



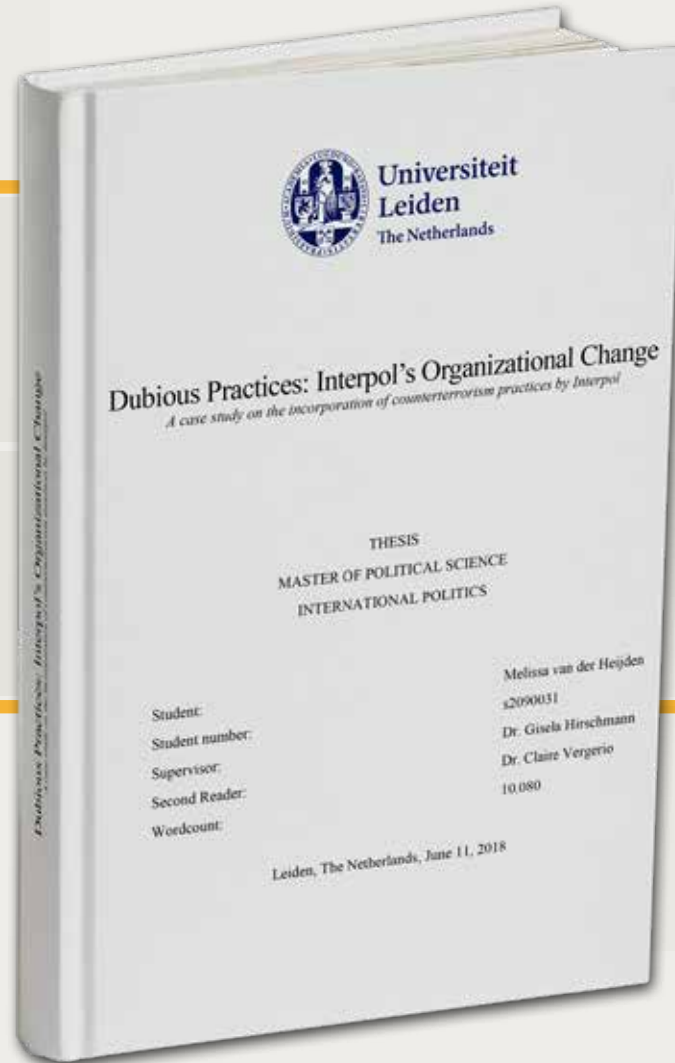
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Planning and Coordination Department

Book Review

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Dubious Practices: Interpol's Organizational Change

A case study on the incorporation of counterterrorism practices by Interpol

Melissa van der Heijden



Book Review

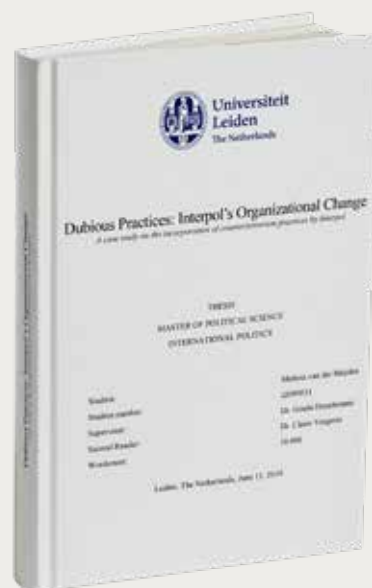


Monthly Book Review
Series of Terrorism Issues

Dubious Practices: Interpol's Organizational Change

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Leiden University - The Netherlands (2018)



International Police Cooperation and Counter-TERRORISM

Never Remain Neutral with Terrorism!

Interpol is an international criminal police organization concerned with combating international crime. It aims to strengthen international police cooperation among its more than 190 member states. The organization, by bringing together now over 190 countries, aims to enhance cooperation across state borders. Interpol is mandated with preventing and fighting crime through enhanced cooperation and innovation on police and security matters. The organization has successfully achieved its objectives, while being committed to political neutrality and respect for the sovereignty of member states. In this regard, Article III of the Interpol Constitution clearly states that it is strictly forbidden for the organization to carry out any interventions or activities of a political, military, religious or racial character. A historical revealing example of such a situation is that the organization refused to provide information on terrorists suspected of attacking the Munich

Olympics at the 1972 Olympics; the organization interpreted its neutrality as a response to non-political interference because terrorism is a political matter outside the organization core mandate.

