Chapter 5

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The events of 11 September, 2001 dramatically transformed the regime beyond recognition. The US, the prime target of the attacks, organised, assembled and led a concerted international effort to circumvent erstwhile lethargy and indifference and to evolve a broad global consensus on terrorism. Effectively using the organs of the United Nations, it managed to modify, upgrade and strengthen various treaties and arrangements that were already in place. Capitalising on the international outrage, it even altered some of the basic parameters governing international terrorism. This chapter deals with various post-11 September, 2001 international efforts towards strengthening the international regime and the emerging challenges that face the regime.

United Nations

The efforts of the United Nations following the 11 September, 2001 attacks have to be placed in an historic context. Since the massacre of Israeli athletes during the 1972 Munich Olympics, the UN has taken cognisance of various specific terrorist attacks and adopted strongly worded statements. In exceptional cases, it even imposed punitive measures against those held responsible for such terrorist actions. The 31 January 1992 summit meeting of the Security Council expressed its “deep concern over acts of international terrorism and emphasised the need for the international community to deal
effectively with all such acts.”¹ This is often seen as the first formal involvement of the Security Council in the fight against terrorism.

The aerial embargo upon Libya over the Lockerbie bombing and sanctions upon Afghanistan over Taliban indicate the willingness of the UN to go beyond denunciation and condemnation. The ability of the UN to compel a member-state to comply with its counter-terrorism demands was vindicated in the Libyan case. Intelligence agents working for the Libyan government were held responsible for bombing of Pan Am jet over Lockerbie, Scotland on 21 December 1988. Following intense American lobbying in March 1992 Security Council Resolution 748 imposed a series of measures including, an arms and air embargo and a reduction of Libyan diplomatic presence abroad.² Following the continued Libyan refusal to handover, the suspects these measures were tightened in November 1993 when Security Council approved the freezing of Libyan assets abroad and imposed limited sanctions related to the oil industry.³ When Libya eventually agreed to handover the suspects to the Netherlands for trial, the sanctions were temporarily suspended in August 1998 and were completely removed in April 1999.⁴

¹ For the complete text see http://projects.sipri.se/cbw/docs/cbw-unsc23500.html, downloaded on 21 February 2003


A similar move vis-à-vis Taliban however exposed the weaknesses of the Security Council. Since August 1998, the Council adopted four resolutions on this question but with limited success.⁵ Air embargo, freezing of Afghan funds overseas and threat of punitive sanctions did not result in Taliban handing over Osama bin-Laden and his associates for their suspected involvement in the bombing of US Embassies in Africa in August 1996. The limited nature of the sanctions, non-cooperation of principal regional players and peculiar Afghan circumstances largely contributed to the failure of the UN sanctions towards Taliban.

**Resolution 1368**

The 11 September, 2001 attacks were a defining moment for the UN in the evolution of international regime. The magnitude of death and destruction, international outcry at the consequences and domestic American horror over personal safety were naturally reflected in the resolute UN position vis-à-vis terrorism. A day after the 11 September, 2001 attacks the UN Security Council met and adopted Resolution 1368 calling the attacks an “act of international terrorism, [and] a threat to international peace and security.” Without explicitly naming any suspects, the resolution urged the member states “to work together urgently to bring to justice the perpetrators, organisers and sponsors of these terrorist attacks.” Reflecting the prevailing spontaneous outrage in the US, it vowed, “those responsible for aiding, supporting or harbouring the perpetrators, organizers and sponsors of these acts will be held accountable.”⁶

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⁵ They are Resolution 1189 (13 August 1998); Resolution 1193 (28 August 1998); Resolution 1214 (8 December 1998) and Resolution 1267 (15 October 1999).

⁶ For the complete text see, Appendix p.137
Among others, it called on the member states to fully implement “relevant international anti-terrorist conventions” and particularly Security Council Resolution 1269 (19 October 1999).\(^7\) In a departure from the past, Resolution 1368 expressed its willingness “to take all necessary steps” to combat terrorism.

