



**TERRORISM AND THE UN:
BEFORE AND AFTER
SEPTEMBER 11, 2001**

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*Dedicated to
My beloved
Grand Parents
(Nana and Nani)*

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Certified that the thesis entitled "*The United Nations and Terrorism Before and After September 11, 2001*" submitted by **Ms. Rabab Arshad**, for the award of the degree of **Doctor of Philosophy in Political Science** of Aligarh Muslim University is her bonafide original work carried out under my supervision. The thesis may be placed before the examiners for evaluation.

This thesis has not been submitted for the award of any degree of this University or any other University.

Professor A.R Vijapur

30/10/2015

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AIO	Administration and Information Office
ATAO	Assessment and Technical Assistance Office
CIA	Central Intelligence Agency
CTC	Counter Terrorism Committee
CTED	Counter–Terrorism Executive Directorate
CTITF	Counter–Terrorism Implementation Task Force
CVE	Countering Violent Extremism
DHS	Department of Homeland Security
ECOSOC	Economic and Social Council
FAA	Federal Aviation Association
FATF	Financial Action Task Force
FBI	Federal Bureau of Investigation
FLN	National Liberation Front
FTF	Foreign Terrorist Fighters
IAEA	International Atomic Energy Agency
IAEA	International Atomic Energy Agency
IATA	International Air Transport Association
ICAO	International Civil Aviation Organization
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICJ	International Court Justice
IHL	International Humanitarian Law
IRA	Irish Republican Army
LTTE	Liberation Tigers of Tamil Elam
NGO	Non Governmental Organization
ODIHR	Office for Democratic Institutions and Human Rights
OHCHR	Office of High Commissioner for Human Rights
OIC	Organization of Islamic Conference
OPCW	Organization for the Prohibition of Chemical Weapons
OSCE	Organization for Security and Cooperation in Europe
PFLP	Popular Front for the Liberation of Palestine
PIRA	Provisional Irish Republican Army
PKK	Kurdish Workers Party

PLO	Palestine Liberation Organization
SAARC	South Asian Association for Regional Cooperation
TPB	Terrorism Prevention Branch
UN	The United Nations
US	The United States
UDHR	The Universal Declaration of Human Rights
UNDP	The United Nations Development Programme
UNGA	The United Nations General Assembly
UNHCHR	The United Nations High Commissioner for Human Rights
UNSC	The United Nations Security Council
USSR	The Union of Soviet Socialist Republic
UTA	Union des Transport Aeriens
WHO	World Health Organization
WMD	Weapons of Mass Destruction
WTC	World Trade Centre

In contemporary world international terrorism has become a significant threat for almost all the countries around the world, including those which are most powerful and most developed. Terrorism is not a recent phenomenon it was present in the world since ancient times in varied forms and manifestations. Therefore, people throughout history were witnessing the threat of terrorism. But nowadays due to globalization and revolution in international telecommunication technology (ITO), the reach of terrorists has become worldwide. Consequently, international community is facing new forms of terrorism which are more powerful, well organized, and deeply ideological.

The word “terrorism” has originated from the French word “*terrorisme*” which is derived the Latin verb “*terrere*” meaning to frighten to or to cause tremble. Actually, it was used originally to describe state terror i.e. the reign of terror which existed in France in the post revolutionary period. However, the meaning and application of the world terrorism has undergone numerous changes with the passage of time. In recent times, terrorism has assumed the position of worldwide scourge. After 9/11 attacks on World Trade Centre in New York it is being increasingly projected as a serious threat to international peace and security.

Definitional Problem

Although terrorism has had a long history, there is no universally accepted definition. The scholars, security experts, strategic thinkers, national governments, international agencies etc. still have disagreement about its meaning more than any other concept in the recent past.

Terrorism has been identified by the United Nations as a threat to international peace and security particularly after the deadly event of September 11, 2001 which brought the issue of terrorism to the forefront of world affairs in an unprecedented manner. Still, the United Nations efforts have proved futile in arriving at a comprehensive and universally acceptable definition of terrorism. The large number of treaties and conventions has been adopted by the United Nations to suppress terrorism. Nevertheless, its approach towards terrorism has been adhoc in nature. The United Nations has developed such an international legal framework which shows its subject matter approach against terrorism. Therefore, the increasing events of hijacking urged the United Nations to adopt anti-hijacking conventions. Taking of hostages incited it

to adopt convention against taking of hostages. Likewise, the possibility of terrorists getting access to nuclear weapons forced the United Nations to adopt convention against Nuclear Terrorism. This adhoc and subject matter approach of United Nations has not yielded good consequences. Even today the United Nations is still striving to find a common definition of the word terrorism. None of the 13 and the 13 amendment instruments of the United Nations contain a universally accepted definition of terrorism. It has been described variously by states and other organizations according to their own national interest.

It is an inevitable fact that United Nations made many efforts to deal effectively with the issue of terrorism and has taken number of actions against it. But, without being able to agree on how to define the phenomenon, is a significant part of the story. The major problem which terrorism poses for the world organization is due to the lack of consensus as famous aphorism pointed out by many observers “my freedom fighter is your terrorist”—exposes the intensity of the problem which terrorism creates for the United Nations.

The United Nations consists of six principal organs—the General Assembly, the Security Council, ECOSOC (the Economic and Social Council), Trusteeship Council, the International Court of Justice, and the Secretariat (the Secretary General). All these UN organs deal with the issue of terrorism in one way or another. Before 9/11 the issue of terrorism was mainly handled by the General Assembly which considered it as a general problem. It has passed many resolutions and draft conventions against terrorism and also tried to combat it through long debates and by establishing special committees after 1996. After 1990s or particularly after 9/11 the Security Council took up the issue of terrorism and dealt with this menace through operative resolutions and the formation of CTC (the Counter Terrorism Committee). The Economic and Social Council (ECOSOC) by relating the issue of Human rights with terrorism and through special rapporteur, the Trusteeship Council tackle this issue through non-debate on freedom fighters v. Terrorists and the connection to self determination, the International Court of Justice, for example in the Lockerbie and Iranian hostage taking cases, the Secretariat (the Secretary General) through countless initiatives. Therefore, it can be said that the role of United Nations in combating terrorism is multi-dimensional. Yet, it fails to deal effectively with the menace of

terrorism due to the lack of consensus among the Member States of the United Nations.

The issue of terrorism has given birth to numerous specialized international conventions of the United Nations against varied forms of terrorism. These conventions have dealt with diverse varieties and manifestations of terrorism extensively focusing on Protection of Civil Aviation and Safety of Aircraft, Protection of the Safety of Persons, Protection against the Use of Explosives and Bombings, Preventing the Use of Weapons of Mass Destruction, and Preventing Measures of Financing Certain forms of Terrorism. United Nations has adopted 13 international instruments against terrorism.

Terrorism has direct impact on the enjoyment of human rights. It is a threat to life, personal dignity, and physical integrity of individuals. Human rights are not violated only through terrorism but the counter-terrorism policies adopted by the states and government also resulted in grave violation of human rights. The United Nations High Commissioner for Human Rights has made detailed study on terrorism, counter-terrorism and human rights. This study clearly reveals that terrorism and counter-terrorism both poses serious threat to human rights. It was also emphasized by this study that there are certain inalienable human rights that cannot be taken away in any conditions, whatsoever. Therefore, counter-terrorism measures should respect the internationally recognized human rights.

The United Nations as an international organization authorized with the mandate to guarantee respect for fundamental human rights for each and everyone everywhere has a responsibility for combating terrorism from the perspective of international human rights also. However, it is difficult for the United Nations alone to win the fight against this scourge. Therefore, there is a requirement of cooperation between Member States and the United Nations. Although terrorism was present in the world since time immemorial, the world has seen a paradigm shift in the fight against terrorism and state's response to it in the aftermath of 9/11. There was a serious challenge before states of responding to the threat of terrorism on one hand and on the other hand maintaining international human rights standards.

It is difficult to understand terrorism without considering main causes and motivations behind it. This fact cannot be denied that there are a number of factors that give birth to the menace of terrorism. There are many factors that work together and motivate

groups as well as individuals to adopt extreme measures, such as terrorism. It is really hard to understand and compress all the factors and motivations in a single study. However, there are many common factors or the most general causes leading to terrorism which can be explained and elaborated. This study makes an attempt to study these factors and causes.

Terrorism is indeed a threat to global security and human rights therefore it needs to be suppress at any cost. The nations and international community at large cannot afford to ignore this threat any longer. It is due to the political dynamics of states which makes it difficult to reach any consensual definition of terrorism in order to combat this menace. United Nations and other multilateral organizations have adopted numerous measures and policies for suppressing the threat of terrorism but these are limited to only constructing legal framework in the form of multilateral treaties and conventions. It is significant to highlight here that unless the root causes of terrorism such as huge violation of human rights, global injustice, imperialism, liberal capitalist paradigm of successive exploitation are addressed in right perspective, it will be quite difficult to repress terrorism as well as violence.

Review of Literature

Academic literature about the United Nations and terrorism has been scattered or simply nonexistent, this is due to the fact that the activities of United Nations regarding terrorism were generally ignored. The issue of terrorism becomes the focus of attention to the United Nations after the deadly event of September 11 2001.

The scattered literature already existing on the subject is reviewed here. There are number of books, articles in professional journals and research works available and wide array of these are reviewed. This literature review is supposed to meet two main objectives. First, to deepen and sharpen the knowledge of this subject and the understanding of the main issues under debate and to focus on the literature closely related to the topic of our research. Second, the present study of doctoral thesis seeks to contribute to filling the significant void in the existing literature on the question of terrorism, both before and after September 11 2001.

A bulk of work has been done on terrorism with reference to specific historical examples. For example, over the years a large body of work has developed on the Irish Republican Army (IRA) and other groups in Ireland: On the Shining Path in Peru and on the number of other examples in the Middle East. Perhaps the largest

body of such writings relates to ethics of and politics of self determination struggles, which led to the extensive debate about what to call a freedom fighter. Indeed commentators frequently overlook the fact that human rights, and especially the right of self determination, can serve as a justification for terror. Many anti colonial movements in India, Algeria, and Vietnam were justified as a means of terror. The Palestinians and the Tamil Tigers of Sri Lanka are the most current manifestation of this phenomenon. Much of this literature remains in the realm of case studies.

To justify the act of terrorism in the name of self determination confuses human rights justifications, in which the loss of innocent civilians life are condoned and the laws of war in which attacks on civilians are strictly regulated. It also neglect that the death of civilians are the first option for much terrorist violence for example by Basques and Irish nationalists. Rather than to adopt peaceful and good efforts to pursue their goal, violence is adopted as a short act to attain their objectives. Much of the literature on terrorism deals with religiously motivated terrorist attacks. Religion is also considered as a motivating factor for terrorism. The attacks of September 11, 2001 were such a deadly event which was plotted because some groups are religiously motivated and they were intent to inflicting harm on a larger scale.

As to the rest of the kind of terrorism, an increase in focus of attention was on well publicized and dramatic events. Thus for example the 1983 attack on the U.S. Marine Barracks and the U.S. embassy in Beirut, the downing of Pan Am Flight and UTA flights in the late 1980s, the first attack on the World Trade Centre in 1993, the attempted assassination of Egyptian President Hosni Mubarak and the former U.S. President H.W Bush, the bombings of the pharmaceutical factory in Sudan and the attacks on the USS Cole in Aden in 2000. In particular there is a large body of work dealing with the Lockerbie bombings and the persecution of two Libyan suspects involved in this issue.

If something is to be found on the United Nations and terrorism, it is most often within international law literature because many of the existing international conventions on terrorism have been negotiated within the General Assembly's Sixth Committee (Legal). Most of the discussions focus on the implication of the resulting conventions instead of United Nations role as an operational actor. But the scenario has changed after September 2001. Since then the menace of terrorism has dominated the literatures of academic and policy matters. The question of defining terrorism,

studies of Al Qaeda movements and Osama Bin Laden, who was the main culprit of 9/11 attacks have taken centre stage. As a result, in the aftermath of September 11, 2001 the studies and discussions produced were mainly focusing on issues such as War on Afghanistan, U.S. policy on the nature of international response to September 1, 2001 and kind of response is appropriate to confront terrorism. The United Nations role is rarely visible either in decision making or in operational terms.

Martha Crenshaw¹, in her book, *Explaining Terrorism: Causes, Processes, and Consequences* highlights the problem of finding general explanations for terrorism and contends that it is possible to distinguish different types of variables, as a starting point for further research on causal relations. Crenshaw's objective was to outline an approach conducive to analysis of the causes of terrorism in order to distinguish "a common pattern of causation from the historically unique" is predicated on a comparison of different cases of terrorism.

Javier Ruperez², in his article, "The United Nations fight against terrorism: five years after 9/11," describes the role of United Nations in countering terrorism and the various countermeasures it has undertaken particularly by the most important organ of the United Nations that is, Security Council. He explicitly points out the problems that are hindering the progress in countermeasures. The approach of Security Council towards countering terrorism has become strong after 9/11 attacks. In the five years since 9/11 the Security Council which is witnessing the various events of terrorism and their deadly consequences, has been consistent in its condemnation of terrorism and has adopted strong counter measures, and resolute in the study of the phenomenon and in the search of new methods to combat it. All of these endeavours are evident from the various resolutions that have been passed since then. He also points out that profound difference of opinion on the definition of terrorism have prevented member states from receiving agreement on a general convention against this threat to international peace and security. The other cause which hampers the United Nations anti-terrorism efforts is the tensions among the five permanent members of the Security Council and in the General Assembly.

Yoram Schweitzer and Shaul Shay³, *The Globalization of Terror: The Challenge of Al-Qaida and the Response of the International Community* in this book, writers believe the terrorist destruction of the World Trade Centre on September 11, 2001 was the climax of a course plotted by Osama Bin Laden to bring about his apocalyptic

vision of a decisive clash between the Western and Moslem worlds. This timely volume details the organizational workings and belief system of Bin Laden's brutal campaign. The authors explore the background and objectives of the attacks, the elaborate planning that went into them, and the process of their practical execution.

Dr Isaac Kfir⁴, in his article “The United Nations Approach to International Terrorism following 9/11,” explores the reaction of the United Nations towards the event of 9/11. Prior to the attacks of 9/11 terrorism was seen by the U.N. as a national or regional problem within United Nations. The collapse of World Trade Centre made it explicit that terrorism is an international problem, and this deadly event forced the U.N to start a campaign against it. The creation of Counter Terrorism Committee and its various reports and panels led by Secretary General shows the strong reaction of the United Nations to the event of 9/11. He concludes in the paper that the United Nations has accomplished much in the realm of counter terrorism by establishing some useful facilities to encourage international cooperation. However, the U.N. fails to take any effective action against those who continue to support international terrorism and this detracts from its efforts, cast doubts on its abilities, and prevents international cooperation.

Kshitij Prabha⁵, in his article, “Terrorism and the United Nations,” argues that the beginning of new era in the world politics brought about radical changes in the international relations, where on the one hand the United Nations was formed to establish international peace and security and on the other hand Super Power rivalry give rise to the menace of terrorism. He points out that the tactic of terrorism was used by both the super powers in some form or other to achieve their objectives of foreign policy. In this background the United Nations realized an urgent need to take some effective measures against terrorism in the 1972 and various adhoc committees were formed to deal with the issue of international terrorism which covers its different aspects.

Christopher C. Joyner⁶, in his article, “The United Nations and Terrorism: Rethinking Legal Tensions between National security, Human rights, and Civil liberties” discusses as the international community responds to September 11, 2001 attacks and the general War on Terrorism, member states must continue to address the balance between the rights of the individuals and the security of the States. The study of Christopher C. Joyner highlights the varied roles played by the United Nations in

combating transnational terrorism through norm setting, codification of human rights law, as well as the drafting and effective implementation of 12 multilateral agreements aimed at counter terrorism. In sovereign states system, the United Nations role in checking or reversing these human rights abuses remains severely limited and largely dependent upon the political will of the member states. As a result, the threat which are posed by terrorism, curtail some of the human rights and civil liberties. These curtailments of human rights are considered as the price paid for protecting national security.

Louise Richardson⁷, in her article, *The Roots of Terrorism: An Overview*” describes the present international arena, where there is hegemony of U.S. and its allies, this situation evokes the feeling of contempt and hatred around the world. She states that democracy and globalization provides conditions in which terrorist’s campaign may operate and sustain. Globalization is a new form of imperialism in which developed countries are increasing their influence over poor and developed ones. It creates an environment that can facilitate violent behaviour and acts of terrorism.

Alan B. Krueger⁸, in his book, *What makes Terrorist: Economics and the roots of Terrorism* he explains in a quantitative manner that civil liberties are an important determinant of terrorism. He gives out wealthier countries are likely to protect the civil liberties and political freedom of their residents. So extremists in these countries might be less inclined towards terrorism to pursue their objectives. He further argues that education and poverty have little to do with terrorism. He explicitly explains that the average terrorist suspect is highly educated, professionally employed, they are from middle or higher class background and more importantly, from a country that suppresses civil liberties.

Giuseppe Nesi⁹, in his book, *International Cooperation in Counter Terrorism: The United Nations and Regional Organization in the fight against Terrorism* made an analysis of global and regional responses to terrorism and also examines the role of United Nations and regional organizations in combating terrorism or the effective counter measures taken by them. This book provides a debate on how the fight against terrorism has encroached upon the fundamental rules of international law.

Chantal De Jonge Oudraat¹⁰, in an article entitled, “The United Nations and campaign against terrorism,” he points out that terrorism has been the concern of U.N member states since 1960’s but has been an essential item on the Security Council’s agenda

throughout the 1990's. The driving force behind the United Nations to actively fight against terrorism was the U.S. who has become the target of terrorist attacks. Historically, the use of force unilaterally against terrorism by the states has been rare or even exceptional, but this may be reversed in twenty first century. She argues persuasively that the Council's decision in September 2001 set a precedent by making the main provisions of the anti-terrorism conventions obligations for all states. Chantal De Jonge sees that United Nations can make more of a contribution towards combating terrorism but whether it does or not, will depend to a greater extent on the United States.

Rosemary Foot¹¹, in her article "The United Nations, counter Terrorism, and Human Rights: Institutional Adaptation and Embedded ideas," shows the role of U.N committees in protection of human rights while countering terrorism. This article argues that initially, the procedures adopted by these committees damaged human rights protections, which was criticized by U.N officials, human rights NGO's and by other developing states. Therefore an argument was made that actions of these committees were in accordance with human rights protection while adopting anti terrorist measures. As a consequence procedures have evolved and now give attention to the human rights consequences of counter terrorist action.

James S. Sutterlin¹², in his book *The United Nations and the maintenance of International security: A Challenge to be met* analyses and gives the description of United Nations failures and achievements, while placing them in the context of the ever-broadening definition of international security and of changing attitudes towards national sovereignty and humanitarian intervention. In one of the chapter he has focused on United Nations experiences in Iraq while enforcing disarmament. In another chapter he gives the details of the impact of terrorism and the weapons of mass destruction on the policies and actions of the United Nations.

Victor D. Comras¹³, in his book *Flawed Diplomacy: The United Nations and the War on Terrorism* delves into the role of international organization, that is, United Nations, in dealing with the menace of terrorism. He explores the international political realities and institutional problems that hinder the U.N from successfully implementing and monitoring the counter-terrorism measures. He also describes success and failures of the international organization in combating or taking effective measures against terrorism. Flawed diplomacy is an invaluable resource for anyone

interested in the War on Terrorism and gaining knowledge about the inner workings of the U.N.

Nico Schrijver¹⁴, in his article “September 11 and challenges to International Law,” contends that the central U.N Charter concepts are not well suited to response to September 11 attacks. To deal with international terrorism previous attempts mainly involved prosecuting criminals in domestic law and attempting to apply an international law designed for terrorism sponsored by states or non state actors against a particular government. The terrorist’s acts transformed after September 11, into threats to international peace. Apparently, new practices and interpretations are needed in order to counter the new menace. He also examines four phases of U.N legal responses: early response September 11, general anti terrorism, support or a new regime in Afghanistan, and a broadening of the struggle. He addresses the challenges and a dilemma arises from September 11 2001 and concludes with some final observations about the adequacy of international law as a driving force for combating terrorism.

David Cortright and George A. Lopez¹⁵, in their study *Uniting against Terror: Cooperative Non Military Responses to the Global Terrorist threat* discuss about the terrorist attacks that have continued and rapidly increasing around the whole world, from London and Madrid to Afghanistan and Iraq. Therefore there is a current need for effective anti terrorist measures. America’s reliance on military approaches or the use of violent means and Bush administration’s avowal of constant state of war have overshadowed non military, peaceful multilateral efforts, and there has been an analogous avoidance of these alternative strategies in the literature on terrorism. *Uniting against terror* fills this lacuna by examining and evaluating in the aftermath of 9/11, the cooperative and non military responses to the worldwide terrorist threat with a particular emphasis on the efforts of the United Nations Financial Action Task Force, European Union and the number of other multilateral institutions. It also examines the cooperative, diplomatic and economic policies to address the changing face of terrorism and the global Al Qaeda threat, differentiates between protective measures and long term preventive policies and makes recommendations for effective cooperative and non military strategies.

S. Neil Macfarlane¹⁶, in an important book chapter, “Charter Values and Response to Terrorism,” argues that traditionally one of the most important roles of the United

Nations is the promotion of values and core standards. He points out that the significance of individuals is increasing gradually as opposed to state's rights, particularly during 1990's, but he argues that the event of September 11 threatens to reverse this trend. Macfarlane sees a shift back to the values tied to order and away from individual. If this remains the case, the present seems like the old international arena. The diplomacy of Washington under the Bush administration has tended to be more unilateral than its predecessor. The notion of pre-emptive defence which is not contained in the U.N. charter may be justified in many circumstances. This paper focuses on principles and norms that appear in the U.N. and have been widely shared by U.N. organization rather than on international law per se.

Similarly, Edward C. Luck¹⁷, in his article "The U.S., Counter Terrorism, and the Prospects for a Multilateral Alternative," argues that Bush pursued a multilateral response to terrorism despite of Bush administration's allergy to the United Nations. He moreover reveals that prominent international actors such as Japan and Western Europe do not have not forsaken unilateral response nor they took the assistance of U.N. in their hours of need when they face terrorist attack. He argues that most of the problems of Bush administration have been self inflicted because it has created a perception of unilateralism and sent inconsistent and mixed messages to domestic level as well as audiences at the international level. Thus, he finds that the U.S. approach towards terrorism is "more calibrated and nuanced."

By reviewing the literature available on the issue of United Nations and terrorism, the conclusion may be drawn that the academic literature has given little attention to the United Nations and terrorism both before and after September 11 2001. My study is intended to fill this gap. Despite a bulk of literature or burgeoning literature on terrorism, very few works focuses on the role of U.N in combating terrorism and multilateral mechanism in this direction. Most of the works focus exclusively or particularly on U.S. policy and fail to acknowledge the role of the U.N to the global counter terrorism programme. Very few works have been published on Counter Terrorism Committee (CTC) and related Counter Terrorism Executive Directorate (CTED). Even less has been written about the Counter Proliferation Committee established by Security Council Resolution (1540) 2004. Overall the literature is limited when considered in the area of academic research. Our study is intended to fill this gap and address several questions such as, why it is important to focus on the role

of U.N in combating t terrorism both before and after September 11 2001. As the primary responsibility of the United Nations is to maintain international peace and security, therefore the United Nations should be at the forefront of the international response to terrorism. To what extent is terrorism and particularly the attack of September 11, 2001 was an indication of change in the international environment in which the United Nations operates. What, exactly, was the U.N doing about terrorism both before and after September 11 2001? The objective of his study is to explore answers to these and other related questions.

Significance of the Study

The significance of the present work lies in doing a study on legal measures to combat international terrorism both at domestic and international level. These kinds of studies are of no use as long as the behaviour of countries do not change. There is a need of mutual cooperation, understanding and assistance among the countries in order to bring peace and harmony. The Member states of the United Nations should cooperate with each other to counter the threat of terrorism. All the countries must regard terrorist acts as criminal offence in their domestic laws. Further the researcher realizes that Member States of the United Nations as well as other countries must afford one another the greatest measure of assistance for criminal proceedings which is related to the prosecution or extradition of perpetrators of terrorist's acts. This mutual cooperation between the states and along with United Nations in exchange of relevant information and apprehension of terrorist's act will be of paramount significance for suppressing international terrorism. This fact has been realized around the world that international terrorism is not one country's or region's problem but its tentacles have engulfed the entire world and it has taken a global shape. As it is a serious problem of 21st century therefore it requires an in depth study regarding this threat at the global level which would make all Nations to prepare a strong strategy to face this menace successfully by making proper and strict legislations and coming up with significant solutions.

After making a deep analysis of the research topic "The United Nations and Terrorism Before and after 9/11," the researcher realizes that no doubt United Nations has done an excellent job and has made every effort to eradicate this evil from everywhere in the world by adopting number of resolutions and treaties but its approach has been adhoc and lies on papers only without any effective implementation. The Security

Council which is one of the main U.N. organs, whose decisions are binding on all Member States has been monopolized by its permanent members. This monopoly of permanent members hampers the successful implementation of the resolutions passed by the Security Council. Every member of the Council is concerned about its own national interest than those of international community. Many resolutions of the Security Council have met the fate of non-compliance.

Significance of this study is to propose some suggestions with which the scourge of international terrorism can be contained and eventually eradicated only if the sincere endeavours are made collectively at the national and international level. While throwing light on varied measures to check this evil, the present research makes an humble effort to suggest ways to combat terrorism so that everlasting peace prevails in the world.

Objectives of Research

The aims of the research documented herein is to offer an indicative or illustrative, if not definitive or exhaustive, attempt at determining how effectively the United Nations dealt with the question of terrorism, both before and after September 11, 2001? What is the role of the main organs of the United Nations that is General Assembly and Security Council in combating terrorism? And how effectively the United Nations protect Human Rights while countering terrorism?

This research also aims at knowing the origin of new phenomenon of “international terrorism” and the relation of this phenomenon with structures and scientific technology, communications, economic and social development in the period of globalization and discussing and examining its origin, areas and special motives in varied forms of terrorism which is the product of troubled societies and world.

Research Questions

The study is an attempt to answer the following questions:

1. What are the different types of terrorism and how it affects the world at different periods of time and in varied ways?
2. Why international terrorism has been continuously increasing despite sincere efforts of the international community?
3. What measures had been taken by the United Nations both before and after September 11, 2001 terrorist attacks? And how far it has been successful?

4. What more is required at the international level to curb this menace from the society?
5. Why it is important to uphold human rights in countering terrorism?

Methodology of the Study

The scope of study is undoubtedly vast. The present study is an analytical study. It is based on qualitative research methodology. The literature for the study is collected from different sources. The study is based on historical and theoretical method which includes the use of primary and secondary sources. The problem of terrorism will be analysed from various relevant sources such as books, articles and journals, internet articles, conventions, General Assembly resolutions, Security Council resolutions and reports of the Secretary General.

Hypotheses

After perusal of the available literature on the subject three hypotheses have been formulated:

i) International terrorism is a global and burning issue, it needs sincere efforts of the world community at the international level to curb this menace from the society. ii) Although the United Nations has made numerous attempts to tactfully handle the issue of terrorism, its approach towards international terrorism has been adhoc. Its success depends on Member States cooperation. The United Nations is an intergovernmental body and not a world government to enforce its decisions on the Member States—therefore it is up to their will either to follow its decisions or not which makes the efforts of United Nations futile in the fight against terrorism. iii) The United Nations has adopted several conventions and protocols against specific kinds of terrorist acts, the problem of terrorism has been only partially solved. In almost all the cases the United Nations swung into action against particular manifestation of terrorism after its occurrence. One of the major lacunas of the United Nations counter—terrorism strategy is that it is not comprehensive in nature. In fact, the divergence of the views of Member States has made it impossible for the United Nations to adopt any comprehensive anti—terrorism convention.

Chapterization

The first chapter deals with the introduction, aims of research, methodology, significance of the topic, hypotheses and the research questions. Existing literature on the topic has also been surveyed briefly.

The second chapter deals with the definition, origin and history of terrorism, types of terrorism (international terrorism, state terrorism, religious terrorism, political terrorism, ethno-nationalist terrorism, cyber terrorism, nuclear terrorism) and the problems of defining terrorism. There are numerous definitions given by various scholars and agencies but there is no universally accepted definition of terrorism. The main problem with the issue of terrorism is not that it has no definition at all but it has numerous definitions. However, there is no harmony or consensus on any single definition of terrorism.

The Third chapter makes an analysis of the efforts of the United Nations against terrorism both before and after 9/11. The chapter also discusses about all the Conventions adopted by the United Nations against different acts of terrorism and about its implementation and ratification by different countries. It also discusses about the United Nations Global Counter-Terrorism Strategy for the purpose of consolidation of the endeavours of United Nations and its Member States against the menace of terrorism in all its forms and manifestations. There is also a brief discussion about the important regional treaties on terrorism.

The Fourth chapter starts with the discussion that General Assembly is the inter-governmental body which deals with broad political issues and is a forum where all the states of the world are represented and have equal votes. It further discusses the role of the General Assembly in fighting against terrorism. Until 1990s the issue of terrorism was mainly handled by the General Assembly or particularly before the deadly event of 9/11. The General Assembly has developed normative approach towards the issue of terrorism and regards it as a general problem. Powers of the General Assembly are of recommendatory nature and not binding upon the Member States. However, it has successfully adopted a number of remarkable resolutions. The resolutions of General Assembly elaborately discussed in the form of three streams “measures to prevent terrorism,” human rights and terrorism,” and “measures to eliminate terrorism.” The General Assembly actively reacted against the 9/11 attacks and along with Security Council it has also made an innumerable efforts to fight against this global menace. It has adopted on September 8, 2006 Global Counter-Terrorism Strategy which is considered to be a unique global instrument that will increase national, regional and international efforts to counter terrorism.

The Fifth chapter provides details of the Security Council's approach towards terrorism. It highlights that the active role of Security Council against terrorism begins mainly after 9/11 and it also shows its shifting nature, as terrorism become essential item on the Security Council's agenda after the 1990s in reaction to specific events, in particular after three cases (the drowning of Pan Am Flights, the attempted assassination of Mubarak, and the bombings of American embassies). After September 11, 2001 deadly event Council acted immediately and passed number of important resolutions such as 1368, 1373, 1377, 1438 etc. In Resolution 1373 (2001) various measures were outlined that necessitate significant actions by the member states. The Counter-Terrorism Committee was also established through this resolution in order to monitor the implementation of these measures. This significant resolution for the first time creates obligations for all the member states of the United Nations. But all these efforts proved futile as still there is no comprehensive measure that resolves the issue of terrorism because many of the provisions are only comprehensive on paper and implemented unevenly in practice. The other major obstacle in the adoption of comprehensive measure is the monopoly of permanent members in the Security Council.

The Sixth chapter deals with the issue of human rights, United Nations and terrorism. How they are interlinked with each other and what impact terrorism has on the enjoyment of human rights is the focus of this chapter. The only successful strategy of counter-terrorism will be one that recognizes the essential principle of real security can only be maintained through the promotion and protection of human rights. Consequently, human rights should always be mainstreamed into all elements of counter-terrorism policies. It was proclaimed by the United Nations and Member States have concurred that any counter-terrorism measure must support to the established and recognized principles and provisions of the international human rights law, humanitarian law and refugee law. Many of the powerful states who called themselves as the protector of the human rights and democracy were responsible for the death of civilians in Afghanistan and Iraq by declaring 'War on Terror'. All of these trends diminish the real value of human rights.

The last chapter provides a summary of major conclusions drawn from this study. It examines whether the United Nations has been successful or not in combating terrorism. Despite adopting 13 international instruments against terrorism, the United

Nations is still making efforts to eradicate this evil from the entire world. The chapter also suggests many measures for the international community and the Member States of the United Nations to tackle the issue of terrorism.

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Introduction

This introductory chapter deals with brief history of terrorism and the different types of terrorism and how its different forms and manifestations affect the peace of the world. It also presents some of the various attempted definitions of the term terrorism. This chapter also highlights the problem of defining terrorism and the reasons for not having an accepted definition.

The meaning of the term “terrorism” is dynamic and always changes with the change of circumstances. It is a controversial term that is generally applied to one’s enemies and opponents. Terrorism is not a recent phenomenon, since antiquity it was present in the world. It has been the cause of myriad violent events that occurred around the world. Terrorism encompasses violence and intimidation and is assumed as a phenomenon which can be employed for achieving political aims. As the concept of terrorism fulfills multiple functions, the better way to think of terrorism is not as a crime but different dimension of crime, a higher, more dangerous version of crime, a kind of super-crime incorporating some of the characteristics of warfare.

Terrorism is purely a subjective term, because those who use terrorism as a weapon for the attainment of their objective, they may be called as ‘freedom fighters, ‘holy warriors ‘or ‘revolutionaries’ depending on the objective they wanted to achieve, as the famous saying goes, “one man’s terrorist is another man’s freedom fighter”. One group engaged in some violent activity may be labeled as terrorist, while another group for the same act may be called freedom fighter or legitimate revolutionaries. The goal of terrorist is to take revenge with vengeance from those whom they regard as impediment in the achievement of their target. In pursuance of their goals they adopt varied tactics such as kidnapping, hijacking, blackmail, ruthless killings by shooting and use of bombs, suicide bombing etc. Today’s terrorists are armed with most sophisticated weapons, and are competent enough to destroy targets with high degree of success like solar energy, powered land mines, anti-aircraft guns, missiles, AK-47 and AK-56 and remote controlled explosives.

With the advancement of technology and communication the approach and reach of terrorists has become worldwide or global. Their global network provides them capacity to do violent activities in more than one country at a time. They have developed overseas network unlike traditional terrorists who generally act in some specific areas. Through their violent activities they strive to subvert a political system of the country as well as peaceful life of individuals. Terrorists often targets civilians instead of main target and try to cause as much casualties as they can through suicide bombings and other explosives.

Although terrorism has had a long history and is a serious threat to the whole world, nevertheless, it has become a focus of attention after September 11, 2001 attacks on the “World Trade Centre” in New York, U.S.A and “Pentagon” in Washington D.C. respectively that shook not only the U.S. but the entire world. After these deadly attacks on American soil the U.S. has declared “War on Terrorism”.

The word terrorism comes from the French word ‘*terrorisme*’ during 18th century, based on Latin language verbs ‘*terrere*’ (to tremble) and ‘*dettere*’ (to frighten). It was actually used to describe state terror i.e. the reign of terror which prevailed in the post revolutionary France.¹In 14th century the word ‘terrorism’ entered into western vocabularies through the French language. It was first used in English in 1528.²

Thus, the modern terrorism derives its origin from the epoch of French revolution (1789-1795) and the Jacobins dictatorship that used terror as an instrument for political oppression and social control. Such type of terrorism was an example of “state terrorism”.

Brief History of Terrorism

The history of terrorism is as old as the human civilization itself, but the meaning of terrorism has undergone many changes from past to the present time. Earlier the killing of tyrant ruler was not included in the category of terrorism. In the distant past many of the great thinkers had justified the killing of tyrant rulers and considered it as the civic duty to halt the autocratic rule of the despot. The Greek thinkers, especially Aristotle, had shown several examples where he justified the

assassination of tyrant rulers and have argued that because of their tyrant behaviour they deserved their end. In his book 'Politics' Aristotle has said that:

There are two chief motives which induce men to attack tyrannies hatred and contempt. Hatred of tyrant is inevitable, and contempt is also frequent cause of their destruction. Thus we see that most of those who have acquired have their power, but those who have inherited have lost it, almost at once, for living in luxurious ease, they have become contemptible, and offer many opportunities to their assailants. Anger too, must be calculated under hatred, and produces the same effects. It is often times even more ready to strike the angry are more impetuous in making an attack, for they do not listen to reason. And men are very apt to give way to their passions when they are insulted.

The killing of tyrant was considered as a heroic act, for example, Brutus, the assassin of Roman emperor Julius Caesar was regarded as hero. 'Cicero', the Roman political thinker had also justified the killing of tyrant ruler and he wrote that:

There can be no such thing as fellowship with tyrant, nothing but better feud is possible... for, as we amputate a limb in which blood and the vital spirit have ceased to circulate, because it injures the rest of the body, so, monsters, who, under human guise, conceal the cruelty and ferocity of a wild beast should be severed from the common body of humanity.³

These two quotations explicitly elucidates that both the political thinkers Aristotle and Cicero had excluded those people from the category of terrorist, who had killed tyrant rulers, and have argued that the assassinated tyrant rulers deserved their fate.

In the 1st century the Jewish Zealots also called as the 'Sicarii', or dagger man was the earliest known terrorist organization. They revolted against the Roman and their motive was to prohibit their rule over Judea (now Israel). In 20 A.D, the revolt of Zealot became open, and they were finally besieged and committed mass suicide at the fortification of Masada.⁴

The next group was that of 'Assassins' who emerged in the 11th century C.E. in Persia and was an offshoot of Nizari Ismailis. This group was led by Hassan-i-sabbah, who adopted the method of 'assassination' to assassinate enemy leaders. Their dramatically executed assassinations of political figures terrified their contemporaries.

