

ROLE OF UNITED NATIONS IN CONTROL OF TERRORISM:
A POST 9/11 ASSESSMENT

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CERTIFICATE

I have the pleasure to certify that the dissertation titled "**Role of United Nations in control of terrorism: a post 9/11 assessment**" is a bonafide research work carried out by Shri Sukumar, IDSE under my guidance and supervision.

This is being submitted to the Panjab University, Chandigarh, for the purpose of Master's diploma in Public Administration, in partial fulfillment of the requirement for the Advanced Professional Programme in Public Administration (APPPA) from the Indian Institute of Public Administration (IIPA), New Delhi.

I recommend that the dissertation of Shri Sukumar, IDSE is worthy of consideration for the award of Masters Diploma in Public Administration of the Panjab University, Chandigarh.



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Date : 30 March 2021

place : New Delhi



(Sukumar, IDSE)

DECLARATION

I, the undersigned, hereby declare that this dissertation titled “**Role of United Nations in control of terrorism: a post 9/11 assessment**” for the award of the degree of Master of Philosophy in Social Sciences by Punjab University, Chandigarh is my own work and that all the sources, I have accessed or quoted, have been indicated or acknowledged by means of complete references. The dissertation has not been submitted for any other degree /diploma or elsewhere.

Date : 30 March 2021

Place : New Delhi


(Sukumar, IDSE)

Abbreviations

AML	Anti-Money-Laundering
ANF	Al-Nusra Front
ATS	Anti Terrorism Squad
ARC	Aviation Reseach Centre
CIA	Central Intelligence Agency
CTC	Counter Terrorism Committee
CTITF	Counter-Terrorism Implementation Task Force
CT	Counter-Terrorism
CFT	Combating the Financing of Terrorism
CTED	Counter-Terrorism Executive Directorate
CST	Chhatrapati Shivaji Terminus
ETA	Euskadi Ta Askatasuna
FTF	Foreign Terrorist Fighter
FATF	Financial Action Task Force
GA	General Assembly
GPS	Global Positioning System
GTD	Global Terrorism Database
ICT	Information and Communication Technology
ISI	Inter-Services Intelligence
IIF	International Islamic Front
IMF	International Monetary Fund
IACT	Integrated Assistance for Countering Terrorism
ICAO	International Civil Aviation Organization
IMO	International Maritime Organization
IAEA	International Atomic Energy Agency
IED	Improvised Explosive Devices
ICG	Indian Coast Guard
IB	Intelligence Bureau
JIC	Joint Intelligence committee
LeT	Lashkar-e-Taiba
MARCOS	Marine Commando of the Indian Navy
MAC	Multi Agency Center
NIA	National Investigation Agency
NSG	National Security Guard
NTRO	National Technical Research Organisation
OPCW	Organization for the Prohibition of Chemical Weapon
P-5	Permanent five (refers to permanent five member of UNs ie USA, Russia, France, Britain and China)
PPP	Public Private Partnership
R&AW	Research and Analysis Wing

SC	Security Council
SG	Security General
SMAC	Subsidiary MAC
UNs	United Nations
USI	United Service Institution
UNEP	UN Environment Programme
UNOCT	United Nations Office of Counter-Terrorism
UNCCT	Counter Terrorism Centre
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNODC	United Nations Office on Drugs and Crime
UNSCR	United Nations Security Council Resolution
UAPA	Unlawful Activities Prevention Act
WB	World Bank
WMD	Weapons of Mass Destruction

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ABSTRACT

Terrorism has been of concern for international community since early period. Many countries in the world have been at the center of this kind of violence and have suffered from both domestic and international terrorist activities and still continue to live with this dangerous global threat. The act of terrorism has wide and multiple impacts on society's socio, economic, political & psychological behavior. The very basic of war against the terrorism is conceived in the fact that each and every individual has right to enjoy the fundamental human right and freedom and therefore has inherent right of individual or collective self defense in case of aggression of his or her human right and freedom. Similarly any country has its right to prosper and protect itself from any destabilizing force to ensure his mandatory obligation to establish rule of law and protect its citizens. Terrorism in any form basically contradicts and violates this fundamental.

The United Nations (UNs) has been playing an important role in global effort to take measures to contain the terrorism. Its role to control the terrorism become more relevant as terrorism today is no longer confined to a particular region or country, it becomes a transnational problem. Globalisation, advancement in Information and Communication Technology (ICT) and networking has facilitated terrorist group to receive support from overseas ranging from finance, weapons, training carrying out engagement with their peers across the globe. As roots of terrorism of a terrorist group are spread to many counties, therefore, it is beyond the capacity of any country to tackle the problem alone. It requires multilateralism and in this context, the role of UNs being repository of international peace and

security, is of paramount importance. The present paper is an attempt to assess the efforts of United Nations in controlling the dangerous threat of terrorism across worldwide.

The 26/11 Mumbai terror attack has been taken as case study of research work. The first chapter gives the background and framework of research work. The second chapter listed and recap of the literatures which have been studied for the work. The third chapter narrates the basic of terrorism and general anti terrorism frame work of UNs system to counter the menace. The study says that since long terrorism was considered by UNs as a domestic problem and UNs did not found sufficient to interfere it. However, once terrorism began to develop transnational dimensions ie when it began to affect the interest of more than one state, the UNs had to address the problem, because it has mandate and responsibility to resolve the conflict threat to international peace and security. The study brought out that there is diverse view on the motives of terrorism by different nations resulting lack of consensus among them but they agreed that terrorism is not a movement but it is a tool use by the movement and also agreed that killing of innocent people cannot be justified. Therefore, the absence of agreed common definition of terrorism has resulted in a series of piecemeal international conventions and resolutions. In early times till year 1990, the terrorism was almost dealt by General Assembly (GA) which considered the issue as a general international problem. In doing so, the General Assembly worked to formulate normative framework and encourages concerned members to develop more domestic and foreign legal rules to control the terrorist acts. After 1990, UNs began to consider terrorism as a serious threat to international peace and security and Security Council (SC) started focusing on the question

of terrorism. The Security General (SG) has also been playing an important role in control of terrorism by various ways noticeable amongst are his support toward anti terrorism activities of General Assembly & Security Council and employing committee for purpose. The UNs anti terrorism strategy consist of creation of an universal anti terrorism legal frame work, capacity building measures, cooperation based on normative frame work provided by General assembly and Security Council including application of its compliance through monitoring mechanism and to counter terrorism based on recognition of individual or states inherent right of self defense in case of armed terrorist attack. The fourth chapter study of 26/11 Mumbai attack. The available normative frameworks have been analysed along with post attack response of UNs. The study infers that international instruments passed by UNs against terrorism are adequate but the compliance to these instruments by member states remains the matter of concerns for UNs. The many states tend to compliance these standards only in word not in deed. Aftermath of 26/11, the response of UNs was disappointed. It did not shown solidarity with India and remain almost silent contrary to what it keep doing after a terrorist attack on permanent five(P-5) of Security Council. It was clear established that the attack was plotted by Pakistan based terrorist Lashkar-e-Taiba (LeT) with support of its state agency Inter-Services Intelligence (ISI), the UNs, inspite of clear violation of its binding resolution, it opt to choose not to take action against Pakistan. The study suggest that measures like establishment of National Investigation Agency (NIA) and expansion of National Security Guard (NSG) have been carried out, however, a lot are required to do to get expected support, cooperation and help from international forum, upgradation of equipment with local police, coordination and cooperation in sharing intelligence informations. The fifth chapter is focus

on assessing the role of UNs in control of terrorism. The study demonstrates that there is not inadequacy in normative framework passed by UNs but there is disappointment on its efficacy to ensuring the implementation. General Assembly has played vital role in developing normative framework on terrorism and encouraging cooperation among states. The SC in his preventing acts, not only undertaken capacity building measures but also setting the monitoring mechanism has strengthen the anti terrorism system.. The resolution 1368, 1373, 1540 and Global Counter Terrorism Strategy has enormous impact to establish a effective global counter terrorism system, but surely there is disappointment on its efficacy to ensuring the implementation through global cooperative security structures. Underlying cause of terrorism which lies largely in domain of member states, needed to address for real breakthrough in arresting the growing grievances.

The research paper circumscribes that the inspite of failure to bring consensus on definition of terrorism, UNs managed to pass various conventions covering almost form of terrorism. Though, its action in the absence of definition of terrorism undermines its legitimacy, the selectism or the lack of universality in response has further dented the its image. But it has played important and useful role in formulating norms & framework and the result of its efforts in control of terrorism is not discouraging. However statics of continuation of number of attack indicates that these measures were necessary but not sufficient and still lot are to be done. Probably the encouragement of the member states for cooperation over its national interest and giving more look toward the addressing the root causes of terrorism rather than attempt to suppress it are going to give better result.

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Chapter 1

Introduction

Terrorism is a global menace. It calls for a united, global response. To defeat it, all nations must take counsel together, and act in union. That is why we have the United Nations.

Kofi A Annan, September 2001

1. Introduction

Terrorism is a phenomenon that has now spread to nearly all parts of the world in the later part of the twentieth century and the beginning of the twenty-first century. Many countries in the world have been at the center of this violence has suffered from both domestic and international terrorist activities. The act of terrorism is known to have wide and multiple impacts on society's socio, economic, political & psychological behavior. It can destabilize a lawful established Government, undermine the right of civil society, jeopardize peace and security and threaten social & economic development. All of these pose serious threats to community peace and security and represent the violation of enjoyment of fundamental human rights & freedom and the very essential principle of democracy. Establishment and reinforcement of the rule of law, security of individual as a basic human right and protection of individual is the fundamental obligation of any government. The states therefore have obligation to ensure and protect the environment for the enjoyment of fundamental human right of their nationals and taking all positive measures to protect them against the act or fear of act of terrorism. With the globalization and spread of communication technology, the terrorist organization located at one place, operates its activities in multiple

countries. So the root of terrorism has become transnational and it is not unknown fact that no country is immune to this menace of terrorism, therefore threat of terrorism cannot be defeated by a country alone and there is requirement of integrated concerted efforts at global level. Within this back drop, the role of United Nations becomes the central point at international level in making the comprehensive strategy to counter terrorism to ensure the international peace and security and enhance global prosperity.

The United Nations has been playing an important role in making the measures to contain the terrorism since its creation in 1945. However, the incidence of 9/11, has drawn the attention of world community to the increasingly transnational nature of terrorism and become the turning point to compel the international fraternity to come closure and fight jointly to tackle the threat. The UNs undertaken a number of measures and virtually started a war against terrorism. Resolution 1968 was passed and self defense has been recognized as a legitimate response to terrorism. Through resolution 1973, it put obligation on member states to enhance legislation to criminalize terrorism, strengthen border control, freeze the funds of those involved in terrorist acts and increase international cooperation to combat terrorism. The resolution also establishes the Counter Terrorism Committee (CTC) to monitor member states implementation of these measures. In 2005, Counter-Terrorism Implementation Task Force (CTITF) was established by the Secretary-General consists of 38 international entities. The UNs has unanimously adopted UN Global Counter Terrorism Strategy, to enhance national, regional and international efforts to counter terrorism. Various resolutions were taken under Global Counter Terrorism Strategy to give legal frame works for its member states. Under Global Counter Terrorism Strategy With the uprising of Arab and islamic radicalism, aspired individuals were crossing their country boundary to become Foreign Terrorist Fighter (FTF)

in extremist group. Consequently, this reinvested the Counter-Terrorism (CT) policy in a wide range of areas, the United Nations Office of Counter-Terrorism (UNOCT) was formed in 2017 to tackle this new challenge.

Thus there are various important normative frame works, resolution and sanctions adopted by UNs body since 9/11. With the availability of these institutions and instruments established by UNs body there is need to analyze and evaluate the efforts of UNs to see their effectiveness in control of terrorism and how effective the UNs is at countering terrorism? There are the failures of United Nations also which raise questions and accountability on functionary of the UN. The research work is start with the surrounding the definition of terrorism, theoretical concepts of UNs and their organs with a case analysis of 26/11 Mumbai terror attack to examine their reasons (mainly immediate) of occurrence, planning, communication, finance, supportive organs along with failures on the part of counter terrorism. The case study has been further co-related with the existing normative frame works, resolutions given by UNs bodies and finally the conceptual issues measuring the effectiveness of role of UNs in control of terrorism has been generated. A survey has also been carried as a part of research to what the people think about on the various aspect of effectiveness of UNs in counter terrorism.

1.1 Statement of the Problem

At the global level, the United Nations has been playing pivotal role to mitigate terrorism. Under his mandate to maintain international peace and security, the United Nations is responsible to develop and to provide international legal framework to enable its member's states to fight the threat collectively. The terrorist attack of 9/11 had highlighted the

transnational nature of terrorism and triggered the United Nations to act decisively. Immediately after incidence, in 2001, UNs undertook measures ranging from the use of force in self defense to requiring member states to undertake wide ranging and comprehensive measures against terrorism. A number of institutions like Counter Terrorism Committee (CTC), Counter-Terrorism Implementation Task Force (CTITF), Counter Terrorism Centre (UNCCT), Office of Counter Terrorism (UNOCT) etc were formed, The UNs also unanimously adopted UN Global Counter Terrorism Strategy and numbers of resolutions covering various aspect of terrorism have also been in place. However, the incident of terrorism across the world has not been stopped and series of terror incidence remain of concern to the international community and the world in spite of the all efforts continues to live with dangerous global world threat of terrorism.

1.3 Purpose or objectives

The following objectives have been attempted to achieve through the research work:

The principle objective of the research has been to conduct an analysis and evaluate the role of United Nations in control of terrorism. However, the main objective is broken down into secondary objectives. They are

1. To document the achievements of UN which boosts and signify the relevancy as a Peace builder & Peace keeper
2. To document the shortcomings in Global Counter terrorism Strategy to tackle the threat observed in various parts of the world that required plugging.

3. To evaluate the deliverity of its mandate, accountability and failures in the field of counter terrorism.
4. To document the success and failures of various domestic and international agencies specially UN in prevention & countering of 26/11 Mumbai terror attack.

1.4 Research Strategy and Research Design

The Research has been a analysis of the roles of United Nations in control of terrorism and the general principles applicable to the fight against terrorism. The case study of 26/11 Mumbai terror attack has also been developed on the documentation. The research design is primarily descriptive but with few exceptions. The reasons of occurrence of incidence mainly the immediate have been studied and failure to prevent the incident has been analyzed on transnational level. The strategy has been the pre and post incidence analysis on the role of UN ie what was the role before incidence and what are changes adopted by the UN to avoid reoccurrence of such terror attack in future. The study work also includes the strategy to analyze the consistency in actions displayed by UN in incidence of similar nature.

