Peace, Right to, International protection

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Reference

A. Concept and Basic Features

1. Origins and Sources of the Right to Peace

For centuries, peace among nations has constituted a diffuse ultimate goal of international relations. It was mainly an ideal in philosophical and political thought. War itself was considered in the light of peace. Its aim was indeed geared to the achievement of a better peace. The Declaration on the Right of Peoples to Peace of 1984 ('1984 Right to Peace Declaration'), annexed to the United Nations General Assembly (→ United Nations, General Assembly) Resolution 39/11 of 12 November 1984, marks the apogee of a new approach: it envisions peace as a 'right'. In this declaration, the UN General Assembly 'solemnly proclaims that the peoples of our planet have a sacred right to peace' (par. 1). Consequently, the step has been taken from an abstract philosophical ideal to a more concrete political-legal principle. The Charter of the United Nations ('UN Charter'; [adopted 26 June 1945, entered into force 24 October 1945] 145 BSP 805) itself contains basic principles necessary for an enduring peace, the very first among them is the prohibition of the threat or use of force provided for in Art. 2 (4) UN Charter, as the General Assembly resolution on 'Essentials of the Right to Peace' put it (UNGA Res 290 [IV] [1 December 1949] GAOR 4th Session Part I Resolutions 13).


3 As regards international conferences, the Final Act of the Conference for Security and Cooperation in Europe ([adopted 1 August 1975] [1975] 14 ILM 1292; → Helsinki Final Act [1975]) speaks of a determination to
ensure conditions in which people can live in true and lasting peace free from any threat to or attempt against their security. Moreover, it holds the respect for human rights and fundamental freedoms to be an essential factor for... peace, justice and well-being' (at 14 ILM 1293). Adopted by a non-governmental conference in Algiers, the Universal Declaration of the Rights of Peoples ([4 July 1976] in A Cassese and E Jouve [eds] Pour un droit des peuples [Berger-Levrault Paris 1978] 27) provides for a right of peoples to 'peaceful possession of [their] territory' (Art. 3). The Final Document of the 1978, non-governmental, Oslo Conference on Human Rights and Peace = Peace and Human Rights affirms that 'the right to peace is one of the fundamental human rights. Every nation and every human being... possesses an inherent right to live in peace' ('Final Document’ International Peace Research Institute and Institute of Human Rights: Conference on Peace and Human Rights = Human Rights and Peace [20–22 December 1978] [1979] 10 Bulletin of Peace Proposals 224–28, I para. 1). It also stresses that 'fundamental human rights and peace are indivisible, in such a way that any threat to one constitutes a threat to the other' (ibid I para. 2). Likewise, the final report of the 1978 UNESCO Expert Meeting on Human Rights, Human Needs and the Establishment of a New International Economic Order states that 'one of the basic rights of each individual is embodied in international law, namely, the right to peace' (Rapporteur P O'Brien [29 December 1978] UN Doc SS-78/conf.630/12, para. 22; see also → New International Economic Order (NIEO)). Another explicit proclamation of peace as a human right was made by the intergovernmental General Conference of the Agency for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (CG/Res. 128 [VI] [27 April 1979]), created by the Treaty for the Prohibition of Nuclear Weapons in Latin America (‘Treaty of Tlatelolco’; [done 14 February 1967, entered into force 22 April 1968] 634 UNTS 326; see also → Nuclear Weapons and Warfare).

4 The first mention of the right to peace by a UN organ comes from the UN Commission on Human Rights (→ United Nations Commission on Human Rights/United Nations Human Rights Council). In its Resolution 5 (XXXII) of 27 February 1976 (ESCOR 32nd Session Supp 3, 60) the commission affirms everyone's right 'to live in conditions of international peace and security and fully to enjoy economic, social and cultural rights and civil and political rights' (ibid 62). This is an indication of the interdependence of peace and human rights.

5 UN General Assembly resolutions are the main source of the right to peace. In December 1978, the General Assembly adopted a 'Declaration on the Preparation of Societies to Life in Peace' (UNGA Res 33/73 [15 December 1987]). Recalling both the determination of the → peoples of the UN to save succeeding generations from the scourge of war and the fundamental purposes of the UN to maintain international peace and security, it affirms the 'inherent right to life in peace' (at 1 para. 1) of every nation (→ Nations) and every human being. The → declaration is the result of a call made in the 10th Special Session of the UN General Assembly, held in June 1978, to make further collective efforts to strengthen international peace and security (see also → Collective Security).