Given the increasingly growing waves of terrorism and the serious impact of its actions on the international community, Interpol has, however, renounced its well-known mandate and set terrorist crimes as a major target of the functions and activities with which it is entrusted and tasked, becoming the world's largest police organization capable of fighting terrorism.

How did Interpol change from a politically neutral organization to a politically motivated counterterrorist organization?

The thesis titled *Dubious Practices: Interpol's Organizational Change: A Case Study on the Incorporation of Counterterrorism Practices by Interpol* aims to track the trajectory of the history of the organization and the decisive measures that have helped to transform the organization from a politically neutral inter-governmental entity to a politically motivated counterterrorist organization. The foregoing research study was

submitted to obtain a master's degree by Melissa van der Heijden at Leiden University, 2018. The researcher highlighted the critical nexus that eased restrictions on Interpol and how it opened up wider options for decision-making. The constitutional texts of the organization were shrouded in ambiguity, which allowed for its subsequent interpretation in accordance with the ambition of the organization and the preference of the member states.

Historical Context

The global police cooperation system dates back to the First International Criminal Police Congress held in Monaco 1914. It was then when the international community felt a dire need to create a central documentation in such a fashion as to identify, file, and retain international crime in archive for different purposes.

However, the wish to establish cross-border police cooperation was then interrupted by the events of World War I. Later in 1923, the basis of Interpol was founded during the second Congress of Criminal Police in Vienna. The International Commission of Criminal Police, which is the original forefather of the organization that would eventually turn into Interpol, came into existence. The Commission developed from a unique institution with a constitution formulated by a group of police officials, without recognition or diplomatic signatures from member states, to the first structured international police cooperation organization supported with a central criminal data bank. These efforts, however, coincided with the outbreak of World War II, which divided the international community into two key pacts and disrupted the work of the organization. After World War II came to an end, a third attempt was made to re-establish international police cooperation, and the organization leadership was then transferred to France. By 1956, the Commission Constitution had been redrafted, becoming the international criminal police

organization and best known by its acronym Interpol.

The organization increasingly gained more credibility with a prominent consultative status in the United Nations, as a non-governmental organization. It developed a new constitution consistent with the Universal Declaration of Human Rights. The reformed constitution is characterized by three fundamental principles; namely, respect for national sovereignty, imposition of ordinary criminal law and universality.

Accordingly, Interpol is now recognized as an intergovernmental organization, which ensures and promotes the widest possible mutual assistance between all criminal police authorities within the limits of the laws existing in the different countries and in the spirit of the Universal Declaration of Human Rights.

Following World War II, the neutral nature of the organization became more established, especially in light of the international turmoil triggered by the Cold War, which made international police cooperation more difficult. Interpol maintained its non-political neutral character to avoid prejudice to the sovereignty of member states, steer clear of interference in political, military, religious or racial issues and only to combat international crime.

The Organization Framework

The working activities of Interpol are designed and guided within a clear framework of governing bodies and statutory meetings. The structure of the organization is characterized by three elements, forming the decision-making process; namely, an executive committee, a general assembly and a general secretariat.

The General Assembly is the supreme entity of the organization and is composed of delegations of member states and meets annually to take decisions on the organization policies,

activities, programs, budget, expenses and others. Each delegation of the member states of the organization shall be entitled to have one vote, and decisions shall be taken by a majority of votes. The General Assembly shall not have legislative authority. The decisions made by the General Assembly are merely recommendations and suggestions. It is in fact a platform to discuss topics related to international police cooperation, a means of information exchange, and sharing of knowledge and mutual trust between member states. The executive committee shall be composed of 13 members elected by the General Assembly. The chairman of the executive committee shall be the president of Interpol.

The executive committee shall guide the organization in associated practices and management in the implementation of General Assembly resolutions. The general secretariat shall be responsible for day-to-day practices and administrative work, under the leadership of the secretary-general.

The headquarters of the organization is based in Lyon, France, as of 1956. It operates 24 hours a day, 365 days a year as it functions as the centre of contact for national and international authorities and offices in member states that are linked to ensure cooperation, information flow and international investigations.