1.5 Rationale and Justification

The very basic of war against the terrorism is conceived in the fact that each and every individual has right to enjoy the fundamental human right and freedom. Similarly any country has its right to prosper and protect itself from any destabilization force to ensure his mandatory obligation to establish rule of law and protect its citizens. The terrorism in any

form in its basic contradicts and violates this fundamental. It has a direct impact on rule of law, democracy and human rights. The Terrorist acts can destabilize Governments, undermine civil society, jeopardize peace and security, threaten social and economic development, and impact on relations of cooperation among States, including cooperation for development. It has links with transnational organized crime, drug trafficking, money-laundering and trafficking in arms, as well as illegal transfers of nuclear, chemical and biological materials, and is linked to the consequent commission of serious crimes such as murder, extortion, kidnapping, assault, hostage-taking and robbery All of these have a direct impact on the enjoyment of fundamental human rights.

The 9/11 terror attack event has given unequivocal message to world community that there is a clear need for nation states to mobilise together to address the dangerous threat of transnational terrorism through effective cooperative and collective action. The United Nations being the core repository of international peace and security acknowledged this responsibility on its shoulder and taken a series of anti terrorism measures to eliminate the threat of terrorism from twenty first century. The various important normative frame works, resolution and sanctions adopted by UNs body since 9/11. There is need to analyse and evaluate these efforts of UNs to see their effectiveness in control of terrorism. Under The study of 26/11 terrorist attack case, their reasons (mainly immediate) of occurrence, planning, communication, finance, supportive organs along with failures on the part of counter terrorism will give inputs to formulate the pathway for drawings the comprehensive international strategy for an effective and long term response to the threat.

1.6 Research Questions

The research work has been attempted to answer the following research questions:

RQ1 : what is terrorism, what causes terrorism? (Only broad aspect of terrorism has been covered as the research work is primarily about on the role of UNs and not an analysis of terrorism per se.)

RQ2 : What are role of UN, organs of UN and their functions in context of terrorism?

RQ3: What are the legal frameworks / important resolution, conventions & protocols provided by UN and available to combat terrorism?

RQ4: After the study & analysis of 26/11 Mumbai terror incidence.

- **What was the success & failures of various domestic and international agencies particularly UN in 26/11 terror attack?**
- **What are the lessons could be taken from case study?**

RQ5: Whether UN has been effective in its role?

1.7 Limitations of the study

The cause of terrorism originates from complicated history, social, religious, ethnic conflict resulting in interference, invasion, and rivalry for territory and interest. The Strategy of combating terrorism has directly link with changing trend of terrorism, which is by and large moving from nationalist wave, to leftist and later religious wave. The earlier violence had elements of ethnicity and left wing aspirations and lacked religious elements. The role of UN in conflict resolution requires study and understanding of evolution of terrorist group

through complicated history. Due to the peculiar historical, sociological, religious, psychological nature of the research topic, a sufficiently long period of time are warranted to study the terror movement and from history to present state which is not possible presently due to the constraints of limited time frame, logistics and resources especially this corona pandemic period. The research is also has limitation to study the 26/11 Mumbai terror attack case as incidence of terrorism is plethora in nature. The methodology of research is limited to the case study of examination of available reports i.e. the secondary source of data collection due to limited available time frame which is further constrained due to covid 19 pandemic.

1.8 Data Source and Method to be applied

Since the research is focused on assessment of role of UN post 9/11, hence mainly the secondary data sources have been used for the study, which include

- (i) Books, academic articles and academic journals available on the subject.
- (ii) Reports published by eminent International agencies and national agencies on the subject.
- (iii) Relevant content of reporting in leading newspapers published during the period under study.
- (iv) Relevant development in the field of terrorism at global level during the period under study.
- (v) Information available on United Nations / Government website.
- (vi) Study the 26/11 Mumbai attack case.

In primary data source, a survey has been carried out among the people and their opinion on various aspect of role of UNs body has been obtained. The documents have been analyzed by the content analysis.

Conclusion

Given the diversities and divisions among human species in society, the challenge of threat of terrorism is not likely to go away. Therefore world communities have been trying through international organization to resolve the transnational violence problem through peaceful manner. Post 9/11, UNs has taken number of measures to control the menace of this deadly global threat. An endeavor using secondary sources has been made in subject paper to evaluate the role of UNs in control of terrorism through case study of 26/11 Mumbai attack. The contents has been examined and interpreted, criticized and culminated into balanced conclusion. A digital survey also has been conducted. The people were informed about the objectivity of this study and were allowed an opportunity to provide necessary opinion on efficacy of UNs in control of terrorism.

Chapter 2

Literature Review

2.0 Introduction

The literature review is a vital part of any study or research. The academic literatures are though available on terrorism, but they are sporadic in nature and also generally ignore the role and activities of UNs on this issue. The different literature are focus on particular theme but one similarity among all been observed that there is need to define the subject.

2.1 Review

A great deal of available literature is on attempt to conceptualize terrorism or to answer the question of the legality or legal implication of response in relation to use of force. However, the role of the UNs as such either as a norm setter or an operational actor is rarely visible in available literatures. The UNs being organization with the primary responsibility for the maintenance of international peace and security, it deserved to be in forerunner in the arena of the international response to terrorism.

Boulden and Weiss (2004): *Terrorism and the UN Before and After September 11* is a comprehensive study that describes how the UN's role in dealing with terrorism has been shaped over the years by the international system, and how events such as September 11 and the American intervention in Iraq have changed its approach to terrorism. The book analyse the international context and the impact of September 11 on the UN's concern for the security of states and rights of individuals. It also highlights the attitude of various western powers towards multilateral versus unilateral approach to world problems

The authors have discussed the values, history and mechanisms of UN with its future role in preventing and reacting to terrorism UNs. Its ability to prevent and react to terrorism by examining possible roles the UNs can play in suppressing the political economy of terrorism. In the concluding chapter, it gives broader strategies for addressing the root causes of terrorism, with an emphasis on social justice as a key to conflict prevention.

Brig Bhonsle (2011) *Countering Transnational Terrorism* Vij Books India Pvt Ltd New Delhi. Highlighted the security challenge of transnational terrorism in India's perspective cover the outcome of study carried out by the United Service Institution (USI) India by examining geo political, regional and internal security and sectorial response. It also gives insight of various approaches, like political, economic, intelligence led militancy for the academic and practitioner of counter terrorism.

Comras (2010) in his book *Flawed Diplomacy, The United Nations & the War on Terrorism* focus on inside of array of reasons for not achieving the desired success in the war on terror by United Nations. The book lay out the counter terrorist struggle in precise details of a protracted struggle between the nation states and the forces bent upon its destruction and chronicles depicts the challenge and opportunities involved in creating global counter terrorist environment. It also demonstrates UNs failures in teetering political equilibrium of key Muslim states and how UNs effort to bring Osama Bin Laden and his inner circle of follower to justice did not succeed. It remarkably highlighted the UNs inner working, international political realities and its institutional problem.

Whittaker in 2002 in the book titled "Terrorism: Understanding the Global Threat" provided an extensive description of terrorism with the events of 11 September 2001 and helps the

researcher to understand the nature of terrorism. The book also highlights on change pattern concern of world communities about incidents attributed to violent political action that had occurred in distant places such as Sri Lanka and Israel highlight. The galvanization of concern on distant violent political accident was by and large limited to region of occurrence or victim states prior to 9/11. The book demonstrates how the 9/11 help to unite the concern of world communities to unite their concern about incidents attributed to violent political action.

Mishra (2004) *United Nations and Security Challenges in New Millennium* amplify various theoretical and practical dimensions of UN practice vis-a-vis internal conflict situations. The introductory chapter demonstrates the convergence and divergence which remarked the evolution of a UN approach on international conflict issue as its central concern. The second and third chapter throws light on the concept of domestic jurisdiction and on the various peace keeping operations undertaken by UNs in the cold war period. The fourth and fifth chapter of the highlights the change in working of UNs, broadening its arm in anti terrorism efforts , involvement of Security Council in the arena of terrorism to which had been conventionally dealt by General Assembly and new era of imposing sanctions by security Council. In the sixth and final chapter, a compilation has been attempted on the development inclusive of new challenge emerged to the UNs. Thus the book gives the complete picture of evolution of UNs in the struggle of war against terrorism.

Messmer and Yordan (2010) in their article on *The Origins of United Nations: Global Counter-Terrorism System* narrates the structure of the UN global counter-terrorism system. The book focuses on origin of decentralized and state-centered characteristics. The author summarized that counter terrorism system based on three factors. The first, UN's reactions to

terrorism prior to 11 September 2001 attack, second, relevance of growing interdependent networks of transnational government and the third one is the interests and concerns of the permanent five (P-5) member of Security Council's permanent which ultimately shaping the counter terrorism system's architecture.

Krasno (2004) in his book, *The United Nations: Confronting the Challenges of a Global Society* focus on United Nations various peacekeeping operations, the enormous role that it plays in the international forum. The author gives the brief on creation of the UN, its evolutionary journey through multilateral interaction, heated political realities and key personalities and debated too on the reform that it needs to adjust the present scenario. The book also discusses on UN activities in the field of disarmament, peacekeeping, human rights, development and elections.

Dalyan (2008) described that the Combating the Financing of Terrorism (CFT) is a core pillar in the fight against terrorism. It states that terrorist organization or terrorists receives financing in variety of source. Though, after 9/11, many instruments have been adopted to give greater power to states to prevent the financing of terrorism, however result is far from modesty. The book explains that an effective CFT is a necessary to break the terrorist network and to create preventive counter terrorism system.

Ruperez (2006) through article has summarized the contribution of various organs of UNs in the struggle against terrorism. The article has given lights on how the United Nations has been evolved since its creation in fighting the terrorism. Important committees, normative measures, actions taken by Security Council to counter the terrorism have been brought. The genesis of various resolutions also has been given.

Nicholas (2002) in their article has focus on the paradigm shift of UN approach in dealing with terrorism before and after 9/11. The article sketches the UN approach to terrorism and

the impact of the attacks of Sept 2001 on that approach. The article has given some views about the future political and lawmaking activity of the UN in regard to terrorism.

Heupel (2007) in the article has thrown light that whether the UN Security Council has adapted to transnational terrorism and if so, how. The article primarily focuses on adaptability of UN to the Transnational Terrorism, various strategies viz enforcement, managerial it adopted to adjust with changes.

Conclusion

While substantial literature and research into the effectiveness of UN Counter Terrorism policy seems to have gone specifically focuses on the US Global War on Terror against al-Qaeda, there are certain gaps with regard to analyzing and compares the effectiveness of UN in control of terrorism globally. The terrorism is now in transnational colour having operational fluidity in breaking the geographical boundary of countries impacting multiple countries throughout the world simultaneously. Though UN has been adopting with the changing challenge of terrorism, there is a need to analyse and assess the role of UNs to understand its effectiveness in bringing the intended results of countering terrorism.

Chapter 3

Strategy of UNs in Tackling Terrorism

“We will not apologize for our way of life, nor will we waver in its defence. And for those who seek to advance their aims by inducing terror and slaughtering innocents, we say to you now that our spirit is stronger and cannot be broken– you cannot outlast us, and will defeat you”.

- Barack Obama, 20th January, 2009

3.0 Introduction

This chapter is on basics of terrorism and general anti terrorism framework of United Nation. While start with what constitute terrorism, reasons of cause of terrorism and rationale of terrorism, the chapter is focus involvement of UN and its organs in area of anti terrorism and basic anti terrorism frame works in which UNs work.

3.1 What is terrorism?

The terrorism is old age problem and has inherent multidisciplinary character. The word ‘terrorism’ has been emanated from the Latin word ‘terrere’ meaning to cause instill fear and was frequently used during Jacobian period of the reign of terror of French Revolution. Though having long back origin, there is lack of consensus on definition and scope of terrorism. The experts view this shape of violence variety from psychology, sociology, political science, economics, criminology and law and essential theory. Being a manifestation of socio, legal, political and other factors rather than merely armed or military violence, terrorism has been described by differently by various scholars. Some view terrorism as social problem, some see it quite differently. There is wide gap between those who associate

terrorism with any violent act by non state actors against civilians or state functionaries and those who believe in concept of legitimize use of force against foreign occupation or against systematic oppression of ethnic or religious groups. During cold war, some groups were freedom fighter for the west but same were terrorists for the Soviet Union. So the because of different understandings and conflicting interests by different sovereign states, the world community has not arrived on a common definition of terrorism. However, widely it is understood as acts of use of violence against random civilians targets in order to intimidate or to create a general pervasive fear for the purpose to achieve some objective or intended to communicate some message.

The UNs through the General Assembly has been keep taking the issue of terrorism sporadically and trying to reach on a common definition of terrorism. In 1994, the General Assembly's Declaration on Measures to Eliminate International Terrorism stated that terrorism includes "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" and that such acts "are in any circumstances unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or other nature that may be invoked to justify them."

Ten years later, the Security Council of United nations in its resolution 1566 (2004) referred terrorism to "criminal acts, including against civilians, committed with the intent to cause death or serious bodily injury, or taking of hostages, with the purpose to provoke 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 to abstain from doing any act". Later on in same year, the Secretary-General's High-level Panel on Threats,

Challenges and Change described the terrorism as any action which is “intended to cause death or serious bodily harm to civilians or noncombatants, when the purpose of such an act, by its nature or context, is to intimidate a population, or to compel a Government or an international organization to do or to abstain from doing any act”

The General Assembly has drafted a comprehensive convention against terrorism, which contains a definition of terrorism which includes “unlawfully and intentionally” causing, attempting or threatening to cause: “(a) death or serious bodily injury to any person; or (b) serious damage to public or 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, places, facilities, or systems..., 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.”(1. UN Fact Sheet)

While there has been agreement among member States on many provisions of the draft comprehensive convention, but the diverging views on whether or not national liberation movements should be excluded from its scope of application have impeded consensus on the adoption of the full text. Negotiations are continuing in General Assembly. Many States define terrorism in national law in ways that draw to differing degrees on these elements.

3.1.1 Causes of terrorism

There are plethora of different elements, their mutual relations and the conditions influencing them forming the basis for the terrorism. Significant disparities, ethnic, religious or ideological conflicts, poverty, negative aftermath of modernization, injustice, revolutionary

sentiments among society, weak governments or an internal power struggle are the main reasons of generators of terrorism. The different basis can give different way of classification of reasons of terrorism. Before going to root cause which is a phrase of situations, it important to start with the actors or agencies playing in terrorism. On the basis of agencies, the terrorism can be Non States terrorism, States terrorism and the combination of both. Depending upon the objective or method, each has its own subcategories.

