over time, and the Assembly has adapted its strategies accordingly. This process has affected the meaning of the value of peace and security. It has continuously evolved.

Although the Assembly focused on defining the threats to peace, rather than on the value of peace and security itself, there are some exceptions. UNESCO's attempt to develop a culture for peace, acknowledged by the Assembly,

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[369] Commission on Human Security, *Human security now* (2003), p. 4.
[370] See also Ramesh Thakur, *The United Nations, Peace and Security* (2006), pp. 83-84.

is an example. UNESCO aimed to come up with a positive definition of peace. But the Assembly's main contribution to the debate was a list of threats to the value of peace and security. These threats, taken together, give a good idea of what a world in which the value of peace and security is realized, is like. If inter-State wars, domestic conflict, attacks by mercenaries and terrorists, the arms race and the development of various weapons of mass destruction are all considered as threats to peace, then it must be assumed that a peaceful world is a world in which there is no place for any of these things. Other potential threats, such as diseases of mass destruction and poverty, have also sometimes been labelled as threats to peace. However, most of the time they are seen as root causes of threats to peace. Is this a correct and defensible view? On the one hand, it could be considered a bit harsh to say that diseases and mass poverty do not constitute a threat to peace and security. It suggests that these global challenges are somehow considered to be "less important" than the more traditional threats to peace, such as inter-State aggression. On the other hand, including everything that is as important as the prevention of armed aggression in the list of threats to the realization of the global value of peace and security, implies that the value is all-encompassing, with little specific meaning. It is important to stress the fact that peace and security is but one value in a collection of equally important values. Social progress and development, as well as human dignity and the self-determination of peoples, are all equally deserving of the world's attention.

Seen from an inter-State point of view, this discussion can been settled in favour of a more restrictive approach to the value of international peace and security. This is in line with the text and the *travaux* of the United Nations Charter. It also ensures conceptual clarity. When the same value is approached from a human-centered point of view, it is more difficult to maintain the restrictive approach. From that perspective, the rigid distinction between State aggression and other forms of military force (by mercenaries and terrorists), on the one hand, and diseases of mass destruction and poverty, on the other hand, is hard to justify. What is the difference? Is it the presence of weapons, of some form of violence, in the case of the former types of threats? The two categories of threats are equally deadly from the point of view of the individual victim. Therefore calls for a human-centered approach to security have generally been accompanied by calls to expand the range of potential security threats. The problem is that adopting the human security approach quickly takes us outside the framework of the UN Charter. It is difficult to envisage the exact role the United Nations Organization, and especially its Security Council, could play in such a new framework.