However, the real significance of the Resolution is embedded in the preamble, which expressed its determination “to combat by all means threats to international peace and security caused by terrorist acts.”\(^8\) This was accompanied by its recognition of “the inherent right of individual or collective self-defence in accordance with the Charter.” By explicitly recognizing all means, the UNSC has gone far beyond any other previous measures and endorsed and authorised military actions to combat terrorism. Similarly, by approving individual or collective self-defence, for the first time in its history, the UN has sanctioned unilateral actions by states that are victims of international terrorism.

Even though the 11 September, 2001 events were the causative factor, the Resolution gives a carte blanche to states in their overall fight against terrorism. By incorporating this in the preamble and without any specificity to the 11 September, 2001 events, the Security Council recognises not only military means but also unilateral actions of the member states. Some have even argued that the 11 September, 2001 attacks constitute an ‘armed attack’ and hence the US “is fully consistent with the animating principle of Article 51, which was to allow states to exercise an inherent right to respond to acts that strike at the heart of a state’s national security.”\(^9\)

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\(^7\) For the complete text see, Appendix pp. 135-136

\(^8\) Emphasis added

Since only great powers and regional powers are capable of unilateral military actions, Resolution 1368 presumably relegates the responsibility of fighting terrorism to a small group of countries capable of initiating and leading such a campaign. Such sweeping and unbinding authorisation has swung the balance to the other extreme. If lack of international consensus was an impediment in the evolution of an international regime in the past, the 11 September, 2001 events have enhanced the authority of great powers in pursuing their national policies with the sanction of the UN. Any great power could therefore, refer to Resolution 1368 to justify some its domestic as well as foreign policies as counter-terrorism move. For example, the US could manipulate Resolution 1368 to rationalise its long practice of branding unfriendly countries as ‘states sponsoring terrorism.’

Resolution 1373

Operationalising some of the provisions of this resolution, on 28 September, 2001 the Security Council adopted Resolution 1373. With 11 September, 2001 events as focus, it sought to strengthen the international efforts to curb financing of terrorism. One can broadly summarise the Resolution as follows:

- The Council is determined to prevent all terrorist acts because they “constitute a threat to international peace and security.”

- It reaffirmed “the inherent right of individual or collective self-defence.”

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10 For the complete text see, Appendix pp. 138-140

11 Even though the resolution maintained that this was reiterated in resolution 1368, it is essential to remember that this was merely ‘recognised’ and not reiterated by 1368.
• Terrorism is recognised as a global phenomenon “motivated by intolerance or extremism.”

• It urged the states to fully implement “relevant international conventions relating to terrorism.”

• While Resolution 1368 called for “suppression and prevention” of act of terror, this resolution urged member states to prevent not only the financing but also “preparation of any acts of terrorism.”

• Financing of terrorism should be criminalised and those involved in facilitating terrorism through such acts should be punished

• Domestic laws should be strengthened to reflect states’ commitment to international conventions on terrorism

• States should systematically exchange operational information concerning terrorist activities and networks

• It called on states to strengthen rules governing refugees lest terrorist exploit the provisions

• It called on states not to allow “political motivation” as grounds for denying the extradition of alleged terrorists.

• The resolution declares, “knowingly financing, planning and inciting terrorist acts are contrary to the purpose and principles of the United Nations.” 12 By declaring support for terrorism a violation of the basic principles of the UN, the Resolution paves the way for potential expulsion of member-states if it is convinced that they are facilitating, encouraging or financing terrorism.

12 Emphasis added
It called for the establishment of a 15-member committee to monitor the implementation of the recommendations of the resolution and called upon the states to submit a compliance report within 90 days.