Eventually this group of Assassins was exterminated by Mongol invaders. Some of their practices were akin to contemporary terrorism that is, all the members of the organization maintain secrecy among themselves, and they try to disseminate their convictions among the populace. These two practices are generally followed by modern terrorist groups.⁵

There were huge lists of terrorist groups which emerged in different periods of history and used varied tactics to sponsor their acts of terrorism. Some terrorists are motivated by an idea of how religious society should be established, some groups are dissatisfied with the policies of the government and fight to set up a different form of government of their choice, while some others want to institute a separate country for their nationality or ethnic group. Therefore, the terrorist groups fall into different categories that followed different tactics and have different motives, such as state sponsored terrorism, political terrorism, national or ethnic independence movements, and religious terrorism. Although there are different categories of terrorism, the tactics of each one of them are same to achieve their objectives that are to generate fear among the masses.

Earlier the driving force behind terrorism was not only religion, there were enlightenment and other intellectual movements which contributed to the spread of terrorism which were carried out to challenge the divine rights of kings and to establish the political system which was based on equal rights for all. The 18th and 19th century terrorists revolted against the system in which few people are rich and the rest are deprived and poor. Besides targeting the hereditary rulers and representatives for assassination by terrorist, the revolutionary governments itself targeted their own citizen and commenced brutal attacks against them, which resulted in infinite number of deaths.⁶

The Roots of Terrorism

Terrorism is the use of violence and fear to influence others and to control their behaviour. This means has been used all through human history, by warlords, emperors, gangsters , priests, preachers, racists, financial magnates, kidnappers etc. in many cases it is a great of violence rather than the act itself that paralyzes

the victims. Terrorism is different from other form of violence such as war or guerilla operations and should not be mistaken in that way.

Many of the scholars believe that the key word to define the concept of terrorism is violence. Factually, word ‘violence’ originated in Latin word (vis). Violence is defined by the World Health Organization “as the intentional use of physical force or power threatened or actual, against a person, or against a group or community that either results in or has a high likelihood of resulting in injury, death, psychological harm, mal-development or deprivation.”⁷

The modern global terrorism transcends the boundaries of violence and has taken more dangerous shape which is beyond imagination. The terrorism of global reach varies strongly from preceding terrorist attacks and other forms of violent struggles which are clearly shown in the table presented below.

Table 1: Characteristics of Terrorism, Guerilla and Conventional War as a Mode of Violent Struggle

	Conventional War	Guerilla	Terrorism
Unit in Size Battle	Large (armies, corps, divisions)	Medium (platoons, companies, battalions)	Small (usually less than ten persons)
Weapons	Full range of military hardware (air force, armour, artillery etc.)	Mostly infantry type light weapons but sometimes artillery pieces as well	Hand guns, hand grenades, assault rifles and specialized weapons, e.g., car bombs, remote control bombs, barometric pressure bombs
Tactics	Usually joint operations involving several military branches	Commando type tactics	Specialized tactics: kidnapping, assassinations, car bombing, hijacking etc

Targets	Mostly military units, industrial and transportation infrastructure	Mostly military, police and administration staff, as well as political opponents	State symbols, political opponents and public at large
Intended Impact	Physical destruction	Mainly physical attrition of the enemy	Psychological coercion
Control of Territory	Yes	Yes	No
Uniform	Wear uniform	Often wear uniform	Do not wear uniform
Recognition of War Zones	War limited to recognized geographical	War limited to country in strife	No recognized war zones. Operations carried out zones worldwide
International Legality	Yes if conducted by rules	Yes if conducted by rules	No

Source: Ariel Merari, "Terrorism as a Strategy of Insurgency", *Terrorism and Political Violence*, Vol.5, no. 4 (Winter 1993), London: Frank Cass, 1993, pp.213-251.

The analysis shown above is general as well as limited; it has some functional points. Violence should be understood as the principal means of terrorism, and this kind of action does not necessarily take the shape of physical violence; we could certainly concede that violence can manifest differently: physically, psychologically and also symbolically. The feature that must be taken into account in our analysis is however that the phenomenon of violence linked with terrorism has varied effects over the political environment.⁸

About the origin of violence there are at least two contradictory standpoints. On the one hand some of the scholars stress that the origin of violence is intrinsic. For example, Thomas Hobbes (1588-1679), Niccollo Machiavelli (1469-1527), Ibn Khuldun (1332-1406), and Immanuel Kant (1724-1804), believe that violence among human beings is natural and innate. On the other hand, some others believe that the violence is not in human nature. Some like Erich Seligmann Fromm (1900-1980),

Jean Jacques Rousseau (1712-1778), Anthony Giddens believe that violence is something which is not planned.

Hypothetically there are in numerous ways to categorize politically motivated violence. However, with the criteria of utility and stinginess in mind, a basic categorization relates to the initiator of violence and to its target, differentiating between states and citizens is presented in table below.

Table 2: A Basic Classification of Political Violence

		Target	
		State	Citizens
Initiator	State	Full scale war; belligerent; activity in peace time, e.g. cloak and dagger operations and punitive strikes	Law enforcement Legal and illegal oppression state
	Citizens	Guerilla; insurgent terrorism; coup d'état; Leninist Revolution	Vigilante terrorism; ethnic terrorism

Source: Ariel Merari, "Terrorism as a Strategy of Insurgency", *Terrorism and Political Violence*, Vol.5, no. 4 (Winter 1993), London: Frank Cass, 1993, pp.213-251.

International Terrorism

The form of terrorism which has international features is described an international terrorism. But the problem of definition remains elusive and until now there is no internationally agreed upon definition of international terrorism. In spite of the fact that the international organization such as United Nations and other multilateral agreements have not been able to reach harmony over the nature and content of terrorism, there are scholars who have made several endeavours to define international terrorism and also attempted to distinguish it from domestic or local terrorism. The most interesting thing about terrorism is that, scholars are not disagreed about the national or international character of terrorism but over its precise meaning.⁹

The violence which is politically motivated and inside the boundaries of a particular state perpetrated by and directed against the inhabitants of the same state is generally regarded as domestic terrorism. Alternatively, terrorism engaging the citizens or territory of more than one country is viewed as international terrorism.¹⁰

The repeated use of politically motivated violence with coercive intent by non-state actors, affect more than one state.¹¹

Bassiouni argues that in order to be considered international, terrorism should reflect an international component, be directed against an internationally protected target, or violate an international norm.¹² He also goes on to particularly mention international elements in acts of terrorism, the targets which are protected internationally, and the international norms pertinent to terrorism.¹³

According to Badey there are five important elements (repetition, motivation, intent, actors, and effect) of international terrorism to differ it from other kind of terrorism.¹⁴

Terrorism even at national level has international implications. Sometimes, in order to get the attention terrorist target foreigners to force the national government to do or abstain from doing something. The techniques and ways adopted by the terrorist at the local level becomes international terrorism in several cases. For example, the hijackings of airline or assaulting the diplomats and persons from international organizations qualify to be regarded as international terrorism. Furthermore, terrorism at any stage cannot continue for long unless it gets moral, political and even logistic encouragement from some states. As a matter of fact terrorism has become effective and safe weapon in the hands of states to deal with their opponents. This is the main cause that many experts regarded terrorism as nothing short of war. Several nations have engaged in proxy war against their rivals by supporting terrorist groups in enemy countries. May be, this is the most significant reason that the United Nations has not been able to define terrorism in unambiguous terms.¹⁵

State Sponsored Terrorism

Governments frequently become the targets of terrorists or the government itself promotes terrorism. The two broad definitions of 'state sponsored terrorism' are: one refers to "government that support or conduct terrorism against other government". The other refers to "government that conducts terrorist acts against their own citizens."¹⁶ French revolution was an example of such state sponsored terrorism in which the government sponsored terrorist acts against their own citizens. After the execution of King Louis, Maximilien Robespierre, establish the committee of public safety and the Revolutionary Tribunal which marked the beginning of his regime 'de la terreur' from May 1793 to July 1794. He employed violence, including the brutal methods of executions by guillotine, in order to enforce obedience to the state and to intimidate the enemies of the regime.¹⁷

The growth of state terrorism is the most disturbing aspect of terrorism. When state is directly or indirectly engaged in an act of terrorism for the accomplishment of certain goals, may be a matter of policy, the act is termed as state terrorism. The state's involvement in such acts may be in various ways and in varied degrees. For example, the authorities of state may commit this act in respect of some of its citizens living inside or outside the territory in order to intimidating them, or against colonialism, or against national liberation movement. Moreover, an act may be committed by the state by way of giving support to the latter. State sponsored terrorism has its origin in varied causes, viz. colonialism, socialism, obscurantism, political prosecution, human rights violation, economic exploitation, unemployment, alienation, communication gap and overall, moral decay of society. "Violence breeds violence and when violence shouts, reason becomes dumb and deaf." Therefore, terrorist acts of individual or group of individuals always result in loss of life, limb and property to a certain extent, sometimes the loss is big and another times time it was less. But state sponsored terrorism result in huge loss of life and property as it was evident from the cases of invasion of Afghanistan and Iraq.¹⁸

After the attacks on World Trade Centre in New York City and pentagon near Washington, D.C. on September 11, 2001, U.S. State Department presented a list of seven countries—Iran, Iraq, Libya, North Korea, Sudan and Cuba as sponsors of

terrorism. These countries were accused by the U.S. government of being the “most active state sponsors of terrorism in 2001”. They directly involved in planning terrorist acts as well as provided support to other fundamentalist organizations, for example, Iran supported many fundamentalist Islamic organizations such as Hamas, Hezbollah and the Palestinian Islamic Jihad. Iraq permitted several terrorist organizations to settle their offices in Baghdad which includes ‘Abu Nidal organization’, ‘The Palestinian Liberation Front’ etc. On December 21, 1998, Pan Am Flight 103, a Pan American world Airways flight bombarded by Libyan Abdel Baset al-Megrahi over the Scottish town of Lockerbie wherein 259 people were killed in the plane and 11 on the ground. As a consequence economic sanctions were imposed by United Nations and the U.S against Libya. In the same way North Korea, Sudan and Cuba also allowed the terrorist organizations to establish their headquarters in their country, and their territories were allowed to use as a hideout for the terrorist.¹⁹

The use of terror tactics by the state is the part of foreign policy and it become legitimate if it is used by the powerful state but the same act is condemned and termed as terrorist act if it is conducted by the weaker state for example Germany’s bombing of London and U.S. atomic destruction of Hiroshima during World War II were the examples of using terror tactics by the state.

Religious Terrorism

Religion is one the most strong forces that can influence the behaviour of human being. Due to varied religious beliefs societies have quarreled with each other. Many people and the number of groups used the tactics of terrorism in the name of religion for achieving their violent objectives which led to innumerable deaths and murders. On religious grounds many terrorist groups justify their violence and have been killing innocent civilians since hundreds of years with the anticipation to either disseminate or coerce their religious beliefs and viewpoints.

‘Zealots’ and ‘Assasins’ were the earliest known examples of religiously motivated terrorist groups which used the tactics of terrorism to attain their violent objectives. In India a group known as ‘Thugs’ terrorized travelers and

brutally murdered them as oblation to their goddess 'Kali', "the Hindu goddess of destruction".²⁰

Gunpowder plot or papacy plot was another example of religious terrorism who's well known member Guy Fawkes and his colleagues justified their act in the name of religion. They unsuccessfully attempted to blow up the London's House of Parliament in 1605, but was captured and killed ruthlessly. He and his colleagues plotted such event in order to make Roman Pope supreme in England, who was earlier replaced by the king with the help of Parliament.²¹

Contemporary religious terrorism has been more destructive and brutal than the earlier terrorist movements. Religiously motivated terrorist sometimes used religion as the paramount goal or sometimes in amalgamation with other factors. The modern terrorism may have the following three traits:

- i. The perpetrators must have used religious scriptures to justify their violent acts or to gain recruits.
- ii. Clerical figures must be involved in leadership roles.
- iii. Apocalyptic images of destruction are seen by the perpetrators as a necessity.

There is a big difference between the traditional terrorist groups and the modern religious terrorists. The traditional terrorist groups have not adopted the policy of mass killing, like the modern religious terrorist groups or particularly those groups who fight to set up Islamic government such as Al Qaeda, Hamas, Hezbollah, they justify their violence on Islamic groups. These groups called themselves as "holy warriors" engaged in a holy war that is Jihad—"and may believe that God wants them to kill 'unbeliever.'²²

The leader of Al-Qaeda, one of the Islamic terrorist organization, Osama Bin Laden, who was a prime accused for planning September 11, 2001 attacks on the World Trade Centre and Pentagon, issued a fatwa on 23rd February 1988, "that announced the setting up of a world Islamic front for Jihad and declared that it is the duty of all Muslims to kill U.S citizens—civilians or military, and their allies everywhere." The barbarous language of 'Fatwa' explicitly shows the callous nature of the movement. They had also perpetrated huge amount of brutal mass

killing in Kenya, Casablanca, Saudi Arabia, Iraq, and the number of other countries.²³

The growing influence in the Muslim world, which is against Islamic practices and beliefs, may spawn religious terrorism on a massive scale. But it is wrong to say that Islam have a monopoly on religious terrorism, as evidenced by Aum Shinrikyo, a Japanese religious group which was founded by Shoko Ashara, they believed that those who were not included in their group have to die, because it is the final judgment of God, which was put into practice by them. This group made several abortive attempts of biological terrorism by using botulin toxin and anthrax spores.²⁴

Political Terrorism

One of the tactics employed by terrorists to gain publicity for their violent act is to politicize it and to develop fear psychosis among the masses. Through intimidation, kidnapping, bombing, killing, hijacking, and subversion they contrive to change the existing political system. They generally attack innocent civilians because they are easily accessible than their ultimate target that is, political leaders, diplomats, ministers and other dignitaries, but their act become political when their objective is to kill political leaders and to devastate the political institutions in order to defame the government concerned.²⁵

Political terrorism can be thought of as the use of violence by group acting either on behalf of, or in opposition to, an established authority by causing panic, destruction, distrust and demoralization among the people at large. Thus, the range of such activities covers cases of hijacking of buses and planes, taking of any person as hostage, abduction of the leaders or their family members, assassination of heads of states or governments or of important political personalities, explosion of bombs to destroy public buildings and kill innocent people living or assembled therein and the like.²⁶

Anarchism was considered as one of the ways of organizing society after the social changes brought about by Industrial revolution. Anarchism in the second half of the 19th century was associated with bombings and political assassination in Europe.²⁷ Anarchist generally target hereditary rulers and their representative,

in order to end their rule. Some of the anarchists' propagated their cause through publishing newspapers and by giving speeches while some others become terrorist. One of the anarchist 'Karl Heinzen' published 'Der Mond'(murder), in which he vindicate political murder, 'Fahrenheit' was a newspaper published by 'John Most' which comprises his "Advice for terrorist," in which he asked, "What is the purpose of anarchist threat an eye for an eye, a tooth for a tooth– if they are not followed up by action." An Italian anarchist, Carlo Pisacane, has coined the concept of "Propaganda by deed." His idea was that instead of writing articles and essays, terrorists should perform through actions that masses would read about in the newspapers that would captivate the attention of people, for example, the murder of high dignitaries. Russian Narodnaya Volya was one of the political terrorist groups which existed from 1878 to 1881 and was the first terrorist group who followed Pisacane's "Propaganda by deed." Their target of attack was only high level officials.²⁸

The following are some of the leading political figures who were assassinated by anarchists:

- An Italian anarchist Jeronimo Santo Caserio assassinated President Marie-Francois Sadi Carnot (1837-1894) of France on June 24, 1894.
- Spanish Prime Minister Antonio Canovas de Castillo was assassinated on August 8, 1897 by anarchist Miguel Angiolillo at Santa Angueda, Spain.
- President William Mc. Kinley of the United States was assassinated by anarchist Leon Czolgosz in Buffalo, New York, in 1901.²⁹

In the later period such type of anarchist attacks ended, because the terrorists realized that the government did not disintegrate, if the head of state was assassinated.³⁰ Some of the other political terrorist groups were also emerged in other countries such as in United States: 'The Weather Underground,' which was held responsible for attacks on U.S. Capitol building in 1971 and the Pentagon in 1972 near Washington, D.C. Although weather underground claims responsibility for the number of other attacks also, but it failed to attract large number of followers. This group lost most of its social support and the public also turned strongly against it.

The Red Brigades, Italian Red Brigades which was formed in 1969, targeted members of the Italian “establishment,” government officials, businessman, and labour union leaders. A former Italian Prime Minister Aldo Moro was kidnapped by Red Brigades in 1978 and held hostage for fifty five days and was later assassinated by them. By the mid 1980s this group disappeared from the scene due to loss of its leaders.³¹

The BaaderMeinhof gang similar to that of Weather Underground was another group emerged in 1970s which was the group of political radicals in Germany who called themselves as Red Army Faction, but it was more famous as Baader-Meinhof Gang.³²

Baader-Meinhof Gang was known for 1977s “German Autumn.” They carried out kidnappings, bank robberies, assassinations, bombings, and attacks on U.S air bases.³³ They also took part in the hijacking of ‘Lufthansa Flight 181’ with the help of Palestinian group Popular Front for the Liberation of Palestine (PFLP).

Ethno-Nationalist Terrorism

Many people around the world who are the nationals of one country would like to establish an independent country which might be based on following the same religion, speaking the same language, or affiliated to same ethnic group. In many countries terrorism has been used as a manoeuvre to attain national liberation. Independence and the desire for nationalism and self determination were at the heart of large number of people who are contending for their emancipation.

Independence movement of Indians against the British colonialism is an example; as the Indians organized themselves as resistance force and also indulged in violence and terrorist activities to achieve freedom. Other example of independence movement include the struggle of Muslim Algerians, The National Liberation Front (FLN) in 1954 started their struggle for independence against France. Algeria was liberated from France in 1962, after which Ahmed Ben Bella, the leader of FLN became Algeria’s first President.³⁴

The colonial and imperialist countries called these freedom fighters as terrorists because the terrorism has been used widely as a tactic to attain independence but

at the same time it is wrong to call freedom fighters as terrorists. Both terrorism and freedom fighting has distinct identities as Henry Jackson has argued that “it is disgrace that democracies should allow the treasured word ‘freedom’ to be associated with acts of terrorism.”³⁵

Ethnic terrorists have been active since years and they are not confined to any particular territory. Ethnic terrorism can be defined as violence deliberately conducted by a sub national ethnic group to advance its cause. Such violence generally focuses either on creation of a separate state or on the elevation of the status of one communal group over others as well as to advance political goals. It is frequently directed against symbolic targets. It bears much resemblance to guerilla conflict. The Liberation Tigers of Tamil Elam (LTTE) in Sri Lanka, the Irgun in Palestine, the Kurdish Workers Party (PKK) in Turkey, the Provisional Irish Republican Army (PIRA) in Northern Ireland, and the Basque separatist group Euskadi ta Askatasuna (ETA) in Spain are all examples of ethnic terrorist groups.³⁶ The Liberation Tigers of Tamil Elam (LTTE) was headed by its founder Vellupillai Prabhakaran. It is a militant nationalist political paramilitary organization based in Northern Sri Lanka.³⁷ Since its formation in 1976, it has started a secessionist resistance campaign that strives to create an independent Tamil state in North and East regions. This campaign has evolved into the Sri Lankan civil war, one of the longest running armed conflicts in Asia. Between 1976–this group has carried out a number of bombings and other destructions.³⁸

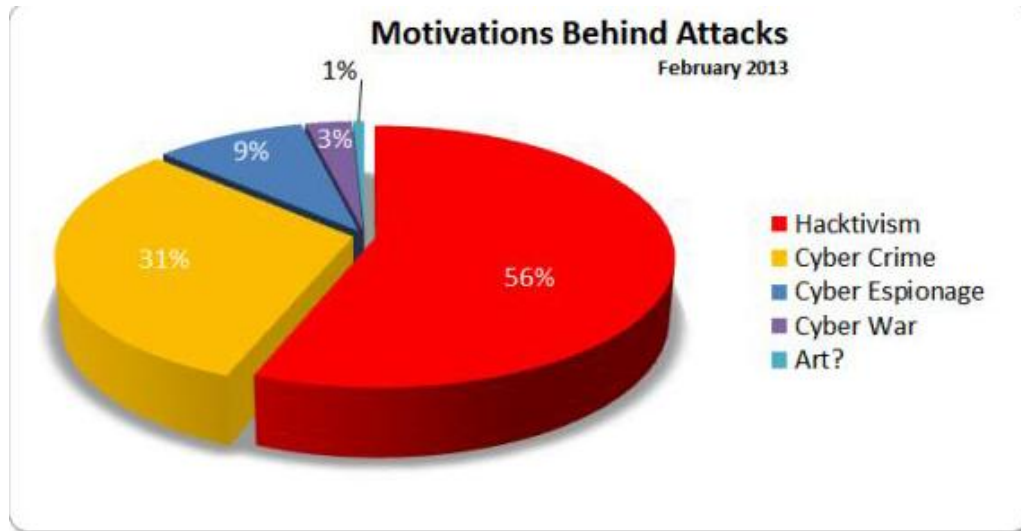
Other examples of ethnic terrorism include Arabs residing in Palestine which largely has been occupied by the Jewish nation of Israel since 1948; the Basque people of Northern Spain, who want to break away to form their own country; and Kurdish people who want to create an independent state from parts of Turkey, Iran, Iraq. In Northern Ireland some residents want to become part of Republic of Ireland while others want to remain part of Great Britain.³⁹

Cyber Terrorism

The act of internet terrorism in terrorist activities is called cyber-terrorism. Cyber terrorism can be defined as the use of information technology by individuals and terrorist groups in order to foster their programme. This can include large scale

deliberate disruption of computer networks, particularly of personal computers connected to the internet, through the means of computer viruses.

Figure 1: Motivation behind Any Cyber Crime



Source: February 2013 Cyber Attacks Statistics, URL: <http://hackmageddon.com/2013/03/08/february-2013-cyberattacks-statistics/>

Nuclear Terrorism

Nuclear terrorism is direct challenge to the whole world. Nuclear terrorism signifies the detonation of a yield-producing nuclear bomb containing fissile material by terrorists. Legally, nuclear terrorism is considered as an offence if committed by any person unlawfully and deliberately “uses in any way radioactive material...with the intent to cause death or serious bodily injury; or with the intent to cause substantial damage to property or to the environment; or with intent to compel a natural or legal person, an international organization or state to do or refrain from doing an act,” according to 2005 United Nations International Convention for the Suppression of Acts of Nuclear Terrorism.⁴⁰

TERRORISM: DEFINITIONAL PROBLEM

Terrorism has become global menace in today’s world which affects the society and disturbs the peaceful life of common masses. It is used to elucidate different things by different people and is perceived variedly by varied countries, as the famous saying goes “one man’s terrorist is another man’s freedom fighter.” The meaning of terrorism is perpetually fluctuating from the period of 18th century

French Revolution, which marked the origin of modern terrorism (August 30, 1793-July 27, 1794) to the present era of 21st century.

Since definition is a precise statement of meaning,⁴¹ maybe there is no other term in our times that requires to be defined more precisely and clearly than terrorism. Nevertheless, this fact cannot be ignored that the most difficult aspect of dealing with terrorism is defining it.⁴² It is a true fact that the absence of explicit definition of terrorism becomes hurdle in the way of effectively countering it. This major obstacle has prevented the United Nations and other multilateral agreements to adopt a comprehensive policy and agree on means and methods to deal with terrorism. Consequently, terrorism is rapidly presuming the status of worldwide threat. Mahan and Griset stressed the need of defining terrorism as they observe:

Yet, no, matter how difficult the task, defining terrorism is crucial. In other areas of contemporary life, definition and conceptualization may be purely theoretical and of interest primarily to academics. The definition of terrorism in contrast, has very real consequences.⁴³

The main problem with the issue of terrorism is not that it has no definition at all but it has numerous definitions. However, there is no harmony or consensus on any single definition of terrorism, Mahan and Griset argue:

Terrorism is an ideological and political concept. Politics by its nature is adversarial, and thus any definition evokes adversarial agreement. The meaning given to terrorism is part of a persons or nations philosophy. Thus the determination of the “right” definition of terrorism is subjective and not likely to be reached by consensus.⁴⁴

Thus, there is an extensive agreement that the absence of definition of terrorism is a problem. The Director of the International Policy Institute for Counter-Terrorism, Boaz Ganor, has stressed that a definition of terrorism is essential to any serious endeavour to fight against terrorism. In the same way, former Lebanese President Emile Lahoud has noted: “it is not enough to declare war on what one deems terrorism without giving precise and exact definition.” On the contrary Sir Jeremy Greenstock held different view about the problem of precise definition of terrorism. In a post 9/11 speech he said: “increasingly, questions are being raised about the problem of the definition of a terrorist. Let us be wise and focused about this: terrorism is terrorism...What looks, smells and kills like terrorism is terrorism.”⁴⁵

Despite the fact that it is difficult to achieve consensus while defining terrorism, the national governments according to their own national interest and circumstances have attempted to formulate and develop some particular definitions of the term. These definitions suffer from numerous lacunas and reflect the value laden approach of the scholars and government. Yet they help in understanding the phenomenon of political violence termed as terrorism. They also help in distinguishing terrorism from other forms of violence.

The meanings of words terror and terrorism have transformed only to some degree since the late nineteenth century, but the change is significant. “In the 1890 edition of Webster’s International dictionary, the word terror is defined as “extreme fear, fear that agitates body and mind, violent dread; fight.” As second meaning Webster’s lists, “that which excites dread; a cause of extreme fear.” Today, Webster’s new Twentieth century Dictionary covers essentially the same meanings, listing: “1. intense fear; 2. a person or thing that causes intense fear;” but has the important additions: “3. a period characterized by political executions, as during the French Revolution; 4. a programme of terrorism or a party, group, etc. resorting to this.” For terrorism, the Webster’s dictionary offers the following: “1. a terrorizing; use of terror and violence to intimidate, subjugate, etc. especially as political weapon or policy; 2. Intimidation and subjugation so produced.” There is a clash between scholars over the clear and detailed meaning of adding the suffix-ism to the word terror to generate the word terrorism. The use of suffix becomes more practical where it mentions to a manner of acting or an attitude. Some of the experts assign a doctrinal quality to terrorism while others define it as a manner of acting or as a method of action.⁴⁶

In spite of numerous attempts of study, the word terrorism has neither precise definition nor one which is widely acceptable to all. Due to this reason it has become a complex phenomenon. It has almost as many views as there are scholars of the subject. It is a value laden term, therefore the person defining it inadvertently inject his value judgment into the definition. The pejorative nature of the subject is one of the major contributing factors to the complexity of the concept of terrorism.⁴⁷

There have been a multitude of definitions on terrorism as there are scholars, but some of the definitions are more complicated which includes too many elements while some others neglect the exact problem of definition and they only focus on what is legitimate and illegitimate uses of force. There are numerous other definitions also which are provided by the government but that too serve their self interests to some extent. Generally governments called their opponents as terrorist excluding their allies. Many years ago United States (U.S.) has had presented a list of seven countries that sponsored state terrorism. Although Cuba had stopped using terror tactics in Latin America long ago but despite that it remains on the list of the United States. Some of the other countries supporting terrorist groups for example, South Africa granted aid to groups in Angola and Mozambique, who engaged in terror activities was never incorporated in the list of U.S. either because of their alliance with U.S. or their action does not have much effect on it.⁴⁸ One of the critics argues in the case of U.S anti terrorist policy “the condemnatory label is being deployed to the enemies of U.S interests while being withheld from U.S friends and clients no matter how opprobrious their conduct might otherwise be.”⁴⁹ Diaz-Paniagua has noted that, in order to "create an effective legal regime against terrorism, it would be necessary to formulate a comprehensive definition of that crime that, on the one hand, provides the strongest moral condemnation to terrorist activities while, on the other hand, has enough precision to permit the prosecution of criminal activities without condemning acts that should be deemed to be legitimate. Nonetheless, due to major divergences at the international level on the question of the legitimacy of the use of violence for political purposes, either by states or by self-determination and revolutionary groups, this has not yet been possible.⁵⁰ In this sense, Bassiouni notes:

To define "terrorism" in a way that is both all-inclusive and unambiguous is very difficult, if not impossible. One of the principal difficulties lies in the fundamental values at stake in the acceptance or rejection of terror-inspiring violence as means of accomplishing a given goal. The obvious and well known range of views on these issues are what makes an internationally accepted specific definition of what is loosely called "terrorism," a largely impossible undertaking. That is why the search for an internationally agreed upon definition may well be a futile and unnecessary effort.⁵¹

Definitions of terrorism are not invariable they change with passage of time for example, John Brown, who attacked Federal Arsenal at Harpers Ferry in West Virginia spawned regional hatred which became one of the reasons for civil war, at one time, he was reprehended as terrorist, in a still different period, he was referred as a madman. There are hundreds of definitions on terrorism presented by government officials, different scholars, the media and the terrorists themselves, but there always exist a difficulty in reaching a consensual definition of terrorism. The intricacy of definition is not recent however; Cooper notes that “there has never been, since the topic began to command serious attention, some golden age in which terrorism was easy to define.” One more complexity lies in defining terrorism is that “there is not one but many different terrorisms.” It is difficult to exclude terror from other violent activities. Terrorism, guerilla warfare, civil strife, criminal activity and riots are some of the violent activities which are perceived indistinctly and the tactics of terror are common to all these activities.⁵²

Thus the war against terrorism is as dangerous as the struggle against terrorism itself, because all violence is not terrorism but all terrorism is violence. The association of all violent acts under the rubric of terrorism makes it complicated to understand the phenomenon of terrorism. Due to these complexities vague generalizations set in, it is therefore imperative to delimit the boundaries of terrorism for its understanding.

Diversity among terrorist groups also complicates the understanding of terrorism. It is difficult to give a single explanation for the varied terror groups such as IRA (Irish Republican Army), Al Qaeda, and Aum Shinrikyo due to their varied motives and nature. As Walter Laqueur tells us, “the problem of terrorism is complicated. What can be said without fear of contradiction about a terrorist group in one country is by no true for other group at other times in other countries.” Thus this diversity transformed the so called “war on terrorism” into a “war on terrorisms.”⁵³Eqbal Ahmad, candid and highly acclaimed Indian anti colonialism scholar, noted that the “terrorist of yesterday is the hero of today, and the hero of yesterday becomes the terrorist of today.” He has given five categories of terrorism such as state terrorism, religious terrorism, criminal terrorism, political terrorism, and oppositional terrorism. All of these categories accord with

his definition of terrorism as “the use of terrorizing methods of governing or resisting a government.” Eqbal Ahmad has given many instances where he has shown the changing nature of terrorism, for example Menachem Begin, who in the later period became an Israeli Prime Minister, was an erstwhile commander in chief of the Irgun Tsvai Leumi, a Zionist terrorist organization. Another example was that of Ronald Reagan who was the former U.S President in 1985 supported the Afghan Mujahidin because they were fighting against the Soviet Union and spread of communism in Afghanistan, and Saudi born Osama Bin Laden was one of their leading supporter. But the scenario was changed in 1998 when then President Bill Clinton launched a futile missile attack in order to kill Bin Laden in Afghanistan. Therefore the alteration in the political and ideological atmosphere at varied times have an effect on the definition of terrorism because; it is a value laden and volatile concept. Walter Laqueur defines terrorism as “the use of covert violence by a group for political ends.” Although he has written widely on the problem of definition of terrorism but he argued that “it is difficult at any period of time that a precise definition of terrorism which covers all its aspects may ever exist because, some of the definitions comprises religious, political, and economic motivations, others includes violence or threat of violence, several others definitions refer to group terrorism, while individual actors are part of some definitions.⁵⁴

The Encyclopedia of Social Sciences defines terrorism as:

a term used to describe the method or the theory behind the method where by an organized group or party seeks to achieve its avowed aims, chiefly through the systematic use of violence. Terrorist acts are directed against persons who have individuals, agents, or representative of authority interference with the consumption of the Objective of such a group. The terrorist do not threaten, death or destruction is part of his programme of action and if he is caught, his behavior during trial is generally directed primarily not towards winning his freedom but towards speeding knowledge of his doctrines.⁵⁵

The Rand Corporation defines terrorism by the nature of the act, not by the identity of the perpetrators or the nature of their cause. All terrorists’ acts involve violence or threat of violence, often coupled with specific demands. The violence is directed against civilian targets, the motives are political. The actions are carried out in a way that will achieve maximum publicity. The perpetrators are

usually members of an organized group and unlike other criminals, they often claim credit for the act. And finally the act is intended to produce effects beyond the immediate physical damage.⁵⁶

Scholars around the world are entangled in the labyrinth of terminology and have expressed different views. Amongst them all, the most widely acceptable definition is the one given by Yonah Alexander. He defines terrorism as “the use or threat of violence against random or civilian targets in order to intimidate or to create generalized pervasive fear for the purpose of achieving political goals”.⁵⁷

Somewhat similar is the elaborate definition given by Alex P. Schmid who analyzed innumerable definitions before concluding that:

Terrorism is an anxiety-inspiring method or repeated violent action, employed by clandestine individual group or state actors, for idiosyncratic, criminal or political reasons, whereby in contrast to assassination—the direct targets of violence are not main targets. The immediate human targets of violence are generally chosen randomly or selectively from a target population, and serve as message generators. Threat and violence based communication processes between terrorists’ victims and main target are used to manipulate the main target turning it into a targeting of terror, a target of demands, or a target of attention, depending on whether intimidation, coercion or propaganda is primarily sought.⁵⁸

This definition gives the details of the phenomenon of terrorism, but it remains more focused on target and objectives rather than its basic nature.

Similarly, Brian Jenkins writes that “the threat of violence or a campaign of violence designed primarily to instill fear is terrorism.”⁵⁹ This definition is very close to the idea of terrorism, but lacks two significant aspects, for example training and international support. These two aspects are highlighted in the definition given by Christopher Dobson and Martha Crenshaw. The necessity of training is expressed by Dobson who writes that “use of explosive device used by terrorists needs appropriate training” the need for international support is expressed in the definition given by Martha Crenshaw, who explains that “terrorism is a means to accomplish certain political objectives with international support.”⁶⁰

The consequent academic definition of terrorism was finalized in 1988,

Terrorism is an anxiety inspiring method of repeated violent action, employed by (semi-) clandestine individual groups, or state actors, for idiosyncratic, criminal or political reasons, whereby in contrast to assassination—the direct targets of violence are not main targets. The immediate human victims of violence are generally chosen randomly (targets of opportunity) or selectively (representative or symbolic targets) from a target population, and serve as message generators. Threat and violence based communication processes between terrorist (organization), (imperiled), victims, and main target (audience) (s) , turning it into a target of terror, a target of demands, or a target of attention, depending on whether intimidation, coercion, or propaganda is primarily sought.

Although this definition is rather lengthy and clumsy, the main elements are now generally accepted. One of the first attempts to provide legal definition that differentiate a criminal act from a terrorist act was made by the British government. In 1974, the United Kingdom government concluded that: “for the purposes of the legislation, terrorism is the use of violence for political ends, and any use of violence for the purpose of putting the public, or any section of public, in fear”. It is a broad definition and could be interpreted to comprise conventional war as well as limited nuclear strikes. The government of United States has certainly not given out any formal definition of terrorism, but its government agencies have put forward unofficial definitions. In 1976, the Central Intelligence Agency was one of the first to give the definition of international terrorism:

The threat or use of violence for political purposes when (1) such action is intended to influence the attitudes and behaviour of target groups wider than its immediate victims, and (2) its ramifications transcend national boundaries (as a result, for example of the nationality or foreign ties of its perpetrators, its locale, the identity of its institutional or human victims, its declared objectives or mechanics of its resolution).