6 In the same way, the 1984 Right to Peace Declaration, referred to in para. 1 above, recalls the principal aims of the UN and affirms that 'life without war serves as the primary international prerequisite for the material well-being, development and progress of countries' (recital 1 Preamble). Recognizing that the maintenance of a peaceful life for peoples is the sacred duty of each State (recital Preamble), it 'solemnly proclaims that the peoples of our planet have a sacred right to peace' (para. 1) and declares that the preservation of that right and the promotion of its implementation constitute a 'fundamental obligation of each State' (para. 2). This landmark resolution was adopted by 92 votes to none, with 34 abstentions. Four subsequent resolutions followed in 1985 (UNGA Res 40/11 [11 November 1985]), 1986 (UNGA Res 41/10 [24 October 1986]), 1988 (UNGA Res 43/22 [11 November 1988]) and 1990 (UNGA Res 45/14 [7 November 1990]). Between 1991 and 2001, no specific resolutions on the right to peace were adopted by the General Assembly. This was due to the demise of the Socialist Block at the end of the → Cold War (1947–91), which had been the chief sponsor of the 1984 Right to Peace Declaration.

7 The right to peace has been revived in the General Assembly agenda since 2002 with the adoption of Resolution 57/216 on the 'Promotion of the Right of Peoples to Peace' (UNGA Res 57/216 [18 December 2002]). Reaffirming all provisions of the 1984 Right to Peace Declaration, UNGA Resolution 57/216 calls on all States to promote international peace and security
through general and complete → disarmament; and to ensure that resources released from this disarmament are used for comprehensive development (→ Development, International Law of; → Development, Right to, International Protection). This provision is similar to that of Art. 7 Declaration on the Right to Development (UNGA Res 41/128 [4 December 1986] GAOR 41st Session Supp 53, 186).

8 This link of the right to peace with development is also observed in a new series of resolutions on the promotion of peace as a vital requirement for the full enjoyment of all human rights by all adopted in 2003 (UNGA Res 58/192 [22 December 2003]) and 2005 (UNGA Res 60/163 [16 December 2005]). In these resolutions, the General Assembly recalls previous resolutions on the right to peace and declares that the ever-increasing gap between developed and developing countries 'poses a major threat to global prosperity, peace and security and stability'.


2. Basis of the Right to Peace and Meaning of 'Peace'

10 The right to peace is inspired by the commitment of the founders of the UN 'to save succeeding generations from the scourge of war... and to reaffirm faith in fundamental human rights' (Recital 2 Preamble of the UN Charter). Its reiterated proclamation in the right to peace is a follow-up measure directed to strengthen in an integrated way all the UN objectives embodied in Art. 1 UN Charter, namely the maintenance of international peace and security, the promotion of human rights, and the quest for economic, social, and cultural development. The connection between the right to peace and the UN Charter is thus extremely close.

11 The right to peace is also linked with the individual human right to life (→ Life, Right to, International Protection). In its General Comment No 6 on the right to life ([27 July 1982] GAOR 37th Session Supp 40, 93), the → Human Rights Committee considers that, beyond the prohibition of the threat or use of force already enshrined in the UN Charter (see also → Aggression; → Use of Force, Prohibition of; → Use of Force, Prohibition of Threat), States have also the supreme duty to prevent wars (→ Armed Conflict, International), acts of → genocide and other acts of mass violence causing arbitrary loss of life. Thus, every effort they make to avert the danger of war and to strengthen international peace and security would constitute the most important condition and guarantee for the safeguarding of the right to life. In other words, the duty of States to respect the fundamental human right to life also covers their duty to preserve the right of peoples to live in peace since mass violence and killings caused by war may be considered as an arbitrary loss of life.

12 Peace in this context is not limited to the absence of war and armed conflicts, the so-called 'negative' peace (absentia belli). It includes 'positive' peace aimed at the creation of conditions of equity and social justice preventing recourse to violence. Positive peace requests measures to prevent and put an end to deprivation of rights and liberties, domination of peoples by other peoples (→ Hegemony), poverty, malnutrition, diseases, etc. The concept consequently displays close links to human rights law, to civil and political rights, but also, and perhaps mainly, to social, economic, and cultural rights.


