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

ABSTRACT

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Terrorism is a global and complex phenomenon and no country can underestimate the threat it poses. Almost all the countries of the world are the victims of the menace of terrorism. It is a deadly technique that is available to numerous groups or individuals dissatisfied with their governments—terrorism is a means not an end. It has been a tool used with great regularity by many organizations. Even the world’s lone Super Power, the United States has not been immune to these terrorist attacks. Terrorist organizations seek to undermine and destroy a political system and even a way of life that is desirable and good.

Despite a long history of terrorism it remains the subject of continuing debate and controversies. Terrorism is a pejorative term and this subjectivity however, ensures that this is by no means an easy undertaking. Even though the concept is obviously of fundamental importance, there is no consensus on what the term actually means. Lawyers, academics, national legislatures, regional organizations, and international bodies such as the United Nations, have produced a bewildering array of definitions but still the word “terrorism” has no precise or widely accepted definition. The main hurdle in the way of attaining consensus on the methodology for identification and assessment of terrorism is the insistence of major Powers on limiting the definition of terrorism to individuals and small groups excluding the actions of States which involves police and military operations. On the other hand, the non-aligned countries have sought to include the actions of State, specially the actions of Super Powers, under the domain of terrorism. Those who perpetrate violence cannot be acquitted only because they wear the uniform given by the Sovereign State. Therefore, it is essential to build the consensus for including States and also the non-State actors under the domain of terrorism.

During the last two decades the world has been continuously witnessing the most dreadful kind of terrorism and violence both at the national and international levels. The efforts made by various governments and international organizations such as the United Nations, regional organizations and other humanitarian organizations and NGOs (Non Governmental Organizations) proved futile as they did not achieve the sufficient and required results. As a consequence, the menace of terrorism is increasing day by day and taking the lives of innocent people across the world.
The use of terrorism for fulfilling certain aims and objectives is not a recent phenomenon. For decades it has been continuously used by the State and non-State actors to advance their goals. Nevertheless, it has become the focus of international concern. Terrorism has emerged as a threat to international peace and security only after the end of the Cold War and particularly after the September 11, 2001 attacks on World Trade Centre in New York, U.S.A and Pentagon in Washington, D.C., respectively. These terrible attacks shook not only the U.S.A but also the whole world which prompted and provoked the United States to declare ‘War on Terror.’ Therefore, the September 11, 2001 terrorist attacks on the United States have made terrorist threat the focus of worldwide attention.

The devastating terrorist attacks of September 11, 2001 have played a major role in sensitizing peoples and governments about the scourge of terrorism. The United Nations role in addressing terrorism drew more attention after September 11, 2001 than it had before the attacks. The efforts of international community against terrorism are long standing. Yet, the Charter of the United Nations fails to mention terrorism directly either as many of its diverse concerns or as a threat to international, peace and security. Chapter V and VII of the U.N. Charter simply mentions that it is the duty of the 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 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 a aggressor.

Although terrorism has presented a threat to international peace and security for centuries, for most of the history of the United Nations, States have treated terrorism as a matter of national or local concern and have decided not to bring it to the attention of the United Nations. This started to change in the late 1980s. The issue of terrorism has given birth to a number of specialized conventions and protocols adopted by the United Nations. These conventions were adopted both before as well after the dreadful September 11, 2001 attacks. They address different forms of terrorism. These conventions have dealt with different varieties and manifestations of terrorism broadly focussing on Protection of Civil Aviation and Safety of Aircraft, Protection of the Safety of Persons, Protection against the Use of Explosives and
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Bombings, Preventing the Use of Weapons of Mass Destruction, and Preventing Measures of Financing Certain forms of Terrorism. The United Nations has adopted 13 international instruments against the menace of terrorism.

These conventions and treaties have not achieved the desired results. There are many reasons for this. First, they only partially address the problem of terrorism. Second, the specific subject matter approach of the United Nations which is often provoked by the particular kind of terrorist incident. Third, the U.N. efforts to repress terrorism have been confined only to developing a legal framework without any effective enforcement mechanism. Fourth, due to the lack of consensus among the Member States of the United Nations, no success is achieved. Fifth, the Member States are mostly guided by their political dynamics and parochial national interest. Therefore, lack of effective institutional mechanism and political dynamics of Member States render the instruments of United Nations against terrorism weak and ineffective.

Though all the organs of the United Nations contributed in one way or other in combating terrorism but the broad subject matter of terrorism was mainly handled by its two principal organs—the General Assembly and the Security Council. The Security Council did not deal with the questions of terrorism until 1990s which was mostly considered by the General Assembly, more specifically by the Sixth Committee of the General Assembly. The Assembly sought to encourage cooperation among States in the development of an international legal framework for dealing with terrorism. The main contribution of the General Assembly has been in drafting and adopting numerous conventions that deal with multiple aspects of terrorism. It can be said that the significant role of Security Council in the fight against terrorism began after the tragic event of 9/11 which made the menace of terrorism an issue of global concern. One of the major reasons for this shift was that the powers of General Assembly are of recommendatory nature and the decisions of the Security Council are binding on all the States.