In its operative part, the resolution, by explicitly invoking Council’s authority under Chapter VII of the Charter, ordered member states to take a series of measures against international terrorism. Those measures were copied from the texts of the International Conventions for the Suppression of Terrorist Bombings (1997) and the International Convention for the Suppression of Terrorist Financing (1999). Thus, in one go, those conventions were made binding upon all UN member states, something, no conventions can ever achieve, not to mention the time factor involved in the process of entering into force of these Conventions.13

On the negative side, its call for action against “preparation of any acts of terrorism” opens the way for potential problems. Such a demand would encourage states to intercept potential terrorist acts. It is not clear whether this demand is subservient to the inviolability of sovereignty. Can a state act against suspected preparations beyond its territorial jurisdiction?14 If so, does it refer to interception based on specific intelligence against a particular terrorist act or a general warning of potential terrorist acts?


14 Since the outbreak of the Palestinian uprising in September 2000, Israel has frequently invaded areas under the control of the Palestinian Authority on the plea that it was preventing ‘preparations’ for possible suicide attacks against Israeli targets.
Resolution 1377

Two months after the attacks, the Security Council adopted another resolution on the same issue. Resolution 1377\(^{15}\) adopted on 12 November, 2001 reiterated much of the principles enunciated by earlier resolutions on terrorism and added a few interesting elements.

- Terrorism is declared “one of the most serious threats to international peace and security in the twenty-first century” and “a challenge to all states and to all of humanity.” Reflecting the UN Charter, it called upon member states to fight the scourge of international terrorism, which “endanger innocent lives and dignity and security of human beings everywhere.”

- It condemned “all acts, methods and practices of terrorism as criminal and unjustifiable, regardless of their motivation, in all their forms and manifestations, wherever and by whomever committed.”\(^{16}\)

- Improvising the earlier stand, it declared that “financing, planning and preparation of as well as any other form of support for acts of international terrorism” are contrary to UN Charter.

Resolution, 1269

At the same time, it is essential to remember that the UN did adopt a tougher stand vis-à-vis terrorism even before the 11 September, 2001 events. Indeed, Resolution

\(^{15}\) For the complete text see, Appendix pp. 141-142

\(^{16}\) This was taken verbatim from Resolution 1269 (1999), see Appendix pp.135-136
1269 adopted by the Security Council on 19 October, 1999 had far reaching impact.\textsuperscript{17} Even though, it did not seek any institutional mechanism to monitor compliance of its recommendation, the resolution broke new grounds vis-à-vis terrorism. Its importance can be gauged by the inclusion of some of its provisions in the post-11 September, 2001 Security Council resolutions. It called for the prevention and suppression of financing of acts of terrorism and the denial of safe haven to those who "plan, finance or commit terrorist acts." It also demanded the strengthening of national and international law concerning refugees to ensure that those seeking asylum "has not participated in terrorist acts."

The real importance of Resolution 1269 lies in its preamble which categorically stated its condemnation of "all acts of terrorism, irrespective of motive, wherever and whomever committed" and added its unequivocal condemnation of "all acts, methods and practices of terrorism as criminal and unjustifiable, regardless of their motivation, in all their forms and manifestations, wherever and by whomever committed, in particular those which could threaten international peace and security." By reiterating the exclusion of political motives, the Security Council sought to seal the protracted debates over the definition of terrorism\textsuperscript{18} and to gloss over the distinction that many Third World countries sought between terrorism and freedom struggle. In determining terrorism, the Security Council Resolution categorically excluded motives/ends and thus ruled out terrorism as a means of achieving legitimate political goals. Machiavellian dictum thus stands reversed.

\textsuperscript{17} For the complete text see, Appendix pp. 135-136

\textsuperscript{18} For the problems confronting definition see, Omar Malik, \textit{Enough of the Definition of Terrorism}, (London: The Royal Institute of International Affairs, 2000)
and it is no longer permissible, the Security Council ruled, to pursue national liberation through terrorism.