The Non-state terrorism may be categorized into two groups. The first is “self-determination terrorism,” which encompasses a variety of claims for independence, autonomy, or cultural expression. This category includes movements fighting for autonomy against a state authority that is perceived to be inimical to the group’s well-being, identity, or survival and that undertake occasional or systematic acts of terrorism within their political struggle. This type of terrorism is associated primarily with independence movements against colonial rule and gained intensity and legitimacy with the establishment of the United Nations and its defense of the principle of self-determination. The second type is “hate terrorism.” This includes ethnocentric, racist, fascist, or similar groups undertaking arson, assassination, lynching, and other violent acts against innocent members of a racially or culturally defined group. Hate terrorism generally inscribed a less coherent political strategy and is driven by the desire to humiliate, and in some cases destroy, a target group. Its victims, albeit more numerous than the victims of self-determination terrorism, are marginalized; hence such acts are rarely acknowledged as terrorism

The state terrorism primarily refers to state action that resorts to terrorist acts to oppress particular parts of the population for political, ideological, religious, cultural, racial, or other reasons. It also includes states action to support to either a non-state or state terrorist, where

one state either supports a non-state movement's terrorist actions partly with the aim of destabilizing or overthrowing the target government or provides political, military, or financial assistance to an allied state to enable it to suppress the non state terrorism.

The third one the amorphous terrorism which is neither non state terrorism nor states terrorism, but it is the rather collusion between non-state and state actors with strong business, financial and criminal connections. The terrorist in category, use measures ranging from criminal activities to conventional and unconventional warfare or threats of such warfare without specific intention of weakening enemy institutions or governments by intimidating their citizens or disrupting their economies and societies. The tacit and covert state support to these movements, particularly to Islamic groups in present era is significant to be mentioned. In this type of terrorism, the exact motives are more often alluded to than specified. The objectives may be diffuse and methods are versatile and varied. Consequently, targets and victims may be either the result of careful choice or chosen randomly with little symbolic or actual linkage to the "cause." Al Qaeda, Lashkar-e-Taiba (LeT) are the example of this category.

The theory of searching the root causes based on the assumption there is existence of definitive set of conditions refer as fundamental causes for terrorism, resulting in terrorism's myriad forms and various motivations and once the condition is diagnose, can be effectively treated and cured. It assumes the terrorist acts are tactics rather than strategies. There may be different basis for analyzing root causes, giving out different terminology but all seems have following three dominating factors in common:

Poverty, inequality, Marginalization and Despair

The poverty, economic deprivation and disparities, exclusion and despair breed terrorism. In the 2001 General Assembly, delegates from countries as diverse as Costa Rica, Croatia, and the Netherlands drawn the linkage between terrorism, Poverty, inequality, marginalized and exclusion, which most organizations of the UN system agree. UN Environment Programme (UNEP) Executive-Director Klaus Toepfer observed, “When people are denied access to clean water, soil and air to meet their basic human needs, we see the rise of poverty, ill-health and a sense of hopelessness. Desperate people can resort to desperate solutions.”(2. Toepfer). Sometimes terrorism is also a symptom of increasingly bitter polarization between the haves and have-nots.

Weak or ineffective States

This theory assumes that failed states or weak or undemocratic states violate human rights and create conditions conducive for growth of terrorism. So this theory argument holds that terrorism is a governance problem. The choice of Afghanistan as the base for Al Qaeda is cited as evidence. Somalia, Yemen, and other failed or weak states also share the criteria for terrorist recruits and bases.

Religious Extremism

The version holds that religious fanaticism is a motivation factor for terrorist which germinates terrorism. The level of violence in this category is unrestrained and high level of bloodshed is morally justified by religious exclusivism associated with such groups. Declaration of an International Islamic movement and formation of the International Islamic Front(IIF) by Al Qaeda was a defining moment for violent Islamic extremism as this facilitated the growth of Al Qaeda from a terrorist group to a political religious movement”

(3. James Blitz, 2010). Contemporary, it is closely linked to the Islamist clash of civilizations with western culture. Proponents of Islamic-extremism see the Western culture of democracy and the associated Western values of capitalism and individualism as the common enemy for Islam. The most challenge in contemporary is terror perpetrated by groups, networks, organization or individuals based on atypical interpretation of Islam to justify their action.

3.1.2 Rationale of terrorism

The three dominating factors described above gives insights into the nature, motivations and facilitators of terrorists. Do “Root Causes” Cause Terrorism? There were many tries to provide an explanation for the adoption of terrorism in phrases of situations, every so often defined as “root reasons.” Many reasons of terrorism were offered, which includes oppression, subjugation, exploitation, injustice, poverty, inequality, discrimination, imperialism, colonialism, apartheid, globalization, modernization, historic traditions, ideologies that condone violence, spiritual divisions, ideological variations, and shortage of democratic establishments to redress grievances. During debate in 2014, the UN delegations stated that the underlying reasons of terrorism had been capitalism, neocolonialism, racism, the coverage of aggression, overseas profession and their consequences and that best disposing of the ones reasons might cause the stop of worldwide terrorism.

However, no condition, scenario, or aim can reasons the choice of any unique approach of battle. Oppression, discrimination, and the infringement of rights do now no longer reason of terrorism. Now no longer all who're oppressed, discriminated against, or dealt with unjustly flip to terrorism. In fact, only a few with grievances have selected to apply terrorism, some selected different violent ways some nonviolent motion some no motion at all. In Spain, the

Basque organization Euskadi Ta Askatasuna (ETA) engaged in terrorism, however many different ethnic groups did not.

“Deprivation does now no longer always cause terrorism: numerous research determined no good sized correlation among poverty and terrorism, and terrorists have come from all degrees of wealth, education, and possibility and the properly-off is now no longer the deprived, selected to apply terrorism”.(4. Hardy, 2009) The Saudis who hijacked the four airplanes in the United States on September 11, 2001, had been from a rich Muslim country, were educated, and had been from the center and upper-center class. Some terrorists together with Osama bin Laden were the sons of millionaires. Sometimes terrorists were neither oppressed nor bad themselves. They use terrorism on behalf of oppressed or exploited class and come to be their self-appointed champions without asking whether or not individuals of the claimed preference attack on their behalf, or whether or not terrorism is of their first interest. At different times, terrorists use the scenario of deprivation to make the selection attractive, however the substantial majority of humans running to enhance situations by selecting different techniques than terrorism. Forms of governance do now no longer reason terrorism. Terrorism has befallen in international locations with many types of governments which include democracies and autocracies. Terrorists often attempted to justify terrorism that there had been no democratic channels to voice perceived injustices or pursue redress, but there are organisations which opted terrorism even if such way existed.

Specific dreams or grievances do now no longer reason terrorism. For example, organizations with equal kind of aim both might undertake and reject terrorism. Some countrywide liberation struggles worried a tremendous deal of terrorism where as many liberation struggles, terrorism performed nearly no role.

Ideologies, secular or spiritual, do now no longer reason terrorism. The terrorists are revolutionaries, nationalists, separatists, anarchists, reactionaries, and spiritual extremists. Terrorism has been used on behalf of many ideologies and religions, and those with the equal ideals can pick out or reject terrorism, and only a few humans, which includes people with radical ideals been observed come to be on path of terrorists.

In summary, neither situations nor political dreams reason terrorism Thus, researchers are facing difficulty to establish a firm basis for their investigation and the real factors leading to its occurrence. (5. Franks, 2004) Many organizations in comparable conditions have now no longer grew to become to terrorism. Conditions can be elements that make a contribution to why humans determine to apply terrorism, however reason nothing. Terrorists and their supporters have regularly cited reasons as a manner to try and justify terrorism, however this argument isn't always valid. People are capable of pick out their techniques of battle they are now no longer captives of situations.

3.2 Role of UN, organs of UN and their functions in context of terrorism

The United Nations (UNs) has been founded in 1945 as the successor of League of Nations immediately after World War II. The organization was set up by 51 founder members from ruin of World War II and presently holding 193 countries as its member. The purpose of UNs is to prevent international conflict and to facilitate cooperation among states. The objective of United Nations has been explicitly mentioned in its constitutional documents ie its Charters which includes preamble and XIX Chapters. The very purpose of UNs has been articulated in its preamble as

“To save the succeeding generations from the scourge of war, which twice in our life has brought untold sorrow to mankind, and to maintain international peace and security and to that end; to take effective collective measures for the prevention and removal of threats to peace and for the suppression of acts of aggression or other breaches of peace and to bring about by peaceful means and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which led to a breach of peace”

The presence of aforesaid provisions laying the very noble purpose of UNs whose tone is global and visionary. The member states have agreed to settle their dispute by maintaining their sovereignty by cooperation and in peaceful manner. The function and power jurisdiction of its various organ reflects the realities of world politics after World War II. In accordance with the basic UN Charter principle to maintain global peace and security without resort to force (Article 11), the General Assembly discusses and recommends measures to govern the regulation of armaments. The Security Council responsible for peace and security has to formulate plans for regulation, with the least diversion for armaments of the world's human and economic resources (Article 26) and to implement such action as may be necessary to maintain or restore international peace and security (Articles 42). Thus GA is having discussionary and recommending role where as SC enjoying the centre power of decision making.

In early periods, UNs views the terrorism as regional or domestic problem of states, its involvement was limited to advisory. However, when terrorism starts transnational and becoming threat to international peace and security, then UNs also stated more involving itself. The early efforts of UNs in control of terrorism resulted in a definitional paralysis

which subsequently throttled its efforts to make any substantive progress on international cooperation against terrorism. But after 1990's, the UN has taken a leading role in the task of controlling transnational terrorism and has intensified the anti terrorism struggle aftermath of 9/11. The global integrated response to terrorism demanded greater involvement of UNs and requires the adoption of normative measures with universal scope and content. All the organs of the UN in one way or another have contributed in the formulation and adoption of various types of counter-terrorism measures. The UN and related agencies have develop eighteen universal legal instrument, outlawing various terrorist acts (attacks on aircraft, diplomats, airports, crime related with maritime and nuclear material and the taking of hostages) or requiring states to mark plastic suppress terrorist bombings, explosives, and curb terrorist financing.

3.2.1 UN Global Counter-Terrorism System

Before the 11 September 2001 terrorist attacks, the UNs did not think terrorism as threat to international peace and security and therefore was not playing in very active role in counter-terrorism efforts. GA was though failed to negotiate a common definition of terrorism but manage to pass 16 international convention related with terrorism. The general perception was that the terrorism is problem which can be best addressed at national level. Many of states even did not ratify the conventions dealing with terrorism passed by GA. As a result, the UN's role in counterterrorism before 11 September 2001 was encouraging, informal rather than requiring members to fight terrorism.

The attacks of 11 September transformed the UN's role on counter-terrorism. Using its quasi-legislative powers, the Security Council passed far reaching resolutions 1368 and 1373

establishing the backbone of the global counter-terrorism system. Under resolution 1368, SC recognized “the inherent right of individual or collective self defense in accordance with the charter of the United Nation and give states to have right to self-defense when attacked or threatened by terrorism groups or state supporters of terrorism.” The Resolution 1373 has paved the establishment of a universal counter-terrorism legal framework. The core of resolution 1373 is wide ranging and far reaching specific list of anti terrorism measures which all states obligated to implement. Under this resolution all states legally obligated to criminalize terrorism, denying safe heaven, prevent and suppress the financing of terrorist acts, freeze the financial assets of persons and entities involved in the commission of such act and prohibit anyone within their jurisdiction from making such assets available for the benefit of persons involved in the terrorist acts and to ratify the 14 international conventions and to modify their counter-terrorism laws in accordance with international best practices. This was big impetus to UN efforts, and the concerted work to breaking the network by putting an end to the financing of terrorism. These are all huge measures in anti terrorism efforts. In Security Council and the General Assembly meetings, members have called for intensified international action and cooperation. In other words, the Security Council has obligated all states to enhance their capacity to fight terrorism at their national level to constrain the ability of terrorist groups to operate globally. Following the resolution 1373, UN Counter-Terrorism Committee (CTC) was established to monitor the implementation of anti terrorism measures listed in resolution by member states. In 2004, Counter-Terrorism Executive Directorate (CTED), was also set up by the Security Council to assist the CTC’s efforts. In addition, to improve inter-state co-operation on counter-terrorism efforts, the Security Council has urged

all states to adapt their legal infrastructure in accordance with international law and emerging best practices.

The UN is a system of organizations, specialized agencies, and programmes, collectively referred to as the UN system, and these have playing a key role in international efforts to defeat terrorism. The intergovernmental bodies like International Monetary Fund (IMF), World Bank(WB) provides financial assistance to member state bilaterally, while standards are set by international bodies, such as the Financial Action Task Force, the World Customs Organization, International Maritime Organization or the International Civil Aviation Organization. Under this scenario, the Security Council's role is more strategic than operational. The CTC and CTED work with other intergovernmental bodies to evaluate the international community's global struggle against terrorism and to act as a "switchboard" for the pairing states that need technical or financial assistance with donor states or intergovernmental organizations.

3.2.2 UN Global Counter-Terrorism Strategy

The UN Global Counter-Terrorism Strategy was unanimously adopted in September 2006 by the UN General Assembly in the form of a resolution with annexed Plan of Actions (A/RES/60/288). It is a unique and a wide instrument to enhance national, regional and international efforts to counter terrorism. Its adoption marks the first time that all Member States of the United Nations have agreed to a common strategic and operational framework to fight terrorism. In so doing, they sent a clear message that terrorism is unacceptable in all its forms and manifestation, and resolved to take practical steps, both individually and collectively, to prevent and combat it. The Strategy is the first ever comprehensive, collective

and internationally approved framework for tackling the problem of terrorism. Its review by General Assembly in every two years, make it a living document attuned to counter-terrorism priorities requirement of member states. The Global Counter Terrorism Strategy is mostly compilation of General Assembly and Security Council resolutions and an annexed Plan of Action (A/RES/60/288) is composed of four pillars.

- (i) Pillar I - addressing conditions conducive to the spread of terrorism;
- (ii) Pillar II - preventing and combating terrorism;
- (iii) Pillar III - building States' capacity to prevent and combat terrorism and strengthen the UN system's role in this regard; and
- (iv) Pillar IV - ensuring respect for human rights and the rule of law as the fundamental basis of the fight against terrorism.

The first pillar of UN of Global Counter Terrorism Strategy intended to resolve prolonged unresolved conflicts, dehumanization of victims of terrorism in all its forms and manifestations, lack of rule of law and violations of human rights, ethnic, national and religious discrimination, political exclusion, socio-economic marginalization, and lack of good governance, while recognizing that none of these conditions can excuse or justify acts of terrorism. To attain this goal, the United Nations continued to strengthen and make best possible use of the capacities of the UN in areas such as: conflict prevention, negotiation, mediation, conciliation, judicial settlement, rule of law, peacekeeping and peace building, in order to contribute to the successful prevention and peaceful resolution of prolonged unresolved conflicts. The UN continued to work to adopt such measures as may be necessary and appropriate and in accordance with the obligations under international law, to prohibit by law incitement to commit a terrorist act, or acts and prevent such conduct. Through the Millennium Development Goals the UN worked to eradicate poverty and promote

sustained economic growth, sustainable development and global prosperity for and reinforce development and social inclusion agendas at every level as goals in themselves, recognizing that success in this area, especially on youth unemployment, could reduce marginalization and the subsequent sense of victimization that propels extremism and the recruitment of terrorists.