The wordings of various definitions given by CIA keep on fluctuating over the years.⁶¹

In 1984, the U.S. Department of State defines terrorism as “premeditated, politically motivated violence perpetrated against non combatant targets by sub national groups or clandestine agents, usually intended to influence an audience.” It is regarded as one of the most influential American definitions but it does not include regulations issued by executive branch agencies, decisions of the federal court, treaties or laws enacted by the state or local government. The regulations of executive branch agencies are incorporated in code of Federal Regulations, which

defines terrorism as “the unlawful use of force and violence against persons or property to intimidate or coerce a government, the civilian population, or any segment thereof, in furtherance of political or social objectives.” These two definitions issued by varied branches of the United States are distinct with each other and have some of the lacking points which is the contributing factor to problem of defining terrorism such as, the U.S department’s definition comprises the notion of political motivations, but it does not state, as does the code of Federal Regulations that is, the aim of the violent act.⁶²

Various departments or agencies of even the same government with themselves often have very different definition for it. The U.S. Federal Bureau of Investigation (FBI) defines terrorism as:

the unlawful use of force or violence against persons or property to intimidate or coerce a Government, the civilian population, or any segment thereof, in furtherance of political or social objectives.⁶³

while the Department of Homeland Security (DHS) states that terrorism is

any activity that involve an act that:

is dangerous to human life or potentially destructive or critical infrastructure or key resources; and... must also appear to be intended

- a) to intimidate or coerce a civilian population; (b) to influence the policy of a government by intimidation or coercion; or (c) to affect the conduct of a government by mass destruction, assassination, or kidnapping.⁶⁴

And the U.S. Department of Defense defines it as:

The calculated use of unlawful violence or threat of unlawful violence to inculcate fear; intended to coerce or to intimidate governments or societies in the pursuit of goals that are generally political, religious, or ideological objectives.⁶⁵

It is noteworthy fact that all of the above definitions show the priorities and specific interest of the particular agencies involved. The definition given by FBI highlights the psychological aspect of the terrorist acts and also lays emphasis on terrorism’s intimidatory and coercive dimensions. Though the definition given by FBI acknowledge both social and political objectives as basic goals of terrorist, but it gives no lucid explanation of the differences between them to explicate this distinction. The Department of Homeland Security (DHS) definition clearly

shows its mission: focusing on attacks to critical infrastructure and essential national resource that might have serious societal consequences. In this regard the DHS cites specifically in its definition the threat of “mass destruction,” the better to distinguish and differentiate its responsibilities from those of other agencies. The Department of Defense definition of terrorism is arguably the most comprehensive in comparison to the definition given by other agencies. It emphasizes the terrorist threat as much as the actual act of violence and concentrates on terrorism’s targeting of entire societies as well as governments. The Defense Department definition, considerably, also refers to the religious and ideological aims of terrorism together with its fundamental political goals, but skip the social elements found in FBI’s definition.⁶⁶

The Organization of Islamic Conference has proposed a definition which needs our attention as it is generally but erroneously believed that all Muslims may not be terrorist but all terrorist are Muslims. The OIC stated:

Terrorism mean any act of violence or threat thereof notwithstanding its motives or intention perpetrated to carry out an individual or collective criminal plan with the aim of terrorizing people or threatening to harm them or imperiling their lives, honour, freedoms, security or rights or exposing the environment or any facility or public or private property to hazards or occupying or seizing them, or endangering a national resource or international facilities or threatening the stability, territorial integrity, political unity or sovereignty of independent states.⁶⁷

The definition given by the OIC reverberate the feelings of several developing and under developed nations facing the danger of imperialist intervention. Therefore, it contains an individual or collective criminal plan of terrorizing people or threatening to harm them or their lives, honour, freedoms, security or rights as terrorism. Article 2 of the OIC (Organization of Islamic Conference) Declaration has unambiguously declared that a people’s struggle, including armed struggle against foreign occupation, aggression, colonialism and hegemony, intended at liberation and self determination is not terrorism in any case. Along with some other classification this definition deserves to be taken into consideration by the relevant international organization including the United Nations as it does not create definitional vagueness. This definition makes it explicit that liberation struggle against foreign occupation or colonialism is not terrorism. Therefore, this definition can be agreeable to majority of the

nation–states conscious of their territorial integrity and national sovereignty. Nevertheless, several Western nations following imperialist policy perhaps do not accept the approach of the Organization of Islamic Conference.⁶⁸

Thus, there are hundreds of definitions on terrorism and it is difficult to cite them, but the question that arises here is that, where to draw the line between the quest for identity and act of terrorism, between legitimate political demands within a country and suppression of those who make these demands. Once a terrorist is always a terrorist. Are Palestinians terrorists? Are Irish terrorists? Are the Hezbollah terrorists? Are the Taliban terrorists? The focus is not or should not be whether a group is a terrorist group, but rather what activities or actions constitute terrorism. A group labeled as terrorist at one time may eventually become a viable partner in international peace and security. Therefore terrorism remain a nebulous concept mainly because it has no widely acceptable definition, there is a free and open tendency for the persons using the term, whether states, organized groups or scholars, to define it as suits their purposes at the moment.

The United Nations came into effect at a time when the seeds for the dissolution of imperial and colonial possessions had been sown. In the early years of United Nations numerous terrorist acts were occurred in the name of national liberation, armed conflict and de-colonization. All these acts were called by the colonialist as terrorist acts, but when they became increasingly recognized at international level they were called as self determination. In this background it becomes difficult for United Nations to define terrorism in such a way that is globally acceptable to all.

Thus, despite numerous attempts there is no globally accepted definition of terrorism at international level. One judge of International Court of justice has observed, “Terrorism is a term without any legal significance. It is merely a convenient way of alluding to activities, whether of states or individuals, widely disapproved of and in which either the methods used are unlawful, or the targets protected, or both.”⁶⁹The International community has never succeeded in developing an accepted comprehensive definition of terrorism. During the 1970’s and 1980’s the United Nations effort to define the term foundered mainly due to differences of opinion among various members about the use of violence in the context of conflicts over national liberation and self determination. These

discrepancies have made it unattainable to reach a comprehensive convention on international terrorism that includes a specific, legally binding, criminal law definition of terrorism.

The definitional deadlock has restrained the adoption of extensive convention on international terrorism. The dearth of agreement on a definition of terrorism has been a main impediment to the meaningful international countermeasures. Terrorism therefore, could be problematized through different shades of its definition and combat strategies thereof. Although to fight against the various aspects of terrorism United Nations and its agencies have adopted thirteen global conventions, nevertheless there is no globally agreed upon definition of terrorism by the United Nations.

A first effort to adopt the convention on the Prevention and Punishment of terrorism was made in the League of Nations, but the convention which was drafted in 1937 never came into force. The main objective of that convention was the suppression of terrorism at the international level and it laid upon the duty on all the signatories neither to support nor allow to exist any terrorist activity with political motivations and to all in its power to avert and suppress it.⁷⁰

The proposed definition of League of Nations convention (1937) describe terrorism as “All criminal acts directed against a state and intended or calculated to create a state of the terror in the minds of particular person or a group of persons or the general public.”⁷¹

The international community has been gathering to define the word terrorism with the aims and objectives of the U.N. Charter since 1970. The first attempt was made on October 24, 1970, when the General Assembly adopted the following declaration on Principles of International Law concerning Friendly Relations and Cooperation among States: “Every state has the duty to refrain from organizing, assisting or participating in acts of civil strife or terrorist acts state or acquiescing in organized activities within its territory directed towards the commission of such acts, when the acts referred to in the present paragraph involve a threat of use of force.” But the “principle of equal rights and self determination of peoples,” inherent in the objectives of the U.N. created an ambivalence.⁷²

The international politics was so much dominated by the spectre of terrorism that in 1972 at the Olympic games in Munich the U.N General Assembly adopted a resolution to establish an Adhoc committee titled “Measures to prevent international terrorism which endangers or take innocent human lives or jeopardizes fundamental freedoms, and study of underlining causes of those forms of terrorism and acts of violence which lie in misery, frustration, grievance and despair, and which cause some people to sacrifice human lives, including their own, in an attempt to effect radical change.”⁷³

In the year 1970s and 1980s the U.N. strive to define the word terrorism was unsuccessful, chiefly because of divergence of opinions among different members regarding the use of violence in the conditions of conflicts over national liberation and self determination. Despite of its lack of success to define terrorism, in 1985 the U.N General Assembly adopted Resolution 40/61 “unequivocally condemn [ing], as criminal, all acts, methods and practices of terrorism wherever and whomsoever committed... call [ing] upon all states to fulfill their obligations under international law to refrain from organizing, instigating, assisting or participating in terrorist acts in other states or acquiescing in activities within their territory directed towards the commission of such acts.”⁷⁴

In 1992, a recommendation was made to the U.N. Crime Branch that terrorism simply be defined as the “peacetime equivalent of war crimes”. This was also emerged as extremely contentious. Even though it might be very simpler to use, today this definition is not followed by the U.N. body.⁷⁵

Since the period of Cold War United Nations has been striving unsuccessfully to attain a common consent on the controversial issue of the definition of terrorism at the international level, which becomes complicated because of its association with other violent acts. The examples of “operative definitions are innumerable however. In Article 5 of the International Convention for the Suppression of Terrorist Bombings (1997) terrorists acts are referred to as “criminal acts..., in particular where they are intended or calculated to provoke a state of terror in the general public or in a group of persons or particular persons ...”. It is furthermore stated in the same article, that such acts “are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious, or

other similar nature.” In another attempt towards an operative definition of the word terrorism, the General Assembly resolution 54/110 of 2 February 2000, in its operative paragraph 2, describe terrorism in the sense of “criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular person for political reasons.” To some extent, this explanation can be similar to the language of the League of Nations draft convention of 1937. The very perplexity was also emphasized in the Secretary General’s address to the General Assembly on 1 October 2001 and to the Security Council on 12 November 2001. Mr. Kofi Annan admitted that defining terrorism as one of the most complicated task before the world organization and said that he understands and accepts “the need for legal precision.”⁷⁶

International Convention for the Suppression of the Financing of Terrorism (1999) adopted by the General Assembly (set out in its resolution 54/109) defines terrorism by reference to a list of treaties; or “any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or abstain from doing any act.”⁷⁷

In 2004, the Security Council referred terrorism as “criminal acts, including against civilians, committed with the intent to cause death or serious bodily injury, or taking of hostages, with the purpose of provoking a state of terror in the general public or in a group of persons or particular persons, intimidate a population or compel a government or an international organization to do or abstain from doing any act.”⁷⁸

It is needed to mention here that the definitions mentioned above were given by the United Nations in its different sectoral anti-terrorism conventions as it was not able to adopt any comprehensive convention against terrorism. It is important to mention here that the General Assembly is recently working for adopting such a convention. The draft article 2 of the proposed comprehensive convention deals with the definitional aspect of terrorism. The proposed definition is almost same as given by the United Nations in its previous sectoral anti-terrorism conventions.

The draft article has broadened the application of anti-terrorism convention to “unlawful and intentional” act of causing damage to property, places, facilities or systems, resulting or likely to result in major economic loss or the environment. Although Member States have concurred on many of the provisions of the draft convention still consensus is not likely to be reached as several nations have disagreed to include national liberation movements in the category of terrorism.⁷⁹

UN Global Counter-terrorism Strategy of (2006) reiterates the criminality of all terrorism “in all its forms and committed by whomever, wherever and for whatever reasons.” This strategy requires extradition or prosecution of “any person, who supports, facilitates, participates or attempts to participate in the financing, planning, preparation or perpetration of terrorist acts or havens”. It reaffirms consistency with international law.⁸⁰

Concluding Observations

Terrorism has developed into a form of specialized crime today. What differentiates terrorism from ordinary crime is that crime stems mostly from need, greed, or passion. Moreover, conventional criminals do not seek to terrorize the masses in order to blackmail governments. Terrorism, however is neither compelled by passion or need, it is sometimes defended for political reasons, and is sometimes supported by governments. Its motivations and underpinnings are selfishness, intolerance, lack of dialogue and inhumanity, greed, and unaccountability.

For the betterment of security at the international level and for the suppression of terrorism, there must be a need of broad and universally accepted definition of terrorism which unifies the efforts of all in this direction. Terrorism like ‘beauty’ is in the eye of beholder as one man’s terrorist is another man’s patriot. The United Nations as the legitimate and the prominent guardian of international peace and security should be at the forefront of international efforts to deal with terrorism, because the menace of terrorism is not only a threat to international peace and security but also to multilateral cooperation.

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Introduction

The chapter analyzes United Nations action against terrorism both before and after 9/11. It also discusses about the various Conventions adopted by the United Nations against different acts of terrorism and about their implementation and ratification by different countries. It gives details of the United Nations Global Counter-Terrorism Strategy for the purpose of consolidation of the endeavours of United Nations and its Member States against the menace of terrorism in all its forms and manifestations. There is also a brief discussion about the important regional treaties on terrorism.

The United Nations was formed as a result of the failure of the League of Nations to prevent the outbreak of World War II and its unsuccessful attempts to maintain international peace and security. As a consequence, the United Nations came into existence on 24 October 1945 for the purpose of global governance. Although the issue of terrorism had captivated the attention of the U.N., it was not the matter of significant concern for the newly formed Organization which was faced with the number of emerging challenges such as Cold War and numerous other issues. The environment of Cold War and the problem of decolonized States was one of the main obstacles to reach a consensual definition of terrorism which hampers the United Nations to adopt comprehensive instrument against terrorism.

The world body shows the determination and expectations of millions of men and women residing in large and small nations all over the world that they can dream of peace and wealth amidst horrors and obliteration of war. In spite of having numerous weaknesses the United Nations is the optimal manifestation of the communal desire of man to live in perpetual peace. The Preamble of the U.N. Charter reflects this noble desire of man which pledges “to save succeeding generations from the scourge of war and reaffirms faith in fundamental human rights, and in the dignity of and worth of human person, and in the equal rights of men and women nations large and small.”¹

According to Article 7 of the U.N. Charter, the United Nations comprises of six organs: The General Assembly, the Security Council, ECOSOC (The Economic and Social Council), the Trusteeship Council, the International Court of Justice

and the Secretariat (the Secretary General). All these six bodies of the United Nations handle the issue of terrorism in one way or another.

- The General Assembly deals with issue of terrorism by passing Resolutions, through long debates, the draft conventions on the issue, since 1996 through special Committee it is dealing with the issue of terrorism;
- The Security Council through justly and operative resolutions and the formation of CTC (the Counter Terrorism Committee);
- The ECOSOC (the Economic and Social Council), by associating the subject of human rights with terrorism, through a special rapporteur;
- The Trusteeship Council deals with the issue of terrorism through non-debate on freedom fighters v. terrorists and the connection to self determination;
- The International Court of Justice, for instance in the Lockerbie and the Iranian hostage taking cases; and
- The Secretariat (the Secretariat General) through innumerable initiatives and declarations.²

In combating terrorism the role of United Nations is long standing. Yet, it fails to deal effectively with the menace of terrorism due to the lack of consensus among the Member States.

Terrorism is an issue of grave concern in today's globalized world and is a serious threat to international peace and security which goes against the very spirit of the Charter of the United Nations. This result in the infringement of human rights, and the counter-terrorism policies frequently result in refutation of even basic freedom and rights of citizens. A study by the Office of the United Nations High Commissioner for Human Rights acknowledges this fact and observes:

Terrorism clearly has a very real and direct impact on human rights, with devastating consequences for the enjoyment of right to life, liberty and physical integrity of victims. In addition to these individual costs, terrorism can destabilize governments, undermine civil society, jeopardize peace and security and threaten social and economic development.³

This study also observed that terrorism “threatens the territorial integrity and security of states, constitutes a grave violation of the Purpose and Principles of the United Nations, is a threat to international peace and security, and must be

suppressed as an essential element for the maintenance of international peace and security.”⁴

United Nations Action against Terrorism before 9/11

Before the infamous attacks of September 11, 2001, on World Trade Centre of New York the United Nations played a very frivolous role in counter-terrorism. The Charter of the United Nations fails to refer terrorism candidly, “either as one of its many diverse concerns or as a threat to international peace and security.” It only mentions, in Chapter V and VII that it is the duty of Security Council “to maintain international peace and security in accordance with the Principles and Purposes of the United Nations; ...to determine the existence of a threat to the peace or act of aggression and to recommend what action should be taken;...To call on Members to apply economic sanctions and other measures not involving the use of force to prevent or stop aggression; and to take military action against an aggressor.” Although terrorism has posed threat to international peace and security for centuries, the attacks of September 11, 2001 transformed and expanded the role of the United Nations to counter and combat terrorism. Before 1980s and 1990s, in the history of United Nations, the issue of terrorism was treated by the States as a localized and a national problem which was not considered as worthy of bringing to the attention of the United Nations.⁵

It is significant to mention here that international community has shown interest and cooperation to combat terrorism as early as 1926. First international conference of Penal Code which was held in 1926 recommended the need to conclude an international convention to combat terrorism. In fact, the issue of international terrorism was discussed in many conferences of the international association for unifying the Penal Code that were held in 1931, 1934, and 1935. Although these endeavours proved unsuccessful in reaching a consensus on the drafting of comprehensive international instrument, they nevertheless contributed in crystallizing the international legal thought in that field. The first formal proposal to conclude such a comprehensive agreement to combat terrorism was submitted by Romania to the League of Nations in 1926. This drive gained momentum at the end of 1934, when France submitted a proposal to the League

of Nations after the assassination of King Alexander I and the French foreign minister in Marseilles earlier that year.⁶

In 1937 the League of Nations organized a conference on the issue of terrorism which resulted in 1937 Geneva Convention for the Prevention and Punishment of Terrorism. One more convention was adopted for the creation of an International Criminal Court. But both these efforts proved futile due to the outburst of Cold War and it also did not receive the required signatures and ratifications by the Member States. As a consequence the focus of major powers was shifted from fight against terrorism to political and ideological rivalry. It was only after the end of Cold War which made possible to progress on the Purposes and Principles of United Nations.⁷

In the year 1960, the issue of terrorism was briefly put forward in the context of the Declaration on Principles of International Law Concerning Friendly Relations and cooperation among States, which was adopted by the General Assembly as Resolution 2625 (XVV) (24 October 1970).⁸ Before 1963 the United Nations was not as much concerned about the subject matter of terrorism, nevertheless, it adopted numerous conventions and declarations which might be invoked indirectly to cope with terrorism. Since its inception the United Nations has adopted thirteen international conventions against terrorism which prohibits its different facets and aspects. It is significant to highlight that these conventions primarily concentrate on terrorism perpetrated by the non state actors, avoiding the fact that state actors have been involved in the most awful kind of terrorism.

As a consequence Bassiouni argues:

The United Nations work has focused on state actors as parties responsible for implementing efforts to combat, suppress and prevent terror-violence, while sidestepping possibilities of terror violence committed by state actors themselves.

He also argues that as States monitor the system of the U.N., it is inapt for them to engage in the acts of terrorism. He advocates that if any international crime such as genocide, crimes against humanity, war crimes, torture etc committed by States it should be regarded as terrorism.⁹

The General Assembly and the various agencies of the United Nations have made significant contributions towards the expansion of international norms against

different acts of terror.¹⁰ The General Assembly has played the dual role of developing a normative framework on terrorism and encouraging cooperative actions against states. While the U.N. Security Council might concentrate on preventing acts of terrorism through cooperation between the security, law enforcement and border control authorities, the General Assembly can mould the global response to terrorism through its power of budgetary allocations.¹¹ The international civil and maritime organization are dealing with the threats to the world's air and shipping traffic respectively, the Atomic Energy Agency (IAEA) and the Organization for the Prohibition of Chemical Weapons (OPCW) seeks to ensure compliance with chemical and nuclear weapons treaties, the World Health Organization (WHO) is organizing defenses against terrorist strikes using biochemical weapons, and the Terrorism Prevention Branch of the U.N. Office on Drugs and Crime gives legislative support to numerous countries in connection with the approval and execution of anti-terrorism conventions and United Nations Security Council resolutions.¹²

The United Nations has adopted thirteen international conventions and protocols against terrorism from 1963 to 2005. Before September 11, 2001, the subject matter of terrorism was largely managed by the General Assembly rather than by the Security Council. This position indicates that the issue of terrorism was mainly considered as a localized and the national problem that in many cases did not constitute a threat to international peace and security. As a consequence the action of Security Council is not required under the Charter of the United Nations. From the late 1980s to September 11, 2001, the Security Council reacted to certain acts of terrorism—the bombing of Pan Am flight 103 and French UTA flight 772 in 1980s and the bombings of the U.S. embassies in Tanzania and Kenya in the year 1998. From September 11, 2001, the attacks of Al Qaeda and similar other terrorist threats were taken as a threat to international peace and security. Thus, the Security Council put itself at the centre of global counter-terrorism efforts. It has exercised its powers under Chapter VII of U.N. Charter to inflict obligations on all the States by passing a number of landmark anti terrorism resolutions.¹³

United Nations response to the menace of terrorism has enhanced in the year 1990s with proportionately large number of assaults being directed at U.S. targets,

the rise in the causality rate per incident, the globalization of the terrorist networks, the fear of terrorist acquiring and using weapons of mass destruction and the role of States as sponsors and supporters of international terrorism. Sanctions regimes established in response to the growing concern with terrorism were important in stigmatizing terrorism as an illegitimate action, highlighting the role of international cooperation in combating the threat and raising the cost to States of supporting terrorism. But they failed to have similar effects on State terrorist actors.¹⁴

In 1996 India has presented the draft of a comprehensive convention against international terrorism but the draft convention did not get much cooperation from the member states. It again submitted in 2000 a revised Draft of Comprehensive Convention on International Terrorism to the sixth committee of the General Assembly which is under consideration by the adhoc committee.¹⁵ The considerable drafting progress was made in 2001 and by 2002 agreement was achieved on most of the twenty seven articles. Negotiations were given further momentum by recommendations to define terrorism by the U.N. High Level Panel on Threats Challenges and Change (2004), the U.N Secretary General's report In *Larger Freedom* (2005) and the UN World Summit (2005). Nevertheless numerous issues are still unresolved including the issue of the definition of offenses. The current draft try to define terrorist action in article 2 (1) which states that “any person commits an offence within the meaning of this Convention if that person by any means, unlawfully or intentionally, causes:

- a) Death or serious bodily injury to any person; or
- b) Serious damage to public and private property, including a place of public use, a state or government facility, a public transportation system, an infrastructure facility or the environment; or
- c) Damage to property, place, facilities, or systems referred to in paragraph 1 (b) of this article, resulting or likely to result in major economic loss, when the purpose of the conduct, by its nature or context, is to intimidate a population, or to compel a Government or an international organization to do or abstain from doing any act.”¹⁶

Due to lack of precision this definition has been criticized particularly by a number of Non Governmental Organizations (NGO's) such as Amnesty International and Human Rights Watch. They have raised concerns about the features of definition and have alerted against the negative results for internationally recognized human rights standards. Though there seems to be basic consensus on the definition of offenses, the Member States of the United Nations remain disagreed on other aspects of the draft convention. These contain the application of the Draft Convention to national liberation forces and the relation between the Draft Convention and sectoral anti-terrorism treaties.¹⁷

Today terrorism has become international or transnational in nature. The attacks of 9/11 has certainly proved this fact that the transnational terrorist organization like Al Qaeda have determination and strength to attack anywhere in the world. The risk that the Weapons of Mass Destruction may go down into the hands of terrorists has also made the situation complex and provoked the United Nations to state:

All too often we are reminded that terrorism continues to inflict pain and suffering on people's lives all over the world. Almost no week goes by without an act of terrorism taking place somewhere in the world, indiscriminately affecting innocent people who just happened to be in the wrong place at the wrong time. Countering this scourge is in the interest of nations and the issue has been on the agenda of the United Nations for decades.¹⁸

In the year 1972 the United Nations for the first time became conscious about the concealed threats of international terrorism and decided to adopt a resolution. Thus, the year 1972 marked the beginning of the United Nations intervention to curb terrorism. On 18th December 1972 in 2114th plenary meeting of the General Assembly, the first ever text of the United Nations on international terrorism was adopted. The matter of the text illustrated as:

Measures to prevent international terrorism which endangers or takes innocent human lives or jeopardizes fundamental freedom, and study of the underlining causes of those form of terrorism and acts of violence which lie in misery, frustration, grievance and despair, and which cause some people to sacrifice human lives, including their own, in an attempt to effect radical changes.

The main objective of adopting this resolution was to get the concentration and support of member states. In 1973, the President of the U.N. General Assembly

appointed the Adhoc Committee of 35 members to generate awareness among the member states as well as to look into the details towards prevention of global terrorism.¹⁹

U.N. Conventions on Terrorism

The United Nations is an international organization which mainly focuses on resolution of conflicts and the formation of universal legal norms and the framing of standards for human rights. During the last four decades the incidence of terrorism has increased and it has emerged in different forms at the national and international levels. Thus, the United Nations in this regard has taken prolonged interest in developing an effective multilateral legal response to terrorist acts. But the establishment of universal legal norms in this field has been decreased by super power rivalry, national liberation movement and struggle of colonial countries for independence. These are the causes for thwarting the efforts of international community in effectively dealing with terrorism. As a consequence the conventions adopted by the United Nations for proscribing terrorist acts proved futile. Since the 1960s, responsibility for negotiating the adoption of these conventions has been fallen on the General Assembly and the numerous specialized agencies of the United Nations. This has led to evolving international consensus for the adoption of thirteen main U.N. conventions. Regrettably the United Nations has not been able to secure the willingness of all the members of the U.N. to sign and ratify them.

Table: 3 United Nations Conventions and Protocols Related to Terrorism

U.N. Conventions or Protocols	Purpose
1. International Convention for the Suppression of the Financing of Terrorism, New York December 9, 1999	Commits member states to prevention and counteraction of the financing of terrorist; holds those who finance terrorists liable and provides for the identification, freezing and seizure of funds for terrorist activities.
2. International Convention for the	Creates a regime of universal

Suppression of Terrorist Bombing, New York December 15, 1997	jurisdiction over the use of explosives and other lethal devices.
3. Convention on the Marking of Plastic Explosives for the Purpose of Detection, Montreal March 1, 1991	Commits aircraft sabotage, designed to control and limit the use of undetectable plastic explosives.
4. Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms located on the Continental Shelf, Rome March 10, 1988	Obligates member states to establish jurisdiction over unlawful acts and punish offences with appropriate penalties.
5. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, Rome March 10, 1988	Establishes a legal regime applicable to acts against international maritime navigation. Makes it an offence for a person to unlawfully or intentionally seize or exercise control over a ship by force.
6. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, Montreal, 24 February 1988	Extends provisions of the Montreal Convention to include terrorist acts at international airports.
7. Convention on the Physical Protection of Nuclear Material, Vienna March 3, 1980	Criminalize the unlawful possession, use, and transfer of nuclear material, the theft of nuclear material, and threat to use nuclear material to cause death or serious injury.
8. International Convention against the Taking of Hostages, New	Defines the taking of hostages and require state parties to make this

York December 17, 1979	offense punishable by appropriate penalties.
9. Convention on the Prevention and Punishment of Crime Against Internationally Protected Persons, including Diplomatic Agents, New York December 14, 1973	Defines internationally protected persons, required appropriate penalties for those who commit attacks against internationally protected persons and those who support them.
10. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, Montreal September 23, 1971	Outlaws acts of violence on aircraft, placement of explosives on aircraft, and supporting those who attempt such acts.
11. Convention for the Suppression of Unlawful Seizure of Aircraft, The Hague December 16, 1970	Outlaws the use of intimidation to take control of aircraft; hijackers must be prosecuted or extradited.
12. Convention on Offences and Certain other Acts Committed on Board Aircraft, Tokyo September 14, 1963	Applies to acts affecting in flight safety; authorizes pilot to take measures to protect aircraft; requires contracting states to take custody of offenders and return aircraft to pilot.

Source: United States General Accounting Office, Report to Congressional Requestors, *Combating Terrorism: Interagency Framework and Agency Programs to Address Overseas Threat*, Diane publishing, May 2003, pp. 243-244.

The conventions related to terrorism are directed at the protection of potential terrorist targets, or they concern themselves with the means through which terrorist organization work. They do three main things: they want states parties to criminalize certain conduct; they provide for the prosecution and extradition of perpetrators of such acts; and they impose obligations upon states to suppress the conduct in question.²⁰

The result of this unrealized legal structure is apparent in critical public statements from U.N. Secretary Generals both before and after the attacks on 11 September 2001. For instance, on the 40th anniversary of the signing of the U.N Charter in 1985, Secretary General Javier Perez De Cueller stated that:

Mere condemnation of... [terrorist] acts is insufficient. Effective international action is required. Resolutions and Conventions have been adopted in the past... These provide a vital framework for countermeasures. It is tragically evident, however, that new, multilaterally coordinated efforts are urgently required to deal with this terrible phenomenon, which is beyond the capacity of any one country to handle alone.

After the attacks on 11 September 2001 Secretary General Kofi Annan argued on the issues of non ratification and the lack of overall convention on terrorism:

The fight against terrorism must begin with ensuring that the 12 legal instruments on international terrorism already drafted and adopted under United Nations auspices are signed, ratified and implemented without delay by all states. It is also important to obtain agreement on a comprehensive convention on international terrorism.²¹

The issue of terrorism has given birth to numerous specialized international conventions of the United Nations against varied forms of terrorism. These conventions have dealt with diverse varieties and manifestations of terrorism extensively focusing on Protection of Civil Aviation and Safety of Aircraft, Protection of the Safety of Persons, Protection against the Use of Explosives and Bombings, Preventing the Use of Weapons of Mass Destruction, and Preventing Measures of Financing Certain forms of Terrorism.²²

It is also important to mention here that besides the above mentioned conventions dealing with different aspects of terrorism, the United Nations is still striving to adopt a major convention on international terrorism. However, this task of the United Nations becomes difficult because of the different approach of member states towards the issue of terrorism. Each member state deals with this issue according to its own national interest and political dynamics which become hurdle in the consensual solution of the menace of terrorism.

The major conventions of the United Nations are discussed below under the different broad headings as given by Bassiouni:

A. Protection of Civil and Commercial Maritime Navigation and Non-Military Sea-Based Platform

There are four important conventions under this category:

- a) Convention on the High Seas (1958).
- b) Convention on the Law of the Sea (1982).
- c) The Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988).
- d) The protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (1988).²³

The crime of piracy has been dealt under the convention on the High Seas (1958) and on Law of the Sea (1982). Under the customary international law piracy has been recognized as an international crime since 1600 A.D.²⁴ After the establishment of the United Nations, the international law related piracy becomes more enforceable and effective. By invoking the provisions of these conventions the crime of piracy can be treated as terrorism under certain situations. One specialized convention and protocol was developed in 1988 by the International Maritime Organization to limit and suppress the increasing threat of terrorism on sea. This was adopted as a reaction to the seizure of the Italian Vessel “Achilles Lauro” on the high seas in 1985. These forms of attacks upon the maritime navigation and sea based platforms on the high sea are not frequent occurrence and the rare form of terror violence.²⁵

B. Protection of Civil Aviation and Safety of Aircraft

This category includes four important instruments which were adopted between 1963–1988. These instruments contain three conventions and a protocol given below.²⁶

- a) Convention on Offences and Certain other Acts Committed on Board Aircraft (Tokyo Hijacking Convention), 1963.
- b) Convention for the Suppression of Unlawful Seizure of Aircraft, (Hague Hijacking Convention), 1970.
- c) Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, (Montreal Hijacking Convention), 1971.

- d) Protocol for the Suppression of Unlawful Acts of Violence at Airport Serving Civil Aviation (1988).²⁷

One of the specialized agencies of the United Nations, i.e., the Legal Sub Committee of International Civil Aviation Organization examines varied responsibilities of the aircraft commander related to the jurisdictional problem of crimes committed aboard the aircraft. The International Civil Aviation Organization (ICAO) consists of 191 states associated with all significant aviation organizations particularly with International Air Transport Association (IATA) and the Federal Aviation Association (FAA).²⁸ As a result, the increasing hijacking incidents during 1960s and 1970s led the International Civil Aviation Organization to develop and draft convention against hijacking and unlawful seizure of aircraft.²⁹ The subsequent decrease in the incidents of hijacking led the United Nations to concern about other terrorist acts such as bombings, sabotage, and attacks on airports. During 1970 and 1971 the large number of hijacking incidents took place. The main cause of these incidents was the development of technology and the increasing capability of the terrorist which led them to commit more terrorist acts in the air. Since 1972, the number of hijacking incidents decreases to an average rate of sixteen high jacking incidents per year. Nevertheless, the international community to face terror violence which affects aviation safety as evidenced from numerous incidents such as the bombing Pan Am 103 aircraft over Lockerbie (Scotland) in 1988 and the deadly attacks of September 11, 2001 in U.S. have proved that air safety is still in danger and is a matter of concern for the international community.³⁰

Not unlike the problem of definition of piracy the international law, the Hague Convention 1971 clearly gives the definition of unlawful seizure of aircraft under Article 1 which says:

Any person who on board an aircraft in flight (a) unlawfully, by force or threat thereof, or by any other form of intimidation, seizes or exercises control of that aircraft, or (b) is an accomplice of a person who performs or attempts to perform any such act commits an offence. The Hague “Hijacking” Convention is considered a milestone both in general development of an international criminal air law and in fight against aerial hijacking specially.

The Hague Convention was widely accepted.³¹

Although all the three conventions, i.e., Tokyo convention of 1963, Hague convention of 1971, and the Montreal convention of 1971 came into force, they were ratified by few. Also some of the states which was engaged in hijackings had not signed them. The cause of this failure according to contemporary scholars was due to Arab-Israeli conflict which led some Arab states to oppose any further action against hijacking.³² These three conventions can be easily compressed into a single extensive instrument which deals effectively with the protection of Civil Aviation and Safety of Aircraft by identifying all forms of threat and dangers. In the same manner, the 1988 Protocol contain almost the same provisions as mentioned in previous conventions in the expanded and elaborated form. It is important to mention here that in order to reduce the terror incidents at the airport and on aircraft some of the safety measures should be applied such as x-ray, scanners, CCTV Cameras, for passengers and baggage, metal detector, bio informatics and finger printing identifications and the trained officials should be placed on duty.³³

C. Protection of the Safety of Persons

This category includes three conventions which were adopted between 1973 and 1995. The main objective of these conventions was the protection of the Head of States, Diplomats and other persons who enjoy international immunity and civilians who are frequently made hostages by the terror groups for pressurizing the government for the fulfillment of their dictatorial aims. The other category of internationally Protected Persons includes United Nations and its associated Personnel. The following are the three U.N. conventions which deal with the protection and safety of persons.

- a) The Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents. (also known as Diplomatic Agents Convention), 1973.
- b) The Convention against the Taking of Hostages (also known as Hostage Taking Convention), 1979.
- c) The Convention on the Safety of United Nations and Associated Personnel (hereinafter U.N. Personnel Convention), 1995.³⁴

The convention on the Prevention and Punishment of Crimes against Internationally Protected Persons including Diplomatic Agents or the Diplomatic Agents Convention was adopted as a response to the increasing practice of kidnappings of diplomats. It defines internationally protected persons as: “Head of State, a Minister for Foreign Affairs, a representative or Official of a State or of an International Organization is entitled to special protection from attack under international law.”³⁵

This convention provides safety to the internationally protected persons such as the Head of States, diplomats, foreign ministers and their families. This convention includes 20 articles which deal with different aspects of protection and punishment of crimes against Internationally Protected Persons.³⁶

The convention of 1979 protected the civilians from attack upon them and from being taken as hostages. The Universal Declaration of Human Rights (1948) and the International Covenant on Civil and Political Rights (1966) has long been declared the taking of hostages as a crime, though it does not mention clearly that violence or murder upon the civilian hostage is the violation of the convention of hostage taking. The provisions only recognize that it is unlawful to seize or detain individuals and threaten to kill or injure them.³⁷

This convention states that:

any person who seizes or detains and threaten 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 commits the offense of taking hostages within the meaning of this convention.³⁸

This convention requires its parties to cooperate in the investigation, prosecution, and extradition of any persons attempting or committing such actions and also to assist mutually in connection with criminal proceedings brought under the convention.³⁹ Through this convention, the United Nations made it illegal for a person or organization to exploit innocent individuals as bargaining chips in return for certain demands.

The convention on the Safety of United Nations and Associated Personnel (1995) was adopted to ensure the safety of United Nations and Associated Personnel (Civilian and Military). This convention contains 29 articles which elaborate its varied aspects and was against the increasing number of injuries and death of

U.N. Personnel. Through this efforts had been made to provide safety to the Personnel and to protect them from mistreatment and premeditated attacks.⁴⁰

According to Article 8:

Except as otherwise provided in an applicable status of forces agreement, if United Nations or associated personnel are captured or detained in the course of the performance of their duties and their identification has been established. They shall not be subjected to interrogation and they shall be promptly released and returned to United Nations or other appropriate authorities. Pending their release such personnel shall be treated in accordance with universally recognized standards of human rights and the principles and spirit of the Geneva Convention of 1949.⁴¹

These three conventions are to be read in the light of significant provisions of the four Geneva Conventions (1949). It is important to mention here that the implementation of these three conventions required the political will of the contracting parties because during the period of an armed conflict the member states themselves violated the provisions of these conventions.

D. The Protection against the Use of Explosives and Bombings

In the contemporary societies the conventional methods of attacks by bombs and explosives are common. Now days technological methods are available for planning a most deadly attack. But terrorists are, on the whole, conventional in their use of weapons, bombs and guns are their favourites. Non state actors frequently used the conventional explosives because they are easily available and can be assembled into bombs capable of making large scale destruction and damage.⁴² The use of sophisticated technology in making these bombs made it more destructive and the security agencies face difficulty in finding the traces of perpetrators. The suicide bombers often use this technology who ties these explosives to their body or they use varied vehicles full of explosives which they collide with the target and it results in huge destruction. The 1991 convention on the making of explosives (also known as the Plastic Explosive Convention), specifically deals with the detonation of these items aboard aircraft. The following two different conventions are adopted by the United Nations against the use of explosives for the purpose of terrorist activities.

- a) Convention on the Marking of Plastic Explosives for the purpose of Detection (1991).
- b) Convention for the Suppression of Terrorist Bombings (also known as Terrorist Bombing Convention 1998).