Knotty Crises

Although the organization is guided by the principles of non-interference into political issues, it has been able to change its approach to engage in counter-terrorism efforts, following a series of events it has been unable to intervene in, and thus sparked crises between the organization and member states. In 1951, an airplane was hijacked from Czechoslovakia and landed at a US base in West Germany. Following the hijack incident, Czechoslovakia called on Interpol to arrest the hijackers as an air piracy

crime within the jurisdiction of the organization scope of work, while the United States urged the organization not to interfere in the investigation, claiming that it is a case of seeking political asylum to escape the communist regime. Interpol finally decided to intervene in the case and sided with the Czech government, and the United States accordingly withdrew its representatives from the organization.

The incident uncovered the apparent divergence in the interpretation of Article III of the Interpol constitution. It further highlighted the importance of reconsidering the political neutrality of the organization, but did not lead to a change in the approach of the organization. In the years that followed, the organization continued to assume its non-interference and neutrality towards terrorist crimes.

While participating in the Olympic Games in 1972, some Israeli athletes were killed in the Olympic Village of Munich. When German police requested Interpol to provide information about the attackers and urged Interpol to track down them, the organization refused to respond to the request, opting to remain neutral and not interfere in the case as it was of political nature.

Apart from two difficult incidents, Interpol was lucky enough not to face thorny issues, but the organization mandate remains shrouded in ambiguity and confusion when it comes to addressing issues akin to terrorist cases, and its position on these issues needs to be reconsidered. These circumstances have been accompanied by a spate of increased political violence and terrorism waves around the world, with European countries and the United States urging the organization to contribute more seriously to countering terrorism.

Critical Juncture

Following the foregoing Munich attack, more international police cooperation was needed, particularly as member states were dissatisfied

with the organization performance, reaching a critical juncture that contributed to the expansion of its politically neutral nature under Article III. This has set the organization on a course to gradually include counterterrorism activities. Following the retirement of Secretary-General John Nepoté in 1978, who was a staunch supporter of the organization political neutrality and non-interference, complaints of Interpol inability to deal with certain cases, particularly terrorism, increased. The Interpol Secretariat-General has developed a set of guidelines for dealing with terrorism, but due to the accuracy and sensitivity of the subject thereof, it was not seriously debated until 1983.

In order for Interpol to engage in counterterrorism efforts, it had to reinterpret Article III of the Constitution thereof and adopt a dominant theory of interpretation, where the political motives of a terrorist act were dominated by the criminal nature of the act.

During the meetings of the General Assembly of the next years, Interpol inabilities and outdated constitution were a noted subject. Furthermore, pressing matters on increasing international crime rate were frequently brought up at the General Assembly by member states. Consequently, during the opening of the 52 Session of the General Assembly in Cannes (1983), the Organization President, Jolly Bugarin, addressed his plans to further update the organization course of action and need to fulfil present day requirements. He also acknowledged the dire need for a critical review of previous actions and the will to prove Interpol ability to deal with the complexities of present times. With the increasingly mounting concern of terrorist activities affecting the organization and member states, Interpol had to alter the organization stance on the matter. This change

led up to the decision to reevaluate the Interpol Constitution.

During the 53 Session of the General Assembly (1984), the executive committee proposed Resolution No AGN/53/RES/7, relating to the application of Article III of the organization constitution thereof, which was passed with 70 votes in favour, 17 against and 3 abstentions. The decision was then controversial, setting the course of the organization framework and mandate in a completely different direction. The decision changed the limited scope under which the secretariat-general and associated national offices operate. Given the amendment to the interpretation of Article III, the secretary-general was able to discuss the possible application of Article III to specific situations with the national requesting authority. Although the resolution affirmed respect for the limits of Article III, it remained shrouded in ambiguity and the unclear definition of the political, ethnic, religious and military practices that Article III prevented Interpol from addressing. Each case submitted by a member state must therefore be taken into account separately in the context, with full responsibility for the member state requesting Interpol assistance.

The only way out for Interpol was to render reinterpretation to Article III of its constitution. Furthermore, the organization amendments made to Article III were built on the theory of predominance by looking at the circumstances and nature of the crime before the political motives of a terrorist act. The limitations of Article III were thus avoided, and the terrorist crime was addressed in accordance with its fundamental principle; that is, the fact of the criminal act itself. For the new interpretation of Article III to be well supported, three criteria have been established to assess terrorist cases:

First: the criterion of the principle of a conflict zone, in the sense that any terrorist act committed outside the conflict zone is criminal, even with clear political motives behind it.