The second Pillar in the UN Global Counter Terrorism Strategy includes measures to prevent and combat terrorism by denying terrorists access to the means to carry out their attacks, to their targets and to the desired impact of their attacks. This is through imposing refraining from organizing, instigating, facilitating, participating in, and financing, encouraging or tolerating terrorist activities. The UN in this pillar makes sure that states would cooperate fully in the fight against terrorism, in accordance with obligations under international law, in order to find, deny safe haven and bring to justice, on the basis of the principle of extradite or prosecute, any person who supports, facilitates, participates or attempts to participate in the financing, planning, or perpetration of terrorist acts or provides safe havens. In addition, through this pillar the United Nations, continue to work on ensuring the apprehension and prosecution or extradition of perpetrators of terrorist acts, in accordance with the relevant provisions of national and international law, in particular human rights law, refugee law and international humanitarian law.

The table below illustrates UN Conventions that are referred to in the UN Global Counter Terrorism Strategy second pillar.

Table I: UN Conventions to Combat Terrorism

Year	No	UN Conventions Against Terrorism
1963	1	Convention on Offences and Certain Other Acts Committed On Board Aircraft(<i>Aircraft Convention</i>)
1970	2	1970 Convention for the Suppression of Unlawful Seizure of Aircraft

		<i>(Unlawful Seizure Convention)</i>
1971	3	Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (<i>Civil Aviation Convention</i>)
1973	4	Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons(<i>Diplomatic agents Convention</i>)
1979	5	International Convention against the Taking of Hostages (<i>Hostages Convention</i>)
1980	6	Convention on the Physical Protection of Nuclear Material (<i>Nuclear Materials Convention</i>)
1988	7	Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Extends and supplements the Montreal Convention on Air Safety)(<i>Airport Protocol</i>)
1988	8	Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation(<i>Maritime Convention</i>)
1988	9	Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf (Fixed Platform Protocol)
1991	10	Convention on the Marking of Plastic Explosives for the Purpose of Detection (Plastic Explosives Convention)
1997	11	International Convention for the Suppression of Terrorist Bombings (Terrorist Bombing Convention)
1999	12	International Convention for the Suppression of the Financing of Terrorism (Terrorist Financing Convention)
2005	13	International Convention for the Suppression of Acts of Nuclear Terrorism (Nuclear Terrorism Convention)
2005	14	16. Protocol to the Protocol Suppression Unlawful Acts against Safety Fixed Platforms on the Continental Shelf
2005	15	Protocol Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation
2005	16	4. Amendment to the Convention on the Physical Protection of Nuclear Material
2010	17	Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation (Beijing Convention)
2010	18	Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft (Beijing Protocol)
2014	19	Protocol to the Convention on Offences and Certain other Acts Committed on Board Aircraft

Source: Security Council Counter Terrorism International Law documents a <http://www.un.org/en/sc/ctc/laws.html>, Retrieved on 25 Feb 2021

Further in the second Pillar in the UN Global Counter Terrorism Strategy, is encourage relevant regional and sub-regional organizations to create or strengthen counter-terrorism mechanisms or centers, while, encouraging States to implement the comprehensive international standards embodied in the Financial Action Task Force's Forty Recommendations on Money Laundering and Nine Special Recommendations on Terrorist Financing.

The third pillar in the UN Global Counter Terrorism Strategy is the measures to build States capacity to prevent and combat terrorism as the capacity-building in all States is a core element of the global counter-terrorism effort. The United Nations encourages member states to take advantage of the framework provided by relevant international, regional and sub-regional organizations to share best practices in counter-terrorism capacity-building, and to facilitate their contributions to the international community's efforts in this area.

The following table illustrates UN Security Council Resolutions that are referred to in the UN Global Counter Terrorism Strategy in chronological order developments.

Table II: Important Security Council Resolutions in Combating Terrorism

Year	No	Security Council Resolution
1999	1267	Establishing Committee for monitoring the sanctions against the Taliban (and subsequently Al-Qaida as of 2000)
1999	1269	Encouraging the efforts to promote universal participation in and implementation of the existing international anti-terrorist conventions
2001	1373	Prevention and suppression of terrorist financing, International cooperation, Prevention and criminalization of terrorist acts, Establishment of the Counter-Terrorism Committee
2004	1540	Calls on States to prevent & Refrain from providing any form of support to non-state actors that attempt to develop, acquire, manufacture, transport or use weapons of mass destruction, Establishes a Committee which will report to the Security Council
2004	1566	Member States to take action against groups and organizations engaged in

		terrorist activities that were not subject to the 1267 Committee's review, to explore the possibility of setting up a compensation fund for victims of terrorism
2005	1617	-Member states to: Freeze funds and other financial resources owned or controlled by members of these groups, Prohibit members of these groups to transit or to enter the country, Prohibit the supply, sale or transfer of weapons to members of these groups Security Council resolution 1617 (2005)/Monitors the implementation of the sanctions Compiles, updates and circulates the lists of persons and entities subject to the sanction , Obligation upon the States to report to the Sanctions Committee
2005	1624	Regarding Incitement to Terrorism: Member States to Prohibit by law incitement to commit a terrorist act or acts and prevent such conduct, Deny safe haven to any persons with respect to whom there is credible and relevant, information giving serious reasons for considering that they have been guilty of such conduct, to report to the Counter-Terrorism Committee on the steps they have taken to implement this resolution
2005	1631	Regarding Cooperation with Regional Organizations: Urges that regional and sub regional organizations strengthen their capacity in “conflict prevention,” “crisis management,” and “post-conflict stabilization,” specifically in Africa, Expresses the determination” of the UNSC to improve cooperation between the UN and regional and sub-regional organizations
2007	1787	Extending the Counter-Terrorism Committee Executive Directorate Mandate - extends CTED Mandate until 31 March 2008
2008	1805	-extends CTED Mandate until 31 December 2010
2010	1963	-extends CTED Mandate until 31 December 2013
2013	2129	-extends CTED Mandate until 31 December 2017
2014	2133	Regarding Kidnapping for Ransom by Terrorist Organizations: Reaffirms condemnation of financing of terrorism in resolution 1373 (2001), Encourages States and the Counter-Terrorism Committee to engage in dialogue about the procedure for citizens held for ransom by terrorist groups
2014	2170	Measures against ISIL, Al-Nusra Front (ANF), and Al-Qaida: Asks States to address the problem of “foreign terrorist fighters” traveling from their home countries to join these groups, Calls on States to stop their citizens from financing or trading with these groups, Requests a report on the situation from the Monitoring Team
2014	2178	Regarding Foreign Terrorist Fighters and Financing of Terrorist Organizations: Calls on States to prevent foreign terrorist fighters from traveling to join “ISIL, ANF and other cells, affiliates, splinter groups or derivatives of Al-Qaida” Calls for international cooperation in this effort
2014	2195	Regarding Terrorism and International Organized Crime: Urges States to prioritize implementing protocols for combating transnational organized crime, Stresses the need to fight against organized crime, particularly as it can be used to finance terrorist groups such as Boko Haram, Al-Qaida, the Taliban, and

		Da'esh, Calls on states to strengthen border security to combat international organized crime, especially in Africa
2015	2199	Regarding Threats to International Peace and Security by Terrorism: Condemns trade with groups associated with Al-Qaida, including ISIL and ANF, Says that resolution 2161 (2014) prohibits the payment of ransom to these groups, Specifies that trade in oil and refined oil should not benefit these groups
2015	2249	Condemning Attacks by ISIL: in response to attacks in Sousse, Ankara, the Sinai Peninsula, Beirut, and Paris, Calls the threat posed by ISIL "unprecedented"
2015	2250	Response to "the rise of radicalization to violence and violent extremism, especially among youth "Urges increased representation of youth in decision-making
2015	2253	Expanding Sanctions to Focus on ISIL: Strengthens and expands the framework of existing sanctions, Provides for an "asset freeze," "travel ban," and "arms embargo," listing measures for implementation, Reiterates the responsibility of States to prevent terrorist financing by their citizens
2015	2255	Sanctions Against Taliban-Affiliated Groups: Clarifies exemptions to asset freezes and travel bans against Taliban-affiliated groups, Reaffirms the need to combat terrorism financing, Condemns the flow of arms and equipment to the Taliban and related groups
2016	2322	Aiming to Strengthen international Judiciary Cooperation including by investigators, prosecutors and judges, in order to prevent, investigate and prosecute terrorist acts, and expressed concern at the use by terrorists of information and communications technologies.

Source: UN Security Council resolution on Terrorism, <http://www.un.org/en/sc/ctc/resources/res-sc.html>, Retrieved on 25 Feb 2021

The third pillar in the UN Global Counter Terrorism Strategy encompass encouragement of enhancement of cooperation by international body with states to comply fully with international norms and obligations to combat money-laundering and financing of terrorism.

The fourth pillar in the UN Global Counter Terrorism Strategy is measures to ensure becoming parties and respect for human rights conventions, refugee's laws and international humanitarian law, and their monitoring bodies, for all and the rule of law as the fundamental basis of the fight against terrorism. It urges Member States to exert every effort to develop and maintain an effective and rule of law-based national criminal justice system that can

ensure, in accordance with UN obligations under international law, that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in support of terrorist acts is brought to justice, on the basis of the principle to extradite or prosecute, with due respect for human rights and fundamental freedoms, and that such terrorist acts are established as serious criminal offences in domestic laws and regulations.

3.2.3 General Assembly

Since early 1970s The General Assembly has recognized terrorism as an international problem. Till 1990, the General Assembly was dealing the subject of terrorism mainly through its Sixth (Legal) Committee and the focus to take measures to prevent the international terrorism. Subsequently it re-focused to the issue of terrorism through a Declaration on Measures to Eliminate International Terrorism in 1991. A supplement to this Declaration established an Ad Hoc Committee on Terrorism in 1996. In the framework of the Assembly's Sixth (legal) Committee and Ad Hoc Committee (on terrorism) considerable progress has been made in the formulation of international instruments. In 1997, International Convention for the Suppression of Terrorist Bombings and in 1999, International Convention for the Suppression of the Financing of Terrorism and the International Convention for the Suppression of Acts of Nuclear Terrorism have been formulated.

The General Assembly is working under Resolution 60/73 on preventing the risk of radiological terrorism. The General Assembly, in addition to adaptation of resolutions has also promoted most of the international conventions on the issue. The 9/11 events has provided a major boost for ratification of international conventions.

The General Assembly's efforts to combat international terrorism have been significantly hampered by the lack of agreement on a comprehensive convention on international terrorism, a task which it has been working on unsuccessfully for years. The High Level Panel constituted by Secretary-General addressed this question in its report starting with a very negative evaluation of this failure according to which Lack of agreement on a clear and well known definition undermines the normative and moral stance against terrorism and has stained the UN image.

The Panel proposed some elements for inclusion in the definition of terrorism on the basis of the existing conventions with the focus on civilians as victims. In March 2005 UN adopted the proposal for a definition of terrorism, which make it clear that, in addition to actions already proscribed by existing conventions, any action constitutes terrorism if it is intended to cause death or serious bodily harm to civilians or non-combatants with the purpose of intimidating a population or compelling a Government or an international organization to do or abstain from doing any act.

However the definition does not address the totality of terrorist acts within one comprehensive normative or institutional framework. The final line of defense against international terrorism is preventive national measures in countries that are the targets of attack. This includes robust counter-terrorism intelligence and surveillance efforts by the law enforcement, national security and border control, and financial regulatory and surveillance agencies.

UN Secretary-General, Kofi Annan, submitted an elaborate set of recommendations on 2 May 2006 to the General Assembly which have given the basis for the consultations by member states that lead to the adoption of a global counter-terrorism strategy for the UN. The

strategy is in the form of a resolution (A/RES/60/288) with plan of action. With this strategy the General Assembly has concretely re-affirmed and enhanced its role in countering terrorism. The strategy also calls for the Assembly to monitor implementation and to review and update the strategy.

3.2.4 Security Council

During the cold war, the Security Council by large remain quite on terrorism. It is the since early 1990s, the Security Council has started dealing with terrorism issues. The first ever, it imposed sanction against Libya in 1992 over Tripoli's noncooperation with the examination of two carrier bombarding episodes subsequently against Sudan in 1996 for supposed contribution in a death endeavor on Egyptian president Mubarak and against the Taliban system in Afghanistan in 1999 for holding the initiative of Al Qaida.

Throughout the 1990s, economic sanctions were the main policy instrument employed in the campaign against terrorism. Though the economic sanction against Libya and Sudan has yielded positive result, but as evident on 9/11, the sanctions against the Taliban didn't prompt any arrangement change in Kabul, despite the fact that sizable monetary resources were frozen. However these actions were a clear tough message to state sponsors of terrorism and to change the their behavior.

The 1267 Committee established in 1999 by resolution 1267 made up of all Council members and tasked with monitoring the sanctions against the Taliban (and subsequently Al-Qaida as of 2000). The Secretary-General also appointed an Analytical Support and Sanctions Monitoring Team to assist the Committee. The Team comprises experts in counter-terrorism and related legal issues, arms embargoes, travel bans and terrorist financing.

Aftermath of the 9/11 attacks, the Security Council imposed a blanket mandatory sanctions regime on all terrorists. The Security Council adopted three important resolutions, 1368, 1373, and 1377 immediately after the attacks. The three resolutions augmented nine other Security Council and multilateral resolutions.

September 12, 2001 started a new phase when the Security Council started the day by unequivocally condemning the 9/11 attacks and labelled such acts as a “threat to international peace and security,” thus using the terminology of the opening article of Chapter VII. In a preambulatory paragraph of resolution 1368, the Security Council recognized “the inherent right of individual or collective self-defense in accordance with the Charter of the UN.” Thus, it legitimized self-defensive military action by the aggrieved States, albeit in a somewhat indirect way. Furthermore, Resolution 1368 expressed in general terms the council’s determination to combat, by all means threats to peace and security by terrorist acts and more specifically its readiness to take all necessary steps to respond to the terrorist attacks.