The 1991 Convention on the Marking of Plastic Explosives for the purpose of Detection limits the use of unmarked and undetectable plastic explosives, used for example, to sabotage aircraft. It provides for chemical marking to facilitate detection of plastic explosives parties are obliged to ensure effective control over “unmarked” plastic explosives i.e., those that do not contain one of the detection agents described in the Annex to the treaty. The convention also regulates the manufacture, transfer, import, export and storage of such materials are implemented through national legislation.⁴³ This convention was negotiated after the bombing of Pam Am Flight 103. This convention required each party to take effective and necessary steps to prevent and prohibit the manufacture, movement, possession and transfer of unmarked plastic explosives, as well as to monitor the holding of such materials by the police or the military.⁴⁴

The increasing number of bombing incidents in the 1990s and the targeted bombing of the U.S. embassies in Tanzania and Kenya was the reason for the adoption of international convention for the suppression of terrorist bombing by the United Nations in the year 1998. This convention is broad and comprehensive as it provides protection to critical infrastructure facilities and public transportation systems, as well places of public use, including commercial, business, cultural, historical, educational, religious, governmental, entertainment, and recreational places. The targeted attacks on power plants, water and sewage filtration centers, and communication networks have the potential to cause large scale damage and destruction to civil society, creating significant physical, environmental and economic damage. It is important to mention here that before the adoption of this convention in 1998, no other convention explicitly criminalized the destruction of these sites.⁴⁵

Besides the above mentioned two conventions of the United Nations against the use of explosives and bombings the Universal Postal Union also made important contribution. It contains some important provisions which aimed at the prevention and the suppression of terror–violence by means of sending letter bombs and parcels containing explosives through mails.⁴⁶

E. Preventing the Use of Weapons of Mass Destruction

The collapse of Soviet Union in 1991 and the likely threat and the likely threat of nuclear weapons or technology of manufacturing weapons of mass destruction

falling in the hands of terrorist sent an alarm signal across the globe. After 9/11 incident it becomes explicable that terrorists instead of acquiring WMD they can transform the harmless passenger aircraft into a destructive weapon of mass destruction if they crash it with a nuclear reactor or the safe store houses where the nuclear, biological and chemical weapons are reserved by states. The development of science and technology has made it possible for the non state actors or sub national groups to cause millions of deaths and unbelievable obliterations as WMDs are now acquired by many states across the globe. Hence, it is not only important to preclude terrorists from gaining access to technology of making these weapons but also to keep these weapons out of the reach of terrorists is a real difficulty. Scholars and security experts are entirely sure that the threat of terrorist use of WMD is a genuine problem.⁴⁷

The apprehension of the dangerous circumstances due to large number of terror attacks led the United Nations to adopt three conventions to prohibit the use, development, manufacture and stockpiling of weapons of mass destruction for the purposes of terror violence by state and non-state actors. Furthermore, it also adopted a comprehensive convention on the suppression of acts of nuclear terrorism.⁴⁸

Nuclear, chemical and biological weapons are included in the list of weapons of mass destruction. In times of peace and war these types of weapons are prohibited under the customary and the conventional laws of armed conflict. These weapons are capable of making large number of deaths, painful injuries, and huge destruction to environment and infrastructure which cannot be repaired.⁴⁹

It is significant to highlight here that the major powers of the world are responsible for the threat of nuclear terrorism because they possess large number of nuclear and other weapons of mass destruction. Instead of non state terror groups, these weapons are used by many weak states that make them available to the right or left wing terrorist and instigate them to use against their adversaries. There is only a single method which can save mankind from the destruction of WMD that is all such type of weapons including nuclear weapons possessed by nation states must be dismantled and its use in any circumstances should be considered as crime against human beings punishable under International law.⁵⁰

The following conventions are adopted and elaborated by the United Nations for preventing the use of weapons of mass destruction.

- a) Convention on the Prohibition of Development, Production and Stockpiling of Bacteriological (Biological) and Toxin weapons and on their Destruction (BWC Convention) 1972.⁵¹
- b) Convention on the Physical Protection of Nuclear Material, 1980.⁵²
- c) Convention on the Prohibition of the Development, Production, Stockpiling and use of Chemical Weapons and on their Destruction (CWC Convention), 1993.⁵³
- d) The International Convention for the Suppression of Acts of Nuclear Terrorism (Nuclear Terrorism), 2005.⁵⁴

The main objective of (BWC CWC) which mainly applies to state parties is the prohibition of development and production of biological and chemical weapons. These two conventions prohibit states from developing, producing, stockpiling or acquiring biological and chemical substances except for peaceful purposes. The CWC does not criminalize the use of biological weapons like the BWC, but not in the context of war. The biological and chemical substances and materials are easily processed and also easily available to terrorists which results in deadly consequences. Therefore, a more comprehensive and specific convention is required which has the capability to suppress the danger of biological and chemical terrorism.⁵⁵

The convention on the Physical Protection of Nuclear Material adopted in 1980 was aimed at protecting nuclear material while its transport and to complement other parts of the WMD legal regimes.⁵⁶ Besides this, another purpose of this convention is to criminalize illegal possession, taking, moving, or use of nuclear material with the purpose to kill, damage, or injure. The parties to this convention are required to cooperate in the investigation, prosecution and extradition of any person attempting or committing any such type of actions.⁵⁷ But this convention is not particularly designed to deal with nuclear terrorism and its scope is narrow and it was developed and elaborated under the IAEA (International Atomic Energy Agency), and does not prohibit the states from manufacturing the nuclear weapons. It only covers nuclear material used for peaceful purposes while in international transport and does not criminalize the preparation or commission of nuclear weapons for the purpose of terror violence. Due to these voids it lacks penal provisions necessary for its enforcement.⁵⁸

In addition to the nuclear materials convention is the International Convention for the Suppression of Acts of Nuclear Terrorism (the Nuclear Terrorism

Convention). This convention was adopted in July 2007 and is the most recent of 13 conventions of the United Nations. The Nuclear Terrorism Convention proscribes the ownership or the use of nuclear materials or devices for the purpose of death, injury or large damage to property or the environment with aim of pressurizing an individual, state or organization to do or refrain from doing anything. It sets forth duty on states parties regarding the confiscation of materials and devices and extradition or prosecution of persons acting in contravention of the offences established by the convention. Pertinent to the suppression of acts of nuclear terrorism, and of the means by which weapons of mass destruction may be attained by terrorists, is the proliferation security initiative.⁵⁹

This convention is a remarkable endeavour of the United Nations to invigorate the global legal framework to counter the menace of nuclear terrorism. Even though the convention shows the earnestness of the world body to address the threat of nuclear terrorism, it has yet to address the issue of production and use of nuclear weapons by Member States. Unless states are induced to demolish stockpile of their nuclear weapons and resolve not to procure or produce them in any circumstances whatsoever, the problem of nuclear terrorism has not been adequately addressed.

F. Preventing the Means of Financing certain forms of Terrorism.

All forms of violence whether it is state violence or violence at the international level, i.e., international terrorism requires a huge amount of money to sustain it. It is mostly impossible for the transnational terrorist network to recruit cadres, acquire necessary logistic support and execute acts of terrorism without proper and strong financial back. Therefore, the most effective method of counter-terrorism is the freezing and seizing of assets suspected to be used by terrorist and criminal gangs for executing their violent activities. However, international community lack in its efforts and has not done enough to control and contain terrorist funding and financing. It is reported that many of the terrorist organizations engaged in collecting money in the name of charity, but they actually use these funds for conducting their criminal activities.

Modern acts of terror violence which involve modern technique or the type of terror violence specifically those that could involve weapons of mass destruction

likely to produce harm of disastrous nature requires funding which is far larger than the cost of conventional weapons or explosives. Numerous terrorist groups work as organized crime groups employing financial means in varied countries to fund their criminal acts.⁶⁰ Therefore, efforts have been required in this direction by the international community to effectively curtail this form of terrorism financing.

Most of the countries around the world enact laws related to control and contain terrorist funding. However, these domestic laws are not applicable to terrorist organizations operating from outside the borders of the countries concerned. Therefore, in order to prevent the free flow of money and other assets to terrorist organization there is a need for the enactment of certain laws of international jurisdiction and application. Thus, the United Nations adopted the Convention for the Suppression of the Financing of Terrorism (also known as the Terrorist Financing Convention) in the year 1999.⁶¹ This convention contains three important obligations for state parties. First, state parties must establish the offences of financing of terrorist acts in their criminal legislation. Second, they engage themselves in wide ranging cooperation with other state parties and provide them with legal assistance in the matters covered by this convention. Third, they must enact certain requirement concerning the role of financial institution in the detection and reporting of evidence of financing of terrorist acts.

⁶²

In order to prevent or prohibit the financing of terrorism each country should take immediate steps to ratify and implement fully the 1999 U.N. International Convention for the Suppression of Financing of Terrorism. Countries should also implement immediately the resolution of U.N. which is related to the prevention and suppression of the financing of terrorist activities, specifically the U.N. Security Council Resolution 1373. This resolution obligates all the members of the United Nations to:

- Criminalize actions which aims to terrorism financing,
- Deny all types of support for terrorist grows,
- Suppress the provision of safe haven or support for terrorists, including freezing funds or assets of persons, organization or entities involved in terrorist acts,

- Prohibit passive or active assistance to terrorists,
- Cooperate with other countries in criminal investigations and sharing information about planned terrorist acts.

This convention recommends that every country is required to criminalize the financing of terrorism, terrorist acts and terrorist organization whether the funds are derived legally or illegally. In matters of terrorist financing the legislation should be specific and each country should implement effective measures to freeze funds and other assets of terrorists without delay. Besides that, some legislative measures should also be adopted by the countries which would enable the competent authorities to seize and confiscate property that is the proceeds of, or used in, or intended or allocated for use in the financing of terrorism, terrorist acts or terrorist organizations.⁶³

As terrorism has become worldwide and a global threat, the international organization has planned numerous strategies to fight effectively against its financing. In the aftermath of 9/11 attacks, Financial Action Task Force (FATF) met in Washington on October 29-30, 2001 and by accepting 8 special decisions it extended its range of actions beyond money laundering to include financing of terrorism. In June 2003, FATF revised its 40 advisory decisions so as to refer to this new threat. These decisions of the members of FATF put into action immediately and cut financial sources.⁶⁴

The terrorist financing convention only legitimately requires that member States who have adopted this convention are solely responsible for the prohibition of terrorism financing. This convention was signed by 132 countries up to March 2004, but only 112 countries have completed the ratification and acceptance process. Consequently, 80 member States are not held accountable for preventing the terrorist financing. This detail is relevant in that the U.N. cannot legally reprimand member states that have not ratified this convention.⁶⁵ Recently this convention has been ratified by 187 countries.⁶⁶

Although this convention makes it illegal for any individual, State or international organization to intentionally finance a person or organization which may utilize this money for the purpose of terrorist acts and also empowers the member States to freeze all such accounts but recently it becomes quite difficult to detect such

funds. Even the national governments have been reluctant in detecting such funds because, the modern banking system functions on the basis of secrecy laws. Therefore, it becomes quite difficult for the security agencies to trace the origin and source of money of individuals and organizations. Despite that, the United Nations after 9/11 has done commendable work by identifying individuals and organizations engaged in terrorist activities and to freeze or seize their assets.⁶⁷

In accordance with article 26, the convention against the terrorism financing entered into force on 10th April 2002.⁶⁸

The United Nation's Global Counter-Terrorism Strategy

After adopting a number of sectoral instruments against terrorism, the United Nations proceed towards adopting a Global Counter Terrorism strategy within the framework of the United Nations System. The Member States of the United Nations on 8 September 2006 adopted this Global Counter Terrorism Strategy for the purpose of consolidation of the endeavours of United Nations and its Member States to the menace of terrorism in all its forms and manifestations. The strategy shows the fact that it is for the first time that each one of member-state of the United Nations have concurred to a mutual strategic and operational framework to counter-terrorism. It draws a concrete plan of action to address the conditions conducive to the spread of terrorism; to combat and prevent terrorism; to adopt procedures in order to build state capacity to fight terrorism; to strengthen the role of United Nations in combating terrorism; to ensure the respect of human rights while countering terrorism.⁶⁹

Global Counter-Terrorism Strategy is the first inclusive, cooperative, and internationally approved global framework for addressing the threat of international terrorism. It encourages the practical work of the United Nations Counter-Terrorism Implementation Task Force (CTITF) which was established by the Secretary General in July 2005 to guarantee overall coherence and coordination in the counter-terrorism endeavours of the United Nations.

The Secretary General of the United Nations in June 2009 established a CTITF Secretariat in the Department of Political Affairs (DPA). Its main function is to coordinate counter-terrorism actions inside and outside of the U.N. system. It

operates through various entities of the United Nations. The number of working groups has been enacted by it for preventing and settling the conflicts; highlighting and supporting the victims of terrorism; responding and preventing to WMD (Weapons of Mass Destruction) attacks; handling the financing of terrorism; opposing the use of internet for terrorist purposes; intensification of the protection of vulnerable targets; and protecting human rights while countering terrorism.⁷⁰

Regional Treaties on Terrorism

Besides the number of conventions adopted by the United Nations against terrorism, there are numerous multilateral regional organizations that have advanced and elaborated various regional treaties and mechanism to repress terrorism. Consequently the Organization of American States, perhaps the first to do so, adopted a treaty in 1971 to prevent and punish acts of terrorism against persons “to whom the state has the duty according to international law to give special protection” (generally diplomats and public officials). The Council of Europe approved the European Convention on the Suppression of terrorism in 1977 (a Convention on the Prevention of Terrorism in 2006).⁷¹ Most noteworthy among the provisions of Council of Europe Convention on the Prevention of Terrorism are the three new offences which are defined by it as: public Provocation to Commit a “Terrorist Offence;” Solicitation of Person to Commit “Terrorist Offences;” and Provision of Training for “Terrorist Offences.” It is necessary for the parties to establish these offences in their national legal systems.⁷² The South Asian Association for Regional Cooperation (SAARC) (1987), the League of Arab States (1998), the Organization of Islamic Conference (1999), the Commonwealth of Independent States (1999) and African Union (1999) all followed the suit. Several of the regional conventions move further than global treaties in defining terrorism, instituting the concept such as state terrorism, and the environmental and technological terrorism. The African Union (formerly the Organization of African Unity), Arab and Islamic regional treaties leave out from their definition of terrorism struggles for self determination and liberation from foreign occupation, aggression and colonialism.⁷³ The African Union adopted the Convention on the Prevention and Combating of Terrorism at

its 35th Ordinary Session of the Assembly of Heads of State and Government in 1999, in Algiers. The detailed definition of terrorist act was provided by the Convention. According to Article 1(3):

- a) any act which is a violation of criminal laws of the state party and which may endanger the life, physical integrity or freedom of, or cause serious injury or death to, any number or group of persons or causes or may cause damage to public or private property, natural resources, environmental or cultural heritage and is calculated or intended to:
 - i) intimidate, put in fear, force, coerce or induce any government, body, institution, the general public or any segment thereof, to do or abstain from doing any act, or to adopt or abandon a particular standpoint, or to act according to certain principles; or
 - ii) disrupt any public service, the delivery of any essential service to the public or to create a public emergency; or
 - iii) create general insurrection in a state;
- b) any promotion, sponsoring, contribution to, command aid, incitement, encouragement, attempt, threat, conspiracy, organizing, or procurement of any person, with the intent to commit any acts referred to in paragraph (a) (i) to (iii).⁷⁴

This stressed the fact that terrorism has really become a global disease which arouses concern in every part of the world. Therefore, it can be said that there must be a need of some more efforts on the part of international community in order to end this menace.

Concluding Observations

Thus, the approach of United Nations towards international terrorism has been adhoc. Though U.N. had adopted several conventions and protocols against specific kinds of terrorist acts, the problems of terrorism have been only partially addressed. In almost all cases the United Nations swung into action against particular manifestation of terrorism after its occurrence. One of the major lacunas of the United Nations counter-terrorism strategy is that it is not comprehensive in nature. In fact, the divergence of views of member states has made it impossible for the United Nations to adopt a comprehensive anti-terrorism convention.

Bassiouni observes:

As a result of the political dynamics pertaining to terrorism, it has been impossible for the states to agree on a comprehensive anti-terrorism convention. For the same

reason, no international convention addresses the question of state–committed and state–sponsored terrorism.⁷⁵

As the threat of terrorism increasing rapidly it has been felt and observed that the adhoc and subject matter approach to deal with terrorism is ineffective. The devastating terrorist attack on the U.S. has proved that there is an urgent need that the issue of terrorism is to be countered with a comprehensive strategy and approach.

Keeping in view the difference of opinion and approaches of member states on the matter of terrorism and its implications it does not seem feasible that the draft comprehensive convention will be adopted and entered into force accordingly. In fact, it cannot be denied that in the contemporary world there should be some comprehensive convention against an international terrorism to suppress this menace. The member states have to rise above their parochial and narrow national interest to address the growing scourge of international terrorism. One might hope the United Nations will transform the collective concern of people around the globe into a comprehensive and durable mechanism and instrument to suppress the threat of international terrorism. Therefore, it can be said that though the United Nations has elaborated numerous conventions and treaties against terrorism, still it has to make some more effective endeavours in this direction than merely adopting these legal instruments. The elaboration of a comprehensive convention on international terrorism will effectively contribute to the prevention, control, and suppression of various forms and manifestation of that phenomenon.

Notes

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³ *Human Rights, Terrorism and Counter-Terrorism*, Fact Sheet No. 32 (hereinafter, UNHCHR, Fact Sheet No. 32), Office of the United Nations High Commissioner for Human Rights, Geneva, p.1.

⁴ *Ibid.*, p.8.

⁵ Hilde Haaland Kramer and A. Yetiv Steve, “The UN Security Council’s Response to Terrorism Before and After September 11, 2001,” *Political Science Quarterly*. no. 3 (Fall 2007), p.411.

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⁷ Peter J. Van Krieken, n. 2, pp. 1-2.

⁸ Peter Romaniuk, *Multilateral Counter-Terrorism: The Global Politics of Cooperation and Contestation*, London and New York: Routledge, Taylor and Francis Group, 2010, p. 32.

⁹ M Mohibul Haque, *International Terrorism and Violence: A Human Rights Perspective*, Aligarh and New Delhi: Aligarh Muslim University Press, Manak Publications, 2011, pp. 82-83.

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¹³ Eric Rosand and Allistair Millar, n. 10, p.51.

¹⁴ Chantal de Jonge Oudraat, “The Role of the Security Council”, in Jane Boulden and Thomas G. Weiss (eds.), *Terrorism and the U.N. Before and After September 11*, Bloomington: Indiana University Press, 2004, pp.8-151.

¹⁵ Measures to Eliminate International Terrorism: Draft Comprehensive Convention on International Terrorism, Working Document Submitted by India, U.N. Doc. A/C6/55/1 (28 August 2000).

¹⁶ Shirley V. Scott, Anthony John Billingsley, Christopher Michaelson, *International Law and the Use of Force: A Documentary and Reference Guide*, United States of America: Greenwood Publishing Group, 2010, p. 223.

¹⁷ Ibid. p. 223.

¹⁸ The U.N. and Counter-Terrorism, (accessed on July 10, 2012) 2:00 p.m. at www.un.org.

¹⁹ Kshitij Prabha, “Terrorism and the United Nations”, *World Focus*, Volume 22, no.9, September 2001, pp. 13-14.

²⁰ Alex Conte, *Human Rights in the Prevention and Punishment of Terrorism, Common Wealth Approaches: The United Kingdom, Canada, Australia and New Zealand*, London and New York: Springer, 1 January 2010, p.41.

²¹ Dr. Paul Norman, British Society of Criminology, “The United Nations and Counter-Terrorism after September 11: Towards an Assessment of the Impact and Prospects of Counter-Terror ‘Spill-Over’ into International Criminal Justice Cooperation www.britisoccrim.org/volume7/004.pdf (accessed on 12 August, 2012), 3:15 p.m.

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²³ Ibid., p.85.

²⁴ M. Cherif Bassiouni, *International Terrorism: Multilateral Conventions (1973-2001)*, New York: Transnational Publishers, Inc., Undated, p.91.

²⁵ M. Mohibul Haque, n. 9, pp.85-86.

²⁶ M. Cherif Bassiouni, n. 24, p.119.

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²⁹ M. Cherif Bassiouni, n. 24, p.119.

³⁰ M. Mohibul Haque, n. 9, p. 87.

³¹ S.K Ghosh, n. 28, p.161.

³² Peter Romaniuk, n.8, p.36.

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- ⁴⁴ Ibid., p.173.
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Introduction

The chapter begins with the discussion that General Assembly is the inter-governmental body which deals with broad political issues and is a forum where all the states of the world are represented and have equal votes. It further discusses the role of the General Assembly in fighting against terrorism. Until 1990s the issue of terrorism was mainly handled by the General Assembly or particularly before the deadly event of 9/11. It further discusses that the General Assembly approached the issue of terrorism as a general problem rather than one relating to particular events or conflicts. In doing so, the Assembly worked to develop a normative framework on terrorism and to encourage cooperation between the states on the development of an international legal framework. Despite the fact that its resolutions are of recommendatory nature it has passed numerous resolutions as shown in table below. The resolutions of General Assembly elaborately discussed in form of three streams “measures to prevent terrorism,” human rights and terrorism,” and “measures to eliminate terrorism.” The General Assembly actively reacted against the 9/11 attacks and along with Security Council it has also made a number of endeavours to fight against this global menace. It has adopted on September 8, 2006 Global Counter-Terrorism Strategy which is considered to be a unique global instrument that will increase national, regional and international efforts to counter terrorism.

The General Assembly is one of the six main organs of the United Nations. It comprises 193 Members of the United Nations. The General Assembly is considered as the main deliberative, policy making, and the representative organ of the United Nations. The Charter of the United Nations establishes the General Assembly as a stage where all states can discuss any significant matter with the Assembly having a wide competence to consider the issue of human rights. Each Member country may have up to five representatives but has only one vote. In the General Assembly voting on important questions requires two thirds majority and other questions are decided by a simple majority.

In accordance with the provisions of the United Nations Charter, the General Assembly’s powers are of deliberative or recommendatory nature only with one exception i.e. internal budgetary obligations of Member States. According to Article 10 and 11 of the U.N. Charter, the General Assembly is authorized to

discuss any questions or any matters which come under the scope of the Charter of the United Nations apart from the subject with which Security Council is also dealing.¹

In stern interpretation of the provisions of the Charter, the General Assembly is not a law making body. It is not to be regarded as a substitute for the Security Council nor has it been given a principal role, though it has a role in the protection and promotion of international human rights. However, there are numerous reasons that led the General Assembly to become a forum of great importance. During an era of Cold War, the lack of the ability of the Security Council to reach harmony on areas affecting the security and peace provided the General Assembly with the opportunity to wield political authority. The adoption of Uniting for Peace Resolution on 3rd November 1950 by the General Assembly was its move in the direction of establishing such authority. The Resolution provides that:

If the Security Council, because of lack of unanimity of the permanent members fails to exercise its primary responsibility for the maintenance of international peace and security, breach of the peace or act of aggression, the General Assembly shall consider the matters immediately with a view to making appropriate recommendations to Members or collective measures, including in the case of breach of peace or act of aggression, the use of armed force when necessary, to maintain or restore international peace and security.

By adopting this Resolution, the General Assembly played an important role in the determination of threat to peace and security and also made recommendations on the usage of armed forces. On the other hand increasing membership from the States of Asia and Africa was another important factor which enhances the power of the General Assembly.²

A recommendation on counter terrorism may be discussed in General Assembly First Committee (Disarmament and International Security) and Sixth Committee (Legal affairs).³

The Actions of General Assembly against Terrorism

In the earlier period Member States have advanced their work on counter terrorism through the General Assembly both, on the legal and operational level. The Assembly's norm setting work has been marked by current successes in adopting conventions targeted at repressing Terrorism Financing, Bombings and the Right to Use Nuclear Material. Since 1972, the General Assembly has

concentrated on the subject of terrorism as an international problem. In the year 1970s and 1980s Assembly addressed terrorism through resolutions and adopted two significant conventions related to counter-terrorism: the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons in 1973 and the International Convention against the Taking of Hostages in 1979.⁴ Until 1990s the General Assembly deals entirely with the menace of terrorism and approached the subject as the general international problem, instead of one which was related to any particular conflicts or events. In doing so the Assembly acted to develop a normative framework among the member States.⁵

There are generally two methods by which General Assembly deals with the question of terrorism. One is by establishing a normative framework that defines the issue of terrorism as general problem. The second method is, by developing some specific international and national legal rules through government action which deal with terrorist. For analyzing the Assembly's endeavours there is need to understand the general institutional features of the General Assembly, its debate on terrorism as well as the politics behind the numerous streams of that debate. The institutional features of the General Assembly restrict its ability to take effective measures against international terrorism. It cannot operate as direct coordinator of action against terrorism because, the Assembly lacks authority to give an order to the governments and powerful actors to take or shun particular actions. Furthermore, the General Assembly oversees no administrative structure which is able to realize its decisions and it also have scarcity of resources which is required to provide material reward for good behaviour or material punishment for bad behaviour. Despite all these restrictions, it is the only intergovernmental body which deals with the wide political issues in which almost all the States around the globe were represented and have equal votes. It is able to work as a supporter of cooperative action as well as developer of normative debate or discourse. Summarizing Inis Claude, Peterson points out:

The General Assembly functions as an organ for the collective legitimization or collective delegitimization of normative prescriptions that guide the activity of member government in some general issue areas, and it influences the statements, policies or behaviour of individual governments and other actors in particular situations. This collective legitimization often proceeds at the level of generally applicable norms. Related efforts to influence particular governments' behaviour through resolutions praising or condemning their actions or inactions occur, but their

impact is often minor or very slow in developing and depends on existence of a strong consensus on the norms applicable to situational hand.⁶

After the Munich crises of 1972, the Secretary General of the United Nations Kurt Waldheim, decided to act through General Assembly and put the issue of terrorism on the agenda of the organization. His proposal was initially titled as: “Measures to prevent terrorism and other forms of violence which endanger or take human lives or jeopardize fundamental freedoms.”

The proposal was approved by a vote of 15 in favour, 7 against and 2 abstentions in the General Committee but the Asian and African members cast the negative votes. Before the inclusion of item on the agenda its title was altered due to the intervention of Saudi Arabia. After the alteration the title reads as: “Measures to prevent terrorism and other form of violence which endanger or take human lives or jeopardize fundamental freedoms, and study of the underlying causes of those forms of terrorism and acts of violence which lie in misery, frustration, grievance, despair and which cause some people to sacrifice human lives, including their own, in an attempt to effect radical changes.”

It was in this form that the item was referred to the Sixth Committee of the Assembly (Legal). The objective behind these amendments was that Saudis and their allies wanted to retain the legitimacy of “national liberation movements” in Asia and Africa, and particularly in Middle East.⁷

The United States presented a Draft Convention for the Prevention and Punishment of certain Acts of International Terrorism in 1972. This draft included offences of “international significance such as offences committed with goal to ruin the interest of or obtaining concessions from an international organization or state under certain enumerated transnational situations and those consisting of, causing serious bodily harm, unlawful killings, or kidnapping other persons. These acts should have been committed neither by nor against a member of the armed forces of a state in the course of military hostilities.” This 1972 Draft Convention of the U.S. was unsuccessful to secure the international community’s approval. As an alternative, the United Nations General Assembly set up an Ad hoc Committee on International Terrorism to “consider the observation of sates [and] submit its report with recommendations for possible cooperation for the speedy elimination of the problem....to the General Assembly.”⁸

The General Assembly's approach to the problem of terrorism undergo a marked change in the early 1990s to 1989, consideration of terrorism as a general problem was primarily assigned to the Sixth Committee (Legal) under an agenda item titled as "Measures to Prevent International Terrorism" and this phrase was also applied in resolution titles. Nevertheless, the Preamble gives more attention to distinguishing justifiable armed struggle from terrorism than did to suggesting measures for lessening the incidence of terrorism. The operative paragraph gives no more guidance; instead, they showed severe divergence among governments about whether terrorism should be prevented by each other's support to suppress the activities of terrorism or elimination of the "root causes" said to inspire terrorism. The matter was still assigned to the Sixth Committee in the 1990s, but the character of the resolution adopted in that decade was quite different.

The first resolution on the general problem of terrorism was adopted in 1991 by consensus but the agenda item was renamed, and consequently the resulting resolutions, "Measures to Eliminate International Terrorism." The new name showed broader agreement that the existence of root causes did not justify terrorist activities; the endeavour to guarantee that the justifiable armed struggle were not marked as "terrorism" moved from differentiating among the goals of armed struggles to differentiating the means employed. Even the several governments that constantly emphasize the need to eliminate root causes agreed that there is a requirement of collective cooperative action against anyone indulging in terrorist activities. In 1993, a further stream of resolutions on "Human Rights and Terrorism" addressing the conditions of both victims and those charged of engaging in terrorist activities emerged from the Third Committee (Social, Humanitarian and Cultural). Elements of this stream were included into the "Measures to Eliminate" series when it was given its current form in resolution 49/60 (1994). The common titles and definite invocation permit us to draw the following sequences of related resolutions on terrorism:

- "Measures to Prevent Terrorism"
Resolutions 3034 (XXVII) 1972, 31/102 (1976), 32/147 (1977), 34/145 (1979), 36/109 (1981), 38/130 (1983), 40/61 (1985), 42/159 (1987), 44/29 (1989) and 46/51 (1991)
- "Human Rights and Terrorism"

Resolutions 48/122 (1993), 49/185 (1994), 50/186 (1995), 52/133 (1997), 54/164 (1999), and 56/160 (2001)

- “Measures to Eliminate Terrorism”

Resolution 49/60 (1994), 50/53 (1995), 51/210 (1996), 55/158 (2000), 56/88 (2001), and 57/27(2002).⁹

General Assembly Resolutions under the Title “Measures to Prevent Terrorism”

The General Assembly adopted Resolution 3034 (XXVII) on 18 December 1972, with a vote of 76 to 35 and 17 abstentions (again it bore the politicized name of the initial agenda item). The resolution’s text “express deep concern” over the aggressive actions and in numerous paragraphs, exhorting states to find solution to the “underlying causes” of such violence, reaffirming the legitimacy of struggles for national liberation and the right to self determination and criticizing “colonial, racist or repressive regimes.” However, the resolution institutes two new instruments. First, the resolution demanded that the states give reports to the Secretary General, including proposals for responding to terrorism. Second, an Ad hoc Committee was created by the resolution and it consists of 35 members. The Committee develops its own recommendations and it receives report from the Secretary General. The major task before the Committee was to study the causes and suggest ideas for prevention of terrorism. The two major reports were submitted by the Committee to the Assembly. This was one of the difficult works for the Committee because of the political differences between the Western and the Third World blocs. For instance, when the Committee met in 1973, the Third World bloc members proposed that “State Terrorism” should be the main concerns which were endorsed in a number of Assembly resolutions. Although a number of states submitted reports to the Secretary General, and he reports back to the Committee, but the same debate was repeated in the forum. For example, the Committee reported in 1979 that:

Legal formulation no matter how perfect would never suffice to solve the problem of terrorism unless action was taken to remove its underlying causes. The restoration of the legitimate rights of the Arab people of Palestine..... and the provision of support to the liberation struggle of people under the colonial yoke were some ways in which the real solution to that problem can be found.

In that report recommendations were made to condemn terrorism as well as with an emphasis on the obliteration of its causes—underline the modesty of the role of

Assembly. The item which upholds its long title up to 1991 was put on the agenda on a biannual basis, but the Committee was not asked to carry on its task beyond 1979.¹⁰

The General Assembly in its resolution of 34/145 of 1979 condemned all the terrorist acts and it also condemned “the continuation of repressive and terrorist acts by colonial, racist, and alien regimes in denying people their legitimate right to self determination and independence and other human rights and fundamental freedoms.” The Resolutions’ title and text confirms that the focus of Resolution is upon the “underlying causes of those form of Terrorism and Acts of Violence which lie in Misery, Frustration , Grievance and Despair and which cause some people to sacrifice Human Lives including their own in Attempt to Effect Radical changes.”¹¹ The similar stress on the underlying cause was placed on the General Assembly Resolution 36/109 (1981)¹² and General Assembly Resolution 40/61.¹³

The United Nations has incorporated terrorism as an agenda item for every session of the General Assembly since its 27th session in 1972. The Adhoc Committee which was created by the General Assembly gave the reports of its findings to the General Assembly in 1973, 1977 and 1979. Again in 1996, Ad hoc Committee on terrorism was re-established by the General Assembly with an objective to elaborate a comprehensive convention on international terrorism..... developing a comprehensive legal framework of conventions dealing with international terrorism, and convening a high level conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations.

But regrettably, such attempts made by the General Assembly have produced more paper work than any concrete results in the fight against terrorism.¹⁴

In 1979, the Adhoc Committee formed by General Assembly Resolution 3034 recommended that the Assembly analyses the major causes of terrorism contained in the report of the Committee and condemn terrorist attacks and that the states works for the elimination of terrorism as they are obliged under international law to refrain from instigating, organizing, assisting, or participating in acts of terrorism in other states and also decline to use their territory for such acts and to take cooperative measures to combat international terrorism. But these recommendations of the General Assembly were tempered by the terminology of ‘underlying causes’ and the ‘right to self determination’. In 1985 further

development took place when the U.N. General Assembly adopted Resolution 40/61, in which it strongly recommended to the states to take measures for the 'speedy and final elimination of the problem of international terrorism'. The General Assembly also took the position that it:

Unequivocally condemns, as criminal, all acts, methods and practices of terrorism whenever and by whoever committed, including those which jeopardize friendly relations among states and their security [and] deplores the loss of innocent human lives which result from such acts of terrorism.

One of the distinguishing characteristic of this Resolution was that after a prolonged debate of fifteen years, the United Nations for the first time in this Resolution linked the term criminal with terrorism. Another Resolution was adopted by the United Nations General Assembly in 1987 based along the lines of 1985 Resolution also condemn terrorism.¹⁵

The discussion and debate within the U.N. General Assembly have showed fundamental split between the developed and the developing world. The developed world has persisted on the complete proscription of terrorism, no matter what was the motive and underlying causes. On the other hand the developing world has keep on in the state of suspicion of this approach of the developed world, asserting that underlying causes of terrorism require giving the determining factors and that national liberation should be permitted as an alternative to every conceivable means to free themselves from colonial or racist regimes.¹⁶

The General Assembly's first action on terrorism in 1990s, culminating in Resolution 46/51 adopted on 9 December 1991, was in several ways an extension of measures adopted in the year 1980s in both operational and preambular paragraphs, language referring to the legitimacy of self determination and struggle for national liberation was sustained. But the resolution again avoided the issue of organizing an international conference to define terrorism, as different from national liberation movements (Syrian proposal) and also to ask Secretary General to look for the views of Member States on the matter. The specialized organs within the U.N. system were also requested to take actions within their domains. The resolution in other way indicates a transformation in the dynamics of cooperation, for example the long title which was inherited from 1972 was discarded by simply "Measures to Eliminate Terrorism". When after two years this item was taken up in the Sixth Committee, India and Algeria proposed that

there was a need of general convention on terrorism for strengthening international legal response against terrorism... But consensus could not be found on this proposal and the matter was put for discussion. In 1993 no resolution was adopted (breaking biannual cycle) and the Secretary General was asked to seek the opinions of Member States on the idea. Consequently, the report manifests split among the Member States on the idea. Though India and Algeria draw some support but, it was strongly opposed by the United States and the European Union.¹⁷

The General Assembly Resolutions under the Title: “Human Rights and Terrorism”

In 1993 after the Vienna World Conference on Human Rights the U.N. General Assembly started to adopt resolutions on “Human Rights and Terrorism” and at the same time sustained its main international anti-terrorist activity under the agenda item “Measures to Eliminate International Terrorism”. In 1997, the Sub Commission on the Promotion and Protection of Human Rights (now it is replaced by the Advisory Committee of the Human Rights Council in 2006) appointed Ms. Kaufa, a special rapporteur who conducted a study on Human Rights and Terrorism. She highlighted in her paper that the resolution on “Human Rights and Terrorism” adopted by the General Assembly exhibit not only the lengthening of its interest in the specific relationship that exist between human rights and terrorism but also a firm evolution of its attitude with regard to terrorist acts committed by the non state actors. Whereas, the provisions of these resolutions basically obtain from those embodied in preceding resolutions that denounce all forms of terrorism and concentrate on the obvious connection between terrorism and human rights violation. However preambular paragraph which all of them contain, refers expressly to the sincere concern of the General Assembly “at the gross violations of human rights perpetrated by terrorist groups”.¹⁸

In “Human Rights and Terrorism” stream of resolutions, which was drafted in the Third Committee concern was given to those who are harmed by terrorist acts. Although delegates in this Committee are mainly diplomatic generalists, they have drawn heavily on dialogues among criminologists and advocates of human rights, who took advantage of a more positive climate for raising their concern

when the Cold War ended. Current U.N. Congresses on Prevention of Crime and the Treatment of Offenders, the U.N. Sub Commission on the Promotion and Protection of Human Rights have been the chief sources of inspiration for Third Committee discussions. This stream of resolutions reflects the normative dilemmas which were raised by governments when they urge to take rapid action against the perpetrators of terrorist acts while neglecting erosion of international human rights and due process standards.¹⁹

Resolution 48/122 (1993), the first in the Human Rights and Terrorism stream, invoked the U.N. Charter, the Universal Declaration of Human Rights, the two International Covenants on Human Rights, and the 1993 Vienna Declaration and Programme of Action of the World Conference on Human Rights.²⁰ The General Assembly adopted Resolution 49/185 in 1994 due to the serious concern of gross violation of human rights perpetrated by the terrorist groups. The resolution criticizes the increased killing of innocent persons, including women, children and the elderly, who are massacred and maimed by terrorists in indiscriminate and random acts of violence and terror, which under any circumstances cannot be justified.²¹

The report was submitted in pursuance of General Assembly Resolution 49/185 of 23rd December 1994 entitled “Human Rights and Terrorism” which reads as follows:

Reiterates its unequivocal condemnation of all acts, methods and practices of terrorism, as activities aimed at destruction of human rights, fundamental freedoms and democracy, threatening the territorial integrity and security of states, destabilizing the legitimately constituted Governments, undermining pluralistic civil society and having adverse consequences on the economic and social development of the state.²²

The other Resolutions which were adopted by the General Assembly under the title “Human Rights and Terrorism” were 50/186 (1995), 52/133 (1997).²³ In General Assembly Resolution 54/133 (1999), the Member States again restated their clear condemnation of practices and methods of terrorism, in all its forms and manifestations, as actions aimed at destruction of human rights, fundamental freedoms and democracy. The Member States in that resolution once again acknowledge that such acts threaten the territorial integrity and security of States, and have harmful consequences for the economic and social development of States. No end justifies intentionally attacking civilians and non combatants.