**Debates over Definitions**

However, in trying to end the perennial and inconclusive debates over the definition of terrorism, Security Council Resolutions 1269 and 1373 have rekindled and renewed the contentious debate. A number of post-11 September, 2001 developments and arguments vindicate the limited success of these two resolutions vis-à-vis the definition of terrorism. Despite its formal commitments to combating terrorism, the 57-member Organisation of Islamic Conference (OIC) has strong reservations about Resolutions 1269 and 1373. For example, the 2 October, 2001 OIC statement on terrorism, made explicit references to Security Council Resolutions 1267\(^\text{19}\), 1373\(^\text{20}\) and 1368 but avoided mentioning 1269 and 1373. The reasons are obvious as both the resolutions ruled out political motivations as a justification for terrorism. In the words of OIC Secretary-General Abdelouhed Belkeziz, the OIC "stressed the importance of distinguishing between terrorism carried out by certain groups and individuals and national struggle by peoples for freedom from occupation and colonialism" something that resolutions 1269 and 1373 refused to recognise.\(^\text{21}\)

In April 2002, OIC Foreign Ministers met in Kuala Lumpur to debate the question of terrorism. Inaugurating the session Malaysian Prime Minister Mahathir Mohammad was categorical:

\(^{19}\) For the complete text see, Appendix pp. 135-136

\(^{20}\) For the complete text see, Appendix pp. 138-140

... armed attacks or other forms of attack against *civilians* must be regarded as acts of terror and the perpetrators as terrorists. Whether the attacks are acting on their own or on the orders of their Governments, whether they are regulars or irregulars, if the attack is against civilians, then they must be considered as terrorists.

Despite being a gathering of Islamic countries he went on to proclaim, "the human bomb attacks by Palestinians" are *acts of terror.* This position however, did not go well with other members of the OIC, especially from the Middle East. In the final declaration the foreign ministers said: "We reject any attempt to link terrorism to the struggle of the Palestinian people in their exercise of their inalienable right to establish their independent state..." Likewise, in May 2002, speaking at SOAS, Leila Khaled who hijacked an El Al plane in 1970, observed: "There are no suicide bomber; they are all freedom fighters."

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22 For the text of Mahathir's speech see,  
http://www.kln.gov.my/KLN/statemen.nsf/fa992eecc3adc68d4c82564900021ddd7/f9b36cf7883838e3c8256b90003849dc?OpenDocument. The final declaration of the meeting can be found at 25 November 2002  

23 *International Herald Tribune*, 3 April 2002

The controversy over definition took a definite turn in June 2002 at the OIC Foreign Ministers meeting in Khartoum. Expressing its willing to abide by the OIC Convention on Combating International Terrorism, it called for "an international conference under the aegis of the United Nations to define the concept of terrorism and make a distinction between it and peoples' struggle for national liberation."25 In short, the efforts of the Security Council Resolutions 1269 and 1373 were undone by the OIC. The prevailing refusal of the Arab and Islamic countries to portray suicide bombings as terrorism spills over into the question of financing of terrorism. Not only terrorist groups have used various legal charitable organisations, public fund-raising has been organised in the Middle East to support the families of the martyrs, that is, those who carried out the suicide bombings against Israel. Even if the Arab and Islamic countries refused to explicitly recognise Resolution 1373, such fundraising runs contrary to the letter and spirit of the Security Council move against financing of terrorism.

Renewed Problems

The attacks have underlined numerous old and new problems for the regime. Universal condemnation, unanimous Security Council Resolutions and widespread sympathy and understanding following the 11 September, 2001 attacks, have not transformed into tangible action. The international response was largely confined to public statements of support and declarations of cooperation. Numerous bilateral, regional and multilateral forums routinely include commitments to combat terrorism. The counter-terrorism campaign however, is primarily a western strategy. The declarations of

common counter-terrorism strategy by NATO and EU aside, the much-awaited international coalition against terrorism is yet to emerge. Thus more than a year after the attacks, the campaign against terrorism is largely an American and to a lesser extent British affair. Such a lackadaisical global approach towards the events of 11 September, 2001 raises doubts over the efficacy of a regime.