Another Security Council resolution on measures to combat international terrorism was resolution 1373 which was unanimously adopted on September 28, 2001 and this time acting under Chapter VII of the UN Charter. The council while re-affirmed the right of individual and collective self-defense in general terms, the base of Resolution 1373 has been wide-ranging and far-reaching specific list of anti-terrorism measures which all states are legally obligated to implement. The Resolution 1373 requires all states to prevent and suppress the financial assets, to improve border security, clamp down on the recruitment of terrorists, intensify sharing of information and law enforcement cooperation in the international campaign against terrorism and deny terrorists and their supporters any assistance or safe

haven. The resolution categorically states that “any act of terrorism” constitutes a threat to international peace and security and it also states that acts, methods and practices of terrorism are contrary to the purposes and principles of the UN and that knowingly financing, planning and inciting terrorist acts are also contrary to the purposes and principles of the UN.

The Security Council has established Counter Terrorism Committee (CTC) to monitor, oversee and implementation of Security Council Resolution 1373. Member states required to sent these reports to the CTC. These reports included progress in seven critical areas: legislation, financial asset controls, customs, immigration, extradition, law enforcement and arms traffic. To assist the Committee's work, in 2004 the Council adopted Resolution 1535, which called for the setting up of a Counter Terrorism Committee Executive Directorate (CTED) to monitor the implementation of Resolution 1373 and to facilitate the provision of technical assistance to member states.

The Security Council reaffirmed its previous resolution through resolution 1456(2003) which categorically states “States must bring to justice those who finance, plan, support or commit terrorist acts or provide safe havens, in accordance with international law, in particular on the basis of the principle to extradite or prosecute”. (6)

Through Resolution 1540 (2004), the Council established an additional counter-terrorism-related body: the 1540 Committee, with the task of monitoring Member States' compliance with Resolution 1540, which calls on States to prevent non-State actors (including terrorist groups) from accessing Weapons of Mass Destruction (WMDs).

The United Nations after the attacks on London's public transport system, adopted resolution 1624 (2005) urges all members to adopt measures to prohibit by law incitement to commit a terrorist act or acts, to prevent such conduct and to deny safe haven to any persons with respect to whom there is credible and relevant information giving serious reasons for considering that they have been guilty of such conduct. Like resolution 1373 (2001), resolution 1624 (2005) calls on States to report to the Counter-Terrorism Committee as part of their ongoing dialogue on counterterrorism and directs the Committee to continue to help Governments strengthen their capacities.

On 25 April 2008, the Security Council adopted Resolution 1810. Through Resolution 1810 (2008), the Security Council urged the 1540 Committee to continue strengthening its role in facilitating technical assistance, including by engaging actively in matching offers and requests for assistance, therefore strengthening its clearinghouse function. The Security Council also requested the 1540 Committee to consider a comprehensive review of the status of implementation of Resolution 1540 (2004).

On 20 April 2011, the Security Council adopted Resolution 1977, which reaffirms that the proliferation of nuclear, chemical and biological weapons and their means of delivery constitutes a threat to international peace and security, and extends the mandate of the 1540 Committee for a period of ten years to 2021. The Security Council thus recognizes that full implementation of resolution 1540 (2004) by all States is a long-term task that will require continuous efforts at national, regional and international levels. Resolution 1977 (2011) also provides for two Comprehensive Reviews, one after five years and one before the end of the mandate. Additionally, the 1540 Committee is mandated by Resolution 1977 (2011) to continue to strengthen its role to facilitate the provision of technical assistance and to enhance

cooperation with relevant international organizations. The Committee is also mandated to continue to refine its outreach efforts, and to continue to institute transparency measures.

In 2014, the Security Council adopted another Resolution 2178 (2014) to stem the flow of Foreign Terrorist Fighters (FTF) urging all member states to stop individuals believed to be FTF from crossing their borders and to stop the 'recruiting, organizing, transporting or equipping' of anyone going abroad for terrorist acts or training. Additionally it requires member states to stop and ban the funding or the facilitating of such individuals and prosecute, rehabilitate and reintegrate 'returning foreign fighters.

Thus through a number of resolutions, the Security Council has in the past years strengthened the work of its counter-terrorism bodies. During the review of UN Global Counter-Terrorism Strategy Secretary General expressed concerns that the threat posed by terrorism had become more diffuse, with an increase, in various regions of the world, of terrorist acts, including those motivated by intolerance or extremism, and reaffirmed its determination to combat this threat.

The Security Council reinforced on many occasions that all terrorist acts were criminal and unjustifiable, irrespective of motive, by whomsoever committed, and that terrorism should not be associated with any religion, nationality or ethnicity.

3.2.5 Counter-Terrorism Committee

One of important outcome of post-9/11 period was the establishment of the Counter-Terrorism Committee (CTC). The committee has been tasked with monitoring, assessing and facilitating implementation of Resolution 1373 by states. This resolution imposed sweeping

legal obligations on the UN member states, creating a worldwide campaign of co-operative law enforcement measures to combat global terrorist threats. It goes beyond the existing counter-terrorism treaties, which bind only those who have voluntarily become parties to them by creating uniform global obligations. CTC's essential functions remain two-fold: firstly, to determine States capacity to comply with their obligations under Resolution 1373 and secondly to ensure that potential donors have sufficient information to provide technical assistance that will address the most urgent needs in a timely and sustainable manner .

3.2.6 Counter Terrorism Implementation Task Force (CTITF)

The Counter-Terrorism Implementation Task Force (CTITF) was established in 2005 by the Secretary-General to ensure overall coordination and coherence among various entities involved in the counter-terrorism efforts of the UN system. CTITF is chaired by the Secretary-General through a full time appointee and consists of 38 entities. The action of CTITF's aim to give impetus of anchoring the implementation of the strategy into the broader work of the UN, which rests on pursuing a peace and security, sustainable development and human rights agenda.

- **Integrated Assistance for Countering Terrorism (I-ACT):** The Initiative enhances the ability of the UN System to provide assistance to a member state in implementation of the Strategy in a comprehensive manner.
- **Preventing and Resolving Conflicts:** The Working Group facilitates the exchange of knowledge and good practice in preventing and resolving conflicts at the national and regional levels. It also helps to determine how the UN can support better in his efforts in this regard.

- **Supporting Victims of Terrorism:** The Working Group assists member states with their strategy and commitment to support victims of terrorism.
- **Preventing and Responding to Weapon of Mass Destructions (WMD) Attacks:** The Working Group helps to enhance the exchange of information and knowledge among various UN stakeholders related to response to WMD terrorist attacks.
- **Tackling the Financing of Terrorism:** The Working Group makes proposals aimed to increase the effectiveness of the implementation of international standards, including the Financial Action Task Force (FATF) special recommendations.
- **Preventing the use of the Internet for Terrorist Purposes:** The Working Group explores the best practices in developing legal frameworks, technical solutions and counter narratives on the matter of abuse of the internet for terrorist purposes.
- **Strengthening the Protection of Vulnerable Targets:** The Working Group develops mechanisms to facilitate both the sharing and the advancement of best practices for the protection of vulnerable targets against terrorist attacks. An emphasis has been given to the enhancement of Public Private Partnership (PPP) strategies.
- **Protection of Human Rights during Countering Terrorism:** The Working Group supports and assists the efforts of member states to ensure the promotion and protection of human rights in operation of counter-terrorism.

3.2.7 Related Agencies

There are 38 agencies associated with UN Counter-Terrorism Implementation Task Force, and each agency has their own contributions in control of terrorism. The few of main organs in combat of terrorism are:

The **International Civil Aviation Organization** (ICAO) develops treaties, international standards, practices and guidance materials to protect aircraft, airports and other air navigation facilities. It also works on rationalization of border clearance systems and carryout security audit in Member States & assists to resolve deficiencies identified during the audits.

The **International Maritime Organization** (IMO) develops mandatory measures to enhance Maritime Security. It also formulates International Ship and Port Facility Security (ISPS) Code which has been implemented by 158 Member States representing 99% of the world's merchant fleet engaged in international voyages.

The **International Atomic Energy Agency** (IAEA) which is affiliated with the UN addresses the measures to protect against acts of nuclear terrorism. It develops program to coordinate and assistance to member states to improve security of nuclear facilities and storage and transport of nuclear and radio-active materials.

The **United Nations Educational, Scientific and Cultural Organization** (UNESCO) help to reduce to conflict by promoting dialogue among different civilizations, cultures and peoples, including interreligious and interfaith dialogue. It advocates human rights, cross-cultural tolerance and training in intercultural mediation. The UNESCO Peace programme assists civil society organizations in denouncing terrorist acts as indefensible.

The **United Nations Educational, Scientific and Cultural Organization** (UNESCO) deals with public health readiness and response to public health emergencies at global international level. It prepares the guide line to assist member states to assess and improve their readiness

for managing the public health consequences of a biological, chemical, radiological or nuclear terrorist incident. It has developed standards and provides training for laboratory bio safety and bio security and to encourage safe use and safekeeping of biological materials.

The **United Nations Interregional Crime and Justice Research** Institute provides support to Member States engage in the security preparations of major events such as the Olympic Games and other large-scale sporting events, high-level summits and mass events. It also provides training to security planners and promotes the development in the national strategies to combat illicit trafficking in chemical, biological, radiological or nuclear materials.

The **United Nations Office on Drugs and Crime** (UNODC) assists member states to become party in implementing the universal instruments related to prevention and suppression of international terrorism and in strengthening international cooperation mechanisms. The office also assists members in capacity building. It provides legislative advice to strengthen their legal regimes, help to improve countries' capacities in combating money-laundering and the financing of terrorism and in building criminal justice systems in accordance with the rule of law and human rights standards.

All of these actions, alongwith various International Organisation, follow up on long standing UN efforts to fight terrorism. The IMF and World Bank have been providing financial assistance to member states in building their combat capacity. It carry out assessment on Anti-Money-Laundering and Combating the Financing of Terrorism (AML/CFT) capacity and provides technical assistance through national and regional training workshops and

strengthening of financial sector supervision for AML/CFT to ensure compliance with the FATF's anti-money laundering and CFT recommendations.

3.2.8 United Nations Office of Counter-Terrorism (UNOCT)

The United Nations Office of Counter-Terrorism (UNOCT) was established in 2017 through the Resolution 71/291 adopted by UN General Assembly. It has been following five functions:

1. Provide leadership on the General Assembly counter-terrorism mandates entrusted to the Secretary-General from across the United Nations system
2. Enhance coordination and coherence across the Global Counter-Terrorism Coordination Compact entities to ensure the balanced implementation of the four pillars of the UN Global Counter-Terrorism Strategy
3. Strengthen the delivery of United Nations counter-terrorism capacity-building assistance to Member States
4. Improve visibility, advocacy and resource mobilization for United Nations counter-terrorism efforts
5. Ensure that due priority is given to counterterrorism across the United Nations system and that the important work on preventing violent extremism is firmly rooted in the Strategy

The UNCCT and CTITF have now been brought under UNOCT for better coordination and effectiveness.

3.2.9 Combating Financing of Terrorism

Blocking the flow of funds from global and transnational sources is another measure which can be taken to ensure that terrorist group and state supported actors are not able to generate revenue from outside. Terrorist group have developed multiple channels for financing and funding which varies from perfectly legal business to front organization charities criminal activities as well as donation from the public. They use legal as illegal ways of financing such as bank transfer, wire transfer and also hawala networks for transfer of funds. The estimated expenses for 9/11 attack was vary from 303,672 to 5,00,000 US dollar, the Madrid train bombing in March, 2004 is 55,000 US Dollar and London public transport system is 12543US dollar. The financing of terrorism follows varied and different roots. The funding of LeT comes as donations from overseas Pakistani community in Gulf and United Kingdom, Islamic non-Governmental organization, and Islamic leaning also supporting the LeT. The UN Security council Resolutions 1267 (1999), 1373 (2001), 1540(2004), 1566(2004) and 1624(2005) call on UN member states to combat terrorism including financing of terrorism. Resolution 1667(2005) of the United Security Council strongly urges all member state to implement the comprehensive, international standard embodied in the financial action task force (FATF) recommendations on money laundering and on Terrorist financing. Resolution 60/288 of the United Nation General Assembly of global counter terrorism strategy encourages states to implement the comprehensive international standards curb the financing of terrorism. General resolution 56/1 is also restrain the terrorism in general and terrorist financing in particular to great effect. The aforementioned various provisions require state not just to look at funding of terrorist act but they were mandatory required to prevent and identify economic resources of terrorist group and suppress the funding to terrorism.

World Bank has defined the term “financing of terrorism” as the financial support, in any form, of terrorism or of those who encourage, plan or engage in it. However, as the international community has not agreed yet on a definition of terrorism, in terms of the provision of effective international combat, the definition of financing of terrorism is more words than deed.

3.3 Conclusion

The terrorism is grave threat to international communities. In view of the changing dimension especially its global reach and multilaterism, it is quite evident that UNs with its organs have to effectively join to succeed in its mission to preserve world peace and to save succeeding generations from the scourge of war as solemnly proclaimed in the charter preamble. Because of conflicting interests of sovereign states primarily of unresolved dilemma “terrorism versus nationalism”, the United Nations has been unable to reach a consensus decision on the definition of terrorism. However, the General Assembly, Security Council and other organs have given sectorial definition covering specific aspects of terrorism. They have adopted 16 legal instruments which covers almost every aspect of terrorism. The UNs Global Counter terrorism Strategy with its four pillars addressing the conditions conducive to spread of terrorism, preventing and combating terrorism, building state capacity to prevent and combat terrorism and ensurance of human right and rule of law as fundamental basis of the fight against terrorism forms the structure of anti terrorism policy.

Chapter 4

Case study of 26/11 Mumbai terror incidence

“The 26/11 attacks on India were planned and organized in one country, where the attackers were trained, the logistics and communications support chain extended over at least seven countries, and the attack was carried out in our country”

- Shri Shiv Shanker Menon, India National Security Adviser

4.0 Introduction

This Chapter presents a brief on deadly 26/11 Mumbai terror attack. It reviews the planning, organising and execution of terrorist with focus on failures of various agencies relating with UN international legal instruments. It also emphasizes the India failure in preventing and shortcoming in response and lesson that can be taken from the attack.

4.1 Brief of case

The Mumbai 26/11 attack is one of deadliest terror based assaults in India carried on the commercial capital in November 2008. The attack, which drew boundless worldwide attention, started on Wednesday 26 November at several places and lasted for four days till Saturday 29 November 2008. The terrorist attack resulted in death of 174 individuals including nine assailants and injury of more than 300 persons (7. Unnithan 2014). The motives of the Mumbai attack was the continuing spread of Islamist extremists campaign.

Twenty-Six Eleven, as these attacks are often referred to as, witnessed 10 Lashkar-e-Taiba (LeT) terrorists came to Mumbai via sea route from Pakistan and carried out a series of coordinated shooting and bombing attacks across the city. After sailing to the city under the

cover of darkness, the terrorists divided themselves into four attack teams, one with four men and three with two members each. One team consisting of two namely Ajmal Amir Kasab and Ismail Khan targeted major landmarks of Mumbai with the first attack taking place at the crowded Chhatrapati Shivaji Terminus (CST) railway station and killed as many as 58 people and injuring over 100.