Immediately after the attacks of 9/11 the Security Council passed its ground breaking resolution 1373 which was unanimously adopted on 28 September 2001, less than three weeks after attacks, it imposed sweeping legal obligations on all the United Nations Member States. These obligations required each and every State to prohibit both active and passive support to terrorists, to freeze the financial assets of terrorists,
States were required to deny safe havens to terrorists, prevent recruitment and supply of weapons, to enhance their vigilance against passport and identification forgery in order to tighten their border controls, and to work towards increasing international cooperation and information sharing and criminal prosecution against terrorism. Counter Terrorism Committee (CTC) was established through this resolution and it also mobilized States for non-military cooperative endeavours and enforces numerous measures to counter terrorism. Since 2001, several additional measures have been adopted for strengthening the aims and objectives of the United Nations for the purpose of counter-terrorism. In resolution 1540 (2004) was adopted by the Security Council which gives additional resources and authority to the CTC and created Counter Terrorism Executive Directorate (CTED) for expanding the staff of the Committee and increasing its ability to implement a number of measures created by the resolution 1373. This resolution also prohibits States from giving any kind of support to non-State actors attempting to acquire nuclear, chemical or biological weapons. Besides these two resolutions the Security Council also adopted a number of significant resolutions in the aftermath of 9/11 such as resolution 1368, 1377, 1438, etc. Two of its most recent resolutions of Security Council adopted against terrorism were Resolution 2170 (2014) and Resolution 2178 (2014). The latter was adopted on 24 September 2014 for addressing the growing issue of foreign terrorist fighters (FTF).

Although the members of the Security Council adopted a number of measures against terrorism in the aftermath of 9/11 and they did so under Chapter VII of the United Nations Charter in order to make these measures obligatory for all the States, a large number of issues and problems concerning terrorism remain unsolved. These problems mainly arise due to the monopoly of permanent members and divergence of opinion among them which hampers the successful implementation of any resolution. All member States are more concerned about their own self interest than those of whole community of States. Several resolutions adopted by the Security Council do not get properly implemented due to the problem of non-compliance by member States.

In September 2006 the United Nations finally strengthened its counter-terrorism efforts by agreeing on a global strategy to combat terrorism. The United Nations Global Counter-Terrorism Strategy was adopted by the Member States of the United
Nations on September 8, 2006. This strategy was a combination of resolution plus an annexed plan of action creating an international instrument capable of increasing national, regional and global cooperation for countering terrorism. This is the first time when all the member states have agreed to a common strategic approach to fight terrorism. Through this strategy they not only send clear message that terrorism is intolerable and unacceptable in all its forms and manifestations but also resolving to take practical steps individually as well as collectively to prevent and combat it. The strategy also lays emphasis on creating and implementing a concrete plan of action; to address the conditions conducive to the spread of terrorism; to prevent and combat terrorism; build the capacity of State to fight against terrorism; to strengthen the United Nations role in combating terrorism; and ensure respect for human rights while countering terrorism.

The United Nations has been quite successful in increasing both regional and international cooperation in fighting against terrorism. The Counter Terrorism Committee (CTC) after the establishment of the Global Counter–Terrorism Strategy has played an effective role in maintaining better cooperation between States at the regional level. In the field of human rights also United Nations has achieved great progress. It has successfully ended human rights abuses in many parts of the globe. But this success of the United Nations has faced numerous challenges due to various factors such as, the lack of political will by some of the member states, lack of resources, flawed enforcement power, and numerous other challenges. It can also be said that the role of United Nations in checking or reversing the human rights abuses remains severely limited and mostly depend upon the political will of the member states. The United Nations need not only focus on calling for the protection of human rights around the world, but they also put some type of intervention mechanism in place, capable of giving strong reaction if the State is found violating the human rights of its own citizens.

It is the 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 and other permanent members of the Security Council 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 a 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. The 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 Security Council change their attitude and looks for global harmony and good, they will discover that the UN Charter is document of great potential. There is a need of reforming 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.

Despite number of weaknesses in its policies and instruments against terrorism, the United Nations has undertaken serious course correction against it. A Draft Comprehensive Convention against Terrorism (proposed by India) is currently under consideration of the General Assembly. As stated earlier in 2006 the United Nations has adopted Global Counter−Terrorism Strategy with a consensus of all is Member States. This strategy besides envisaging a common operational framework to counter−terrorism outlines a concrete action plan to address the conditions conducive to the spread of terrorism. A Counter−Terrorism Implementation Task Force (CTITF) has been created in 2005 and CTITF Secretariat has been established in the Department of Political Affairs in 2009. These measures highlighted the sincerity and seriousness of the United Nations in its efforts to combat terrorism.

Therefore, it can be said that United Nations has played multiple roles in combating transnational terrorism through norm setting, codification of human rights law, as well drafting 13 international conventions against the menace of terrorism with some success and some failures.

**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 does 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 September 11, 2001,” 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 a 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.
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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 have 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 international 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 method. 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. 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, and 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 innumerous 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.

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, the 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.