Terrorist acts are infringement of the right to life, liberty, security, well being and freedom from fear. Consequently, adopting and implementing effective counter-terrorism measures is also a human rights responsibility for States.²⁴

In November 2002, General Secretary Kofi Annan observed that 11 September 2001 terror attacks have acerbated the dilemma, “where an understandable focus on preventing still more terrorist acts has increased concerns about the price we must pay in terms of cherished rights and liberties.” He further said “we face a nearly unsolvable conflict between two interpretations of modern life protecting the traditional civil liberties of our citizen, and the same time ensuring that safety from terrorist attacks with catastrophic consequences. There was a need to give particular attention to ensure the balance between the anti–terrorism measures and the observance of human rights standards, Mr. Annan said,” or else the struggle against terrorism would be “self defeating.” According to the provisions of the Charter of United Nations, respect for human rights continues to be essential part of any comprehensive counter–terrorism strategy. The United Nations provide guidelines to help the States for maintaining the respect for human rights while countering terrorism and these have been established in numerous resolutions adopted by the General Assembly, Security Council and the erstwhile Commission of Human Rights. These resolutions emphasize that “states must ensure that any measure taken to combat terrorism comply with their entire obligation under international law and should adopt such measures in accordance with international law.”²⁵

The General Assembly adopted another Resolution 56/160 in 2001, the language of the resolution reads as:

Recalling also the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights on 25 June 1995, in which the conference reaffirmed that the acts, methods and practices of terrorism in all its forms and manifestations, as well as its linkage in some countries to drug trafficking are activities aimed at the destruction of human rights, fundamental freedoms and democracy, threatening territorial integrity and security of states and destabilizing legitimately constituted Governments, and that the international community should take necessary steps to enhance cooperation to prevent and combat terrorism.²⁶

The Office of High Commissioner for Human Rights (OHCHR) has given priority to human rights while countering terrorism. It has voiced “profound concern at the multiplication of policies, legislation and practices increasingly being adopted by many countries in the name of fight against terrorism, which

affect negatively the enjoyment of virtually all human rights.” In 2003, The Digest of Jurisprudence of the U.N. and Regional organizations on the protection of Human Rights while countering terrorism, published by OHCHR makes many important contributions that elucidate the concept of non-derogable rights. Its foremost work is to institute a framework in which terrorism can be successfully countered without harmfully affecting fundamental freedoms and to address the main principles of necessity and proportionality, essential to legal counter-terrorism laws and measures and also to make recommendations regarding the obligation to promote and protect human rights and fundamental freedoms of States, including in their implementation of significant Security Council resolutions.²⁷

The General Assembly Resolution 60/158 of December 2005 provides the fundamental framework for the “Protection of Human Rights and Freedom while Countering Terrorism.”²⁸ International Human rights experts express their concern that several counter-terrorism measures violate human rights and fundamental freedoms. The other General Assembly resolutions which deals with “Human Rights and Terrorism” were 57/219, 58/187 and 59/191. In July 2005, the Commission on Human Rights appointed a Special Rapporteur on the Protection and Promotion of Human Rights and Fundamental Freedoms while countering Terrorism. This was a leading step towards ensuring the compatibility of international human rights law with counter- terrorism measures. The Special Rapporteur by corresponding with governments, making country visits, liaising with United Nations and regional organizations, and reporting on these issues supports and offers tangible advice to States. The institution of New Human Rights Council in 2006 presents another opportunity to incorporate human rights into counter terrorism attempts and, as it takes shape, the Council should bear in mind the reality of terrorism.²⁹

On 4 September 2008, the United Nations General Assembly, sitting in plenary, reviewed the United Nations Global Counter-Terrorism Strategy, which was adopted by the General Assembly two years ago, on September 2006. The Global Strategy is a path breaking document as every state accepts in it, unequivocally, that human rights are the fundamental basis for the fight against terrorism. The meeting of September review gives a brilliant opportunity to the General Assembly to take stock of the implementation of strong human rights

provisions in the Global Strategy and to take material steps for their implementation.³⁰ Therefore, the General Assembly shows the need to respect human rights in the Counter-terrorism efforts, especially in U.N. Global Counter Terrorism Strategy. The Global Counter Terrorism Strategy “recognizing that development, peace and security, and human rights are interlinked and mutually reinforcing,” laid down the following pillars for counter terrorism:

- Measures to preclude and fight against terrorism;
- Measures to develop states’ capability to prevent and combat terrorism and to bolster the role of the United Nations in this respect; and
- Measures to guarantee respect for human rights for all and the rule of law as the important basis of fight against terrorism.

This last pillar, focusing on human rights, describes the protection and promotion of human rights as “essential to all components of the Global Counter Terrorism Strategy,” and reaffirms that States must ensure that any measure taken to combat terrorism comply with international law, in particular human rights law, refugee law and international humanitarian law.” In 2009 , the General Assembly repeated that “terrorism cannot and should not be associated with any religion , nationality, civilization or ethnic group,” and requested States , among other measures, not to resort to racial or ethnic profiling, respect non refoulement obligations, ensure due process guarantees; and ensure that “laws criminalizing acts of terrorism are accessible, formulated with precision, non discriminatory, non retroactive and in accordance with international law, including human rights law.”³¹

The General Assembly Resolutions under the Title: “Measures to Eliminate Terrorism”

One of the continuous features in the General Assembly’s discussion on terrorism as a common problem has been the lack of ability among the Member States to agree on a consensual definition of the terms “terrorism,” “terrorist” and “international terrorism.” Even the chief statement in the current “measures to eliminate” stream, the Declaration on Measures to Eliminate International Terrorism adopted in Resolution 49/60, does not go beyond categorizing terrorism as criminal activity in its three definitional provisions:

1. The States Members of the United Nations solemnly reaffirm their unequivocal condemnation of all acts, methods, and practices of terrorism, as criminal and unjustifiable, wherever and by whomever committed, including those which jeopardize the friendly relations among States and peoples and threaten the territorial integrity and security of states;
2. Acts, methods, and practices of terrorism constitute a grave violation of the Purposes and Principles of United Nations, which may pose a threat to international peace and security, jeopardize friendly relations among States, hinder international cooperation and aim at the destruction of human rights, fundamental freedoms and the democratic basis of society;
3. 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 are in any circumstance unjustifiable, whatever the considerations of a political, ideological, racial, ethnic, religious or any other nature that may be invoked to justify them.³²

The “measures to eliminate” stream of resolutions is more government centered and, like the previous “measures to prevent” stream, put down a normative framework which encourage government to deal with terrorism as a criminal activity, to repress it using police techniques, and to work together in suppressing it.³³ This resolution which was adopted without a vote in both the Sixth Committee and the Assembly’s plenary is mostly repetitive of preceding resolutions, it gives more tasks to the Secretary General, which comprises the collection of data on the status of multilateral, regional, and bilateral agreements in addition to national counter terrorism laws (to be submitted by the States), and re-examining the existing international legal framework. Despite this compromise, there was a reappearance of arguments regarding the general convention on terrorism and a conference on defining terrorism but that resolution did little further than reaffirming the declaration. Looking for advancement of subject, India went so far as to circulate a draft comprehensive convention on international terrorism in Sixth Committee in 1996. These developments resulted in more lengthening and deepening of the General Assembly’s consideration of terrorism yet incremental.³⁴

Resolution 51/210 of 17 December 1996 further broadened the Assembly’s counter-terrorism agenda. The General Assembly established both an Ad Hoc Committee and a Working group of Sixth Committee to develop new legal instruments against terrorism. These fora were to be open to all member states, and also to United Nations specialized agencies. The principal tasks allocated to these bodies were the development of Conventions on Terrorist Bombings and Suppression of Acts of Nuclear Terrorism.³⁵ The emphasis on terrorist bombing

issues resulted from U.S. proposal due to numerous attacks on U.S. such as the truck bomb attack on U.S. military offices in Dhahran, Saudi Arabia in June 1996, and also the attack on World Trade Centre in New York City in 1993. On acts of nuclear terrorism, the proposal came from Russia and it was agreed through informal consultations that the Ad Hoc Committee would “address means of further developing a comprehensive legal framework of conventions dealing with international terrorism.”³⁶

The International Convention for the Suppression of Terrorist Bombings (15 December 1997) and International Convention for the Suppression of Financing of Terrorism (9 December 1999) were adopted by the General Assembly which were further elaborated by the Ad Hoc Committee. The General Assembly in its resolution 55/158 which was adopted on 12 December 2000 requested the Ad Hoc Committee to carry on its work of elaborating a comprehensive convention on international terrorism and also continue its attempts to resolve the unsettled issue regarding the elaboration of a draft International Convention for the Suppression of Acts of Nuclear Terrorism and put on its agenda the question of organizing a high level conference with the support of the United Nations to formulate a cooperative organized reaction of international community to terrorism.³⁷

A further consequence of resolution 51/210 was to continue integration of specialized agencies and other multilateral bodies, in the United Nations response to terrorism. The annual reports submitted by the Secretary General—as requested under the “Measures to Eliminate” resolutions document states implementation of essential measures, as well as the actions of wide range of international and regional organizations. These reports prove that the number of international and regional organizations drawn into the remit of multilateral counter-terrorism continued to grow. Furthermore, these bodies played varied roles.³⁸

In 1997, Terrorism Prevention Branch within the office on Drugs Control and Crime Prevention (now Office on Drugs and Crime) was established by the General Assembly in order to increase the capability of the U.N. Secretariat on counter-terrorism. The office has been instituted as a result of the consolidation of the United Nations criminal justice organs, which had focused on terrorism in the past on numerous occasions.³⁹

Thus in all the three streams, that is the Measures to Prevent Terrorism”, “Human Rights and Terrorism”, “Measures to Eliminate Terrorism” General Assembly has issued number of resolutions on terrorism condemning acts of terrorism and calling on member States to cooperate with each other in order to prevent and eliminate terrorism. The General Assembly has also proposed some functional measures that would make terrorist actions more difficult. The General Assembly’s effort to promote coordinated action, whether in the form of elaborating an international legal framework that promotes cooperation against terrorism or in the form of urging governments to work together, have had more mixed results. Here too, the possibilities of Assembly action are defined by the attitudes of the member States. Indeed, there were a lot of reasons to doubt the effectiveness of General Assembly as a tool of counter-terrorism. Although the mechanism of General Assembly recorded numerous achievements, especially regarding the elaboration of rules and norms, limitations were readily evident. Rates of ratification of terrorism-related convention were quite modest, and implementation did not follow always.

Table: 4 U.N. General Assembly Resolutions Related to Terrorism

UN General Assembly Resolutions	Key Provisions
56/1 September 18, 2001	Condemns the September 11, 2001, terrorist attacks and expresses condolences and solidarity with the people and Government of the United States. Call for urgent international cooperation to bring perpetrators to justice.
55/158 January 30, 2001	Reiterates General Assembly Resolution 54/110. Welcomes the effort of the Terrorism Branch of the Centre for International Crime Prevention. Continues the previous work of the Ad Hoc Committee.
54/164 February 24, 2000	Recalls General Assembly Resolution 52/123. Commends those governments that supplied the Secretary General with their views on the implications of terrorism. Welcomes the Secretary

	General's report and requests that he continue to seek views of member states.
54/110 February 2, 2000	Recalls General Assembly Resolution 53/108. Notes the establishment of the Terrorism Prevention Branch of the Centre for International Crime Prevention in Vienna, Austria. Invites states to submit information on their national laws, regulations, or initiatives regarding terrorism to the Secretary General. Invite regional intergovernmental organization to do likewise. Continues the previous work of the Ad Hoc Committee.
54/109 February 25, 2000	Adopts the <i>International Convention for the Suppression of the Financing of Terrorism</i> and urges all states to sign and ratify, accept, approve, or accede to the Convention.
53/108 January 26, 1999	Recalls General Assembly Resolution 52/165. Reaffirm that actions by states to combat terrorism
	should be conducted in conformity with the Charter of the United Nations, international law, and relevant conventions. Decides to address the questions of convening a UN conference to formulate a joint response to terrorism by the international community. Decides the Ad Hoc Committee shall continue to elaborate on a draft convention for the suppression of terrorist financing will continue developing a draft convention for the suppression of acts of nuclear terrorism.
52/165 December 15, 1997	Reiterates the General Assembly Resolution 51/210. Reaffirms the Declaration on Measures to Eliminate International Terrorism. Requests the Ad Hoc Committee established by UN General Assembly Resolution 51/210 continue its work. Request the Secretary General to invite the International Atomic Energy Agency to assist the Ad Hoc Committee.
52/133 December 12, 1997	Recalls General Assembly resolution 50/186. Condemn incitement of ethnic hatred, violence and terrorism. Request the Secretary General seek the views of member states on the implications of terrorism in all its forms and manifestations.
51/210	Calls upon states to adopt further measures to prevent and

December 17, 1996	combat terrorism. Some of these include: accelerating research and development of explosive detection and marking technology; investigating the abuse of charitable, social, and cultural organizations by terrorist organizations; and developing mutual legal assistance procedures to facilitate cross border investigations. Further calls upon states to become parties relevant international anti-terrorism conventions and protocols. Also establishes an Ad Hoc Committee to elaborate an international convention for the suppression of terrorist bombings and acts of nuclear terrorism. Approves a supplement to the 1994 declaration on measures to Eliminate International Terrorism, which, among other things, reaffirm that asylum seekers may not avoid prosecution for terrorists acts and encourages states to facilitate terrorist extraditions even in the absence of treaty.
50/186 December 22, 1995	Recalls General Assembly Resolution 49/185. Requests the Secretary General continue to seek the views of member states on the possible establishment of a U.N. voluntary fund to aid victims of terrorism, as well as ways and means to rehabilitate and reintegrate such victims back into society. Requests the Secretary-General submit a report to the General Assembly containing the views of the member states on these topics.
50/53 December 11, 1995	Reaffirms the Declaration on Measures to Eliminate International Terrorism. Urges all states to cooperate in eliminating terrorist-safe havens and in further developing international law regarding terrorism. Recalls the role of the Security Council in combating terrorism. Requests the Secretary- General submit an annual report on the implementation of paragraph 10 of the declaration.
49/185 December 23, 1994	Recalls General Assembly Resolution 48/122. Expresses solidarity with the victims of terrorism. Requests the U.N. Secretary General seek views of member states on the establishment of a U.N. voluntary fund for victims of terrorism

49/60 December 20, 1993	Approves the Declaration on <i>Measures to Eliminate International Terrorism</i> , which among other things, unequivocally condemns all acts of terrorism, demands that states to take effective and resolute measures to eliminate terrorism, and charges the Secretary with various implementation tasks. Some of these tasks include collecting data on the status of existing international agreements relating to terrorism and developing an international legal framework of conventions on terrorism.
48/122 December 20, 1993	Condemns terrorism as an activity aimed at the destruction of human rights, fundamental freedoms and democracy. Also condemns terrorism for threatening state security, destabilizing legitimate governments, undermining civil society, and obstructing economic development. Calls upon states to take effective measures to combat terrorism in accordance with international standards of human rights. Urges the international community to enhance cooperation against terrorism at many levels.
46/51 December 9, 1993	Recalls General Assembly Resolution 44/29. Welcomes the recent adoption of the Convention on the Marking of Plastic Explosives for the Purpose of Detection.
44/29 December 4, 1989	Recalls General Assembly Resolution 42/159. Expresses the concern at the growing link between terrorist groups, drug traffickers, and paramilitary gangs. Calls upon member states to use their political influence to secure the safe release of all hostages. Also urges the international Civil Aviation Organization to intensify its work on devising an international regime for the marking of plastic explosives for purposes of detection. Welcomes the recent adoption of aviation and maritime security conventions and protocols.
42/159 December 7, 1987	Reaffirms General Assembly Resolution 40/61. Urges all states to (a) prevent the preparation and organization of terrorists acts from their territories; (b) ensure the apprehension, prosecution,

	<p>or extradition terrorist perpetrators; (c) conclude bilateral and multilateral agreements to that effect; (d) cooperate with other states in exchanging terrorist information; and (e) harmonize their domestic legislation with existing international conventions to prevent terrorism. Also welcomes the air and maritime–security conventions being drafted by the International Civil Aviation Organization and the International Maritime Organization.</p>
<p>40/61 December 9, 1985</p>	<p>Recalls General Assembly Resolution 38/130. Unequivocally condemns all acts of terrorism. Urges all states not to obstruct the application of appropriate law enforcement measures against terrorist suspects provided for in the conventions to which these states are a party. Urges states to eliminate underlying causes of terrorism, including colonialism, racism, and situations involving massive human rights violations. Also, calls upon all states to follow the recommendations of the International Civil Aviation Organization to prevent terrorist attacks against civil aviation transport. Requests the International Maritime Organization study the problem of terrorism against ships.</p>
<p>39/159 December 17, 1984</p>	<p>Condemns policies and practices of terrorism between states as a method of dealing with other states and peoples. Demands that states refrain from taking action aimed at undermining other states. Urges all states to respect and observe the sovereignty and political independence of states.</p>
<p>38/130 December 19, 1983</p>	<p>Recalls General Assembly Resolution 34/145. Deeply deplores the loss of innocent human lives and the pernicious impact of international terrorist acts on friendly relations among states as well as on international cooperation. Re-endorses the recommendations of the Ad Hoc Committee on International Terrorism.</p>
<p>36/109 December 10 1981</p>	<p>Re–endorses the recommendations made to the General Assembly by the Ad Hoc Committee on International Terrorism</p>

	and calls upon all states to observe and implement these recommendations.
34/145 December 17, 1979	Unequivocally condemn all acts of international terrorism. Adopts the recommendations of the Ad Hoc Committee relating to cooperation for the elimination of international terrorism. Calls upon states to refrain from organizing, instigating, assisting or participating in acts of civil strife or terrorism in another state. Appeals to states to become parties to existing international conventions relating to terrorism. Invites states harmonize their domestic laws with international conventions on terrorism and cooperate with each other more closely in the areas of information sharing, terrorist extradition, and terrorist prosecution.
31/102 December 15, 1976	Urges states to continue to seek just and peaceful solutions to the problem of international terrorism. Reaffirms the inalienable right to self determination of all people, and condemns the continuation of repressive and terrorists acts by colonial, racist, and alien regimes. Continues the work of the Ad Hoc Committee on Terrorism in studying the underlying causes of terrorism and requests that it submit practical measures to combat terrorism to the Secretary General.
30/34 December 18, 1972	Urges states o devote their immediate attention to the growing problem of international terrorism. Reaffirms the inalienable right to self-determination of all people under colonial regimes and upholds the legitimacy of national liberation movements. Also, establishes an Ad Hoc Committee on terrorism to study the root causes and devise solutions to terrorism.

Source: United States General Accounting Office, Report to Congressional Requestors, *Combating Terrorism: Interagency Framework and Agency Programs to Address Overseas Threat*, Diane publishing, May 2003, pp. 246-248.

The General Assembly's Response to Terrorism after 9/11

The events of 2001 did much to change the orientation of the General Assembly's counter-terrorism policy. In recent period, the concept and terminology are evolving towards discussion of measures to eliminate terrorism. This development is a reminder that it is standard setting activity of the General Assembly that has given rise to the international conventions and protocols on terrorism whose implementation Security Council upholds today as fundamental in the global counter-terrorism effort.

In the post 9/11 period the Security Council took active part in counter-terrorism and passed several resolutions against terrorism, the record of General Assembly is more modest. After 9/11, the General Assembly in its first plenary meeting on 18 September passed a resolution condemning the attacks on U.S. and calling for international cooperation against terrorism.⁴⁰ The resolution passed by the General Assembly in the autumn of 2001 not only condemn the 9/11 attacks but also considered remarkable because it reflected the Assembly practice from the pre 9/11 period. The resolution on "Measures to eliminate International Terrorism" that year referred to Security Council resolutions 1368, 1373, and 1337 and urged States to provide technical assistance to those in need.⁴¹

The two U.N. organs—Security Council and General Assembly—not only condemn the event of September 11, 2001 but also adopt the effective and practical measures through the support of international community. The Security Council adopted Resolution 1368 (A/RES/1368 (2001)) and the General Assembly adopts (A/RES/56/10) on 18 September in order to prevent the future acts of terrorism. In this regard U.N. Secretary General Kofi Annan highlighted three important principles when the opening of the fifty sixth session of the UN General Assembly was addressed by him immediately after the deadly event and again on 1st October. These principles are as follows:

- 1) "Terrorists act are never justified no matter what considerations may be invoked.' Simultaneously the counter-terrorist crusade should not distract from actions on other U.N. principles and purposes accomplishment of which could by itself diminish and eradicate terrorism.
- 2) The adoption of preventive measures to be undertaken on a cooperative basis should be 'in accordance with the Charter and relevant provisions of international law."

- 3) The search for legal precision must be subordinated to ‘moral clarity’ on the subject of terrorism.

This attitude makes this fact sure that the reaction of United Nations against terrorism was not out of retaliation or retribution but based, as to be supposed in an organization based on norms as well as legal concepts and values. Furthermore the Secretary General’s focus was on the protection of the civilians—an important theme in the United Nations—significantly highlighting the indiscriminate nature of terrorist attacks.⁴²

The Sixth Committee’s Ad Hoc Committee and Working Group were renewed, but debate on main items that is, the comprehensive convention, the convention for the suppression of acts of terrorism and the convening of a high level debate on terrorism under the auspices of the United Nations took on familiar hue soon enough.⁴³ One new measure taken in 2001 was a request out of a Fifth Committee (Administration and Budget) that the Secretary General develop a proposal to strengthen the Secretariat’s Vienna based Terrorism Prevention Branch (TBP) of the U.N. Office of Drug Control and Crime Prevention.⁴⁴

In December 2002, the General Assembly adopted three new resolutions on terrorism. A Mexican initiated resolution, out of the Third Committee was adopted on “Protecting Human Rights and Fundamental Freedoms while Countering Terrorism” without a vote in both the Committee and the Assembly. Not like the “Human Rights and Terrorism” resolutions, the emphasis on new measures was on the duty of states to adhere to human rights in implementing and formulating counter-terrorism policies. Also out of the Third Committee, a Russian-initiated resolution on hostage taking was adopted without a vote. The Indians proposed a resolution in the First Committee on Measures to Prevent Terrorist from Acquiring Weapons of Mass Destruction.” The resolution refer to the current action taken by the IAEA (including the advisory group on nuclear security) and requested the Secretary General to report on measures undertaken by international organization regarding the connection between terrorism and the proliferation of WMD (Weapons of Mass Destruction).⁴⁵

In 2003, the work of the Assembly further expanded, with Third Committee generating a resolution on “Strengthening International Cooperation and Technical Assistance in Promoting the Implementation of the Universal Convention and Protocols Related to Terrorism within the Framework of the

Activities of the Centre for International Crime Prevention.”⁴⁶ Just as the Terrorism Prevention Branch received more resources and broadened mandate, the Centre (also part of the Vienna based U.N. office of Drugs and Crime) had launched a “Global Programme against Terrorism,” strengthening the capability of some forms of technical assistance. Economic and Social Council (ECOSOC) introduced this resolution to the Third Committee, getting unanimous support.⁴⁷

The General Assembly in 2004 keeps its emphasis on weapons of mass destruction and strengthening international cooperation and technical assistance relating to the terrorism conventions and protocols.⁴⁸ The General Assembly move forward on the issue of nuclear terrorism as a result of the Secretary General’s High Level Panel report on “Threats, Challenges, and Changes” and his 2005 report, In *Larger Freedom*. The convention defines radioactive and nuclear material and creates a sequence of offences, which comprises possession or use of such material with objective to cause death or injury, to damage property, or to compel a person, international organization or state from doing or abstaining from an act. Those who are signatories are required to criminalize these acts and to extradite or put on trial all those persons who supposed to have committed them. The convention was approved by the Assembly in April 2005. It was opened for signature in September of that year and come into force in July 2007.⁴⁹

In September 2005 Summit, the leaders of the world unequivocally criticize terrorism in all its forms and manifestations, committed by whomever, wherever and for whatever reasons. Building on this old platform, the Summit also requested Member States to act through the General Assembly and adopt counter-terrorism strategy based on the recommendations from the Secretary General that would encourage coordinated, consistent and comprehensive reactions at the national, regional and international level to counter terrorism. The Secretary General Kofi Annan acted on those recommendations and submitted a report to the General Assembly on 2 May 2006. Those recommendations shaped the initial basis of a series of discussion by Member States that resulted in the adoption of a Global Counter-Terrorism Strategy for the United Nations. The strategy is in the form of a resolution A/RES/60/288 with an annexed Plan of Action. In September 2008 all Member States confirmed their full commitment to the principles of the strategy and pledged to pursue its vigorous implementation. More reviews of the strategy were by the Member States in September 2010, and

currently in June 2012 in order to share the experiences and good practices in addressing the menace of terrorism. The Secretary General in its current report on the United Nations activities in implementing the strategy showed the good progress in its third review of the Global Counter–Terrorism Strategy on 28–29 June 2012, the General Assembly unanimously adopted a resolution renewing its staunch commitment for strengthening international cooperation to thwart and combat all forms of terrorism.⁵⁰

Concluding Observations

The absence of definition of terrorism has not prevented General Assembly from preparing the counter–terrorism conventions and protocols which the international community has adopted in the past and which contain descriptions of all the elements associated with the perpetration of terrorist acts. The General Assembly has addressed international terrorism by developing a normative framework that identifies terrorism as a problem common to all Member States and by encouraging concerted government action to develop more specific national and international law and cooperation between States which is the cornerstone of the UN Charter, have been gradually strengthened to the point that they have become obligatory as the scope and deadlines of terrorism continue to grow.

The General Assembly has also suggested some practical measures that would make terrorist operations more difficult. Resolutions also reveal continued concern that terrorist label not be extended to those engaged in what the General Assembly’s majority regards as justified acts of political resistance and reminders that both the victims and accused perpetrators have rights that deserve respect. Therefore, it may be assumed that General Assembly adopted several resolutions calling for the ratification and for improvement on cooperation between states in combating terrorism, as well as condemning as criminal all acts, methods and practices of terrorism whenever and by whomever committed.

The work of General Assembly after 9/11 was broad in scope, disaggregated across Committees and to a large extent derivative of Security Council measures. The failure of the Assembly to endorse the Council led approach more directly no doubt contributed to its loss of momentum, especially regarding the CTC (Counter Terrorism Committee) process, from 2003. For all its activity, however,

the Assembly, much like as the Council, did not elaborate a single, coherent strategic response to terrorism.

The General Assembly is the United Nation's most democratic body which includes all the members of the organization. It is a platform where countries speak up and decide what they collectively think is best for the international community therefore it can be said that despite having recommendatory nature and non binding approach General Assembly provides members with a tribune for bringing up the matter they regard as important. It is a forum for exchanging views, and an arena for contending over which problems should be viewed as common challenge and the preferable.

Notes

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⁶ Ibid., pp.173-174

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¹⁰ Peter Romaniuk, n.7, pp.40-41.

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Introduction

The chapter begins with discussion of the role of Security Council in dealing with terrorism and what actions it has taken in order to tackle this global menace. In other words, the chapter provides an outline of the Security Council's approach to terrorism. It analyses that the active role of Security Council against terrorism begins mainly after 9/11. The chapter also discusses the evolution of Security Council's actions against terrorism which highlights its shifting nature, as terrorism become essential item on the Security Council's agenda after the 1990s in response to specific events. In particular, three cases (the drowning of Pan Am Flights, the attempted assassination of Egyptian President Hosni Mubarak, and the bombings of American embassies). In the aftermath of September 11, 2001 terrorist attacks Council acted immediately and passed numerous significant resolutions such as 1368, 1373, 1377, 1438 etc. In Resolution 1373 (2001) various measures were outlined that necessitate significant actions by the member States. This resolution also establishes the Counter-Terrorism Committee to monitor Member State's implementation of these measures. Notwithstanding the 13 international treaties that bind only those States that accede to them, this significant resolution for the first time creates obligations for the organization's 193 member States. Moreover, despite all these efforts there is no comprehensive effective mechanism that resolve the problem of terrorism because many of the provisions are only comprehensive on paper and implemented unevenly in practice. The other major hindrance in the adoption of such mechanism is the monopoly of permanent members in the Security Council.

The Security Council is one of the main organs of the United Nations and is responsible for the maintenance of international peace and security. The powers of Security Council comprises the establishment of peace keeping operations, the establishment of international sanctions, and the approval of military actions through Security Council resolutions. The Security Council is the only body which has the authority to issue resolutions binding on all member States of the United Nations.

The Security Council like the United Nations as a whole was established as a result of World War II to cope with the failings of the League of Nations and in order to maintain international peace and security. The Cold War divisions between the U.S. and the U.S.S.R. hampers the effective working of the body, however it authorized

interventions in the Korean War (1950) and the Congo Crisis (1960) and the peace keeping missions in the Suez Canal crisis (1956) etc. The U.N. Security Council authorized major military and peace keeping missions after the collapse of the Soviet Union in Kuwait, Namibia, Cambodia, Bosnia, Rwanda, Somalia, Sudan and the Democratic Republic of Congo.

The United Nations Security Council consists of fifteen members. Those countries who won World War II such as China, France, Russia, the U.K, and the U.S. were the five permanent members of the Security Council. These permanent members have the power to veto on any substantive resolution of the Security Council as well as on the admission of new member States or candidates for Secretary General. It also has ten non permanent members, elected on a regional basis to serve two year terms. The presidency of the body revolves monthly among its members.

The United Nations Security Council is not an independent actor. It is one of the six main organs of the United Nations (Article 7). As Article 24 (2) of the UN Charter stated, it is to “act in accordance with the Principles and Purposes” of that body. According to Article 1 (1) of the Charter the first purpose of the U.N. is:

To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to the breach of the peace

To those end, “members confer in 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 (Article 24 (1)). This simple provision makes the Security Council different from the League Council, which did not have such precise and distinguished responsibilities. The decisions of the Council are binding unlike that of General Assembly. As Article 25 puts it, “members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.”¹

The Security Council is completely different from General Assembly and its dual approach (on the one hand resolutions fielded by the Sixth Committee, on the other the ones emanating from the Third Committee), the Security Council has persistently

delivered resolutions which leaves no doubt as to their language, meaning or direction. Of course, the Security Council, being exposed to the mechanism of veto voting (the five Security Council permanent members enjoy a veto), was until 1989 basically a victim of ideological warfare between the two Super Powers—the U.S. the U.S.S.R. The Security Council was basically not able to agree on terrorism related issues until 1989.

Binding Nature of a U.N. Security Council Resolutions

The resolutions passed by the U.N. Security Council are binding in nature as the Security Council is charged with the responsibility to ensure international peace and security by the use of force if required. A decision by the Council needs not less than nine supporting members, nevertheless, a motion can be vanquished if any one of the permanent members uses a veto.

According to Article 24 and 25 of the U.N. Charter, the Security Council has extensive authority to take action where it determines that there is a threat to peace. Article 24 states:

In order to ensure prompt and effective action by the United Nations, its Members 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 its behalf.

Under Article 25, these decisions are obligatory, as “Members of the United Nations agree to accept and carry out the decisions of the Security Council...” This is an overwhelming grant of power. The outer bond of Council authority is set by the requirement that it act pursuant to maintaining peace and security; however, it is of the Council’s own judgment to “determined the existence of any threat to the peace, breach of the peace, or act of aggression.” When they have determine such a threat, it at their decision to “decide what measures shall be taken in accordance with article 41 and 42 to maintain or restore international peace and security.” Article 41 comprises those measures short of armed force, such as sanctions, while Article 42 allows the carrying out of any “operation by air, sea, or land forces” to enforce the decision. The Charter even gives the authority to the Security Council to take action with quasi judicial powers in settling the disputes between member States as a threat to peace, pre-empting the International Court of Justice (ICJ). These decisions are binding on

Member States as law, even if the Security Council orders breach an obligation of national or international law. There are two possible intrinsic limitations on Council's power: first the decision must be within the Council's Ratione Materiae, meaning within the scope of threat to peace and security. Second, assuming the stronger power interpretation of ICJ authority, a resolution should not contravene a fundamental principle of Article 1 of the U.N. Charter.²

The Evolution of United Nations Security Council's Counter-Terrorism Programme

Under the U.N. system the subject of terrorism was mostly assigned to the General Assembly prior to September 11, 2001, showing the structural contrast between the Assembly as the "soft U.N." and the Council as the "hard U.N." There has been hardly any scrutiny of the width of Council resolution on terrorism prior to September 11, 2001, in spite of possible importance of Council measures as proof of customary international norms regulating terrorism. Up to late 2001, there was a lack of consistency in the identification of terrorist acts by the U.N. Security Council and resolutions did not impose measures against terrorism, nor did they define it.³ However, there was a major shift in the approach of Security Council towards terrorism. Since that time the Council has started imposing binding, quasi legislative measures against terrorism in general, and not only to particular incidents. It also considered any of terrorisms a threat to peace and security despite of its sternness, or international consequences.

As it was mentioned earlier that Security Council did not deal with the subject of international terrorism until 1989. In the earlier period the subject of terrorism was mostly handled by the General Assembly, particularly by the Sixth Committee of the General Assembly. The General Assembly sought to promote cooperation between states in the development of legal framework for dealing with terrorism. The chief contribution of the General Assembly has been in writing and adopting numerous conventions that deal with various aspects of acts of terrorism—13 in all. Thus, the event of September 11, 2001 enhanced the Security Council's response towards global terrorism. Its response after September 11 has become more forceful and comprehensive than it was prior to this deadly event.

Resolution 579 of 1985 was the first Security Council resolution that uses the term “terrorism” as a response to increasing acts of terrorism in the previous years. On the day of resolution 20 people were killed by the Palestinian suicide bomber at the U.S. and Israeli check-in desks at Rome and Vienna airports. Resolution 579 condemned “all acts of hostage taking and abduction” as “manifestation of international terrorism.” Hostage taking and abduction (and impliedly, terrorism) were regarded “offences of grave concern to the international community,” jeopardize human rights and friendly relations.⁴ The Security Council passed Resolution 618 in 1988 which condemned the kidnap of a U.N. military observer in Lebanon and demanded his release.⁵ The President of Council reported in 1989 that U.N. observer “may have been murdered” and called for international action against hostage taking and abductions “unlawful criminal and cruel acts.”⁶ Security Council Resolution 638 was unanimously adopted soon after, condemning hostage taking and abduction in general and demanding the release of all victims.⁷ States were urged to become parties to relevant treaties, and to prevent, prosecute and punish all acts of hostage takings and abduction as manifestation of terrorism.⁸

The Security Council passed another resolution on terrorism in 1989, when Resolution 635 was adopted unanimously on Plastic or Sheet Explosives.⁹ In Resolution 635 (1989), the Council raised “the implication of acts of terrorism for international security” in the context of detecting plastic explosives. Though not naming the episode, the Resolution was incited by an attack of civilian aircraft over Sahara in which 400 people were killed. The resolution called on States “to prevent all acts of terrorism” and pressed the International Civil Aviation Organization (ICAO) to strengthen its effort to avert terrorism against civil aviation, specifically the drafting of a treaty on plastic explosives, adopted after two years. The Resolution signifies that the unlawful use of plastic explosives may amount to terrorism suggesting a definition based on prohibited means, rather than political motives or intimidatory or coercive aims.¹⁰

After the Gulf War of 1991, “permanent ceasefire” Resolution wanted Iraq:

...to inform the Council that it will not commit or support any act of international terrorism or allow any organization directed towards the commission of such acts to operate within its territory and to condemn unequivocally and renounce all acts, methods and practices of terrorism.