Kasab and Khan later entered to attack Cama Hospital, but the same was thwarted with the alertness of the hospital staff. They, however, killed 6 police officials, including city's Anti-Terrorism Squad Hemant Karkare in an ambush after leaving the hospital. The terrorist Ismail Khan was also killed in exchanged of fire, but police official manage to catch Ajmal Kasab alive. The second, two man team attacked Nariman House-a business and residential complex where they killed eight persons including five Israeli citizens. The third site to come under attack on 26/11 was the Leopold Cafe followed by Taj Mahal Hotel and Tower. Four terrorists carried out the attack at the famous cafe before entering the iconic Taj hotel, where they killed as many as 31 people after laying a three-day siege at the hotel. The other site to come under attack during the 26/11 was Oberoi-Trident hotel where another group of two terrorists entered at almost the same time, as other four had entered Taj. At Oberoi-Trident hotel the siege officially ended on the evening of November 28 with as many as 30 being killed in the horrific attack.

The attack and seize finally culminated on the morning of November 29, 2008, after the National Security Guards (NSG) secured the Taj Mahal Palace Hotel. By the time commandos of the National Security Guards (NSG) gunned down the last terrorists who had

been holed up in south Mumbai's Taj Mahal Palace hotel, over 166 people were killed and hundreds were left injured.

4.2 Literature Review

This section present a brief literature in the context of the case study. This section focus on the reasons of failures in prevention, drawbacks in response to attack and emerging lesson from the event.

Unnithan (2014) is narrative of the 26/11 Mumbai terror attack with focus into the insight of operation carried out by National Security Guard(NSG). The Black Tornado as name given by NSG gives insight into the events and actions taken by governing agencies, security agencies, operations of police, marine commandos and the NSG. The book throws more light on the operations carried out at two premiums hotel Trident and Taj and one Jewish Centre in details by NSG, problems that they faced, heroic actions of the commandos, why NSG taken so much time to neutralize the attack.

Teotia (2020), is a autography of Praveen Kumar Teotia, a Marine Commando of the Indian Navy(MARCOS). The author covers the autography in three parts. In first part, he described the life events, aspiration to join Army, situations led him to land into Navy to becoming a coveted MARCOS commander. Second, the central part of book is describes turns of event leading engagement of his team, fight with terrorists, how he confronted with attackers and saved more than 150 innocent people despite having been shot with multiple bullets critically and nearly killed. In third part, the author brought about the physical, psychological and social impact on his life after the events, insensitive bureaucracy & society and his struggle

from differently-abled person to become marathon runner and the Ironman. The book is a inspirational story of ambition, courage, passion, conviction of never give up of a brave heart Indian soldier.

4.3 Analysis

The investigation established that the 10 terrorists had travelled to Mumbai from Pakistan's port city, Karachi. Their voyage to Mumbai, they hijacked an Indian fishing trawler 'Kuber', murdered four crew man except captain, then forced the hostage captain to sail to Mumbai. On reaching the near the Mumbai, the attackers killed the captain and entered Mumbai on a rubber dinghy.

The study of attack inferred the followings:

- **Terrorist background :** All ten attackers were from Pakistan origin and of their early 20s age. They spoke Urdu, Hindi, and English. The lone captured terrorist Ajmal Kasab was a fourth grade modest educated young Pakistani boy, who was recruited by Lashkar-e-Taiba (LeT) for jihadist cause.
- **Travel by Sea Route:** The terrorist opted to choose sea route possibly to avoid police security checkpoints, which they might have to encounter in other routes. The hijacking and sailing on an Indian vessel also enabled them to avoid arousing the suspicion of the Indian coast guard.
- **Tactics of Attack:** The all terrorist were laced with AK-56 automatic assault rifle with seven magazines of ammunition (30 rounds each), 9-mm pistols, hand grenades improvised explosive devices (IEDs). The attack was meticulously planned sequential and highly mobile to panic and confusion. Multiple teams attacked several locations

simultaneously. They were in separate group and moving from target to target. By doing this, they were creating confusion and guesswork on number of attackers. The report of media reports was also fuelling the speculation on number of terrorist involved .The explosive devices that would go off after the terrorists departed heightened the confusion. After London and Madrid attack, even some jihadis have condemned the indiscriminate bombing, this might lead terrorist to choose the armed assailants for selective killings, however in the attack majority of the victims was ordinary people

As per Ajmal testimony, the purpose of attack was to kill as many as they can. This is justified as the target of attack was soft only. At no point, the terrorist attempted to overcome the armed guard. During the most part of attack, the terrorists choose to attack unguarded targets. The reason being small size of the individual attack teams consists of two or four men have limited capability in any firefight with security forces. Upon confronting serious return fire, for example as they did at CST station, they moved on to another target. Opting drive by shootings, the CST station and the hotels, they tried to achieve a high body count.

- **Communications:** The attackers were provided with Global Positioning System (GPS) instrument and satellite phones by their master. During the attack, the terrorist were in regular in touch with their handler based in Pakistan through satellite mobile or cell phone taken from their victims. The transcripts of these phone calls shows, handlers in Pakistan were exhorting the attackers to kill the hostages, provoking them that the prestige of Islam was at stake and giving them tactical advice.

The various evidence & testimony established attack was plotted in Pakistan's territory with the active support of state agency. Ajmal Kasab, the sole enduring assailant, unveiled that the aggressors were individuals from the terrorist militant gathering LeT, among others. The David Headly an American terrorist of Pakistani origin and a member of LeT, during his testimony to Indian authority, conceded that the attack was plotted by LeT with the support of Inter-Services Intelligence (ISI) and he was involved in establishing wide network for LeT. He received \$ 25000 in 2006 from Maj Iqbal, an ISI officer, visited Mumbai and stayed Taj Hotel and carried out ground work like recruitment of local ISI Indian agent, identifying target etc. The Government of India expressed that the assailants came from Pakistan, and their regulators were in Pakistan. Pakistan later affirmed that the sole enduring culprit of the assaults was a Pakistani citizen.

4.3.1 Scrutinizing UN international Lega Instruments

The study of Mumbai attack narrates precise planning, detailed reconnaissance, thorough preparation and determined execution by suicide attackers who can operate effectively both physically and mentally over an extended period of time and no wonder such meticulous planning cannot achieved in a day or month. Investigation also suggests that the attack was first plotted in 2006 but finally operationalised in 2008. In spite of long period of gestation of attack, it was not prevented to happened. Were the existing related treaties, resolutions sufficient? Are the worlds including India acted as per that? Were the available informations shared amongs nations? In the present section of the research work is attempt to answer this question.

The 26 November Mumbai terror attack is an example of transnational nature of terrorism, where crime was plotted in one nation, executed in other nation by involving wide network of actors belonging to many nations. The crime like hijacking of Indian fishing trawler and murder of crew members on high sea route, allowing country land and sponsoring the illegal activities, murder of innocent people and waggging the war against nation were broadly violated.

In the high sea area, the International Maritime Organisation (IMO) has been reviewing key international treaties concerning terrorism. A UN Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation entered into force in 1992 to ensure action is taken against those who seize ships by force, commit violence or place explosives there. It establishes a legal regime applicable to acts against international maritime navigation that is similar to the regimes established for international aviation and makes it an offence for a person unlawfully and intentionally to seize or exercise control over a ship by force, threat, or intimidation and also to perform an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of the ship or to place a destructive device or substance aboard a ship; and other acts against the safety of ships.

On other crimes like allowing country land and sponsoring the illegal activities, murder of innocent people and waggging the war against nation, there are numerous binding obligations by UNs are available. Among the resolution, passed by security Council, after 9/11, the notable are UNSCR 1373 (2001), UNSCR 1535 (2004), UNSCR 1540 (2004), and UNSCR 1566 (2004), UNSCR 1624 (2005) and UNSCR 2178 (2014). The scope and obligation of states under above resolution have been in previous chapter.

The noble objective, wide scope of UNs anti terrorism efforts and its guideline of working are embodied in UN Global Counter Terrorism Strategy (A/RES/60/288) adopted unanimously 2006. It consists of four pillar, the first, addressing the conditions conducive to the spread of terrorism, the second pillar, measures to prevent and combat terrorism, the third, measures to build states' capacity to prevent and combat terrorism and to strengthen the role of the United Nations system in that regard, the fourth pillar, measures to ensure respect for human rights for all and the rule of law as the fundamental basis for the fight against terrorism. The various normative measures and other actions are in accordance with the objective of UN Global Counter Terrorism Strategy.

As per UNSCR 1373 (2001) subsequently reiterated also in others resolution that member states will cooperates each other in the struggle with terrorism. Is there any sharing of information took place in compliance to UNs guidelines? The study shows that Indian intelligent officials had in receipt of some information through own sources and by USA. The Central Intelligence Agency (CIA) had intercepted communications between the LeT headquarters in PoK and Lashkar boat and had passed the alert on to Research and Analysis Wing (R&AW) on 18 November, eight days before the actual attack. (8. Unnithan, 2015)

4.4 Success and failure of various agencies

Inspecting these endeavors, the research paper infers that international instruments passed by UNs against terrorism are adequate. Thus, one sign of success on part of United Nations is to make available of international legal instruments for almost every form of terrorism and other one is the acknowledgment of these legal instruments, goals and technique by most of member states. The most important aspect is compliance to these instruments by member

states, which remains the matter of concerns for UNs. The many states tend to compliance these standards only in word not in deed.

Aftermath of 26/11, The UN did not shown solidarity with India in curb the menace of terrorism as it did after a terrorist attack on permanent five(P-5) of Security Council. The SC, after terrorist attack on US (9/11), had not only acted swiftly but also taken far reaching step to curb it. The very next day, it condemned the gruesome attack, passed resolution UNSCR 1368 recognizing “the inherent right of the individual or collective self defense” as a legitimate response. Few weeks later, it passed resolution UNSCR1373, which mandated all members to initiate a specific number of counterterrorism measures and submit concerning these change to Counter Terrorism Committee (CTC). Similarly, after the attack on London public transport system on 07 July 2005, UNSC passed resolution UNSCR 1611 (2005) on exactly the same day condemning the terrorist attack. Subsequently it adopted resolution 1624 (2005) urges all members to adopt measures to prohibit by law incitement to commit a terrorist act or acts, to prevent such conduct and to deny safe haven to any persons with respect to whom there is credible and relevant information giving serious reasons for considering that they have been guilty of such conduct. Likewise, the UNSC has gone to pass resolution UNSCR 1618 (2005) to condemn terrorist militant assaults in Iraq to look after the US interest. However, no such action has been exhibited by UNs after 26/11 Mumbai attack. The reason for the inaction displayed by UNs is not difficult to comprehend. The intruders were not linked with Al-Qaida and attack was not directly affecting the interest of P-5 members. It was clear established that the attack was plotted by Pakistan based terrorist LeT with support of its state agency ISI. So, it is convinceably concluded that Pakistan has clearly violated the UNSC resolution 1373 in not denying the safe heaven to terrorist. The Pakistan

has also not prosecuted the individual and thus violated UNSCR resolution 1456(2003) which categorically states that States must bring to justice those who finance, plan, support or commit terrorist acts or provide safe havens, in accordance with international law, in particular on the basis of the principle to extradite or prosecute. The UN, inspite of clear violation of its binding resolution, it remain impotent to take action. Visibly a fit case to impose sanctions, but did not do it and keep continues looking the interest of western countries.

The study also reflects that India response to 26/11 was lacking in many aspects.

Failure in Prevention

Intelligence Failures: The attack was being planned since 2006, however intelligent agencies could not tabbed it. The Research and Analysis Wing (R&AW) had intercepted a communication from terrorist leader hinted possible attack on seaside hotel, the damning one was they had intercepted communication from terrorist from boat sped toward Bombay (9. Unnithan, 2015) However, exchange of alert has not awakened Indian Intelligence agencies to consider it sufficient to formulate actionable purpose.

Coastal Surveillance Failure: The Indian Coast Guard (ICG) who is primarily responsible for surveillance of coast also failed to check the infiltrators. The failure collaborates the ICG's shortage of equipment which having even less than 100 vessels for surveillance of more than 500 mile Indian coastal line.

Failures in Response

Lack of capability, training at first level of response: Though the local police and their contingent Anti Terrorism Squad(ATS) was responding fairly good as per capability, however

they were lack of appropriate equipment and training to neutralize or at least contain the such level of terrorists attack. Even the bulletproof jacket which they were having was not capable to withstand AK-47 bullets. Because of this, head of the ATS, Chief Hemant Karkare died after bullets penetrated the vest he was wearing. Many officers had been wearing a 5-mm-thick plastic protector which was suitable for riot control and not for the combating terrorists.

Delay in Response by NSG: There was delay in deploying the country's premier rapid-reaction force ie National security Guard (NSG) to neutralize the attack. It has reached at site after 10 hour of starting of attack. This delay in response highlighted its organizational and logistical problems. The NSG is located at Maneshar, Gurgaon and was lack of having base anywhere else in country. Logistically it does not have aircraft of its own and depend on IAF for transport.

Poor Communications and Information Management: There was display of poor show management by government and security forces. There was an utter chaos in decision in engagement the different forces. They were failing to project the image that they are in control of situation. The media was also fuelling the management by using the word like "paralysis" and "chaos" The terrorist was getting vital operational inputs by breaches of basic information security protocols not being observed at that crucial time.

4.5 Lessons from 26/11 Mumbai Terror attack

The expanse of failures has taught us many lessons dictated by complex nature of terror attack which includes sea borne ingress using varied mode, multiple attack in area with large

concentration of population, focused strike on religious and economic symbols, lack in Indian response to terror and international cooperation before after the incidence.

Inadequacy in Intelligence: India has Counter terrorism Joint working Group with 30 Countries including USA, Russia, Israel, Bangladesh, Bhutan, Myanmar, Nepal, Sri Lanka and Thailand. However, the attack highlighted the need for even stronger and modernized network of intelligence system to detect and counter activities of individual terrorists and terrorist group of concern. It is called for much more coordination and cohesiveness among India Intelligence agencies. In December 2009, Shri P Chidambaran mentioned his ministerial designation in his Intelligence Bureau (IB) lecture has mentioned this aspect as “The intelligence elements are spread over different ministries. There is the IB which report to Home ministry, there is Research and Analysis Wing (R&AW) which falls under the cabinet secretariat and hence report to Prime Minister. There are organization such as Joint Intelligence committee (JIC), National Technical Research Organisation(NTRO) and Aviation Research Centre(ARC) which report to the National security Adviser, The Armed Forces have their own intelligence agencies, one each under the Army, Navy and air force under body called defense Intelligence agency”. (10. Bhonsle, 2011) These agencies need a better coordination in all aspect of intelligence including gathering, analyzing and acting upon the intelligence at all the centre, state and district level. Also any intelligence input however innocuous and general, it may seem, prompt and specific targeted action by executive & security agencies is required

On one hand, while it is called for much more coordination and cohesiveness among India Intelligence agencies, on the other hand much more coordination and information sharing is

required with another agencies of friendly countries. It also called for increased surveillance by coast guard, further strengthening such organization in terms of asset creation, increase training. Other lesson learnt was realization that NSG and other special forces have grossly wanting in term of spread and response mobilization and tactical capability.