Two, the failure to evolve a global response to 11 September, 2001 events let alone a counter-terrorism strategy, is fundamentally an American problem. The end of the Cold War and resultant pre-eminence paved the way for an excessive American unilateralism. These strong-arm tactics employed during the bipolarity has only intensified. The absence of a countervailing super power enabled the US to aspire for an unrestrained global policeman. The kind of political concessions doled out during the twilight of the Cold War era over the Kuwait crisis was singularly absent when US sought an international alliance against terrorism. Even though none of the countries or blocks could threaten the American hegemony, other great powers have developed apprehension aversion an even contempt for American unilateralism.

Therefore even while recognising the magnitude of destruction, menace of terrorism and its global reach, many powers have been reluctant to join the American led coalition. Richard Perle, a senior aide to President George Bush aptly summed up the mood: "It's wonderful to have the support of our friends and allies, but our foremost consideration has to be to protect this country and not take a vote amongst others as to how we should to it."26

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26 Quoted in G John Ikenberry, "American grand strategy in the age of terror", *Survival*, vol.43, no.4, Winter 2001-02, p.27
Three, while the US campaign was able to pursue targets in Afghanistan with limited international cooperation, its ability to adopt similar strategy to suppress terror networks and financing is conditional upon international cooperation. In trying to enlist the outside support, the US will have to curb its ability to exercise unilateral politico-military options. The American accommodation of the needs, interests and fears of other great powers is a *sine qua non* for a successful international counter terrorism campaign.

There is also an operational dimension to the problem. Fighting terrorism means sharing of intelligence information, access to financial transactions and above all enforcement of international law through domestic legislations by various countries. In short, the US cannot disregard international institutions and arrangements and still expect the support of the others in evolving a *regime*. In the words of John Ikenberry, “Cooperative strategies that reinforce norms of international conduct do constrain the way in which the US uses military force, but they also legitimate the use of force and make other states more willing to join the coalition (sic).”

Four, the need for logistical support to arrest and extradite terror suspects, freezing of financial assets of individuals and groups suspected of involvement in terrorism and other forms of intelligence cooperation would compel the US to forge tactical alliance with states with whom it has far-reaching fundamental differences. Because of the need for tactical assistance and logistical support in its fight against terrorism, the US tended to ignore, overlook and even reverse its erstwhile position on issues such human rights, democracy, legitimacy or non-proliferation. Because of their strategic importance in its *campaign*, the US has conveniently ignored the domestic track

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27 Ibid., p.21
record of regimes in Pakistan, Libya, Syria, Indonesia and Iran. The Western position vis-à-vis Chechnya underscore the basic problem. Having criticised Moscow's handling of the situation, the need for Russian support in the Security Council and outside, compelled the US to portray the Chechen rebels as 'terrorists.' The erstwhile sins of these countries can be forgotten if not forgiven, because of their support for the campaign. Any regime based on such a marriage of convenience is bound to be fragile, transitory and even illusive.

Five, the suspected involvement of American regional allies such as Saudi Arabia in terrorism especially in 11 September, 2001 attacks pose additional challenges to the evolution of a regime. While some of the criticisms of Saudi involvement are motivated, one cannot overlook that most of the perpetrators of the attacks had a Saudi connection. Similarly, Pakistan had close link to Taliban regime, which was Osama's safe haven. While the US would expect them to completely weed out terrorism, strong domestic compulsion could impede both countries from acting decisively. Inclusion of countries like Pakistan and Saudi Arabia is a prerequisite for a successful regime but their domestic-regional situation would continue to make their full participation an oxymoron.