This obligation was afterward asserted to set up condition of ceasefire in the dispute about disarming Iraq from 1991 to 2003. The Council does not clearly state which action of Iraq constitute terrorism, and the Kuwait invasion was a clear classic case of inter-state aggression. Nevertheless, the Resolution also involved the Hostage Convention of 1979 and criticized the taking of hostages, several of whom were used as human shields. Even now it is uncertain why the Council calls such acts as terrorism rather than as violation of International Humanitarian Law (IHL) or of obligations regarding hostage taking or protected persons.¹¹

On 31st January 1992, at the U.N. Security Council's first meetings of heads of state and government, the Security Council's members "express their deep concern over acts of international terrorism and emphasized the need for the international community to deal effectively with all such acts. In March 1992, the Council therefore took an active action and adopted mandatory sanctions against Libya, which was accused of involvement in the terrorist bombing of two commercial airlines.¹² In the late 1980s there were two major terrorist attacks against Pan Am Flight 103 over Lockerbie, Scotland, in December 1988 and against Union Des Transport Aeriens (UTA) Flight 772 in September 1989 over Niger-impelled France, the United Kingdom and the United States to implicate the Security Council in the fight against terrorism.¹³

The Security Council in its January 1992 Resolution 731 put the Libyan government on notice.¹⁴ The resolution requires quick response from Libya failing to which results in heavy sanctions. The Washington made it clear that it would seek the imposition of mandatory sanction—an instrument the Council was more willing to impose since the end of Cold War.¹⁵

In November 1993 Resolution 883 constrict the aviation ban and also freeze the Libyan assets and put sanctions on oil transporting equipments. This resolution once more attracted abstention from China and another three members of the Council. It gets less support from European States, which depends on Libyan oil exports. These negotiations on resolution resulted in an agreement that Libya would hand over two suspects for trials under Scottish law in Netherlands. This agreement was enshrined in the Security Council resolution 1192 of 27th August 1998, but the sanctions were not suspended till April 1999 until the Secretary General corroborate that the suspects had

arrived at the Hague. Like the Libya sanctions, the Security Council took measures against Sudan in order to compel the release of suspected terrorist, particularly those involved in the “terrorist assassination attempt” on the President of Egypt Hosni Mubarak, in Addis Ababa in June 1995. Resolution 1054 (20 April 1996) in which China and Russia were absent imposed diplomatic sanctions and travel restrictions on the government officials of Sudan. Further sanctions, which includes an aviation ban, were threatened with resolution 1070 (16 August 1996) again China and Russia abstaining, but these never came into force.¹⁶

Table: 5 UN Security Council Resolutions on Terrorism before September 11, 2001

Year	Resolution	Content	Vote	Type
1989	635	On the marking of plastic or sheet explosives for the purpose of detection	Unanimously	Technical
1991	687	On the restoration of the sovereignty, independence and territorial integrity of Kuwait	12 to 1 (Cuba)a	Terrorism minor issue
1992	731	On the destruction of Pan American Flight 103 and Union des transports aeriens flight 772	unanimously	Response to terror acts
1992	748	On sanctions against the Libyan Arab Jamahiriya	10 to 0b	Response to terror acts, sanctions
1993	883	On the sanctions against the Libyan	11 to 0c	Response to terror act,

		Arab Jamahiriya in connection with Libyan non-compliance with Security Council Resolution 731 (1992) and 748 (1992)		sanctions
1996	1044	Calling upon Sudan to extradite to Ethiopia the three suspects wanted in connection with the assassination attempt against President Mubarak of Egypt	Unanimously	Response to terror acts
1996	1054	On sanctions against Sudan in connection with non-compliance with Security Council Resolution 1044 (1996)	13 to 0d	Response to terror acts, sanctions
1998	1189	Concerning the terrorist bomb attacks of 7 August 1998 in Kenya and Tanzania	unanimously	Response to terror acts
1998	1214	On the situations	Unanimously	Response to

		in Afghanistan		terror acts
1999	1267	On the measures against the Taliban	Unanimously	Response to terror acts, sanctions
1999	1269	On the international cooperation in fight against terrorism	Unanimously	General
2000	1333	On the measures against the Taliban	13 to 0e	Response to terror acts, sanctions
2001	1363	On the establishment of mechanism to monitor the implementation of measures imposed by Resolution 1267 (1999) and 1333 (2000)	Unanimously	Response to terror acts, sanctions

Source: <http://www.psqonline.org/article.cfm?IDArticle=18164>

- a. two abstaining (Ecuador, Yemen)
- b. five abstaining (Cape Verde, china, India, Morocco, Zimbabwe)
- c. four abstaining (China, Djibouti, Morocco, Pakistan)
- d. two abstaining (China, USSR)
- e. two abstaining (China, Malaysia)

In October 15, 1999 the Security Council turned its attention to sanctions passing resolutions 1267 unanimously. The resolution inflicted targeted financial sanctions on persons and entities chosen by the Sanctions Committee (created under the resolution) including to an aviation ban. In resolution demand was made that Taliban guarantee territory under their influence was not being used by terrorists and that Osama Bin Laden be extradited to a country in which his trial was made. Certainly, following the bombings of U.S. embassies in Nairobi and Dar es Salaam in August 1998, Bin Laden

was now extremely wanted by the United States. Consequently, resolution 1267 further added with an arms embargo, travel ban and other measures with resolution 1333 (19 December 2000) in which China and Malaysia did not participate. The resolution also set up a Committee of experts to report on the implementation of the sanctions. Undertaking significant changes in this regard, the Security Council unanimously adopted Resolution 1363 on July 2001, establishing a monitoring group based in New York and a Sanctions Enforcement Support Team, including upto 15 persons to be deployed to states flanking Afghanistan. Plans to set the Group and Teams were in progress when the terrorist attacks of 9/11 took place.¹⁷

Before the attacks of September 11, 2001 Security Council had passed 13 resolutions in total that deals with the subject of terrorism. According to United Nations the Security Council has passed resolutions in an average of about one a year. Nevertheless, it was the event of September 11, 2001 after which there was a great increase in terrorism related resolutions passed by the Security Council.¹⁸

The U.N. Security Council's Campaign against Terrorism after 9/11

The U.N. Security Council has been at the centre of the international campaign against terrorism. It has made and it can continue to make important contributions to this effort. Though the issue of terrorism has been high on the agenda of the U.N. Security Council for years it has further intensified its activities against terrorism after 9/11. Since its creation Security Council reacted to numerous terrorists acts but its permanent members did not think of terrorism as threat to international peace and security. A large number of U.N. members shared this opinion, highlighting the fact that this problem is of national level. Further, many States did not ratify the conventions of the General Assembly that deals with the issue of terrorism. Therefore, it can be said that though the Security Council was handling the issue of terrorism but its formal role began after 9/11. Starting in the early 1990s—and directed by the United States the Security Council begin to impose economic sanctions in return to terrorist acts. These sanctions regimes were operative in changing the attitudes of states sponsors of terrorism. They were also important in stigmatizing terrorism as an illegal activity that required to be countered through international actions. After September 11 2001 the U.N. Security Council become still more effective in counter terrorism as it was before 9/11. It has made fight against terrorism a worldwide by

ordering all U.N. members to implement a wide array of measures that will help to prevent terrorist activities. The Security Council also militarized the response to terrorism by legitimizing unilateral military actions by States in response to terrorism.

The attacks of September 11 2001 completely changed the role of United Nations towards terrorism. The U.N. Security Council by using its quasi legislative powers passed Resolution 1368 and 1373, setting up the three pillars of the recent global counter-terrorism system. The first pillar is based on Resolution 1368's principle that States have a right to self defense when assaulted or intimidated by terrorist groups or state supporters of terrorism. The second pillar is the establishment of a universal counter-terrorism legal framework. The Security Council according to Resolution 1373 required all States to make terrorism illegal act and to ratify all the 13 international conventions on the subject of terrorism. It further obligates all the states to amend their laws of counter-terrorism in conformity with international best practices. It can also be said that Security Council wanted all States to develop their capability in order to fight against terrorism at the national level and also to restrain terrorist groups to operate worldwide. The last pillar is Counter Terrorism Committee (CTC), which was established through Resolution 1373 adopted by the Security Council as a reaction to the 9/11 attacks, and the Counter Terrorism Executive Directorate (CTED), a specialized staff formed in 2004 by the Security Council to support CTC's endeavours.¹⁹

As terrorism become global and threat to international peace and security, States started to support a more muscular approach that allowed for the use of economic sanctions and military force. In 1990s the resolutions of Security Council particularly resolution 1368 codified this approach. For the first time, and unanimously, it recognized the right of States to individual and collective self defense in response to terrorist acts. The pertinent part of the resolution reads as follows:

[The Security Council], [r] recognizing the right of individual or collective self defense in accordance with the Charter.

Unequivocally condemns in the strongest terms the horrifying terrorist attacks which took place on 11 September 2001 in New York, Washington (D.C) and Pennsylvania and regards such acts, like any act of international terrorism, as a threat to international peace and security.²⁰

The Security Council considered the attacks of September 11 2001 as a threat to international peace and security, but it did not call for collective action. By applying a States right to self defense, it gives this responsibility to individual States. As a result Resolution 1368 became a very important instrument—if not a blank cheque—legalizing the unilateral use of force in reaction to terrorist acts. The President Vladimir Putin invoked the resolution and its right to individual and collective self defense after one year when he justified Russia’s right to military intervention against Chechen rebels operating in Georgia.²¹

For international community and also for the U.S. as a whole the September 11, 2001 attacks were a moment of crises in numerous respects. This is furthermore true of United Nations dealing with terrorism as a threat to international peace and security. The Security Council with a quickness and decisiveness unprecedented in the history of United Nations unanimously adopted Resolution 1368 within 24 hours of the attacks.²² The resolution criticized, in no uncertain terms the attacks of terrorists on the United States:

The Security Council, *Reaffirming* the principles and purposes of the Charter of United Nations, *Determined* to combat by all means threat to international peace and security caused by terrorist acts, *Recognizing* the inherent right of individual or collective self defense in accordance with the charter,...*Unequivocally* condemns in the strongest terms the horrifying terrorist attacks which took place on 11 September 2001 in New York, Washington (D.C) and Pennsylvania and regards such acts, like any act of international terrorism, as a threat to international peace and security.²³

Immediately after 9/11 both United Nations General Assembly and Security Council adopted resolution and strongly criticized the acts of terrorism and pushing all States to cooperate with each other and to bring the organizers, perpetrators and sponsors of 9/11 to justice. Resolution 1368 (12 September 2001) was the first to include acts against terrorism into the right of self defense.²⁴ This resolution also, “calls on all states to work together urgently to bring to justice the perpetrators, organizers and sponsors of these terrorist attacks.” and “calls also on the international community to redouble their effort to prevent and suppress terrorist acts. This resolution laid the establishment for the new, more pushy concentration of the Security Council on international terrorism. Most importantly, it “reaffirmed the inherent right of self defense in accordance with Article 51 of the U.N. Charter,” and for the first time represented that self defense was recognized by the Security Council as a legal

response towards terrorism. Jane Boulden and Thomas G. Weiss argues that by unambiguously confirming a member state's right to self defense, the Security Council would "effectively opt out of subsequent decision making and leave the military response to the United States." Indeed while Resolution 1368 increased American influence by asserting the right of self defense, the member States of the Security Council also mainly rejected that argument as legitimate justification for attacking Iraq in 2003. This is significant because it brings to light that Security Council had become a forum for discussing the issues of self defense.²⁵

Table: 6 UN Security Council Resolutions on Terrorism after September 11, 2001

Year	Resolution	Content	Vote	Type
2001	1368	Condemning the terrorist attacks of 11 September 2001 in New York, Washington DC, and Pennsylvania, United States of America	Unanimously	Response to terror acts
2001	1373	On the threats to international peace and security caused by terrorist acts	Unanimously	General/ response to terror acts
2001	1377	On the adoption of declaration on the global efforts to combat terrorism	Unanimously	General/ response to terror acts
2002	1438	On the bomb	Unanimously	Response to

		attacks in Bali (Indonesia)		terror acts
2002	1440	On condemning the act of taking hostages in Moscow, Russian Federation, on 23 October on 2002	Unanimously	Response to terror acts
2002	1450	Condemning the terrorist bomb attack in Kikambala, Kenya, and the attempted missile attack on airliner departing Mombasa, Kenya, 28 November 2002	14 to 1 (Syria)	Response to terror acts
2002	1452	On the implementation of measures imposed by para. 4 (b) of Resolution 1267 (1999) and para. 1 and 2 (a) of Resolution 1390 (2002)	Unanimously	General
2003	1455	On the	Unanimously	general

		improving of implementation of measures imposed by para. (4) b of Resolution 1267 (1999), para. 8 (c) of Resolution 1333(2000), and para. 1 and 2 of Resolution 1390 (2002)		
2003	1456	On combating terrorism	Unanimously	General
2003	1465	On the bomb attack in Bogota, Columbia	Unanimously	Response to terror act
2004	1516	On bomb attacks in Istanbul, Turkey on 15 and 20 November 2003	Unanimously	Response to terror act
2004	1526	Threats to international peace and security caused by terrorist acts and measures against Al Qaeda and the Taliban	Unanimously	General/response to terror act, sanctions
2004	1530	On the bomb attacks in Madrid, Spain	Unanimously	response to terror act

		on 11 March 2004		
2004	1535	On the revitalization of the Security Council Committee established pursuant to Resolution 1373 (2001) concerning counter- terrorism	Unanimously	General
2004	1540	on the non- proliferation of nuclear, chemical and biological weapons	Unanimously	General
2004	1566	On the international cooperation in the fight against terrorism	Unanimously	General
2005	1611	On the bomb attacks in London on July 2005	Unanimously	Response to terror acts
2005	1617	On the international cooperation in fight against	Unanimously	General

		terrorism		
2005	1618	On the continued terrorist attack in Iraq	Unanimously	General
2005	1624	On the threat to international peace and security	Unanimously	General

Source: <http://www.psqonline.org/article.cfm?IDArticle=18164>

It may be argued that almost all of the resolutions before and after September 11 have been reactive in nature (69 percent of resolutions before September 11 and 55 percent of those after), as a reaction to particular terrorist acts. Nevertheless, there are big disparities: before September 11, only some of the terrorist attacks were in fact referred to the United Nations Security Council. In the previous years, however, the Security Council condemned and handled almost all terrorist attacks such as in Bali, Kenya, Bagota, Istanbul, Madrid and London. But prior to September 11 only selective cases were referred to the Council by the member States, it shows that the Council has been more unbiased and comprehensive since September 11. Another discrete difference is the apparent consensus in the Council. Before September 11, 19 of 20 resolutions (62 percent) were adopted unanimously. After September 11, 19 of 20 resolutions (95 percent) were adopted unanimously. The big question is that how long this consensus will go through; however the endeavours of Security Council since September 11 have been much more systematized, concentrated, and prominent than they were in the earlier period. It can be said that earlier efforts of the Security Council towards terrorism were more event driven and it regards terrorism as an adhoc issue, but the event of September 11 had made the approach of Security Council towards terrorism more comprehensive and central. After September 11 resolutions carry more importance and clout, frame the work of the U.N. organs on terrorism, and provide a framework and guidance for action for most of the member States of the U.N.²⁶

Resolution 1373 and the CTC (Counter–Terrorism Committee) Globalizes Fight against Terrorism

Another revolutionary resolution after 9/11 was Resolution 1373, which was unanimously adopted on 28 September 2001. It was adopted after two weeks of September 11 attacks which was introduced by the United States in United Nations Security Council. This resolution reinforced and widened the scope of terrorism. It imposed a number of binding commitments on all member States of the United Nations. These obligations wanted all States to forbid both active and passive assistance to terrorists, to deny terrorist financing, and to freeze the assets of terrorist and their supporters. Furthermore, states required to deny safe havens to terrorists, to intensify their vigilance against passport and identification forgery, to constrict their border controls and to work towards increasing international cooperation against terrorism.²⁷ This was an unprecedented and far reaching resolution, which imposed on all States obligations that are usually contained only in treaties. In contrast to all the 13 conventions on terrorism, which are binding on only on those states that ratify them Resolution 1373 established for the first time uniform obligations for all 193 member states.

Resolution 1373 also made many provisions of two important conventions binding on all States, i.e. the Convention for the Suppression of Terrorist Bombing (1997) which came into force in May 2001, and the 1999 Convention on the Suppression of Financing of Terrorism, which before September 11 had not yet come into force. Several States had not signed or ratified these conventions. For example United States had not ratified it.²⁸

Counter Terrorism Committee was created through Resolution 1373, which was formed as a Committee of the whole, comprising of all 15 members of the United Nations Security Council. It gets main concern under the United Nations and was depicted by Kofi Annan as the “Centre of global efforts to fight against terrorism.” The main work of the CTC (Counter Terrorism Committee) has been to reinforce the Counter–terrorism capacity of the member States of the United Nations. Its task, wrote one observer, is to “raise the average level of government performance against terrorism across the globe.” The Committee acted as a “switch board,” helping to facilitate the provision of technical assistance to countries requiring help to execute

counter-terrorism mandates. It also tried to synchronize the counter-terrorism endeavours of numerous international, regional, and sub-regional organizations inside and outside of the U.N. system.²⁹

Counter-Terrorism Committee was instituted to monitor the implementation process. Security Council elected Jeremy Greenstock, who was the United Kingdom's permanent representative as the first Chairman of the Counter-Terrorism Committee. He emphasized on the technical nature of the Counter-Terrorism Committee. Policy assessment of compliance problems would continue to be in the hands of the Council. In his words the tasks of Counter-Terrorism Committee (CTC) "were to monitor, to be analytical and to report facts to the Security Council for consideration." He said "[I]t is not the primary purpose of the Counter-Terrorism Committee to get into the politics of what is happening in the short term." The Committee was created "to help the world system to upgrade its capability, to deny space, money, support, haven to terrorism, and to establish a network of information-sharing and cooperative executive action."³⁰

A multi stage programme was initiated by the CTC. In the first stage the CTC reviewed existing legislative and executive measures in member States to combat terrorism. Resolution 1373 directed States to provide the CTC with reports by December 27, 2001 and the second stage focused on institutional mechanism and assistance.³¹

Since its creation, the CTC has had a mixed record in sponsoring counter-terrorism cooperation. The CTC has taken part in creating and sustaining international impetus to reinforce counter-terrorism endeavours. The CTC has set up political and legal authority for the United Nations counter-terrorism endeavours and has promoted the creation of specialized systems for synchronizing the worldwide efforts against terrorism. International norms have developed and strengthen through the cooperative approach embodied in U.N. counter-terrorism programme. The CTC wanted to focus on the less contentious parts of counter-terrorism for example, by working to reinforcing states counter-terrorism infrastructure and increase counter-terrorism cooperation among states and organizations. It deliberately evades politically charged discussions of definition and root causes. It has sought to work with every state to help detect their capacity gaps, to serve as a switch-board between contributors and

intended states, and decrease replication and overlap among potential assistance providers. The most significant thing about the CTC is that it has received and reviewed more than 600 reports from members and is therefore carrying out the first worldwide audit of counter-terrorism capacities.³²

Up to January 2002, 117 reports had been received by the CTC from all states, which was by all historical standards a notable response. There was an increase in numbers by December 2002 i.e. 175. Recently, the Committee had asked for follow up reports and engaged several countries in dialogue about them.³³

The Counter Terrorism Committee supported many States to modify anti money laundering laws and evolve additional legislative restrictions on the financing of terrorism. Consequently, countries such as United Arab Emirates and Kuwait have adopted anti-terrorist financing legislation. Many countries were also assisted by the CTC in keeping large control over informal banking system such as hawala or Hindi that have been exploited by the terrorist. Moreover, partly as a consequence of CTC's encouragement, the number of countries that are party to all international treaties on terrorism has increased from two in September 2001 to more than seventy in 2006. Though Counter-Terrorism Committee has got large scale support from all member states of the United Nations, but it also faced significant challenges. The Security Council has developed a wide counter-terrorism legal framework successfully that enforce responsibility on all 193 member States of the United Nations, but it has not developed an effective operational framework. Consequently, after many years of September 11 attacks, though it was successful in its task to some extent but still CTC has not created a counter-terrorism programme that was able to implement it's far reaching legal mandate.³⁴

The main problem with the CTC was lack of implementation process. To deal with many legislative problems and capacity gaps the CTC required efficient resources which it does not have in real sense. Therefore, the Counter Terrorism Committee, despite of having large staff but with no independent budget is undertaking a heroic but losing struggle.

Further than these implementation problems, there are two major problems that obstruct implementation of the resolution. First, although there was a general declaratory consensus on the significance of banning terror, States persistently have

different views on the accurate nature of these threats who should be tagged as “terrorist” as opposed to ‘freedom fighter.’” Second States vary on what to do with the State that does not conform to resolution 1373. The CTC has astutely refused to get involved in making judgments about political compliance. In paragraph 8 of resolution 1373, the Council “expresses its determination to take all necessary steps in order to ensure the full implementation of this resolution, in accordance with its responsibilities under the Charter.” Nevertheless, these steps are not spelled out. In theory, the Security Council in order to deal with non compliance has a complete range of coercive tools at its disposal. In practice, there is a possibility that the appraisal of compliance and response to non compliance will be taken by individual States without the recommendation of the Council. Washington’s letter to the Security Council describing its action against Al Qaeda and the Taliban implied that action might be taken against other targets. In the same way, in its letter to the Security Council in September 2002 and other international organizations, Russia alleged that Georgia was not following Resolution 1373 and that Moscow could as a result invoke its right to individual self defense. In a televised statement on the first anniversary of September 11, Putin warned Georgia “that Russia would defend itself in line with the United Nations Charter and its resolution if the Georgian government fails to end rebel raids into Chechnya across the borders.”³⁵

Thus, the Resolution 1373 has made fight against terrorism a global one by guiding the member states to take similar legislative and administrative measures to combat terrorism at national and international level. But the technical assistance which the Counter–Terrorism Committee was expected to provide is minimal due to lack of resources. The CTC was not authorized to invoke sanctions or penalties for non compliance. The financial and safe havens provisions of resolution 1373 needed monitoring and enforcement abilities that many countries do not own and may be very expensive for them to acquire. Most of the assistance to Counter–Terrorism Committee comes through bilateral channels. Consequently, it will be adhoc and selective.

It is important to mention that within the ambit of technical assistance, the CTC established two programmes: the CTC Assistance Matrix and the Directory. The Matrix acts as a centralized, comprehensive indicator of State’s assistance needs and provides information on assistance programmes known to the CTC. The Directory is a

compilation of information on standards, best practices and sources of assistance in the area of counter-terrorism. These two facilities assist the implementation of resolution 1373 by providing States with pool of information.³⁶

The staff of the Counter-Terrorism Committee mostly engages in paper work, responding and analyzing to hundreds of written reports in a process that created a response backlog in New York and reporting fatigue in State capitals. In the first three years of its work, the Committee solely relied on the reports from member states and do not have autonomous means of finding out whether countries were truly implementing counter-terrorism mandate as a whole. In 2005 the Counter-Terrorism Executive Directorate initiated a continuing programme of site visits that has included missions to Morocco, Albania, Kenya, Thailand, the Former Yugoslav Republic of Macedonia, and Jordan to assess implementation needs. Site visits can considerably increase the Committee's ability to evaluate counter-terrorism needs, although they need a higher level of preparation and follow through.³⁷

Table: 7 Comparative Table Regarding the United Nations Security Council Committees Pursuant to Resolution 1267 (1999) and 1989 (2011), 1373 (2001) and 1540 (2004)

Security Council Committee Pursuant to Resolution 1267 (1999) & 1989 (2011) Concerning Al Qaida and Associated Individuals and Entities	Security Council Committee Established Pursuant to Resolution 1373 (2001) Concerning Counter-Terrorism	Security Council Committees Established Pursuant to Resolution 1540 (2004)
Establishment and Mandate	Establishment and Mandate	Establishment and Mandate
The Committee was established on 15 October 1999 under resolution 1267 which previously imposed sanctions measures on Taliban-controlled Afghanistan for its support of Osama Bin Laden and Al-Qaida. The sanctions regime was modified and strengthened by subsequent resolutions, including resolution 1333 (2000), 1390 (2000), 1455 (2003), 1526 (2004), 1617 (2005), 1735 (2006), 1822 (2008) and 1904 (2009). On 17 June 2011, with the adoption of resolutions 1988 (2011) and 1989 (2011), the Security Council split the 1267 Committee into two Committees, namely, the Al Qaida Sanctions Committee and the 1988 Sanctions Committee. The names of individuals and entities on the Al-Qaida Sanctions List against whom the 3	Following the adoption of resolution 1368 (2001), in the wake of the attacks of 11 September 2001, the Security Council adopted resolution 1373 (2001) which, <i>inter alia</i> , requires States to combat terrorism through a series of actions that are best carried out through the adoption of laws and regulations and the establishment of administrative structures. Resolution 1373 (2001) also called upon states to work together to prevent and suppress terrorists	On 28 April 2004, the Security Council unanimously adopted resolution 1540 (2004) under Chapter VII of the Charter. The resolution requires all states to establish domestic controls to prevent access by non-state actors to nuclear, chemical and biological weapons and their means of delivery and to take effective measures to prevent proliferation of such items and establish appropriate controls over related materials. The mandate

<p>sanctions measures (assets freeze, travel ban and arms embargo) continue to be applied by all States can be found at: http://www.un.org/sc/committees/1267/aq_sanctions_list.shtml.</p> <p>The Al-Qaida Sanctions Committee continues to oversees the implementation by UN Member States of these 3 sanctions measures; considers names submitted for listing and de-listing as well as any additional information on listed individuals and entities; and considers exemptions to the assets freeze and travel ban, measures. Since, March 2009, the Committee has made accessible on its website, narrative summaries of reasons for listing for the individuals and entities on the Al-Qaida Sanctions List.</p> <p>The Security Council also recognized the need for the 1988 Sanctions Committee to maintain contact with the Al-Qaida Sanctions Committee, the CTC and the 1540Committee, particularly given the continuing presence and negative influence on the Afghan conflict by Al-Qaida, and any cell, affiliate, splinter group or derivative thereof.</p>	<p>acts, including through increased cooperation. It also established the CTC to monitor implementation of the resolution by all States and to increase the capability of States to fight terrorism. In carrying out its mandate, The CTC liaises with international, regional and sub regional organization and devotes substantial attention to facilitating the provision of assistance to those States that require such assistance for the effective implementation of the resolution. The CTC conducts visits to Member States and works closely with donors, organizations and recipient States regarding the facilitation of technical assistance and capacity-building. The CTC is also mandated to maintain a dialogue with States on the implementation of resolution 1624 (2005) on prohibiting incitement to commit terrorists acts</p>	<p>of committee was extended by resolution 1673 (2006) and April 2008, by resolution 1810 (2008) until April 2021. While reaffirming the provisions of resolution 1540 (2004), the Council decided that the Committee shall intensify its effort to promote full implementation of the resolution by all States and encouraged the submission of reports and additional information on such implementation and assistance requests. The Committee cooperates with international, regional and sub-regional organizations, and acts as clearing house to match offers and requests for assistance to States to implement the resolution. The Committee submitted in July 2008, its second report to the Security Council on State's compliance with the resolution through the</p>
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	and promoting dialogue and understanding among civilizations. The CTC developed a Preliminary Implementation Assessment (PIA) and a Technical Guide to assist States identify steps that should be taken to implement Security Council resolution 1373 (2001) effectively.	achievement of the implementation of its requirements (S/2008/493).
Expert Group	Expert Group	Expert Group
The Al-Qaida Sanctions Committee is assisted by a Monitoring Team of 8 experts established under resolutions 1526 (2004) with expertise related to activities of the Al-Qaida organization and/or the Taliban, including: counter-terrorism and related legislation; financing of terrorism and international financial transactions, including technical banking expertise; alternative remittance systems, charities, and use of couriers; border enforcement, including port security; arms embargoes and export controls; and drug trafficking. The Team is ready to assist Member States on any issue related to the Al-Qaida sanctions regime and can be contacted by email at: 1267mt@un.org. The Monitoring Team has been extended under resolution 1989 (2011) to continue to assist the Al Qaida	The CTC was originally assisted by a group of 10 experts. Subsequently, in seeking to revitalize the CTC, the Security Council established the Counter-Terrorism Committee Executive Directorate (CTED) pursuant to resolution 1535 (2004), in order to enhance the ability of the CTC to monitor the implementation of resolution 1373 (2001) and effectively continue its capacity building work. The mandate of CTED was extended until 31 December 2013 under resolution 1963 (2010). The CTED is	The 1540 Committee is assisted by an Expert Group has developed a 'matrix' to examine the status of Member States' implementation of the resolution. The filled elements of the matrix draw upon legislative and enforcement measures provided in the national reports, as complemented by official information made available in the websites of governments and international inter-governmental organizations, and through dialogue with States.

<p>Sanctions Committee and under resolution 1988 (2011) to also support the 1988 Sanctions Committee for a period of 18 months until 31 December 2012.</p>	<p>headed by an Executive Director's office; the Assessment and Technical Assistance Office (ATAO), comprising the Head of Office, three Geographical Clusters and five thematic Working Groups, including a Senior Human Rights Advisor. CTED's Administration and Information Office (AIO), comprises of the Head of Office and support staff. CTED can be contacted by e-mail at: cted@un.org.</p>	
Measures	Measures	Measures
<p>The Al-Qaida Sanctions Committee monitors a sanctions regime which requires all UN Member States to:</p> <ol style="list-style-type: none"> 1. Freeze without delay, the funds and other financial assets or economic resources of the individual and entities designated on the Al-Qaida Sanctions List. There is no requirement to seize or confiscate/forfeit these assets, funds and resources. 2. Prevent the entry into or the transit through their territories of the individuals designated on the Al Qaida Sanctions List. There is no requirement to arrest or prosecute these individuals. 3. Prevent the direct or indirect supply, 	<p>Legal institutional and practical measures related to resolution 1373 (2001), including their related technical assistance measures, fall under the following categories:</p> <ol style="list-style-type: none"> 1. Counter-terrorism law and practice (e.g. international counter-terrorism instruments) 2. Financial law and practice (e.g. international 	<p>Resolution 1540 (2004), in its paragraphs as numbered below, requires:</p> <ol style="list-style-type: none"> 1. States to refrain from providing any support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical, biological weapons and their means of delivery. 2. States to adopt and enforce appropriate

<p>sale, or transfer, from their territories or by their nationals outside their territories, or using their flag vessels or aircraft, of arms and related material of all types, including military equipment, spare parts and individuals and entities on the Al-Qaida Sanctions List.</p> <p>All three measures preventive in nature and are not reliant on criminal standards set out under national laws. More information can be found on the Committees website at: http://www.un.org/sc/committees/1267/index.shtml.</p>	<p>criminalization, freezing, FIU, etc.)</p> <ol style="list-style-type: none"> 3. Customs and border controls 4. Police and law enforcement 5. Immigration law and practice prevent movement of terrorists 6. Extradition law and practice (e.g. mutual legal assistance) 7. Training and capacity-building for the judiciary 8. Expert monitoring and illegal arms trafficking 9. Civil aviation security 10. Maritime security 11. Transportation security 12. Military-counter-terrorism training 13. National security <p>Website: http://www.un.org/sc/ctc/</p>	<p>effective laws and controls which prohibit non State actors to: conduct such activities or use weapons and their means of delivery, in particular for terrorist purposes; and attempts to engage, participate in as an accomplice, assist or finance such activities.</p> <p>3. States to take and enforce effective domestic control measures to: account for secure, physically protect such weapons, delivery means, and related materials (3a-b); improve border and customs controls to detect, deter, prevent and combat shipment, and end-user controls; and enforce criminal and civil penalties (3c-d). In paragraph 9 and 10, States are called upon to promote dialogue and cooperation on non-proliferation and take cooperative action to prevent Illicit trafficking of such weapons,</p>
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		delivery means and related materials. Websites: http://www.un.org/sc/1540
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Source: http://www.un.org/sc/committees/1267/pdf/comparative_table.pdf (accessed on 10 July, 2015) 2: p.m.

Unavoidably, the establishment of three Committees and a working Group concerning terrorism has prompted calls for discussion and coordination. Although there are likeness in the monitoring and the reporting requirements of several resolutions, there is an apparent distinction between the 1267 Committee and other Committees. The main goal of these Committees is to monitor reporting by member states as they fulfill the domestic conditions of the resolutions, and to give assistance to States requiring it. On the contrary, 1267 is mainly punitive in its purpose, seeking to control Al-Qaeda capability to plan and finance its activities. The Resolution 1540 and its Committees are actually about the weapons of mass destruction and the requirement to protect related facilities and material instead of terrorism as such, while the concentration of 1566 Working Group is on measures that eventually support the CTC procedure. Then in total, the work divided into two streams: “the hub and spoke process of the CTC committee, based Resolution 1373 with additional issue areas added on by other resolutions, and the sanctions regime, initially established under Resolution 1267, expanded and amended over time.”³⁸

The possibility and desirability of formal connection and coordination, thus, is comparatively low. Matching the punitive, controlling nature of sanctions with the State support oriented endeavours of the CTC may really be more of an obstruction than a help to both. Briefing the Council for the last time, the outgoing Chair of the CTC, Ambassador Loj, stated that one of the major challenges was the need to get away from ‘seemingly endless reporting.’ She notes that “the reality was that states felt less inclined to work with the Committee because it was not clear how the information they provided was used. It appeared as if providing information only led to requests for more information.”³⁹

The trend of Committee has brought with it a new level of institutionalization within the process of Council, specifically with the 1267 Monitoring Group and the creation

of the CTED (Counter-Terrorism Executive Directorate). A related development is the use of experts to support and strengthen the capability of the Committee to carry out its work sufficiently. This shows that the recognition of the level of detail and expertise needed to deal with the works at hand. The use of outside experts is a significant development in larger sense. As the number of issues on the agenda of the Council has increased (from traditional peacekeeping to ongoing conflict, to post conflict peace building, for example), the requirement for analytical support and gathering of information has increased. In terms of the growth of the Security Council process, therefore, this progress might act as an imperative example that may be used in other issue areas.⁴⁰

Other Important Resolutions of Security Council following 9/11

The role of Security Council enhanced towards terrorism following 9/11 and the most important resolution after 9/11 was Resolution 1373. This resolution represents a new factor in the attitude of the Security Council that is the imposition of obligation on all Member States. Thus, the process of implementing Resolution 1373 and completing the mandate of CTC includes three stages: stage A examines whether a state has essential legislation required to combat terrorism, with emphasis on terrorist financing. The next stage B, explores the whole anti-terrorist programme of State, mainly examining the work of executive machinery and what it is doing in this regard in order to prevent terrorist recruitment, movement, safe havens, and whatever else may assist terrorists or their organizations. The final stage C, concentrates on monitoring the compliance and implementation of Resolution 1373, which comprises ratifying international conventions and protocols relating to terrorism, enhance information sharing etc.

The Security Council in order to deal with the global issue of terrorism established 1267 Committee also known as Al Qaeda/Taliban Sanctions Committee. The main aim of this Committee is to address the terrorist threats posed by the Taliban-controlled Afghanistan. The work of this committee further enhanced following the event of September 11, 2001 to handle the global Al Qaeda threat. At present it monitors the implementation of financial, travel, and arms sanctions against Al Qaeda, Taliban and their other members. To support the Committee in its work the Security Council established eight persons Analytical Support and Sanctions

Monitoring Team to “collate, assess, monitor and report on steps being taken to implement and enforce the sanctions measures against those on the list and to propose new measures to address the emerging Al-Qaeda threat.”⁴¹

The Security Council was required to revitalize the Counter–Terrorism Committee by providing it additional resources and authority thus, on March 26, 2004 Resolution 1535 was adopted by the Security Council. This resolution established the CTED (Counter–Terrorism Executive Directorate). The main task of the CTED is to help the CTC (Counter–Terrorism Committee) in carrying out its responsibilities. After long delays mainly due to the cumbersome budget of the U.N. and personnel processes, in the fall of 2005, the CTED became fully staffed with its twenty experts after 18 months since its establishment. This big group of experts made possible for the CTC to start site visits and to ascertain more successfully the areas in which states required assistance. But due to the lack of adequate resources neither the CTC nor CTED provide the technical assistance as required by the States. Consequently, even if the CTC successfully find out the gaps to be filled still it mostly depends on donors to come forward to deliver the essential aid.⁴²

The costs of improving administrative systems and getting and maintaining technical equipment can be substantial. Several States, mainly in the developing world do not require financial, technical and human resources to execute counter terrorism laws and necessitate help in acquiring these capabilities. This law impelled debate of a possible multilateral trust fund to assist such endeavours. Early in the CTC process the United Kingdom motivated the Committee and the Al Qaeda, Taliban Sanctions Committee to develop the idea of a specialized Technical Assistance Fund. The Secretary General Kofi Annan in 2002 recommended that the U.N. Development Programme (UNDP) might play a role in getting such fund, but no action was taken.⁴³

On October 2004 the Security Council adopted Resolution 1566 as a reaction to the dreadful terrorist attack, carried out on a school in Beslan in the Russian Federation by pro independence Chechen rebels. This resolution comprises certain important novelties. The definition of terrorism was offered by this resolution and also strongly recommended to the Counter–Terrorism Committee to start a number of visits to member States, as an additional measure in order to check the extent of compliance with Resolution 1373, and established a Working Group to broaden the list of terrorist

individuals and organizations to others that are solely connected with Al Qaeda and the Taliban, as well as consider the possibility of setting up an international compensation fund for terrorist victims and their families. Another important resolution 1540 which was adopted by the Security Council on April 2004 aimed at preventing member States from giving any form of support to non-state actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery. Furthermore, the resolution includes a number of measures to hamper the proliferation of weapons of mass destruction.⁴⁴

The Security Council in the following resolution urged member States to take action against groups and organizations involved in terrorist acts that were not subject to the 1267 Committee's review. Resolution 1566 (2004) established the 1566 Working Group made of entire members of the Council to suggest practical measures against such individuals and groups, as well as to delve into the possibility of setting up a compensation fund for those who become the target of terrorist.⁴⁵

The next Resolution 1624 adopted by the Security Council on 14 September 2005 on one of those rare events when the body held a meeting at the head of State level three in its total history. This meeting was a reaction against the tragic event that is the terrorist attacks against the public transport system in London on 7th July. This resolution comprises two new aspects of terrorism. Firstly, it provides for and urges actions by the State against "the incitement to commit a terrorist act, or act which necessarily be forbidden by law. Secondly, it calls on all States to 'enhance dialogue and broaden understanding between civilizations.'⁴⁶

The Security Council adopted Resolution 1787 on 10 December 2007 for the extension of Counter-Terrorism Executive Directorate (CTED) mandate. In this resolution the Security Council "Recalling resolution 1373 (2001) of 28 September 2001, resolution 1456 (2003) of 20th January 2003, resolution 1535 (2004) of 26 March 2004, resolution 1624 (2005) of 14 September 2005, as well as its other resolutions concerning threats to international peace and security caused by terrorism."⁴⁷ Similar other resolutions were also adopted by the Security Council such as Resolution 1805 (2008),⁴⁸ Resolution 1963 (2010),⁴⁹ Resolution 2129 2013.⁵⁰ All

these resolution were also related for extending the mandate of Counter–Terrorism Committee Executive Directorate (CTED).