13 Various sources of the right to peace proclaim it as a fundamental human right. The reason is that its guarantees and its implementation are prerequisites for the enjoyment of all other human rights. As the former UN Secretary-General Dag Hammerskjöld said, 'it is only within the framework of peace that human rights can be fully developed' (cited in Nanda [1983] 289).
14 Within the family of human rights, the right to peace falls within the category of the so-called solidarity rights (→ Solidarity Rights [Development, Peace, Environment, Humanitarian Assistance]) or third generations of human rights, along with the right to development and the right to safe environment. These rights constitute a legal formulation of the international community’s common aspirations and can only be achieved through joint efforts of States and international organizations.

15 Like other solidarity rights, the right to peace is owed both to individuals (see also → Individuals in International Law) and to peoples. Under UNGA Resolution 33/73 of 15 December 1987, the subjects of the right to live in peace are indifferently individuals, States, nations, and humankind. In the 1984 Right to Peace Declaration and subsequent resolutions, the proclaimed right to peace has been reserved to peoples. Thus, the collective aspect of the right now predominates over the individual one.

16 The existence of the right to peace is widely proclaimed in international documents. However, its status as a legal right is still disputed, due mainly to the alleged imprecision of its content and its lack of justiciability. However, the latter weakness has also been underlined for economic, social, and cultural rights but does not prevent the international community from considering them as true human rights. In fact, justiciability is one way to monitor the effective implementation of human rights, along with political and other institutional means. It is not a condition of their existence as legal rights. Consequently, the existence of a right to peace cannot be challenged on that ground alone. The point is rather to inquire into what this ‘right’ can usefully perform and what it cannot. Hence, the claim that tribunals should enforce it through individual claims would go too far. But the claim that political organs have to take account of it as a frame-principle is perfectly sustainable.

B. Content

1. Rights and Duties Associated with the Right to Peace in UN and State Practice

17 The main feature of the right to peace is a two-fold action on causes and means. It seeks to eliminate first the root causes of war (disputes, poverty, access to resources, human rights violations, etc) and second the material means of waging war (disarmament), both in order to set conditions for true and lasting peace. This content of the right is emphasized in the preamble of the 1984 Right to Peace Declaration which expresses ‘the will and the aspirations of all peoples to eradicate war from the life of mankind and, above all, to avert a world-wide nuclear catastrophe’. The right then splits into collective and individual entitlements, which obviously overlap functionally. Its main implementation is in the political arena, and thus collective. The right addresses itself mainly to the policy makers, requiring them to take into serious account the allocation of values expressed in it.

(a) Collective Entitlements

18 The collective aspect of the right relates to States and their organs (see also → Heads of Government and Other Senior Officials; → Heads of State). States are obliged to respect the principles of self-determination, independence and territorial integrity; to refrain from aggressive war and unlawful use of force; to reduce the arms race and achieve general and complete disarmament; to devote savings from this disarmament to development; to settle disputes peacefully; and to promote equitable and mutually advantageous cooperation among States (→ States, Fundamental Rights and Duties). These are the most cited obligations in relevant sources. UNGA Resolution 45/14 of 7 November 1990 on the ‘Implementation of the Right of Peoples to Peace’ summarizes them as ‘the need for all States to abide by the provisions of the Charter of the United Nations’ (para. 3). It goes on to quote all fundamental principles of friendly relations among States, reaffirmed in the Declaration on Principles of International Law concerning Friendly Relations and cooperation among States in Accordance with the Charter of the United Nations (UNGA Res 2625 [XXV] [24 October 1970] GAOR 25th Session Supp 28, 121; → Friendly Relations Declaration [1970]).

19 These obligations were supported in the reports submitted by States to the UN Secretary-General concerning the measures they have adopted to implement the 1984 Right to Peace Declaration. In these reports, States pledged their faith to the principles embodied in the declaration and communicated measures considered to be an implementation of the right to peace. Generally, States reported on their constitutional provisions on human rights, signature of agreements concerning arms control and disarmament, involvement in
The declaration of zones of peace or nuclear free zones, advancement of a culture of peace, maintenance of friendly relations and cooperation with neighbour States, active participation in regional peace processes, and introduction of lectures on peace and security in university teaching programmes. Some States also insisted on the pursuit of peace through social and economic development.