Six, the internal contractions in counter-terrorism policies are exemplified by the post-11 September, 2001 American measures vis-à-vis groups suspected of being affiliated to terrorism. A number of groups, individuals and organisation were quickly brought under the anti-terrorism rubric. The drawback of this approach is highlighted by

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28 The unconditional Russian support for US was partly motivated by Vladimir Putin's desire for a quid pro quo over Chechnya.
the presence of multiple lists issued by difference agencies of the American government
and has issued four different categories\textsuperscript{29}, namely

- Specially Designated Global Terrorist (SDGT)
- Foreign Terrorist Organisation List (FTO)
- Most Wanted Terrorist List by the FBI
- Terrorist Exclusion List (TEL)

Reflecting on the presence of \textit{so many lists}, Matthew Levitt remarked: "... these four lists
are not managed in concert, and no uniform criteria for inclusion yet exist. As a result,
several entities are designated as terrorist on some lists and not on others. Moreover, no
single official voice is articulating policy on this critical issue."\textsuperscript{30} The multiplicity is also
a reflection of changing domestic jurisdiction. As the responsibility is distributed among
numerous agencies, "lines of jurisdiction tend to be blurred and overlapping, with no
clear institutional monopoly of the issue."\textsuperscript{31} The internal rivalry often prevents
coordinated attempt to evolve a successful counter-terrorism strategy and Bill Clinton’s
efforts towards a national coordinator for counter-terrorism was vetoed by opposition
from within.\textsuperscript{32} The 11 September, 2001 events however, changed the climate and George

\textsuperscript{29} For the legal significance and implications see, \textit{Patterns of Global Terrorism 2001}, (Washington: US
State Department, 2002), pp.143-4

\textsuperscript{30} Levitt, n,24, p.15

\textsuperscript{31} Martha Crenshaw, "Counterterrorism policy and the political process", \textit{Studies in Conflict and Terrorism},
vol.24, no.5, September-October 2001, p.330

\textsuperscript{32} The gravity of the situation, however, is not felt in Europe and the continent is not planning to create any
specially measures and is content with existing security tools, such as Common Foreign and Security
Policy (CFSP) and European Security and Defense Policy (ESDP), to fight terrorism.
W Bush (Jr.) managed to establish an exclusive *Home Command* to coordinate his counter-terrorism campaign.\(^{33}\)

Seven, there are fundamental differences between the US and its European allies over what constitutes a crime. National legislations in many states recognise terrorism a crime if its interests, whether within or outside its boundaries, are threatened. Rhetoric of friendship, however, does not remedy serious difference over what constitutes a terrorist crime and hence punishable under domestic laws. Thus, American evidence over al-Qaida operations in Hamburg notwithstanding, "German law forbade an arraignment of accomplices because *there was no proof that they intended to strike targets in Germany.*"\(^{34}\) Taking a step further Uzi Eilam argues: "... a fundamental difference in position exists towards Euro-based terrorist organisations plotting to execute strike *outside the continent* and terrorist preparations for strikes against targets *within Europe.*"\(^{35}\)

Even on al-Qaida the Europe is rather divided. Despite the international pre-occupation, al-Qaida is conspicuously absent from the EU list of terrorist organisations. While individual countries such as Britain have proscribed the group and some of its affiliates, the EU to yet to evolve a common stand against al-Qaida. Uzi Eilam attributes

\(^{33}\) For a discussion on the internal division in the US over terrorism see, David Abramowitz, "The President, the Congress and use of force: Legal and political considerations in authorizing the use of force against international terrorism", *Harvard Journal of Law & Public Policy*, vol.25, no.2, 2002, pp.71-79


\(^{35}\) Ibid.,
this to Europe being “an amalgam of states with numerous differences in basic areas such as culture, economy, social structure and domestic political structure.”  

The end of the Cold War significantly reduced possible safe havens for fugitives and on the eve of the 11 September, 2001 attacks only Afghanistan proved to be the only public sanctuary for known terror suspects. Persistent American pressure has removed countries such as Libya, Sudan and Syria as refuge. The events of September 2001, have made it unpopular and counterproductive to harbour terror suspects. Not willing to be branded as partners in terrorism, countries have been more than willing to accommodate and comply with requests of extradition. At the same time, if one examines the American example, extradition and renditions are not the most effective way of assignment of terrorists. Indeed, during 1993-2001, only 14 wanted terrorists were brought to the US for trial.