Requirement of Coastal Management: The attacks called for the increase in coastal security including surveillance mechanism particularly in western coast, further strengthening their capability in term of equipments, aviation assets, coordination among Navy, Coast Guard, state marine Police and other central and state agencies. Given the changing militants' tactics and reliance upon the sea route attests the urgent need for greater coastal security.

Requirement to Enhance Responder Effectiveness; The attack made to realize that, first responders ie the local police is grossly inadequate in their operational capability and tactical strategic planning. The master mind of attack had displayed sophisticated strategic thinking in their choice of targets and they moving from one target to another as a part of their tactics. However, the responses from first level State Police, Railway Protection Force & ATS was lacking in term of neutralization and they unable to cordon off the attack sites along a wide perimeter to contain the terrorists.

The attack also called to realize that the National Security Guard (NSG), the country specialized responder were grossly wanting spread in base and mobilization capabilities to respond in quickest time.

Making harding of soft target: This has also made the Indian government and public to realize that terrorism is far greater threat to nation's will and its resources, be it public or

private. It is also called for greater alertness in high value and soft asset like Iconic institutions, 5-star hotels, airport(infrastructure), historical monuments, which are likely to be potential targets of terrorist attack being relatively easy and cheap to mount. Greater examination and surveillance of visitor is obligated for protection of those targets.

Diverse Nature of Terrorist Attack: It made the Indian security agency to realize that terrorist attack can be diverse, multifaceted and ever changing which may surprised any time. Before 26/11, counter terrorism was focused almost exclusively on explosives and it was terrorist attack were anticipated in form of bombing at crowded place, truck bombings or smuggling bombs onto trains opting land or air route, but the attack demonstrated a firearms assault an alternate effective tactic can be adopted by terrorists in creating prolonged chaos in an urban setting and as deadly as mass-casualty bombings.

Necessity of appropriate Legal Framework: The attack also given lesson requirement to have stick legislation never before to give greater power to security agencies, to question the suspect, arrest and freeze asset of terror suspects, increase pre charge detention period and shift the burden of proof to terror accused in certain circumstances.

Strategic Communication Management: One of the most important lessons learnt from response of media, political leader and the general public, which can best describe as immature and irresponsible reporting of the mishap. The media had not shown any display of restraints neither in telecast of tactical and operational strategy like those of NSG is going to deploy, nor in live sensitive visual like helicopter is trying land on the roof of hotel, fire being lighted to smoke out the terrorist etc. Their report were portraying that government machinery are in chaos and they are not in control of situation. These certainly draw a called for the

greater restraint on media in live reporting, expressing opinion and publically disclosing the strategic operational plan.

Following 26/11 Mumbai terror attack, a number of measures have been undertaken by Governments of India. The National Investigation Agency (NIA) was established to explore and investigate terrorism related issues. Four National Security Guard (NSG) center points were set up for a quick reaction to such incidence. Unlawful Activities Prevention Act(UAPA) was passed to accommodate the capture and cross examination of suspects. The Multi Agency Center (MAC), was established to coordinate the information and intelligence with centre, states and district level agencies. MAC been extended with Subsidiary MAC (SMAC) at state capitals. Indian Coast Guard was placed under the Indian Navy and also various radars and programmed distinguishing proof frameworks were subsequently set up along the coastline. Shri Syed Shahnawaz Hussain, then Minister of State in Parliament in the Min of Home Affair during reply to starred question in Parliament had stated that the results of all these measures have resulted in busting of terrorist attack modules and a number of possible terrorist attacks have been averted. (11)

However, despite these growing challenges of terrorism in not remains unacknowledged. A concerted effort has been made however lot to be done in overall security architecture. There is considerable variation in the size, competence, and capabilities of India's various state police forces. Ajai Sahni, a well-known terrorism analyst in Delhi, has long criticized India's low police-to-population ratio of about 125 per 100,000. This figure is nearly half the U.N.-recommended ratio for peacetime policing, much less a country with numerous active insurgencies. A lot more required to do on training aspects. After 26/11, though the intensity has been reduced but not unabated. Pathankot, Uri, Phulgama are the growing example. A

significant number of these assaults were deliberately planned to disturb significant consensus among Indian and Pakistani pioneers. The Pakistan's continuous malafide attempts have been for the disintegration of India along the line on Muslims and other communities in the country, probably to boost the radicalization of youth. Regardless of horrendous bomb impacts, arranged fanatised mobs and commotion, the social texture of the India is proven to capable of holding it firm.

4.6 Conclusion

The attack of 26/11 Mumbai attack has demonstrated that the India has been victims of transnational terrorism. It attests that India require to work much more on external front to get expected support, cooperation and help from international forum. On internal front, much to do on counterterrorist training, upgradation of equipment with local police, coordination among national and state or local level security agencies. Though considerable has been done, but as terrorist innovates, the concerned of threat remain ever alive, that need to counter through awareness, vigilance, alertness and cooperation with all.

CHAPTER 5

Assessment of United Nations in achieving its mandate

“Global security problems require global solutions. It is beyond the capacity of any actor, even the remaining superpower, to tackle problems by going it alone. Transnational security problem require multilateralism”.

Jane Boulden and Thomas G.Weiss (2004)

5.0 Introduction

This Chapter is comprehensively covers various anti terrorism measures circumscribe in the UN anti terrorism structure and examination the impact of the measures in control of terrorism. While charter articles from where it derives power, institutional constraints have been cover in a little brief, the focus has been on deliverity through various international legal instruments of its anti terrorism system.

5.1 UN Measures

The United Nations is Global Institution of 193 countries. Circumscribing the Institutional characteristics, it is would not be unfair to encompass the expectation and limitations that were placed on the UNs by its members in combating terrorism and before making any conclusion. The United Nation and its charter are based on the idea that the contentious issues in world politics be considered and resolved through Cooperation rather than on the basis of unilateral exercise of power. Article 1 of UN’s charter provides an eloquent demonstration calling for “effective collective measures for the prevention and removal of threats to the International peace and security.” Paragraph 3 identify that achievement of cooperation in

solving international problem of economic social cultural and humanitarian character and in promoting and encouraging respect for human rights and fundamental freedoms” as a purpose of the organization. Paragraph 4 states that UN’s intention of becoming a “Centre for harmonizing the action of nations.” In this respect multilateralism can be seen as a goal promoted by the United Nation. The “terrorism” is no where mentioned in the charter of UNs. So the debate is culminated on whether terrorism is threat to International peace and security? How UNs deal with the question of terrorism and to what extent, it perceives the terrorism as a threat to International peace and security is primarily structures the response.

Terrorism has been concern of United Nation’s member states since late 1960. In the early period till 1990, terrorism was dealt with almost entirely by the General assembly. The General assembly first defined international terrorism as a general problem in 1972, it returned to the subject sporadically in mid 1980 and has addressed it fairly continuously since 1994. The General Assembly’s broad conception of problem has also been shifted over progress of time. From 1972 through 1990, consideration of terrorism as a general problem was assigned primarily to Sixth Committee(Legal) under an agenda title “measure to prevent international terrorism” and which in 1991, renamed under item “ measures to eliminate international terrorism” , indicates the paradigm shift in dealing in way of terrorism. Since early 1990, the Security Council of UNs began to take on terrorism, started imposing economic sanctions against state or non state actors in response to specific incidence notable are sanction against Sudan, Libya, and Taliban regime in Afghanistan. The period of 1990 - 2000 was remarkably dominated by policy of imposing economic sanction adopted by Security Council.

The 9/11 terrorist attack changed nature and scope of response of the council. The world opinion on how to respond to attack was broadly acknowledged that the fight against terrorism had to be global and that it had to encompass as many political entities as possible. Every structure involved in activities related to the fight against terrorism at the state, substate or interstate level had to be mobilized. The Global nature of the threat implied the necessity of a global response. The United Nations under pressure of international community led by US has responded accordingly and roll out number of measures and virtually started a war against terrorism.

As brought above, before the 9/11, the subject of terrorism was dealt mainly by the General Assembly. The General Assembly approach to terrorism underwent a marked changed and evolved through periods which can be drawn through the title and preamble of the resolution. The matter was assigned to the Sixth (Legal) Committee of the General Assembly under an agenda title beginning “measure to prevent international terrorism” which attentionably distinguish justifiable armed struggle from terrorism and interalie urges state under shadow of root cause of terrorism to take measures to reduce incidence of terrorism. However, in 1991, the Sixth Committee by consensus adopted resolution under renamed title “measures to eliminate international terrorism”. The title name signaled the shift in approach and wider agreement among members that the root cause did not justify terrorist acts.

The one constant features of General Assembly’s discussion of terrorism as a general problem has been member states inability to agree on common definition of terrorism. The resolution under “measure to eliminate” and the declaration on measures to eliminate International Terrorism is does not going beyond the categorized terrorism as criminal activity. The

struggle to reach on common definition of terrorism was impeded mainly because of difference in opinion about use of violence by national liberation and self determination movements. Recognizing the depth of these ideological divides member states agreed to disagree on the big picture and settled instead on a piecemeal approach to the problem. The General assembly developed a series of international legal conventions and resolutions identifying certain act as criminal irrespective of their motive of commission. Most of these conventions established norms against attacking civilians, taking hostages, killing prisoners that parallel the law of warfare. The treaty norms also reflects the wide spread understanding that terrorist typically seek to accomplish their goals not by attacking person or actor they intend to influence but by attacking some third party in the expectation that this will create pressure on the target actor to accede to their demands. The General assembly favored a domestic law enforcement approach that obligated states to either prosecute or extradite the terrorist accused. The current multilateral agreements all together define the following ten acts as crime:

- Any act on board an aircraft flying over the high Seas that may or does endanger the safety of the aircraft or good order and discipline on board (Convention on offences and certain other acts Committed on Board Aircraft 1963, article 1
- Hijacking aircraft by direct seizure or by forcing the pilots to divert to a different destination (Convention for the suppression of Unlawful Seizure of Aircraft (Hijacking), 1971, Article 1 and 3
- Interfering the safe flight by violence against persons, onboard acts damaging the aircraft, placement of explosive devices or other substances on board, destruction or damage to an aircraft on the ground that makes it incapable of flights, destroying, damaging, or interfering with air navigation facilities or communication of false information that endanger the safety of aircraft in flights (Convention for the suppression of Unlawful Acts against the Safety of Civil Aviation, 1971, article 1and 3)

- Seizing control of attacking, destroying or damaging severely enough to endanger the safety of offshore platform (Protocol for the Suppression of Acts against the safety of Fixed Platform to the International Convention for the Suppression of Acts against the Safety of Maritime Navigation, 1988, Article 1)
- Seizing control of a ship on the high seas (International Convention for the Suppression of Acts against the Safety of Maritime Navigation, 1988, Article 3)
- Intentionally commission of murder, kidnapping or assault on heads of state or government, minister of foreign affairs or representative of a government or an intergovernmental organisation entitled to diplomatic immunity who are outside their own country at the time of the act or an attack on their official premises, private accommodation or means of transport that is likely to endanger them (Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons including Diplomatic Agents, 1973, Article 1 and 2)
- Unlawful receipt, possession, transfer or disposal of those isotopes of uranium and plutonium most useful for making weapons (International Convention on the Physical Protection of Nuclear Material, 1980, Article 7)
- Seizing and holding any person to compel a government, an international intergovernmental Organisation, a natural or juridical person or a group of persons to do or abstain from doing any act (International Convention against the Taking of Hostages, 1979, Article 1)
- Violence against persons, facilities or aircraft in airports serving international civil aviation that cause death or serious injury and destruction of or serious damage to airport facilities or aircraft not in service that disrupt operations at such an airport (Protocol for the Suppression of Unlawful Acts of Violence at Airport Serving International Civil Aviation supplementary to the 1971 Convention for the Suppression of Acts the safety of Civil Aviation, 1988, Article II and III)
- Intentionally destroying or damaging buildings open to the public or other public spaces with the intention of causing death or injury to occupants (International Convention for the Suppression of Terrorist Bombing, 1997, Article 2)
- Knowingly providing funds directly or indirectly to persons or groups engaging in terrorism or assisting them through money laundering (International Convention for the Suppression of the Financing of Terrorism, 1999 Article 2)

These legal changes have differential impacts on various form of terrorism. The General Assembly thus has not succumb to environment of non consensus of definition of terrorism but it managed to criminalized the almost all form of terrorism while purposefully avoiding judgment on motives.

The involvement of Security Council in the fight against terrorism has been largely seen after 1990. The approach of Security Council has been different from General Assembly. The General Assembly approach has been treating terrorism as a form of transnational crime to be suppressed through policing. It favored a domestic law enforcement approach that obligated states to either prosecute or extradite the accused terrorist. Whereas the Security Council approach to terrorism has been to treat as a security problem. In the 1990s, an economic sanction was the main policy instrument which is applied against Libya, the Sudan and the Taliban regime in Afghanistan.

After the 9/11, the Security Council imposed a blanket mandatory sanctions regime on all terrorists. Two resolutions and Global Counter Terrorism Strategy are particularly important. While Resolution 1368 of September 12, legitimizes military action against terrorism, Resolution 1373 of September 28, 2001, broadens the scope of international terrorism whereas Global counter Terrorism Strategy adopted unanimously in General Assembly on September 8, 2006 through resolution no 60/288, forms the pillars of overall terrorism counter system.

First time, the United Nations through Security Council resolution 1368 legitimize the right of state to individual and collective defense in response to terrorist acts. The relevant para of resolution reads

The Security Council, 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.”(12)

Thus Security Council not only unequivocally condemned the attack but marked such acts as threat to international peace and security. It recognized the inherent right of individual or collective self defense, in other way legitimizes military action in self defense.