The most recent Resolution 2133 is adopted by the Security Council at its 7101st meeting on 27 January 2014. The Security Council in this resolution regards terrorism as a threat to international peace and security and should be combated by all means with the Charter of United Nations ; threat to international peace and security caused by terrorist acts. It obligates member States to prevent and suppress the financing of terrorist acts. It also condemns the acts of kidnapping and taking of hostages and encourages the work of Counter–Terrorism Committee (CTC) established pursuant to Resolution 1373 (2001).⁵¹

Two another recent resolutions of the Security Council adopted against terrorism were Resolution 2170 (2014)⁵² and Resolution 2178 (2014). The Resolution 2178 was adopted on 24 September 2014 for addressing the growing issue of foreign terrorist fighters (FTF).⁵³ This resolution wanted countries to take some specific steps to address the FTF threats, including to prevent suspected FTF from entering or transiting their territories and to execute legislation to put on trial the FTFs. It also called on states to take on various steps to improve international cooperation in this area, such as sharing information on international or criminal investigations, interdictions and prosecutions. In this resolution, for the first time ever the Council underscores that Countering Violent Extremism (CVE) is an important element of a response to the FTF phenomenon. Resolution 2178 also focuses on existing U.N. counter–terrorism bodies on the FTF threat, provides a framework for long term monitoring and assistance to countries in their endeavours to address this threat.⁵⁴

Concluding Observations

Thus, the Security Council in its action particularly after 9/11 has been coherent in its condemnation of terrorism and firm in the adoption of numerous measures and also searches different means and methods to combat terrorism. All the resolutions of Security Council have been passed unanimously by its permanent members as well as the non permanent members adds further significance to it. The members of Security Council under Chapter VII adopted different measures and made these measures mandatory for all member States. Therefore, the acknowledgement of self defense as

a State's legal response to terrorism, the far reaching obligations put on member States by Resolution 1373, and the formation of and response to the CTC are all first in the history of United Nations. The nature of resolutions has also changed, now more emphasis is on how to fight terrorism in general than to only criticizing particular acts.

Although the Security Council members adopted numerous measures against terrorism following 9/11 and they did so under Chapter VII of the UN Charter in order to make these measures obligatory for all member States, still there are number of problems which need to be resolved. In the Security Council there is a monopoly of permanent members which hampers the successful implementation of resolutions. Every member of the Council is concerned about its own national interest than those of the whole community of States. Many resolutions passed by the Security Council face the problem of violation and non-compliance. For example, the Resolution 1368 legalizes the unilateral use of force against terrorist attacks. The United States considers of this resolution as a blank cheque and misused it on many occasions in the name of self defense.

Moreover, it is difficult to implement the United Nations counter-terrorism measures. The financial and safe haven measures of Resolution 1373 entail monitoring and enforcement capabilities at the domestic level that many countries do not have and that may also be very expensive to acquire. The response of Security Council is inadequate. In case of Counter-Terrorism Committee there is a need of sufficient resources and adequate financial assistance so that it may be able to provide required technical assistance. Due to the lack of resources, most of the assistance to CTC (Counter-Terrorism Committee) come through bilateral channels, therefore it will be adhoc and selective. Thus, it is the responsibility of all permanent members of the Security Council and particularly the United States as being the most powerful country of the world to make it an effective instrument in the fight against terrorism.

Notes

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Introduction

This chapter deals with the issue of human rights, United Nations and terrorism. How they are connected with each other and what is the impact of terrorism on the enjoyment of human rights. The only successful strategy of counter-terrorism will be one that recognizes the essential principle of real security can only be maintained through the promotion and protection of human rights. As a result, human rights should always be mainstreamed into all elements of counter-terrorism policies. It was proclaimed by the United Nations and Member States have agreed that any counter-terrorism measures must support to the established and recognized principles and provisions of the international human rights law, humanitarian law and refugee law. Most of the powerful states who called themselves as the protector of the human rights and democracy were responsible for the death of civilians in Afghanistan and Iraq by declaring 'War on Terror'. All of these trends diminish the real value of human rights.

The issue of terrorism, the concept of human rights and the United Nations were interlinked with each other. Terrorism has a direct impact on human rights and violates human rights in many aspects. The Charter of the United Nations is the first international treaty that acknowledges human rights. The United Nations has made many efforts at different periods of time to counter terrorism and to protect human rights or in other words to protect human rights while countering terrorism.

The Charter of United Nations made many references to the concept of human rights. According to the Preamble of the Charter:

We the people of United Nations, determined...to reaffirm faith in fundamental human rights, in the dignity and worth of human persons, in the equal rights of men and women of nations large and small...have resolved to combine our efforts to accomplish these aims.¹

The United Nations Charter has given the responsibility of defining human rights to the General Assembly and the newly instituted UN Commission on Human Rights. Since its inception, the United Nations has adopted several human rights instruments and treaties which are approximately 100 in number including entire range of human relationship. These instruments, inter alia, deal with the rights of women, children, refugees, migrant workers, disabled persons, indigenous people, stateless persons, minorities, prohibition of torture, slavery, genocide, racial or religious discrimination,

right to development, right to peace and so on. Among all these instruments the most significant one are the Universal Declaration of Human Rights (UDHR) (1948), the International Covenant on Civil and Political Rights (ICCPR), the first (1996) and the second (1991) Optional Protocol to ICCPR on Individuals Right to Petition and on the Abolition of Death Penalty respectively. The five human rights instruments mentioned above are called as the “International Bill of Human Rights.”²

The Charter of the United Nations recognized human rights in numerous articles such as Article 1 (3), 55 (c), 62 (2), 68 and 76 (c). In pursuance of the articles, specifically of Article 1 (3) of the Charter, the United Nations General Assembly (UNGA) adopted at its 183rd meeting on December 10, 1948, a Universal Declaration of Human Rights. All the people of the world, according to the Covenant have the right to self determination and citizenship, to vote and set their form of governance, and also to make their own laws which guarantees equality and equal protection of law.³

Article 1(3) explains that respect for human rights and fundamental freedom for all is one of the main purposes of the United Nations without distinction as to race, sex, language, religion. According to Article 8, the United Nations shall ‘not put any restriction on the eligibility of men and women to participate in any capacity in the principal and subsidiary organs of the United Nations’. In accordance with Article 55, the United Nations shall ‘promote universal respect for, and the observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion.’ According to Article 56 ‘all members of the United Nations pledge themselves to take joint and separate action in cooperation with the organization for the achievement of the purposes set forth in Article 55.’ Article 55 and 56 should be read together to formulate what one learned commentator has termed as ‘[probably] the only clear legal obligation in the Charter on members to promote respect for human rights.’⁴

Terrorism and Human Rights

Under Article 68 of the U.N. Charter, the Commission of Human Rights was established for the promotion of human rights. It has been working since many years as an independent organ of the United Nations and also act as a protector and guardian of fundamental human rights and freedoms.⁵

The words of Kofi Annan former Secretary General of United Nations explicitly shows that terrorism is a threat to human rights and the United Nations is an international organization which is responsible for protecting human rights and other fundamental principles of law and order:

By its nature, terrorism is an assault on the fundamental principles of law, order, human rights, and peaceful settlement of disputes upon which the United Nations is established.⁶

In recent years terrorism has become so much globalized that it affects human rights with devastating consequences which restrict the enjoyment of right to life, liberty and physical integrity. Besides effecting human rights terrorism can also destabilize governments, weaken civil society, imperil security and peace, and endanger social and economic development. All of these also have real and direct impact on the enjoyment of human rights.

The Office of United Nations High Commissioner for Human Rights in a study has noted the fact that the counter terrorism procedures adopted by States frequently pose serious threat to human rights and the rule of law.⁷

Amnesty International, a global voluntary movement and may also be the largest network of human rights activists and scholars founded in 1961. Since 1961 it was functioning to improve the protection of human rights around the world. The Amnesty International operates on behalf of the Universal Declaration of Human Rights and other international instruments and participates in the larger promotion and protection human rights in the civil, political, economic, social and cultural aspects.⁸ Other than criticising the acts of terrorism in recent years the Amnesty International has also condemned about the unending war on terror:

The “war on terror” has led to an erosion of a whole host of human rights. States are resorting to practices which have long been prohibited by international law, and have sought to justify these practices in the name of national security and counter terrorism.⁹

The Amnesty International also stressed the fact that the actual security against terrorism can only be attained through strengthening the framework of human rights and not through subverting it by resorting to illegal practices. The erstwhile Secretary General of United Nations Kofi Annan pointed out the fact about terrorism, counter terrorism and human rights “that those who are willing to give up liberty for security will end up with neither security nor liberty.”¹⁰

a) What Are Human Rights?

The concept of human rights is not new; it is as old as the human civilization itself. Human rights existed even before the establishment of the State. These rights are the gift of nature to man without any discrimination of colour, race, sex and religion. Human rights can also be illustrated as those fundamental rights which every man or woman living in any part of the world should be entitled merely by virtue of having been born as human being. These rights are non-transferable, non negotiable and it is mandatory for the maintenance of freedom, justice and peace in the world to respect human rights.¹¹

According to the traditional concept of international law, human rights are violated as well as protected by the States, generally speaking, human rights comprises obligations of State towards individuals. The entire movement for the protection of human rights took place as an attempt to redress the balance between the power of the State, to impose duties on individuals and the powerlessness of the individuals to ensure correlative respect for their rights. The matter of the responsibility of non-state actors as perpetrators of human rights abuses has therefore become important; in that context it is being pointed out that it was somewhat sarcastic to talk about the enjoyment of human rights in conditions of enormous killings by terrorist groups.¹²

Human rights are those rights which belong inherently to all human beings and are interdependent and indivisible.¹³ In other words, human rights are universal values and legal guarantees protecting individuals and groups against actions and omissions which interfere with fundamental freedom and human dignity.¹⁴

Today the world is more conscious of human rights than ever in the history of the world. In fact, human rights and human survival are inalienably connected like the terms civil rights and civil liberties and fundamental rights and fundamental freedoms and expressions. Human rights has no fixed definition, even the Charter of the United Nations does not define human rights in specific terms. While the exact meaning of human rights differs from country to country its important elements remained the same in all countries and all ages despite depredation of history. In the history of the world, some nations conferred human rights on their citizens either as a result of historical struggle or by forced circumstances. The earlier example includes Magna

Carta (1215), Bill of Rights of man declaration (1789), Reform Act (1832), and the Factories Act in 19th century Europe. The League of Nations (1920) ushered a new era in the history of human rights.

The Impact of Terrorism on Human Rights

Terrorism results in distress and sufferings to human beings. These are such an immoral and inhuman acts which puts under threat the freedoms and rights of innocent people. Therefore, it exploits the fundamental human rights of the victims, specifically the right to life, the right to physical integrity, and right to personal freedom. The larger numbers of innocent people including women, children and elderly have been massacred, killed or maimed by terrorist's indiscriminate and random acts of violence and terror which can never be justified.

Terrorism has affected the most essential and significant and basic human right of the people i.e. right to life. The General Assembly frequently expressed its intense concern about the global rise of acts of terrorism in all its forms, which put at risk the lives of innocent humans, jeopardize fundamental freedoms and seriously diminish the dignity of human beings.¹⁵

As mentioned earlier terrorism has a direct impact on the enjoyment of fundamental human rights. The disastrous impact of terrorism on human rights and security has been recognized at the highest level of the United Nations, significantly by the Security Council, the General Assembly, the former Commission on Human Rights and the new Human Rights Council. Particularly, Member States have pointed out that terrorism:

- Threaten the dignity and human security everywhere, put at risk the lives of innocent peoples, creates an environment of fear and intimidation, its aim is to destruct human rights and to jeopardize fundamental freedoms;
- It has harmful effect on the establishment of the rule of law, weakens pluralistic civil society, democratic base of society has been destroyed, and destabilized legally constituted government;
- Has connection with transnational organized crime, drug trafficking, money laundering and trafficking in arms as well as illicit transfers of nuclear, chemical,

biological materials, and is linked to the commission of serious crimes such as murder, extortion, kidnapping, hostage taking, assault and robbery.

- Has adverse consequences for the economic and social development of States, jeopardizes friendly relations of cooperation among States, including cooperation for development; and
- Threatens the territorial integrity and security of States, constitutes a serious violation of the Purpose and Principles of the United Nations, is a threat to international peace and security, and must be repressed as a vital element for the maintenance of international peace and security.¹⁶

The United Nations has profoundly looked into the numerous dimensions and aspects of terrorism. From the viewpoint of human rights, the United Nations principal concern was not only the victims of terrorism but it has also given proper consideration to victims of human rights violation in this context. It is imperative to note that victims of terrorism are not only those who have been directly suffered from actions of terrorists but also those who may endure at the hands of State at the time of dealing with terror. Therefore, the United Nations in order to handle this situation has attempted to fix the responsibility of State towards its citizens on the basis of several human rights laws. For example, the Declaration on Basic Principles of Justice for Victims of Crime of Abuse of Power inflicts several duties and delineates the minimum standards for the treatment of victims.¹⁷

From the perspective of human rights, support for victims of terrorism is a supreme concern. Numerous endeavours made instantaneously following the events of September 11, 2001 largely failed to give due consideration to victims of human rights, there is a need of recognition on the part of international community to fully take into account the human rights of all terrorist victims. In 2005 World Summit outcome (General Assembly resolution 60/1), for example, Member States emphasized “the importance of assisting victims of terrorism and of providing them and their families with support to cope with their loss and their grief.” Similarly, the United Nations Global Counter-Terrorism strategy reflects the assurance by Member States to “promote international solidarity in support of victims and foster the involvement of civil society in a global campaign against terrorism and for its condemnation.”¹⁸ The General Assembly in 2005 adopted the Basic Principles and guidelines on the Right to Remedy and Reparation for Victims of Gross Violations of

International Human Rights Law and Serious Violation of International Humanitarian Law which further stressed the need for victims to be treated with humanity and respect for human rights and their dignity. It also emphasized on numerous measures to guarantee their safety, physical and psychological well being and privacy as well as those of their families.¹⁹

Terrorism not only poses a serious threat to the enjoyment of essential human rights it also jeopardizes collective goods such as national security and public order. The Special Rapporteur Kalliopi Koufa of the U.N. Sub Commission on the Promotion and Protection of Human Rights describe this phenomenon in her report on Terrorism and Human Rights as a direct and indirect connection between terrorism and human rights:

the connection is directly when terrorist kill or injure innocent civilians, deprive them of their freedoms, damage their property; the connection is seen indirectly when a state's response to terrorism leads to the adoption of policies and practices that impinge on fundamental rights.²⁰

Michael Freeman has observed that "human rights are most needed when they are most violated."²¹ In the context of terrorism one can understand that it not only violates the basis of human rights but it also gives a chance to the organs of state to prevent from having the basic human rights and civil liberties to its citizen and also to undermine the recognized and established principles of justice. Therefore, it is mandatory that counter-terrorism techniques must be planned and implemented keeping in view the basic principles of international humanitarian law. Terrorism in any circumstances should not become a reason to interrupt internationally recognized human rights. Justice V.R Krishna Iyer has correctly observed that "human rights are those irreducible minima which belong to every member of human race when pitted against the state or other public authorities or group and gangs and other oppressive communities."²²

Terrorism has a dreadful impact on human rights. Furthermore, by attacking civilians and innocents it creates an ambience of fear and uneasiness in which it becomes difficult to fully enjoy human rights and civil liberties. On the contrary, terrorist attack by non-State actors bestows an opportunity to the State to increase its oppressive powers and suspended human rights in the name of law and order and security and integrity. This is truly manifest from the current anti terror legislations, policies and programmes in numerous countries in the wake of terrorist attacks

against United States on September 11, 2001. Conversely, violence and terrorism unleashed by States can have catastrophic impact on human rights of its citizens. It is clearly evident from several historical events that State sponsored terrorism end into genocide.²³

Terrorism and human rights are opposite to each other. This fact is clearly shown in the sagacious study by the Office of the United High Commissioner for Human Rights:

Terrorism aims at very destruction of human rights, democracy and the rule of law. It attacks the value that lie at the heart of the Charter of the United Nations and other international instruments; respect for human rights; the rule of law; rules governing armed conflict and the protection of civilians; tolerance among people and nations; and peaceful resolution of conflict.²⁴

Thus, the study clearly shows that terrorists have directly affected the enjoyment of number of human rights specifically the right to life, liberty, physical integrity of an individuals.

The International Commission of Jurists, in its Declaration of Berlin of 2004, entitled “Upholding Human Rights and the Rule of Law in Combating Terrorism” expressed that “the world faces a grave challenge to the rule of law and human rights. Previously well-established and accepted legal principles are being called into all regions of the world through ill conceived responses to terrorism. Many of the achievements in the legal protection of human rights are under attack.”²⁵

Terrorism has become a global problem which requires a global solution. It is a crime against humanity. The presence of this menace anywhere leads to anxiety and fear everywhere. As the peace is the prerequisite for the enjoyment of human rights and civil liberties and that condition of peace mostly disturbed by the influence of terrorism. In the contemporary world the international terrorism not only created immense fear but it has also estranged nations and communities. It has given rise to mutual suspicion and significantly destabilized communal harmony and spirit of peaceful co-existence between societies and communities. Therefore, it is clear that terrorism can create conditions under which attainment of human rights and refutation of fundamental freedoms directly gives rise to circumstances contributing to the rise and growth of terrorism. In its 1987 publication, *Human Rights: Questions and Answers*, the United Nations stated:

The denial of human rights and fundamental freedoms not only is an individual and personal tragedy but also creates conditions of social and political unrest, sowing the seeds of violence and conflict within and between societies and nations. As the first sentence for the Universal Declaration of Human Rights states, respect for human rights and human dignity is the foundation of freedom, justice and peace in the world.²⁶

The international law against terrorism includes U.N. treaties, Security Council and General Assembly resolutions. All of these are meant to preclude, repress and eliminate every form of terrorism. This also consists of several regional treaties from the African Union, the European Union and the organization of American states. These documents criticise all acts of terrorism and affirm the threat of terrorism to democracy.

The connection between terrorism and human rights and specifically the impact of counter-terrorism measures on human rights has been given extensive attention at the international level since 9/11 attacks. The growing concern over human rights and counter-terrorism is however not a new phenomenon. Even before the deadly event of September 11, 2001 there was significant attention paid in international jurisprudence to the questions of respect for human rights in circumstances regarding acts of terrorism.²⁷

The contemporary national and international instruments stress that human rights that must be respected are not only the rights of those charged or guilty of terrorist offences, but also the rights of sufferers, or potential sufferers of those offences. In this prospect, numerous provisions regarding the protection, compensation, and support of victims of terrorism are in harmony with the current developments in international law, for example manifested in the European Convention on Compensation of Victims of Violent Crimes, the Council of Europe Guidelines on Human Rights and the Fight against Terrorism and additional Guidelines on the Protection of Victims of Terrorism, the New Warsaw European Convention for the Protection of Victims of Terrorism and many United Nations Security Council Resolutions including Resolution 1566 of October 8, 2004 and Resolution 1642 of September 14, 2005.²⁸

The current international law has been formulated with fundamental recognition of sovereignty of the State and recognition of its monopoly over means and use of violence. Simultaneously, there are numerous components of international law that

acknowledge certain universally accepted human rights and impose responsibility on state to protect them. As terrorism has very real and direct impact on a number of universally recognized human rights, it is the basic obligation of States to defend their nationals against the threats of terrorist acts and bring the executor of such acts to justice. Therefore, to adopt appropriate counter-terrorism measure is an international duty of States. Nevertheless, it is historically established that counter-terrorism measures adopted by States have frequently resulted in refutation of universally accepted human rights norms. The Office of the United Nations High Commissioner for Human Rights observed in its study *Human Rights, Terrorism and Counter-Terrorism*:

In recent years....the measures adopted by states to counter-terrorism have themselves often posed serious challenges to human rights and rule of law. Some states have engaged in torture and other methods to counter-terrorism, while the legal and practical safeguards available to prevent torture, such as regular and interdependent monitoring of detention centres, have often been disregarded. Other states have returned persons suspected of engaging in terrorist's activities to countries where they face a real risk of torture or other serious human rights abuse thereby violating the international legal obligation of non-refoulement.

The study further drew attention to the disrespect for human rights and principles of natural justice in anti terror legislations and policies adopted by the states. The weakening of independence of judiciary and regular court systems through creation of exceptional courts to try civilians indicted in terrorist activities was condemned in the study. The intrinsic discrimination and suppression in anti-terrorism measures adopted by states have been highlighted in these words:

Repressive measures have been used to stifle the voices of human rights defenders, journalists, minorities, indigenous groups and civil society. Resources normally allocated to social programmes and development assistance have been diverted to the security sector, affecting the economic, social, and cultural rights of many.²⁹

Can Terrorists Claim any Human Rights for themselves?

If terrorism means deliberate and systematic murder, maiming and menacing of the innocent or to generate state of fear in its victims because it is cruel and not conforms to humanitarian norms, then surely the claim of terrorist to seek any of the human rights stand on very weak footing. Terrorism and violence has no place in a society which follow democratic values as those activities not only oppose the ideals of democracy and freedom but also pose a serious challenge to the social, economic and

other human rights of the people, their progress and development of terrorist affected region.

The survival of individuals and peace depends on a well organized peaceful society. It is an eternal truth that without society individual existence is impossibility because it constitutes the very basis of human existence. Nevertheless, surely individual liberties or rights of terrorists, cannot be regarded as sacrosanct as to over ride the demands of corporate good or good of the society as a whole. Moreover, there is a well known jurisprudential affirmation, that one cannot have rights without duties. The present international humanitarian law impose obligations not only on States but also on individuals and groups to observe and respect human rights.

Article 29 of the UDHR (Universal Declaration of Human Rights) contains a language most susceptible of interpretation as imposing duties on individuals. It reads:

- a) Everyone has duties to the community in which alone and free and full development of his personality is possible.
- b) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of security, due recognition and respect for the rights and freedoms of others and of meeting the requirement of morality, public order and general welfare in democratic society.
- c) These rights and freedoms may in no case exercised contrary to the purpose and principles of the United Nations.³⁰

Article 30 of the UDHR also clearly postulates that “nothing in this Declaration may be interpreted as implying for any state, groups or persons any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms.”³¹

The above enumeration of duties and obligations of individuals as postulated by the Universal Declaration of Human Rights makes it abundantly clear, that all persons including the terrorists should be restrained from acting to destroy, the human rights of others that visibly disturbed by the spurt in terrorist attacks on innocent people, grave concern was expressed at the human, social and economic cost to normal national and international intercourse in the areas of travel, commerce and diplomatic relations

Counter–Terrorism Human Rights and the Role of United Nations

The United Nations has always been concerned about the issue of terrorism and human rights. Following the event of September 11, 2001 and rapid increase of terrorism globally it has become even more urgent for the international organization to actively intervene for the protection of human rights. While criticizing terrorism unequivocally and recognizing the responsibility of States to guard all those living inside their authority from terrorism, the United Nations has put a primacy on the question of protecting human rights in the context of counter–terrorism measures.

The United Nations has not only made an audacious appraisal of the circumstances and conditions but it has also laid down norms, principles and procedures to respect human rights during counter–terrorism measures. The United Nations has stressed that States must make sure this fact that measures taken to combat terrorism comply with their obligation under international law, specifically international human rights, refugee and humanitarian law.³²

The issue of counter–terrorism and human rights has become the focus of attention since the establishment of the Counter–Terrorism Committee (CTC) in 2001. Security Council resolution 1373 (2001), which established the Counter–Terrorism Committee (CTC) makes one reference to human rights, calling upon the States “to take appropriate measures in conformity with the relevant provisions of national and international standards of human rights, before granting refugee status, for the purpose of ensuring that asylum seeker has not planned, facilitated or participated in the commission of terrorist acts.” The resolution’s preamble also affirms the need to combat by all means “in accordance with the Charter of the United Nations, “threat to international peace and security caused by terrorist acts.”³³

The committee’s preliminary policy on human rights was expressed by its first Chairman in the briefing to the Security Council on January 18, 2002:

the Counter–Terrorism Committee is mandated to monitor the implementation of resolution 1373 (2001) monitoring performance against other international conventions, including human rights law, is outside the scope of the Counter–Terrorism Committee’s mandate. But we will remain aware of the interaction with human rights concerns, and we will keep ourselves briefed as appropriate. It is, of course, open to other organizations to study state’s reports and take up their contents in other forums.³⁴

The Secretary General of the United Nations in his report “Uniting against Terrorism: Recommendations for a Global Counter Strategy” explain human rights as necessary for the fulfilment of every aspects of the strategy and stressed that effective counter–terrorism measures and the protection of human rights have not divergent goals but complementary and jointly reinforcing ones.³⁵ The United Nations Global Counter–Terrorism Strategy has stressed respect for the rule of law and human rights at the centre of the counter–terrorism endeavours at every level. The Security Council has also recommended to the member states to guarantee that counter–terrorism measures comply with international human rights law and humanitarian law in many of its resolutions. Similarly, various regional treaty based bodies have continuously emphasized that all counter–terrorism measures must conform to the international human rights law.³⁶

The United Nations Secretary General in October 2001 established Policy Working Group on the United Nations and Terrorism whose aim was to discover the long term implications and wide policy dimensions of terrorism for United Nations and the international human rights regime and to frame recommendations on steps that the United Nations system ought to take to address the issue. The report of this Policy Working Group observed that the United Nations have to guarantee the protection of human rights while formulating international counter–terrorism measures.³⁷

In 2002 the Policy Working Group observed that:

Terrorism often thrives where human rights are violated, which adds to need to strengthen action to control violations of human rights. Terrorism itself should also be understood as an assault on basic human rights. In all cases, the fight against terrorism must be respectful of international human rights obligations.³⁸

In subsequent year, the Secretary General noted that protection of human rights was the most effective strategy for dealing with terrorism.³⁹

To show the importance of human rights norms in the counter–terrorism arena, the United Nations Commission for Human Rights in 2005 appointed a U.N. Special Rapporteur on Human Rights and Counter–Terrorism. The report on Terrorism and Human Rights published by the Inter–American Commission on Human Rights pointed out:

It is notable in this respect that the provision of this body of law that require states parties to investigate, prosecute and punish terrorist crime coincide with the doctrine under international human rights law according to which states are obliged to investigate the acts and punish those responsible whenever there has been a violation of human rights.⁴⁰

The Counter-Terrorism Committee established through resolution 1373 in the wake of September 11, 2001 attacks is mandated to examine the implementation of the resolution. It is outside the scope of the Counter-Terrorism Committee (CTC) to check the monitoring of against the other international conventions including human rights. Nevertheless, the Counter-Terrorism Committee (CTC) is cognisant of the interaction of its work with human rights concerns, inter-alia through the contact the CTC has established with the Office of the High Commissioner for Human Rights (OHCHR). The CTC welcomes parallel examining of observance of human rights duties. The CTC is also functioning clearly and openly so that NGO's with concern can bring them to the CTC's notice or follow up within the established machinery of human rights. In its statement to the United Nations Security Council on October 4, 2002 at the event of the one year anniversary of the CTC, the Secretary General of the United Nations said: "by their very nature, terrorist acts are grave violation of human rights. Therefore, to pursue security at the expense of human rights is short sighted, self contradictory and, in the long run self defeating."⁴¹

Although the decisions of Security Council are binding on all States, there were some limitations on the powers of Security Council with regard to counter-terrorism policies. The limitation can be found in the Charter of the United Nations Articles 2 and 24 (2), respectively, in which there was an obligation on U.N. and particularly on the Security Council, to "act in accordance with the Purposes and Principles of the United Nations." Those purposes and principles consist of "promoting and encouraging respect for human rights and fundamental freedom." There was an argument by some of the commentators about the vagueness of the provision which they regard does not serve as a limit to the actions of the Security Council. Nevertheless, notwithstanding its breadth, the requirement obviously does serve as a limitation. The Security Council have to accomplish its main role of maintaining peace and security while sticking to the Purposes and Principles of the United Nations. Though the Security Council may be able to limit the objectives contained in the Purposes and Principles, it cannot destroy its "core content." In the context of

1267 regime established by the Security Council through Resolution 1267, this limitation means that the basic human rights norms cannot be eroded by the regime.⁴²

The U.N. Charter's thorough reading suggests that States might reject to implement the features of the 1267 regime which oppose the human rights obligations present in the Charter of the United Nations. Article 25 of the U.N. Charter obligates States to "carry out the decisions of the Security Council in accordance with the present Charter." But this article can be construed in several ways, its meaning is clear when read with Article 2(5), which establish that States "shall give the United Nations every assistance in any action it takes in accordance with the present Charter." The aim of both the articles is only to bind states in order to implement the decisions of the Security Council which are made in accordance with the Charter. Consequently, if the 1267 regime breaches core human rights, the Security Council would be acting outside the Charter, and states would not be forced to follow it.⁴³

In April 2005, the Commission of Human Rights in Resolution 2005/80 make a decision to appoint, for a period of three years, a Special Rapportuer on the promotion and protection of human rights and fundamental freedoms while countering terrorism. This mandate was taken up by the Human Rights Council (General Assembly Resolution 60/25), like other Special Procedures, and continued for one year, subject to re-examine and to be assumed by the Council (Human Rights Council decision 2006/102).⁴⁴

The Human Rights Council extended the mandate of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism for a period of three years by resolution 15/15 on 30th September 2010 and more extended for another period of three years by resolution 22/8 on 21st March 2013. In these resolutions, the Council requested the special Rapportuer:

- a) To make concrete recommendations on the promotion and protection of human rights and fundamental freedom while countering terrorism, including at the request of states, for the provision of advisory services or technical assistance on such matters;
- b) To gather receive and exchange information and communication from and with all relevant sources. Including Governments, the individuals concerned and their families, representatives and organizations, including through country visits, with the consent of states concerned, on alleged violation of human rights and fundamental freedoms while countering terrorism.
- c) To integrate a gender perspective throughout the work of his/her mandate.

- d) To identify, exchange and promote best practices on measures to counter-terrorism that respect human rights and fundamental freedoms.
- e) To work in close coordination with other relevant bodies and mechanism of United Nations, and in particular with other special procedures of the council, in order to strengthen the work for the promotion and protection of human rights and fundamental freedoms while avoiding unnecessary duplication of efforts.
- f) To develop a regular dialogue and discuss possible areas of cooperation with Governments and all relevant actors, including relevant United Nations bodies, specialized agencies and programmes, with inter alia, the Counter-Terrorism Committee Implementation Task Force, the Office of the United Nations High Commissioner for Human Rights, The Terrorism Prevention Branch of the United Nations Office on Drugs and Crime and treaty bodies, as well as non-governmental organizations and other regional or sub-regional international institutions, while respecting the of his/her mandate fully respecting the respective mandates of the above mentioned bodies with a view to avoiding duplication of effort;
- g) To report regularly to the council and to the General Assembly.⁴⁵

The Counter-Terrorism Committee Executive Directorate (CTED) which established through Security Council resolution 1535 start moving towards a more pro-active policy on human rights. Counter-Terrorism Committee Executive Directorate (CTED) was mandated to liaise with the Office of the U.N. High Commissioner for Human Rights (OHCHR) and other human rights organizations in matters related to counter-terrorism (S/2004/124), and the expert of human rights was appointed to the staff of CTED. In its report to the Security Council submitted as a part of its comprehensive reviews of the work of CTED, which were afterwards endorsed by the Council, the Committee said that CTED should take into account of relevant human rights. Afterwards CTED adopted its policy guidelines and it was provided that CTED is mandated to:

- a) Provide advice to the Committee, including for its ongoing dialogue with States on their implementation of resolution 1373 (2001), on international human rights, refugee and humanitarian law, in connection with identification and implementation of effective measures to implement resolution 1373 (2001)
- b) Advice the Committee on how to ensure that any measures States take to implement the provisions of resolution 1624 (2005) comply with their obligations under international law, in particular , and international human rights law, refugee law, and humanitarian law, and
- c) Liase with the Office of the High Commissioner for Human Rights and, and, as appropriate, with other human rights organizations in matters related to counter-terrorism.⁴⁶

It is clear that that all terrorist acts limit the rights of the individuals, but on the other side the counter-terrorism policy may also limit the rights of the people. Therefore it

is necessary to adopt such policy guidelines which protect people from any further violation of their universally recognized human rights standards.⁴⁷

The United Nations promotes a human rights based approach to fighting terrorism. In words of Secretary General:

We should all be clear that there is no trade off between effective action against terrorism and the protection of human rights. On the contrary, I believe that in the long run we shall find that human, along with democracy and social justice, are one of the best prophylactics against terrorism.

This statement was made amidst about the erosion of fundamental rights in countries involved in the fight against terrorism since the attacks of September 11, 2001; there has been a propensity to resort to a war model of fighting terrorism. However, when we look at successful methods against terrorism since September 11, 2001, we discover that criminal justice measures have been prominent. Anti terrorist measures should be built on four pillars:

- 1) Good governance
- 2) Democracy
- 3) Rule of law
- 4) Social justice

Why these four? The reason for this is simple:

- a) When governance is not good, the opposition against the corrupt rule gain the followers and support.
- b) When unpopular rulers cannot be voted away in democratic process, advocates of political violence find a large audience.
- c) When rulers stand over the law and use the law as a political instrument against their adversary, the law loses credibility.
- d) When a long standing injustices in society are not sorted out but allowed to carry on for years without any light insight at the end of the tunnel, we should not be surprised that desperate people and others championing their cause are ready to die and to kill for what they perceive to be a just cause.

These then, are the basis on which one should construct policies aimed at deterrence and commitment of terrorism. These views were expressed by the late U.N. High

Commissioner for Human Rights (HCHR) who himself become victim of terrorist attack. The late UNHCHR Sergio Vieira de Mello said in October 2002:

On March 6, 2003, the Counter-Terrorism Committee convened a special meeting with some fifty international and regional organizations and at the end of the day the participants agreed that they would remain aware of the interaction between their activities and human rights concerns, and of the need for respect for the rule of law and human rights obligations.⁴⁸

The remarks of U.N. Secretary General Kofi Annan in 2002 were an early effort to make sure that human rights concerns would start to be reflected in the process of the United Nations Committees. The credibility of the Secretary General on the topic of human rights promotion was great. His close connection with a period in a United Nations history when it had been very much active with regard to human rights and when he himself had argued that priority should be given to individuals over state sovereignty ensured that. In October 2001, he had established a “Policy Working Group on the United Nations” which had a sub group devoted to the results of human rights partly as a consequence of this, the report of the Group, issued in August 2002, endeavoured to put human rights strongly at the centre of the U.N. role in countering terrorism. As it stated:

The United Nations must ensure that the protection of human rights is conceived as an essential concern. Terrorism often thrives where human rights are violated which adds to need to strengthen action to combat violations of human rights. Terrorism itself should be understood as an assault on basic human rights. In all cases, the fight against terrorism must be respectful of international human rights obligations.⁴⁹

Thus, the United Nations has taken operational role in this context and has cautioned of the growing violations of human rights in the name of counter-terrorist policies. There have been numerous resolutions by General Assembly calling on the High Commissioner for Human Rights to take effective role in investigating the subject of the protection of human rights and fundamental freedom in the context of measures to combat terrorism and to synchronize efforts to promote coherent approach on this issue.

The Office of the High Commissioner for Human Rights (OHCHR) has made many contributions on the question of protection of human rights in the context of counter-terrorism initiatives including Report of High Commissioner for Human

Rights to the 58th session of the Commission on Human Rights, “Human Rights: A Uniting Framework.”⁵⁰ and Guidance notes to the Counter–Terrorism Committee of the Security Council.⁵¹ The High Commissioner for Human Rights persistently highlighted the role of respect for human rights as an essential part of the comprehensive counter–terrorism strategy.⁵²

Most important, perhaps is, in connection to the U.N. commitment to countering terrorism from a multi disciplinary view point in the launching of its Global Strategy for Fighting Terrorism. The chief elements of that strategy and the role of the United Nations within it are:

- First, to deter disaffected groups from choosing terrorism as a tactic to attain their objectives;
- Second, to deny terrorists the means to carry out their attacks;
- Third, to dissuade states from supporting terrorists;
- Fourth, to develop the capability of state in order to prevent terrorism; and
- Fifth, to protect human rights in the struggle against terrorism.