20 The right to peace enshrined in Art. 23 AChHPR refers, moreover, to the duty of States to ensure that their territory is not used for subversive or terrorist activities against another State (see also Terrorism). The specific women’s right to peace proclaimed in Art. 10 Rights of Women Protocol to the AChHPR refers to their right to participate in various activities related to peace. It requests States to take appropriate measures to ensure this participation, namely in education for peace; conflict prevention, management, and resolution; protection of asylum seekers, refugees, returnees, and displaced persons; and in post-conflict reconstruction measures. Moreover, the Rights of Women Protocol to the AChHPR imposes on States Parties an obligation to reduce military expenditure and to devote saved money to social development in general and the promotion of women in particular.

(b) Individual Entitlements

21 The individual entitlements include the right to evolve in a peaceful environment and the right to life. This right overlaps partly with the fundamental right to life. Commenting on the latter, the Human Rights Committee stated that ‘[e]very effort [States] make to avert the danger of war, especially thermo-nuclear war, and to strengthen international peace and security would constitute the most important condition and guarantee for the safeguarding of the right to life’ (Human Rights Committee ‘General Comment 6’ [27 July 1982] GAOR 37th Session Supp 40, 93). Furthermore, the right of individuals to peace includes the right to participate in peace associations, the right to education for peace, the right to have a meaningful voice in the decision-making process concerning the use of force by their State, and the right to obtain information about the State’s foreign policy related to peace. The fact that individuals are bearers of that right does not automatically turn it into a justiciable one. Indeed, by its all-embracing and goal nature, this right would be considered non-justiciable by most tribunals of the world. The fact that there is no relevant case law bears testimony to this fact.

22 The right to peace not only provides entitlements to individuals but also imposes duties upon them. As regards obligations of individuals flowing from the right to peace, it is possible to refer to criminalization of aggression as enshrined in the Charter of the Nuremberg International Military Tribunal ([proclaimed on 8 August 1945] in United Nations The Charter and Judgment of the Nürnberg Tribunal: History and Analysis [3 March 1949] UN Doc A/CN.4/15 [United Nations Publications New York 1949]; → International Military Tribunals). The international community, through the UN General Assembly, reaffirmed its judgment. The obligation relating to aggression is addressed to political and military policy leaders. One may also mention specific legislation in various States prohibiting war or any other type of aggressive → propaganda (see also → Propaganda for War, Prohibition of). This may indeed hurt the fundamental right of freedom of expression (→ Opinion and Expression, Freedom of, International Protection). However, the prohibition of war propaganda is itself the first of the two mandatory limitations to freedom of expression provided for in Art. 20 → International Covenant on Civil and Political Rights (1966) ([adopted 19 December 1966, entered into force 23 March 1976] 999 UNTS 171); the second being the prohibition of hate speech. Finally, scientists may be said to have an obligation to avoid using scientific achievements for destructive purposes.

2. Assessment: A New Right?

23 Some authors consider the right to peace to be a distinct right aimed at the protection of the most fundamental value of humankind, ie peace. However, the majority of scholars conclude that it does not add any new rights and duties but rather refers back to existing rights and obligations. Indeed, the right to peace would be no more than a reaffirmation of the sacred duty to respect the principles and rules laid down in the UN Charter. However, as Alston underlines, the right to peace serves at least to emphasize the intimate relationship between all rights and obligations of the UN Charter and the fact that any non-integrated approach is self-defeating (at 325).
24 The proclamation of the right to peace is not intended to create new legal obligations. It rather serves to pool together and strengthen existing responsibilities; it is a practical summation of work done to articulate and develop basic legal principles essential to the building and maintenance of peace. Realization of the right depends on the degree of endorsement by all States—in their domestic law and in their international actions—of the principles and the spirit of the UN Charter. Thus, the right to peace is mainly a solemn proclamation of the constitutional nature and of the centrality of the UN Charter, interpreted dynamically, in modern international relations. The right stresses that nothing can be achieved if the fundamental principles enshrined in the UN Charter—peace, settlement of disputes (Judicial Settlement of International Disputes, Peaceful Settlement of International Disputes), promotion of human rights, furthering of the economic and social well-being of peoples—are not taken with utmost care and pursued in States’ policies to the utmost extent feasible.

25 It is this political and legal—since the UN Charter is a treaty—aspiration that constitutes the true momentum of the right to peace. Such solemn political-legal proclamations are not useless, since they elicit a pull for action, tend to shape public conscience, structure political discourse, serve as an element of interpretation of legal commitments (see also Interpretation in International Law), and crystallize a sense of collective responsibility. Action must then be taken on the political level: if there is such action, the right gains momentum; if there is none, it fades away. An extremely important factor in the fate of such goal-principles is also the degree to which they manage to permeate public opinion.