Second: the status of the victims was assessed; no innocent civilian can ever be a legitimate target of a terrorist attack, no matter the motivation behind it. Such crimes are again treated as predominantly criminal.

Third: the scale of how the crime was considered, arguing that crimes exceeding a certain degree of violence could not be a legitimate expression of grievances or injustice. Such brutal attacks are then classified as predominantly criminal rather than expressing political, religious or ethnic demands.

Following the new interpretation of Article III of the Interpol constitution, acts that fall under terrorist offenses shall be of a political nature, such as treason, membership of prohibited organizations, and political crimes associated with their political activities. The new approach to the interpretation of Article III changed the scope of work under which the secretariat-general and national coordinating bodies operated (Interpol country offices).

Interpol framework and independence were based on a two-pronged idea: respect for the sovereignty of the state, and the structure of the organization that protects its independence by acting through national coordinating bodies. However, the increasingly growing development that accompanied international crime triggered a heated debate within Interpol and a pressing urgency to take action by member states. Likewise, the increasingly growing development prompted the need for Interpol member states to address controversial issues, mitigate and allay their fears of interference or prejudice to the sovereignty of member states and allow the organization to expand the associated activities thereof.

Wider Scope

As for the means by which Interpol may intervene in terrorist crimes while honoring the core of Article III of the constitution of the organization, Part I of Resolution AGN / 53 / RES / 6, adopted

by an overwhelming majority (95 votes in favor, 1 abstention) deals with the classification of violent crime, commonly referred to as terrorism in view to its scope which impacts all member states. This is spelled out by Secretary-General Kendall's famous statement on the new classification of terrorism: when there was, for example, a serious bomb incident, we did not call it terrorism. This word was banned from our language; we called it a violent crime by an organized group.

The amendment made to Article III enabled Interpol to expand its counter-terrorism activities, which were not previously permitted. The transformation of Interpol new course can be determined in many of the decisions made in subsequent years after the amendment. In 1993, the mandate of countering terrorism became one of the main functions with which the international police cooperation was entrusted and tasked. Five years later, Interpol introduced the "New Guidelines to Combat International Terrorism", adopting amendments to the interpretation of Article III given the circumstances and nature of the crime before considering its motives. Such new guidelines aim at improving cooperation and condemning any terrorist acts. Although this declaration did not provide any clear definition of terrorism, it

The transformation of Interpol mandate in countering terrorism has provided clear evidence of the extent to which the impact of organizational change can affect the work of international organizations and how this affects their future practices.

continued to condemn all acts of terrorism that threaten the international community and fall under the descriptions of previous resolutions.

In 1999, Interpol was referred to as an essential tool for international police cooperation to achieve the objectives of the draft United

Nations Convention against Transnational Organized Crime in Resolution AGN-1999-RES-8, whereby counter-terrorism activities became a permanent part of Interpol practices and associated objectives.

As of September 11, 2001, the priorities of the international community have shifted further towards countering terrorism. Interpol headquarters implemented a 24-hour terrorist crime service; the organization strengthened communication with the public, established a crisis task force and prioritized terrorist crimes. It called on member states to cooperate with the organization without reservation and to the fullest extent permitted by national law in identifying any accomplice who had helped to commit terrorist acts and bringing those responsible to justice.

It is conspicuous that the amendment made to Article III set Interpol on a course abandoning its neutrality and non-political interference. Its efforts to separate crime from motive were surpassed by the need to protect humanity. Because of the growing threat of terrorism, it has changed its legal mandate and set its functions on a course that enormously emphasizes

counter-terrorism engagement. Due to the need for cooperation by member states, structural constraints on the non-political nature of Interpol were eased, and member states were allowed to change their view and interpretation of terrorism.

While Interpol ability to strike a balance between its self-independence and the sovereignty of member states is essential, the organization has gradually been able to expand its powers without contradicting the sovereignty of member states. In situations such as terrorism that threaten the entire international community, member states are increasingly becoming more willing and much keener to relinquish their sovereignty to international organizations in order to combat international crime more effectively. This opens new horizons for the work of international organizations, while their impact on the international community is becoming deeper.

Interpol shift in counterterrorism has exposed the ability of organizations to change one of its core principles, and has provided clear evidence of how far organizational change can affect the work of international organizations, and how it affects their future practices.

Study:

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