In relation to the last point, the then U.N. Secretary General Kofi Annan, in launching the strategy, emphasized the importance of human rights in combating terrorism. He regretted that:

[...] international human rights experts, including of the U.N. system, are unanimous in finding that many measures which states are currently adopting to counter–terrorism infringe on human rights.⁵³

Within the system of the United Nations, a number of actions and procedures can be taken against states that violate human rights. These include:

- Make a decision that the state in question should be subject to “advisory services” which advised concern over human rights situations and proffers U.N. assistance towards its resolution;
- Adopting resolution in the General Assembly or other U.N. body which might ask for further information, ask for a governmental response, criticize the government, or ask the government to take particular action;
- Appointing a rapporteur for particular countries, independent, expert, envoy or delegation to consider the situation. There are several rapporteurs, for example,

for Democratic People's Republic of Korea, Myanmar, the Palestinian territories conquered since 1967, and Sudan, as well as independent experts on Burundi, Democratic Republic of the Congo, Haiti, Liberia, and Somalia;

- Asking the Secretary General of the United Nations to appoint a special representative to the state in question;
- Calling upon the Security Council of the United Nations to take action under Chapter VII mandate with regard to the maintenance of international peace and security. The Security Council has imposed economic sanctions and other specifically targeted sanctions (such as an arms embargo) or even authorized military action in response to some human rights violations. The different (rapporteurs. Experts. Working groups) have several main functions:
 - Fact finding and documentation
 - Providing expert advice and expert opinion
 - Providing recommendations to governments
 - Publicity and
 - Conciliation⁵⁴

Counter-terrorism, security, human rights and law enforcement are inter-linked with each other. In the situation of threat of terrorism, they should be framed in such a way to operate mutually. In many of the conditions, they cannot effectively work independently of each other. The measure of counter-terrorism requires human rights standards to make sure that their execution does not weaken their objective, which is to protect and sustain a democratic society. In the same way human rights standards might require counter-terrorism measures to guarantee that human rights can flourish. What is sure is that human rights are not an elective extra or luxury to any counter-terrorism strategy; it must be at centre of that strategy.

In November 2001, a joint statement by OSCE's Office for Democratic Institutions and Human Rights (ODIHR), the U.N. High Commissioner for Human Rights, and the Council of Europe reminded governments that:

While we recognize that the threat of terrorism require specific measures, we call on all governments to refrain from any excessive steps which would violate fundamental freedoms and undermine legitimate dissent. In pursuing the objectives of eradicating terrorism, it is essential that states strictly adhere to their international obligations to uphold human rights and fundamental freedoms.⁵⁵

The terrorist acts can be countered in such a way that maintains human rights standards. In 2005 the Secretary, General Kofi Annan stressed that:

Human rights make ample provision for counter terrorist action, even in the most exceptional circumstances. But the compromising human rights cannot serve the struggle against terrorism. On the contrary, it facilitates achievement of the terrorist's objective—by ceding him the moral high ground, and provoking tension, hatred and mistrust of government among precisely those parts of the population where he is most likely to find recruits. Upholding human rights is not merely compatible with successful counter-terrorist strategy. It is an essential element.⁵⁶

The significance of human rights values while combating terrorism have also been acknowledged by the senior judicial figures. For instance, U.S. Supreme Court Justice Sandra Day O' Connor, argued in 2004:

It is during our most challenging and uncertain moments that our Nations commitment to due process is most severely tested; and it is those times that we must preserve our commitment at home to the principles for which we fight abroad.⁵⁷

In 2002, the Council of Europe Secretary General, Walter Schwimmer highlighted:

The temptation for government and parliament in countries suffering from terrorist action is to fight fire with fire setting aside the legal safeguards that exist in a democratic state. But let us be clear about this: while the state has the right to employ its full arsenal of legal weapons to repress and prevent terrorist activities, it may not use indiscriminate measures which would only undermine the fundamental values they seek to protect. For a state to react in such a way would be fall into the trap set by terrorism for democracy and the rule of law. It is precisely in situations of crises such as those brought about by terrorism, that respect for human rights is even more and that even greater vigilance is called for.⁵⁸

Although it is the fundamental responsibility of State to act within the framework of human rights at all times, there may occur some exceptional national situations in which some logical limitations on the enjoyment of some human rights might be allowed. Some of the rights restricted by States comprise the right to freedom of expression, the right to freedom of association and assembly, the right to freedom of movement and the right to respect for one's private and family life.⁵⁹ But, in order to suspend or to limit these rights numerous conditions are to be satisfied by the State.⁶⁰ Simultaneously, there were some human rights which are recognized and identified by the international human rights law and which are non-derogable in any conditions whatsoever. These rights include the right to life, freedom from torture or cruel, inhuman or degrading treatment or punishment, the prohibition of slavery and servitude, freedom from imprisonment for failure to fulfil a contract, freedom from

retrospective penalties, the right to be recognized as a person before the law and freedom of thought, conscience and religion.⁶¹ Moreover, the Human Rights Committee in its general comment no. 29 has recognized certain rights and freedoms under customary international law that may not be ignored even if not listed in Article 4 (2). These customary laws include:

- the right of all persons dispossess of their ability to be treated with humanity and with respect for intrinsic dignity of the human person
- the prohibition against taking of hostages, kidnaps or unacknowledged confinements
- the international protection of rights persons belonging to minorities, banishment or forcible shift of population without grounds permitted under international law
- and the ban against propaganda for war or in advocacy of national, racial or religious hatred that would create incitement to discrimination, hostility or violence.⁶²

The Human Rights Committee has also stressed that the guarding of those non-derogable rights necessitates that particular procedural protections comprising judicial guarantees are available in all circumstances. The Committee has also highlighted the point that only a court of law may try and convict a person for an illegal crime and that a person should be presumed innocent if not proved otherwise.⁶³

The study by the United Nations High Commissioner for Human Rights has examined the particular Human Rights challenges in the context of Terrorism and Counter-Terrorism.⁶⁴ The following are some of the human rights which are under threat by terrorism and counter-terrorism.

a) The Right To Life

Under international law and regional law it has been recognized that it is the responsibility of the States to give security of life to individuals under their authority. Nevertheless, in many of the situations states themselves involved in extra judicial killings in the garb of protecting individuals from the menace of terrorism. The study finds out “deliberate” or “targeted killings” to exterminate particular individuals as an alternative to arresting them and bringing them to justice. In other situations states have adopted “shoot to kill” law enforcement procedures as a reaction to perceived

terrorist threats. This procedure is very frequent in developing countries. The countries like Egypt, India, Pakistan, Sri Lanka, Saudi Arabia, Israel, and numerous other countries have involved in extra judicial killings as highlighted from the annual report of Amnesty International. In the present scenario the issue of fake encounters have become major political issues in India which include minorities, dalits, and tribals. In the same way, the United States and its supporters in War on Terror have been constantly eliminating the suspected terrorists in Afghanistan, Iraq, Pakistan, and Somalia and in several other countries.⁶⁵

b) Prohibition of Torture

Many of the States themselves are involved in torture and treat their individuals with cruelty despite the fact that the protection against torture and other cruel or humiliating treatment or punishment is completely restricted under international law. Actually prohibition against torture is the most deliberately violated human right in the War on Terror. The description of physical, psychological and sexual abuse together with torture, rape sodomy, and homicide of prisoners held in Abu Gharib prison in Iraq by the Army of the United States including U.S, governmental agencies is even now fresh in the memories of all concerned people worldwide.⁶⁶ The detention camp is also established by the United States at Guantanamo Bay where prisoners are treated with cruelty and their conditions are so brutal which are against the provisions of international human rights and humanitarian law. The detention camps resemble the concentration camps established by Nazis at the time of Hitler in Germany. The defenders of human rights have brought to light the cruel, inhuman and degrading treatment of prisoners at Guantanamo Bay. The prisoners not only face the physical torture but their religion is also abused which include the disrespect of their Holy book. Their Holy book Quran was flushed in the toilet, defaced and comments and remarks were written on it. Pages were torn and detainees denied the copy of the Holy Quran. This inhuman and cruel treatment was reported in the media.⁶⁷

Although many states endeavoured to hide the facts, torture and custodial deaths are frequently reported from numerous countries of the world. The recent war on terror has significantly enhanced the power of the States that over and over again they resort to torture and other cruel means to obtain information or to pressurize an accused to accept the charges.

c) Transfer of Individuals Suspected of Terrorist Activity

The legal framework of international human rights needs firm stickiness to human rights and rule of law to hold and transfer of detainees. The detainees should also be informed of the reason for their detention and notified promptly of the charges levelled against them, and should be given approach to legal counsel. Nevertheless, in the wake of 9/11 “some states have reportedly extradited, expelled, deported or otherwise transferred foreign nationals some of them asylum seekers, suspected of terrorism to their country of origin or to countries where they allegedly face risk of torture ill treatment in violation of the principle of non-refoulment.”⁶⁸ This is a grave breach of international law which should be corrected by the bodies concerned. The terms like refugee and asylum seekers will otherwise lose their meaning and essence in international law.

d) Profiling and the Principle of Non-Discrimination

The principle of equality and non-discrimination are at the centre of human rights law which are recognized as norms of jus-cojens.⁶⁹

Profiling based on national or ethnic basis of an individual is a main problem generated by the recent bout of terrorism and counter-terrorism. Many of the Muslims residing in Western countries where they are living as minority have become the prey of this kind of profiling. The Committee on the Elimination of Racial Discrimination in its general recommendation No. 30 (2004) has called on states to make this fact sure that any measure taken in order to combat terrorism do not breach the principle of non-discrimination. It has also stressed that non citizens should not be subjected to racial or ethnic profiling or stereotyping.⁷⁰ At the regional level the Inter American Commission on Human Rights has cautioned that “any use of profiling as similar devices by a state must comply strictly with international principles of governing necessity, proportionality and non-discrimination, and must be subject to close judicial scrutiny.”⁷¹ Nevertheless, it is seen that after 9/11 several states have chosen to profile Muslims as they are wrongly regarded as political terrorist.⁷² This type of profiling based on stereotypes has added to mental sufferings as well as needless harassment of thousands of peace loving Muslims residing in various Western countries.

e) Due Process and the Right to Free Trial

This is another right which is also internationally recognized and is under risk in the wake of terrorist attacks in numerous countries. Most of the countries have made anti-terrorism laws which are not in consonance with international human rights norms of free and fair trial. The protection of human rights for individuals accused of criminal offences including terrorism include the right to presumed innocent, the right to hearing with due guarantees and within a reasonable time, by a competent, independent, and impartial tribunal, and the right to have conviction and sentence reviewed by a higher tribunal satisfying the same standards.⁷³

Besides the above mentioned fact, the study by the United Nations High Commissioner for Human Rights identified threat to liberty and security of the person, freedom of expression, right to privacy and economic, social and cultural rights as main challenges of human rights in the context of terrorism and counter-terrorism. The study has also discovered the fact that due to the lack of a comprehensive definition of terrorism there is a possibility of inadvertent human rights abuses and the term will also be misused by the states deliberately.⁷⁴

The Amnesty International in its report published in 2003 recognizes that current terrorism needs to be addressed urgently and firmly. Nevertheless, security for all means human rights for all. Actual security can only be attained through full respect for human rights. Under international law nobody should be able to pick and choose their obligations. A combination of security forces is seeking to roll back the human rights gains of the last five decades in the name of security and counter-terrorism. These constraints have not essentially led to increased dividends on safety. A safer world in the view of Amnesty International demands “a paradigm shift in the concept of security, a shift that recognizes that insecurity and violence are best tackled by effective, accountable States which uphold, not violate human rights.” Effective countering of terrorists depends upon knowing where to look and how to look. Governments are not entitled to respond with. The New York based Human Rights Watch makes the following statement with regard to human rights:

Believe anything goes in the name of their cause. The fight against terror must not buy into that logic. It must reaffirm in principle that no civilian should ever be deliberately killed or

abused. But for too many countries the anti-terrorist mantra provides new reasons for ignoring human rights.⁷⁵

War on Terror and Human Rights

In the area of how human rights affected by terrorism, there is a little consensus as to which rights are not affected the most which rights are even affected at all. Some scholars argue that terrorist attacks at the transnational level have an impact on the use of repression, on the other hand some scholars argue that terrorism at the domestic level has a strong impact on the use of repression. There is also divergence of opinion about which rights are repressed and which type of terrorism has a stronger impact on the use of repression. Many scholars argued that the deadly event of September 11, 2001 following the ‘War on Terror’ caused a major impact on the international human rights regime. It has been reasoned “that the American ‘War on Terror’ whatever its justification and achievement, has provoked a one dimensional ideological campaign that has marginalized human rights in much the same, although somewhat less intensely, as the crusade against communism did during the Cold War.”⁷⁶

Jonathan Sacks says that “war is fought on the battle field. Terror has no battle field. It has become global. Though it can be continued by physical measures, ultimately it must be fought in the mind. In the short term, conflicts are won by weapons. In the long run, they are won by ideas.” In these irreversible words of Sacks one can find the bareness and uselessness of the ongoing and may be unending War on Terror led by United States and supported by several countries as a reaction to 9/11 attacks. The recent War on Terror has numerous dubious distinctions—it was not mandated by the United Nations but declared by United States without any discussion with the United Nations. The United States and its allies invaded Iraq and Afghanistan and formed an international Coalition against Terror with catastrophic consequences for these war ravaged countries. The uneven use of force and violation of the provision of international human rights law is evident from the number of civilian deaths, torture and deportation of persons suspected of terrorist activities. The War on Terror reveals the unilateralism of the United States and its disrespect for the United Nations. The War on Terror has also caused climate of fear and vulnerability around the globe. The relatively small and weak States felt that their sovereign independence was under threat.⁷⁷

The counter-terrorism measures adopted by the United States and United Kingdom at the local level encouraged many countries to adopt coercive anti-terror legislations generating a crisis of civil liberties and human rights around the globe. The bloodshed committed by the International Alliance against terror has made Al Qaeda a feasible option for many who have lost their loved one in the wake of War on Terror. In short it is proving to be counterproductive.

The strategy of counter-terrorism which was named as War on Terror by the United States has drawn criticism from several quarters. The former foreign Secretary of Britain David Miliband argues “that the use of the War on Terror as a Western rallying cry since the September 11, 2001 attacks has been a mistake that may have caused more harm than good.” He goes on to say that “democracies must respond to terrorism by championing the rule of law, not subordinating. It is the argument he links directly with the Guantanamo Bay and it is why we welcome president Obama’s clear commitment to close it.”⁷⁸

The famous Indian author and activist Arundhati Roy criticised the ‘War on Terror’ in these words: “It is absurd for the U.S. government even toy with the notion that it can stomp out terrorism with more violence and oppression. Terrorism is the symptom, not the disease.”⁷⁹

She further suggests:

Terrorism as a phenomenon may never go away. But if it is to be contained, the first step if for America to at least acknowledge that it shares the planet with other nations, with other human beings, who even if they are not on T.V, have loves and grief and stories and songs and sorrows and, for heaven’s sake rights.⁸⁰

Sue Mahan and Pamela L. Griset alerted in the context of War on Terror that history suggest that retaliation begets retaliation and they call for a fresh look on the U.S. foreign policy dealing with international terrorism.⁸¹

To succeed in the long run, domestic counter-terrorism strategies in the United States and in other democratic societies must preserve cherished principles of liberty and equality and government official must resist the temptation to diminish the freedom on which democracies are based.⁸²

Concluding Observations

From the detailed discussion on Terrorism, Counter-Terrorism, Human Rights and the United Nations following four conclusions emerge: First, it may be concluded that there is close connection between all of them. Terrorism has a direct impact on the enjoyment of human rights. The only successful strategy of counter-terrorism will be one that recognizes the essential principle of real security can only be maintained through the promotion and protection of human rights. Therefore, human rights should always be mainstreamed into all elements of counter-terrorism strategies. To ensure the effectiveness of this approach, counter-terrorism proposals should be examined carefully and reviewed regularly to assess their impact upon all human rights standards and obligations,

Second, terrorism is a source of victimization of civilians who are not guilty. The devastating results for the enjoyment of the right to life, liberty and physical integrity of victims of terrorism has been recognized by the innumerable popular bodies which includes United Nations and many of its organs and agencies. Nevertheless, it must be stressed that terrorism is of two types: one committed by non-state actors and the other committed by States themselves. But it is evident from the historical instances that State terrorism is more dangerous. It can start from the refutation of certain rights and liberties for a section of population and can degenerate into communal and ethnic slaughter or genocide. Therefore, it can be said that it is the responsibility of international community to take notice of state terrorism frequently practiced in the name of law, order, security and integrity of the state.

Third, it is true that particularly after 9/11 the United Nations and international community at large have started taking profound interest in counter-terrorism measures. However, in present strategy of counter-terrorism, state seems to be chiefly responsible for the execution of programmes and policies to repress terrorism. In this condition it is frequently seen that many of policies adopted by States in order to prevent terrorism results in the serious violation of human rights such as torture, custodial deaths, extra judicial killings. Many States have also established secret prisons in which victims are inhumanly treated and have denied access to fair trial and justice. The United Nations has proclaimed and Member States have agreed that any counter-terrorism measures must corroborate to the established and recognized

principles and provisions of the international human rights law, humanitarian law and refugee law. Nevertheless, the practice of denying asylum and harassing refugees is often being reported post 9/11 period. Several states have extradited or deported persons to the countries where they face danger of torture and other cruel treatment thereby violating the principle of non-refoulement.

Finally, many of the powerful states who called themselves as the protector of the human rights and democracy were responsible for the death of civilians in Afghanistan and Iraq by declaring War on Terror. All of these trends compromise the real value of human rights. In the struggle against terrorism it is essential to maintain the respect of human rights and it should not be sacrificed in the counter-terrorism measures. Therefore, it is advised that all counter-terrorism measures must be supervised by the United Nations and Member States should firmly follow the principles and provisions of the International Human Rights and Humanitarian Laws while Countering Terrorism.

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⁸¹Sue Mahan and Pamela L.Griset (eds.), *Terrorism in Perspective*, New Delhi: Sage Publications, 2008, p. 324.

⁸²Ibid., p.320.

Terrorism is not a new phenomenon. For centuries it has been used for achieving certain type of objectives or goals. It has been used by the states as well as by the non state actors as a means in order to fulfil their aims and objectives. Nevertheless, terrorism has become the centre of attention and as a threat to international peace and security after the end of the Cold War. More specifically after the deadly attacks of September 11, 2001 on the United States it has become the focus of worldwide attention. This attack enabled the United States to declare War on Terror. Sufferings from the scourge of terrorism made all the People and all the nations around the world to express their concern, especially those who are seekers of peace, security and stability.

Terrorism is a method of violence designed to infuse terror in a section of society for achieving power–outcome, propagandizing the cause, or to inflict harm for implacable political purposes. State actors used this strategy either against their own population or against the population of any other country. It is also used by non–state actors such as insurgents or revolutionary groups acting within their own country or in other country. It is also used by those groups who were ideologically motivated groups or individuals, operating either inside or outside their country of nationality, whose techniques may differ according to their beliefs, objectives and means.

The dreadful terrorist attacks of September 11, 2001 have played a key role in sensitizing the individuals and governments about the threat of terrorism. After these attacks terrorism has become a global issue. It has to be handled globally in order to bring long lasting peace in the world. The acts of terrorism are frequently criticized by all the states and it has been considered as a crime in various international fora and its abolition has been supported by almost all the states. Despite condemnation by every state, still its strikes are frequently felt day by day. May be, the lack of political will and their determination to repress it is mainly responsible. Mere speeches, discourses and deliberations alone cannot repress it. There is an urgent need to understand the real value of human life and to take effective and specific measures with courage and determination in order to save the innocent masses from being the prey of international terrorism.

Terrorism is a term which is politically loaded and does not possess a definition which is universally acceptable. Despite number of attempts by the many governments, scholars, strategic thinkers the word terrorism remains still undefined. Even the international as well as regional organizations such as United Nations, Interpol, South Asian Association for Regional Cooperation (SAARC), Organization of American States and several other agencies have not been able to reach any consensual meaning of the word 'terrorism.' Also among scholars it has become extremely difficult to achieve any consensus on this controversial term. Therefore, in the absence of any legally recognized and universally acceptable definition there is more chances of misusing this term i.e. terrorism specifically by the major actors of international politics.

The problem with the definition of terrorism is not that it does not have any single but has as many definitions as there are scholars, nations, organizations and different agencies and they defined according to their own interest and political dynamics. Many of the definitions shows a lack of balance because they only focus on non state terrorism ignoring the fact that state terrorism is more dreadful and outrageous. It is a fact that governments will prefer only that definition that suits their interest and that do not include their acts of violence and savagery in the context of terrorism. State terrorism is not only excluded from the governmental definitions but also the academic definitions which scholars preferred suffer from this lacuna. This discrepancy is mainly responsible for the absence of any comprehensive, globally acceptable and precise definition of terrorism.

For understanding the issue of terrorism it is essential to first understand its root causes. There are numerous factors that can be identified as the root causes of terrorism. Therefore, it can be said that it is the result of interplay of many factors and causes. These causes and factors differ from society to society. Some of the most common factors responsible for creating a favourable condition for terrorism are imperialism, nationalism, separatism, sense of gross inequality and injustice prevailing in minds of a section of population, lack of space for political opposition, religious and ideological extremism, lack of peaceful means of conflict resolution and globalization etc.

Terrorism is an act which is extremely dangerous and involves plenty of risk for both the victims as well as for the perpetrators. Consequently an understanding and explanation of motivation of terrorist is essentially required. The most important aspect of terrorist motivations is social, psychological, environmental, ideological and the strong feeling of revenge. These all factors together with extremely effective ways of indoctrination make terrorism a viable venture for number of masses

Everyone including the researcher acknowledges the requirement of a comprehensive convention on terrorism, that is, value neutral, including all the actors, and covering all techniques of terror violence, is self evident. Such a convention has been politically elusive. Governments understandably seek to prevent state actors from the definition of terrorism, and rebuff the notion that a causal link even exists between the state sponsored acts of terror violence and terror violence committed by non-state actors. Since Governments obviously exist in the international arena, the definition of terrorism has been restricted to include illicit conduct by non-state actors. Even with regard to this narrow definition, nevertheless governments have neglected developing an international legal regime to control, prevent, and repress terrorism, preferring rather of the hodgepodge of thirteen treaties that recently address its specific manifestations. The dearth of a coherent international legislative policy on the issue of terrorism is consistent with the improvised and discretionary approach that governments have adopted towards the advancement of effective international legal responses to terrorism. Even today, there is no initiative at the international level to update, systematize, or synchronize these international norms. Interstate cooperation is also confined in penal matters because of the lack of unified and coherent international legal regime. National legal systems as a result are left with whatever jurisdictional and resource means they have at their disposal, making them ineffective in dealing with terrorism's international manifestations. State actors exclusion of illegal terror acts from inclusion in the whole scheme of terrorisms control shows the double standard that non-state actors lament and use as an excuse or justification for their own misdemeanours. This treatment of inequality between the state and non-state actors is clearly evident, and constitutes one of the reasons for the attraction of adherents to non-state terrorist groups.

As terrorism has become a global problem and threat to international peace and security it has become an issue of concern for the international organization that is United Nations. It has been stressed number of times by the United Nations that terrorism constitutes serious violation of the Purposes and Principles envisaged in the Charter of the United Nations. The United Nations has elaborated and adopted many conventions and treaties on the subject of terrorism in order to repress it. Nevertheless these conventions and treaties address the problem of terrorism only to some extent. The main reason for this anomaly is the specific subject matter approach of the United Nations which is often provoked by a specific kind of terrorist incident. This fact is clear from the number of conventions dealing with particular terror acts. The efforts of United Nations to repress terrorism have only been limited to developing legal framework without emphasizing on any effective enforcement mechanism. Even Member states of the United Nations lays emphasis on the containment of non-state terrorism and keep state terrorism out of this category. These Member states make the United Nations enforcement mechanism weak and ineffective due to their political dynamics and parochial national interest. Therefore, lack of effective institutional mechanism and Member State's political dynamics make United Nations instrument frail and less effective.

Due to all these problems the United Nations has realized its flaws and weaknesses in its policies and instruments against terrorism and as a result it has taken on serious course correction against global terrorism. United Nations has taken numerous steps against the menace of terrorism, for example, a Draft Comprehensive Convention against Terrorism (proposed by India) is under General Assembly's consideration. It has also adopted a Global Counter Terrorism Strategy in 2006 with the agreement of all its Member States. This policy besides envisaging a common operational framework for countering terrorism draws a concrete action plan to address the conditions conducive to the spread of terrorism. In 2005 the United Nations has established Counter Terrorism Implementation Task Force (CTITF) and Secretariat of CTITF has been created in the Department of Political Affairs in 2009. All these measures highlight the sincerity and seriousness of the United Nations towards the global problem of terrorism.

In protecting human rights during counter-terrorism policy the United Nations has done great progress since its establishment. It has achieved major progress in ending human rights abuses around the globe. But this progress of United Nations has been accompanied by some of the major challenges such as lack of political will by some Member States, scarcity of resources, imperfect enforcement power and many other challenges. These challenges have been restricting the work of organization to save the world from the scourge of terrorism. However, there is a more room for improvement. It is the great avenue to combat international terrorism because United Nations commands great legitimacy at the international level. It is recognized by the states and also serves as the source of international authority.

Therefore, it can be said that United Nations is an organization which is fully devoted in resolving disputes with minimum amount of violence. If the governments of the world, politicians and particularly the permanent members of the UN Security Council change their attitude and looks for global harmony and good, they will discover that the Charter is a document of great potential. There is a need of reforms in the United Nations which should make it more useful and efficient institution so that it can work further for developing peace and security in the world in the present insecure and turbulent times. In other words, it should change the prevailing condition of human insecurity into stability and security so that international terrorism can be curbed.

It is a bitter truth that the United Nations was established once with such passion and dreams of new world order based on peace and justice has been cynically abused by the Super Powers who gave to themselves not the “Uniting for Peace” enablement but also the veto, particularity to prevent any division in uniting. But as we all know the veto has become means for sabotage and blockage. In these conditions the role of United Nations in curbing or dealing with the new form of international terrorism is very bleak, indeed.

Despite many shortcomings this fact cannot be denied that United Nations have made many possible efforts to curb it from the world as it is evident from the adoption of number of resolutions and adoption of 13conventions dealing with different forms of terrorism. The main problem with these resolutions and conventions is that they are not properly implemented.

Suggested Measures for Suppressing Terrorism

There is an urgent need to evolve cooperative mechanism involving all nation States. The United Nations should cooperate, harmonize efforts, and work sincerely and honestly to protect mankind from the scourge of terrorism. All the Nation States including Permanent Members of the Security Council are required to rise above their parochial national interests and to think about the interest of the whole international community.

The following suggestions have been advanced in order to avoid the grave threat posed by international terrorism:

- There is an urgent need for formulating and evolving comprehensive definition of international terrorism. A globally agreed upon definition of terrorism would protect the state and deliberative politics, differentiate public and private violence, and ensure international peace and security. Anti-terrorism cooperation and counter-terrorism coordination is obstructed by the lack of common or universal definition of terrorism. There are numerous definitions of terrorism given in several international and regional treaties and convention on international terrorism but reaching an accurate and comprehensive definition is urgently required to provide an international legal framework for effective prevention of international terrorism and also for prosecution of international terrorists.
- There is a requirement of such a comprehensive convention on terrorism that would be, as much as possible, value neutral, including all actors, and also cover all modalities and techniques of terror violence, is self evident. Such a convention although, has been politically elusive. Thirteen international conventions on the different forms of terrorism exist but still there is a need of some comprehensive convention that would encompass all acts of terrorism. The earlier such convention comes into existence better it is for the international community. It may help in prosecuting the activities of international terrorist effectively
- Since it is the responsibility of United Nations to maintain international peace and security, therefore, there is need to reform, reinvent and strengthen this world body. The UN Charter calls upon member-states to attempt to settle disputes peacefully and failing that, to make a reference to the Security Council for appropriate action including use of military force in terms of Article 51. The

categorical position emerging out of article 51 is that states refrain from the use of military till an armed attack take place. This has been reportedly violated but it needs to be respected for building a harmonious world.

The UN needs to be re-organized in several ways, by expanding the Security Council to reflect the present day political and economic realities, by minimizing the monopoly of permanent members in the Security Council, by funding permanent peace maintaining forces. Therefore, there is an extreme need to bring certain reforms in the United Nations which is essential to curb the menace of terrorism.

- As the globalization and the terrorism at the international level increasing rapidly the international community is required to establish such international laws which effectively punish the international criminal acts. There is a significant overlap between the custom and convention within the international criminal law framework. There is a lack of enforcement mechanism in these conventions for justly dissuading and punishing criminal behavior in international criminal law. Even these norms that could be put into effect are subject to the recurring problem of lack of effective enforcement by the states. International criminal law is weak and suffers from both substantive and enforcement deficiencies, leading to substantial lack in deterrence. Such strengthening of International Law may help to root out terrorism.
- As terrorism has become a matter of global concern there is a need of global cooperation to handle it. Each and every state has right to seek international cooperation. Because of the diversity of interest at the global and regional level, the bilateral cooperation has proved to be the best method of international cooperation. The most significant instrument of bilateral cooperation is extradition. Mutual cooperation will also be useful in the conclusion of special treaties and in the extradition and prosecution of terrorist acts. Every state has the duty to cooperate individually as well as collectively to combat terrorism at the international level. Efforts should be made to organize symposiums and researches on the subject of terrorism so that there is exchange of information between participating countries. This will give more meaningful attention to this scourge by all concerned.

- Under United Nations Security Council Resolution 1373 each and every country must enact anti-terrorism law describing the crime as an aggravated crime. The law should provide banning of terrorist organization and their supporting feats with provision of confiscation and for future terrorist funds. Funding gives oxygen to terrorist activities and the funds are provided through the black accounts of those states supporting terrorism in their territories. The other methods of providing funds are done through organized crime syndicates, drug trafficking, subscription from rich persons and ploughing back of profits earned by terrorist supported business organizations. These funds reaches terrorist organization through two types of channels through banking channel and by underground banking channel which we call Hawala in this part of the world. Banking channels provides mechanism for transferring money to Jehadi outfits. They open fake accounts in the name of charities and business which are actually utilized for financing terrorist activities in targeted country. Such accounts are openly operated in terms of dollar or sterling accounts. Several of those bank accounts have been located as well as ordered to be closed. Hawala channel, which has now come to surface, is a matter of profound concern. The dreadful attacks of World Trade Centre were mostly financed through the Hawala route. Therefore it should be the responsibility of each and every country to keep a strict check on such type of funding, only then it can be stopped. Because basically funding promotes international terrorism.
- Intelligence agencies play an important role in the security of nations therefore it should be well equipped with the latest technology. So that it can be helpful in tracking the activities of terrorist as soon as possible. As terrorist activities spread, vulnerabilities to terrorism action also increase. It is impossible for any nation to guard all the vulnerable locations, there are simply too many. As a result there is no other way of strengthening our intelligence organizations. There is a requirement to make large use of electronic surveillance to locate and intercept terrorist groups before they can operate, and also deploy sensors and detectors in order to guard the important places and events. There is also a need to develop operational concepts along with technologies, to take swift action once information about the terrorist is available. It can be said that for curbing international terrorism human intelligence is of principal importance.

- Education is considered as the key to open the minds of people as well to polish and refines human beings and their personality. It gives them conscience and makes them capable to understand and differentiate between the right and wrong path. Lack of education is also one of the big reasons for getting attracted towards terrorism. Education is the most reliable resource for preparing the youth for initiating dialogue. Patience, time and tolerance are required to play its expected significant role in bringing harmony and peace in the world. Two aspects of education in young minds should strive to create a willingness to tolerate differences of opinion and desire to comprehend different points of view. Second, the enormous development of science and technology has tended to emphasize the intellectual rather than moral and spiritual values. What we require is the synthesis of these values spiritual and moral as well as intellectual with the objective of producing completely integrated individuals.
- Poverty is also one of the important causes for growth of terrorism. When the economic conditions of poor people become worse, this may affect their capability to fulfil both their biological as well as basic psychological needs. They feel less secure about their future, less effective, and less able to control their lives, and so on.

They might lead people to turn to ideologies, visions of better life that help them deal with the psychological impact of their experience. These ideologies may be religious, nationalistic or something else. In addition to giving hope for a better future, they can give followers an understanding of the world and sense of personal significance. But they also identify enemies of the ideology and as a consequence have an important role in mass killings and genocide, as well as powerful role in terrorism, whether it is terrorism of Osama Bin Laden and his supporters, Basques or other national movements.

Violence breeds violence. Therefore, oppression, injustice and inequality should be removed from the society in order to win the fight against terrorism. One of the methods to combat terrorism is to deal with its sources, handle grievances and frustrations of the terrorists rather than only trying brutal force on them. Indeed, there is also a need to enter into the minds of terrorists and to bring them into the main stream of developmental process.

- Just as diminishing the root causes of terrorism is the primary motive, so the government must change the conditions in areas that have offered safe havens to terrorists and bases for transnational operations. The Countries such as Afghanistan, Sudan, Northern Iraq and Syrian controlled areas of Lebanon are leading examples of such countries that mostly offered safe havens to terrorists and provided their territories as base for terrorist operations. Governments should make efforts to prevent the emergence of new zones of chaos and sanctuary which provide safe shelter to international terrorists. With regard to the forcible apprehension of terrorist suspects, zones of chaos and sanctuary should be a fair game for the international community. Large rewards for any information on suspect individuals and groups in such areas may be very effective and helpful for combating terrorism. If this plan will be successful, the safe havens for terrorists will greatly be curbed and international terrorism may be mitigated to great extent.
- Fast track courts should be established for the fast trial of terrorist. Delays in terrorist's case will lead to obscurity which will help them to take the benefit of doubt so there is a urgent need to dispose of the terrorists cases as soon possible if country wants to control the threat of terrorism.
- Terrorism has very deep roots therefore it has to be tackle with strong determination and stringent laws. Such type of laws should be framed which allow to combat terrorism by using sophisticated surveillance and weapons technology, space based surveillance system etc.
- In every country there must be special skilled squad forces to meet the challenges of terrorism. Such type of forces should be given special training to handle the emergency conditions like that of 9/11. Such forces should deal only with the cases of terrorism and they should be placed only in those areas where the terrorism is on rise. They must be equipped will latest technological weapons to face the challenges.
- Another step that can be taken for curbing international terrorism may be to activate human groups, non-governmental organizations, lawyers, associations and other non-organizations on universal scale for humanitarian intervention if they can convince the masses that terrorism does not work in the long-run, an important step would have been taken in the required direction, for the base of terrorist activities is support of public, and if they lose that, they may not last long.

- There is close connection between terrorism and human rights. Terrorism abuses the fundamental rights of its victims. Terrorists are also arbitrarily depriving people of their basic fundamental human rights of life and liberty. Where the acts of terrorists do not have any effect on the interest of the society, states are required to treat them differently. Their acts should be regarded as an ordinary crime and therefore their human rights may not be violated by the states. In modern international law, because of human rights development there are restrictions on the government's response how to treat an individual regardless of his crime and state has certain limits on its powers. It is only the most serious threat to the public order, not depending upon individual conduct, not even in the general interest that can justify the state to break those limits. The problems of accommodating the control of terrorism with the protection of human rights are one of balance. Right not to be tortured or ill-treated is very important in the context of terrorism. It is quite natural for security forces to inflict harsh suffering on the alleged terrorists to obtain information, particularly confessions which would lead to convictions and enable the claim to be sustained that terrorism was being defeated by the ordinary process of law. It is observed that derogations to human rights obligations are acceptable only if events make them necessary and if they are proportionate to the dangers that those events represent. Acts commonly covered under terrorisms whether committed by individuals or by the states are in fact violations of fundamental rights of those against whom they are perpetrated.

In the context of United Nations role in combating terrorism, no doubt it has made earnest efforts to counter the menace of terrorism around the world. One of the major lacunas of the United Nations counter-terrorism strategy is that it is not comprehensive in nature. On the other side, the divergence of views of Member States of the United Nations over the issue of terrorism has prevented the world body from adopting universally accepted comprehensive definition of terrorism. At least the Member States and particularly the permanent members of the Security Council should mutually cooperate with each other for framing a universally acceptable definition of terrorism because in the absence of definition, it becomes quite difficult to identify terrorist organizations. Without definition question regarding who is terrorist and what is terrorism still remains unanswered.

The draft of comprehensive convention against international terrorism presented by India in 1996 and again in 2000 should be taken into consideration by the international community and Member States of the United Nations for achieving long lasting peace and repressing terrorism. The Member States of the United Nations and specifically the permanent members of the Security Council should incorporate the measures suggested above in their foreign policy in order to suppress terrorism and for bringing peace and harmony in the world.

Moreover, it must be noted that terrorism spring out of despair and injustice; it is the weapon of the weak; it is indiscriminate and crime against innocent victims. Therefore it must be addressed with effective and legitimate means and with proper law enforcement mechanism, but its prevention requires addressing its causes. Terrorism is not only a political problem but also a moral and social one. It is indeed like a disease and it can be fought more effectively by eradicating its root than its syndromes.

This study also analyzes the fact that terrorism is not related to any religion because it does not have any religion. Whether it is Islam, Christianity, Hinduism, or any other religion of the world they all teach about peace, harmony and brotherhood. This fact is evident from the verse of Holy Quran:

If anyone killed a person not in retaliation of murder, or (and) to spread mischief in the land–It would be as if he killed all human kind, and if anyone saved a life, it would be as he saved the life of all humankind (The Holy Quran–5:32).

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