26 To sum up, the right to peace is at once a collective and individual right, a right of peoples and States. It does not follow from this that it will have the same content, and reach justiciable character in all three areas. At the inter-State level, it mainly refers back to the UN Charter regime and its erga omnes character (Obligations erga omnes). At the level of individual entitlements, municipal law can grant specific justiciable or non-justiciable rights, as the prohibition of war propaganda shows.

C. International Protection

27 In its second resolution on the right of peoples to peace (UNGA Res 40/11 [11 November 1985]), the UN General Assembly calls upon States and international organizations to do their utmost to implement the provisions of the 1984 Right to Peace Declaration. It requests the UN Secretary-General to report on measures taken by these entities. Accordingly, the UN Secretary-General addressed, for the first time on 4 April 1986, an invitation to governments and international organizations to submit reports. In total, 3 replies from States and seven from international organizations were received. They were reproduced in three UN Secretary-General reports on the right to peace submitted in 1986, 1988, and 1990. These reports give a useful view of measures taken for the realization of the right to peace—such as a call for the establishment by the UN of an international system for verification of disarmament agreements, which could be extended to any peace agreements. However, the Cold War context in which the first series of resolutions on the right to peace were adopted led to the submission of reports only from Eastern and Third World States. This prevented a comprehensive view on States’ positions with regard to the right to peace.

28 The right to peace in the UN General Assembly agenda of 2002 has the merit of being freed from this ideological confrontation. The UN Commission on Human Rights/Human Rights Council now requested to work on the promotion of an international environment conducive to the full realization of the right of peoples to peace (UNGA Res 60/163 [1 December 2005]). It remains to be seen how the new UN Human Rights Council will fulfill this task.

29 Apart from these specific measures, it is possible to use all existing mechanisms for peace maintenance to promote the enjoyment of the right of peoples, nations, and individuals to peace. First, the importance of peace must be taken into account in the decision-making process of competent international and national organs (see also International Organizations or Institutional Decision-Making Process). This is true also for the UN Security Council (United Nations, Security Council). The right would thus serve to stress the duty of the UN Security Council to have recourse to force means under Art. 42 UN Charter only as a last resort (Human Rights, Activities of International Organizations). Conversely, the importance of promotion of human rights and disarmament is also underlined. The balance between the different aspects must be sought in political discourse and decision-making. Secondly, o
has to commend and support the addition of a peace and security agenda to the main objectives of regional economic integration organizations, which clearly goes towards the realization of the right to peace. This is particularly true in Africa with regards the mechanisms developed by the African Union, the Economic Community of West African States, the Southern African Development Community, the Intergovernmental Authority of Development, Economic Community of Central African States, the Community of Sahel-Saharan States, and the Common Market for Eastern and Southern Africa. Thirdly, the right may be invoked in the context of application of legal norms, especially as a source of interpretation. It may be difficult to derive individual legal entitlements from it because of its lack of justiciability. However, in court litigation it can still serve many secondary tasks, such as, precisely, that of an auxiliary for construction of legal provisions, or as a seminal basis for the development of some legal rules derived from it by way of concretization. One may think, for instance, of the whole area of arms export (see also →Arms, Traffic in) to places where civil war is raging (→Armed Conflict, Non-International).

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UNGA 'International Year of Peace: Report of the Secretary-General' (20 September 1986) UN Doc A/41/628.
is therefore a threshold requirement for the adoption of binding measures under Chapter VII of the UN Charter.

2 The term ‘threat to the peace’ is a key term found in Art. 39 UN Charter, the opening provision of Chapter VII of the UN Charter. The same notion is also found in Arts 1 (1) and 99 UN Charter. Art. 39 UN Charter reads as follows:

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or an act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 or 42, to maintain international peace and security.

3 The UN General Assembly has also sometimes considered a matter to be a threat to the peace. When it does so, it acts not under Art. 39 UN Charter, but under its general powers in the relation to the maintenance of international peace and security.

4 The term ‘threat to the peace’ is not a term of art. It is not defined in the UN Charter, and it does not have a fixed meaning. The Council’s practice, which shows considerable flexibility on the point, is therefore of prime importance and will be described below.