**Counter-terrorism or War on Terror?**

By presenting the 11 September, 2001 attacks and the responses as war, the perpetrators of terrorism and those fighting against it have added a new dimension. For Osama bin-Laden, his supporters and sympathisers, the attacks were legitimate *jihad* against the ‘hegemonic’ American policies. The US and its western allies have sought to present their response as *war on terrorism*. Even if one were to question the legal basis,

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36 Ibid. p.16. He further adds: “The profusion of organizations and forums (in Europe hamper) the formation of an efficient process for policy planning and decision making at the operational level.” p.17

37 Out of these, in as many as six incidents the US refused to identify the country from where these terrorists were brought to the US. For the list see, *Patterns of Global Terrorism 2001*, n.30, p.131
the concept of war permeates and raises questions over rules governing the whole debate. As a result, both sides tend to minimise, ignore and ever suppress fundamental rights such as right to life, liberty, dissent and human rights and civil liberties. If jihad justifies deliberate targeting of innocent civilians, war on terrorism has become the handmaid of legally-sanctioned suppressions and violations.\(^{38}\) Besides growing domestic criticisms, a number of allies have strong problems with the US over new security measures that infringe on privacy and civil liberties.\(^{39}\) While presenting its action as a war against terrorism, the US is not adhering to the laws of war in dealing with the members of the al-Qaida captured in Afghanistan.

The unilateral military action sanctioned by the Security Council Resolution 1269 and 1373 has been interpreted by the US for its military campaign against Afghanistan. Having unanimously authorised affected countries to pursue all means the UN has paved the way for its potential misuse. Indeed some have even argued that the Security Council Resolutions “provided the legal backing to international operations against terrorism.”\(^{40}\) Even though the 11 September, 2001 attacks provided the context

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\(^{39}\) Jacques deLisle, “The new protracted conflict: The roles of law in the fight against terrorism”, Orbis, Spring 2002, p.317. The introduction of Export Control Bill in Britain in June 2002 for example raised concerns about anti-terror laws curbing academic research. After initial hesitations and reluctance, the civil liberties groups in the US have also voiced apprehensions over the misuse potential of anti-terror laws legislations.

\(^{40}\) Eilam, n.35, p.15
for both the resolutions the Security Council did not aspire to seek any modalities in identifying the perpetrators of the attacks. This task was left to the victim, US in this case. By skilfully exploiting the sweeping mandate of the resolutions the US has identified perpetrators, evolved a counter strategy, pursued relentless military campaign, replaced the regime in Afghanistan and determined to widen the campaign against a number of individuals, groups and organisations that it considers to be involved in terrorism.

The magnitude of the destruction as well as the skilful American use of coercive diplomacy, military-intelligence assistance, financial incentives and political concessions resulted in muted and an ineffective international response to American unilateralism. Through this approach, it appears that the international community as represented by the UN has abdicated its responsibilities towards evolving a regime but settled for unilateral approach of the pre-eminent power.

Indeed some have even argued that the Security Council Resolutions “provided the legal backing to international operations against terrorism.”  

Even though they emanated within the context of the 11 September, 2001 attacks, states that are at the receiving end of terrorism such as Israel and India might interpret them to seek legitimacy for their unilateral military actions against terrorism. The American precedence in Afghanistan thus establishes a precedent for other states to pursue those whom they suspect and classify as safe havens for terrorists.

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41 Eilam, n.35, p.15
Conclusion

Thus, it was only after the events of 11 September, 2001 that a serious attempt was made towards evolving a better-defined and structured regime. The forefront of this effort is the US. Herein also lay the problem. On one hand, United States has used the regime to justify its unilateral action and on the other hand, the presence of a strong regime is an essential precondition to curtail unilateralism. And despite the general international consensus on the need for an international regime on terrorism, what exists at present is a weak, loose, non-enforcing and non-enforceable regime whose future revolves around the willingness and ability of great power to relegate power and authority. Arguably, the trend is shifting towards the international community represented by the UN abdicating its responsibilities towards evolving a regime but moving towards a unilateral approach of the pre-eminent power.