B. Negotiating History

5 Art. 11 Covenant of the League of Nations provided that ‘[a]ny war or threat of war ... is hereby declared to be of concern to the whole League’. The negotiating history of the UN Charter indicates that the terms of Art. 39 UN Charter were deliberately left undefined in order to provide the UN Security Council with the flexibility needed to respond to the particular circumstances of the case. Committee 3 at the San Francisco Conference decided ‘to leave to the Council the entire decision as to what constitutes a threat to the peace, breach of the peace, or an act of aggression’ (Report of the Rapporteur of Committee 3 to Commission I, UNCIO XII 505). ‘[T]he Charter does not limit Council’s ability to define these terms, leaving to the UN Security Council the flexibility to make these determinations in concrete circumstances’ (Stromseth 23).

C. Security Council Practice

6 Acting under Art. 39 UN Charter, the UN Security Council has only rarely determined the existence...
of a ‘breach of the peace’ or ‘act of aggression’. It has normally considered it sufficient to determine a threat to the peace, even in cases where an objective observer would consider there to be at least a breach of the peace.

7 The concept of a ‘threat to the peace’ has tended to expand over the years as exemplified in the Presidential statement of 31 January 1992 (UN Doc S/22500). It now covers ‘humanitarian emergencies, the overthrow of democratically elected leaders, extreme repression of civilian populations and cross-border refugee flows threatening regional security, and failure to hold perpetrators of major atrocities accountable’ (Stromseth 32). According to Matheson, the Council has substantially broadened the concepts of threats to the peace to include internal crises where there was a plausible concern that their continuation might lead to international conflict or destabilize neighbouring countries, though as he points out ‘the council’s actions on Rhodesia and South Africa [in the 1960s and 1970s] can be seen as the first steps toward the use of Chapter VII to achieve human rights objectives that became much more frequent after the end of the Cold War’ (Matheson 46).

8 Examples of threats to the peace in the practice of the council have included:


b) Any act of international terrorism: UNSC Res 1368 (12 September 2001); ‘terrorism in all its forms and manifestations constitutes one of the most serious threats to international peace and security’: UN Doc S/PRST/2006/30, under agenda item ‘Threats to international peace and security caused by terrorist acts’.

c) Proliferation of weapons of mass destruction and their means of delivery: UNSC Res 1467 (18 March 2003); ‘a nuclear test... would represent a clear threat to international peace and security’: UNSC ‘Statement by the President of the Security Council’: UN Doc S/PRST/2006/41.

D. ‘New’ Global Threats to Peace

9 The late 20th century and early 21st century saw the identification by the UN Security Council of ‘new’ global threats to international peace and security. These include notably: international → terrorism, the proliferation of nuclear weapons and other weapons of mass destruction, pandemics (notably HIV/AIDS), and climate change.

10 As far as international terrorism and the development of weapons of mass destruction are concerned, these phenomena were not new in themselves. Moreover, the international (inter-State) dimension of these threats to peace is self-evident. As a result, determinations in accordance with which international terrorism or the development of weapons of mass destruction constituted a threat to international peace and security would not in themselves amount to a new type of threat to the peace. The novelty of these threats relate more to their scale and intensity through modern technology, as well as the manner in which the UN Security Council articulated the respective threat to peace.

11 Following the Lockerbie and UTA bombings, and the suspected involvement of the Libyan authorities, the UN Security Council adopted Resolution 748 (31 March 1992) and Resolution 883 (11 November 1993). According to these resolutions, Libya’s refusal to meet the demands of France, the UK, and the US, including the handing over for trial of the individuals suspected of involvement in the bombings, constituted a threat to international peace. The UN Security Council has subsequently made similar determinations in relation to, inter alia, Sudan’s failure to extradite terrorist suspects to Egypt (UNSC Res 1044 [31 January 1996]; UNSC Res 1054 [26 April 1996]), as well as Afghanistan’s refusal to turn over Osama bin Laden to the a country where he would be prosecuted (UNSC Res 1267 [15 October 1999]; UNSC Res 1333 [19 December 2000]).

12 A recent development has been the determination by the UN Security Council of ‘generic’ threats to the peace as a basis for Chapter VII action. In UN Security Council Resolution 1373 (2001), the council reaffirmed ‘that such acts [as the attacks of 9/11], like any act of terrorism, constitute a threat to international peace and security’. Whereas all previous determinations of a threat to peace, including those concerning international terrorism, pertained to a concrete situation, Resolution 1373 (2001) was therefore not merely directed at a particular, past terrorist act, but at all future acts of terrorism.

13 In January 2000 the UN Security Council devoted a day of discussion to the impact of HIV/AIDS, marking
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