Two weeks later, Security Council adopted resolution 1373 on 28 September 2001, which strengthened and broadened the fight against terrorism. This time the phrase acting under Chapter VII of the UN Charter was explicitly included in resolution. While the Council reaffirmed the right of individual and collective self defense in general term, it obligated all member states to take a wide range of measures to prevent future terrorist activities,

The resolution 1373 calls upon all states to:

- “(a) Prevent and suppress the financing of terrorist acts;
- (b) Criminalize the wilful provision or collection of funds used, in order to carry out terrorist acts;
- (c) Freeze without delay funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts;
- (d) Prohibit their nationals or any persons and entities within their territories from making any funds, financial assets or economic resources or financial or other related services available

for the benefit of persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts;

(e) Refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts, including by suppressing recruitment of members of terrorist groups and eliminating the supply of weapons to terrorists;

(f) Take the necessary steps to prevent the commission of terrorist acts, including by provision of early warning to other States by exchange of information;

(g) Deny safe haven to those who finance, plan, support, or commit terrorist acts, or provide safe havens;

(h) Prevent those who finance, plan, facilitate or commit terrorist acts from using their respective territories for those purposes against other States or their citizens;

(j) Ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice and ensure that, in addition to any other measures against them, such terrorist acts are established as serious criminal offences in domestic laws and regulations and that the punishment duly reflects the seriousness of such terrorist acts;

(k) Afford one another the greatest measure of assistance in connection with criminal investigations or criminal proceedings relating to the financing or support of terrorist acts, including assistance in obtaining evidence in their possession necessary for the proceedings;

(l) Prevent the movement of terrorists or terrorist groups by effective border controls and controls on issuance of identity papers and travel documents, and through measures for preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents;

- (m) Find ways of intensifying and accelerating the exchange of operational information, especially regarding actions or movements of terrorist persons or networks;
- (n) Exchange information in accordance with international and domestic law and cooperate on administrative and judicial matters to prevent the commission of terrorist acts;
- (o) Cooperate, particularly through bilateral and multilateral arrangements and agreements, to prevent and suppress terrorist attacks and take action against perpetrators of such acts;
- (p) Become parties as soon as possible to the relevant international conventions and protocols relating to terrorism, including the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999;
- (q) Increase cooperation and fully implement the relevant international conventions and protocols relating to terrorism and SC resolutions 1269 (1999) and 1368 (2001)” - (13)

To monitor the implementation, the resolution established Counter Terrorism Committee(CTC). The states were asked to submit report on implementation to CTC which was to serve both as a resources to assist members states in drafting new laws and regulations to combat terrorism and also as a platform for mutual assistance and international cooperation in tracking down and prosecuting terrorists. On receipt of report, it review existing legislation and analyze the executive measures in member states to combat terrorism and submit facts to Security Council for consideration.

Another important area of UN anti terrorism system is Global Counter Terrorism Strategy which with its annexed counterterrorism “plan of action” was adopted by the General Assembly on 8 September 2006 under resolution 60/288. The plan urges countries to

concentrate on programme on dissuasion, denial, deterrence, development of state capacity and defense of human rights. It pledged all United Nations members to consistently, unequivocally and strongly condemn terrorism in all its forms and to take urgent action to implement and comply with existing resolutions and conventions and to cooperate with others in doing so. The United Nations and its organ committed to continue to strengthen and make best possible use of their capacities to combat terrorism and root causes of terrorism, including promoting a world-wide culture of peace and harmony.

With respect to measures to prevent and combat terrorism, the plan of action is called upon all member countries to refrain from organizing, investigating, facilitating, participating in, financing, encouraging or tolerating terrorist activities and to take appropriate practical measures to ensure that their respective territories are not used for terrorist installation and training camp. Further they were to co-operate with other countries in the fight against terrorism including denying safe haven to terrorists and bringing them to Justice by either prosecuting or extraditing them. Special attention was also to be given to inhibiting terrorism financing by complying with the recommendations on money laundering and terrorism financing issued by Financial Action Task Force (FATF).

The plan while touching on all the basics such as counting extremist ideologies, promoting tolerance, addressing the root causes of terrorism, enhancing peacekeeping, treating and resolving local conflicts especially WMD out of the hands of terrorists, also envisages stepped up of activities to help build state's capacity to prevent and combat terrorism. This includes encouraging member countries to make voluntary contribution to UN sponsored Counter Terrorism cooperation and Technical assistance project.

The Global Counter Terrorism Strategy is reviewed in every two year to reflect as per changing priority and is living documents to control terrorism.

The framers of the United Nations Charter established the General Assembly as a deliberative forum. Its purview is virtually any matter of concern to the general welfare of international community including international peace and security. But its powers are limited in most cases to making recommendations usually through the adoption of declarations or resolutions. The framers also granted the General Assembly, a unique treaty making function empowering the body to prepare and offer to a state for adoption, international conventions on matter of international interest. In the end they agreed that General Assembly as part its deliberative function, should be allowed to consider general principle of cooperation in the maintenance of international peace and security including disarmament.

As deliberative bodies, the General assembly had provided a tribune to members for raising matters they considered as important, a forum for exchanging views and developed a number of normative frame work in form of treaties or resolutions. But UN efforts to develop and strengthen norms depend on the willingness of states to implement them. However, the assembly has ways and means to exert pressure on member states like isolating him from world communities by refusal to accept delegation and preventing from participation in UN activities create quasi judicial subsidiary bodies under article 22 to deal with terrorism.

The charter of United Nations empowers Security Council to determine the existence of any threat to the peace, breach of the peace, or act of aggression and thereby to decide what measures shall be taken to maintain or restore international peace and security. In its course to accomplish the mandate, the Security Council adopted resolution 1373 after 9/11, resolution

1535 after Madrid train bombing in Mar 2004, and resolution 1624 after bombing on London public transport system in July 2005 while affirming the earlier resolutions including resolution 1373.

The wide and far reaching scope under resolution 1373, by directing member states to take appropriate legislative and administrative measures to control terrorism at home and abroad, had made the fight against terrorism a global one. The many countries moved quickly to strengthen or enact new laws. As of 16 Apr 2003, 190 states had submitted their first round report, while 134 had submitted their second reports and 27 had submitted third reports. While the speed by which member states submitted the report to CTC testifies the effectiveness of new international coalition, raised awareness among most countries about effective counter terrorism mechanism and importance of multilateralism, the implementation of these law and counter terrorism mechanism was short of expectation. The number of reason attributed to this. One, the resolution laid down very general provisions that were difficult to implement in ways to respect human rights. Second, resolution does not contain any definition as to what constitute terrorism. It was left to country to decide themselves which group is terrorists or which one he hailed as freedom fighter. Third, information on international cooperation was sketchy. Fourth, many states lacked legislative and administrative capacity to implement. Fifth, many countries having porous boundary or poor control over boundary resulted in hampering in implementation of safe haven. There was political compulsion of member states to disagree on what to do with states that do not comply with resolution.

One legal implication of resolution is that it does not call for collective action. By invoking a state right to self defense, it handed over this responsibility to individual states. Resolution

1373 therefore became a very important instrument, if not blank cheque, to legitimize the unilateral use of force in response to terrorist acts. Thus, it undermines the UN's spirit of collective efforts to solve the conflict without use of force.

Beyond the work of General assembly and security council, other organization in the UN system have also began reorganizing activities and strategies, from the International Civil Aviation Organisation (ICAO) to evaluate and increase existing safety standards and measure to prevent air terrorism, to the International Maritime Organisation's efforts to increase maritime security, to International Atomic Energy Agency (IAEA) to secure nuclear facilities, to the Organization for the Prohibition of Chemical Weapon (OPCW) to prevent and respond to the chemical weapons, to the World Health Organization's effort to prepare for potential chemical and biological weapons attack, to the International civil aviation organization effort to improve airport and airline security. The UN secretary general established eight subcommittees to promote reforms and greater understanding between the different secretariats.

5.2 Impacts of Measures

There is no empirical formula to evaluate the impacts of various efforts put by UN's body in control of terrorism. Also it is not easy to assess the extent to which various normative frameworks of General Assembly has helped the member states in encouraging taking action against terrorism, preventive & eliminative measures of Security Council has deterred the non states of state terror outfits. A closer look at state behavior suggests that "the major terrorist incident, particularly those hitting close to home, have far greater impact on state willingness to pay attention than do UNs resolution." (14. Boulden & Weiss, 2004) There is considerable

room to argue on terrorist activities because the count depends the ways one defines terrorism. As per the Global Terrorism Database(GTD), maintained by the University of Maryland, College Park, has recorded more than 61,000 incidents of non-state terrorism, resulting in at least 140,000 deaths, between 2000 and 2014. The year wise terror attack as per GTD from year 2016 to 2019 with number of people killed as under:

Table III – Empirical Survey of Terrorism

Incidence	2016	2017	2018	2019
Attack World wide	13400	10900	9600	8500
People killed	34000	26400	22980	14840

Source : Global Terrorism database. (n.d.), from <https://www.start.umd.edu/research-projects/global-terrorism-database-gtd> Retrieved September 08, 2020

In terms of financial impact, as per Global terrorism Index, the world wide economic impact of terrorism in 2015 and 2018 has been US\$89.6 billion and \$33 billion respectively.

Whatever the circumstances, various measures of UNs- General Assembly resolutions, multilateral conventions on unlawful acts, Security Council capacity building measures has given a significant set of limits to terrorist activities including to even those situation where violence might could be used legitimately. Certainly it helped to raise awareness among most countries about need to control terrorism and importance of multilateralism to build a sound and effective counter mechanism system.

The rhetoric does not foreclose the raising flaws in anti terrorism policy, if not labeled failures. The Security Council under resolution 1368 recognized states inherent right of self defense in case of armed attack, but does call for a collective response. By invoking a state right to self defense, it handed over this responsibility to individual states. Resolution 1368

therefore has paved the way for unilaterally military approach action by state without amplifying the armed attack and lawfulness of self defense. It also draws expert attention on legality of militarized self defense response in the absence of criteria of defying what & which armed attack is threat to international peace.

The journey of UN involvement in the fight against terrorism attests that the Security Council has been extremely responsive to US demands, responsive to P-5 and formal to non in case of other countries. The UN in case of Madrid train bombing and bombing on London public transport system, came forward with resolution, but it did not displayed the similar response in case of other countries like in case of 26/11 Mumbai Attack. The US with its enormous power is has the potential to undo the world body through UNs if decision does not suit him.

The Security Council policy “one shoes fitted to all” also got criticism from many scholars. Terrorism is so complex that it touches on every aspect of security, economic and social development comprising individual, groups, states, group of states to the international system. So, the council uniform policy to members states without differentiating their social, economic and combat capability is not going to have desired results.

The United Nations also does not achieved to enjoy a credential as reliable organization, primarily because of lack of uniform actions and non implementation of resolution. Theoretically, UNs has range of coercive measures at its disposal to deal with non compliance. But UNs, despite of being established that Pakistan flaving their norms, it did not taken Islamabad to task. It has not only dented the image of UNs but helped in forging the common perception among most of countries is that the UNs act when the interest of US is at

stake. A survey was conducted amongst Indian people. The response received against the question is given below:

Table IV: Survey on UN's activities in Terrorism

Sl no	Question	Response	Remarks
1	Is the absence of common definition of terrorism is reason of not achieving the desired result by UNs in combating the terrorism?	Yes – 60.6 % No – 33.7% May be – 5.7%	
2	Are the sovereignty of country comes in the way of UNs in combating of terrorism?	Yes – 66.3 % No – 17.3 % May be – 16.3%	
3	Is the efficacy of struggle by UN on terrorism has been affected by institutional bureaucracy and human behavior?	Yes – 55.8 % No – 19.2% May be – 25%	
4	Are the decision in UN on the matter of terrorism skewed towards interest of developed countries?	Yes – 81.7 % No – 8.7% May be – 9,6%	
5	Are UNs have been successful in his mission of controlling the terrorism?	Fully – 0.9% Partial – 38.5% Failed – 50% May be - 10.6%	

The survey indicates, in people perception, the UNs has more failed in its mission to control the terrorism than the success, may be primarily because of people are fed up with continuation of threat, horror, and tragedy of senseless violence associated with terrorism. Now, the most of the countries views, the UNs for them, is as chamber of words than deed. The view is that if UNs does not able to make the world community to agree on a common definition of terrorism, how will and to what extent will it effective in counter terrorism at worldwide level. The continuation of worldwide existence of many groups use terror as a tactics to achieve their goal, has deprived the full force of its moral strength in dealing with the terrorism.

Way Forward

The United Nation has come a long way since its establishment with huge responsibility on its shoulder to maintain peace and security of diverse ethnic group, culture, belief and ideology spread across the worldwide. The clash between diverse civilizations is bound to happen, however endeavor to be resolve it in a peaceful manner. The UNs in its attempt to resolve the clash, has numerous normative and punitive resolutions, the adherence to which is surely going to reduce the threat if not eliminated. However, it would be overboard to say that nothing more is required from UNs body to more effective fight against the menace of senseless violence. From the research work, the way forward of UNs anti terrorism strategy shall consist the following:

First, there is indeed requirement to define the terrorism, as until it is defined, it can't be legalized and until it is legalized, it can't be criminalised. UNs must take all member states on same board to forge a consensus definition of terrorism for the adoption. Sustained attention to the concerns of the member states, consultation and genuine efforts to come to multilateral understanding will surely help to yield some result.

Second, Political will to act against terrorism of member states is again is key factor. Though, there is consensus exist at the declaratory level on the importance of outlaw the terrorism, but they continue to have diverse view on nature of terrorism and response to them. Combating terrorism demands more than the passing laws and regulations. It requires determination to implement these laws and go after those that support terrorism and this comes through political will. The UNs programme should directs to encourage and ensuing political will of the member states to deal with terrorism. There must be incentive for compliance and penalty for noncompliance.

Third, Capacity building Measures is another area of concerns for UNs. It must carry out programmes to assist backward and undeveloped countries to enhance their infrastructure and technical capability to fight against terrorism. It must acts to encourage broadening the circle of cooperation, exchange of sensitive intelligence and investigative information to control the terrorism and financing terrorism.

Fourth, a transparent monitoring mechanism will also give impetus to anti terrorism mechanism. The UNs must have mechanism to assess the extent of noncompliance to their norms and response of noncompliance free from politics. There should be consequences for the noncompliance and that should not be unfair and uneven. The UN also needs changes in its structure. The Composition of Security council requires to be broadened, veto power need to abolish to accommodate the present important states in global policy making process, and to take decision in a democratic and transparent manner in order to boost the UN's charter principle to work collectively.

Fifth, the long term implication of Security Council action with respect to unilateral use of force by a state is detrimental to global peace and thus there is requirement to define what armed attack constitutes threat to international peace and security, what the lawfulness of violation of self defense, and whether military response is necessary and appropriate to violation to bring transparency and accountability in anti terrorism system.

Conclusion

The UN has been involved to control the terrorism since long. Till 1990, its involvement was confined to in setting international norms treating terrorism as a crime. After wards the UNs approach was changed to consider it as a threat to international peace and security and then

Security Council started imposing economic sanctions on suspected states supporting terrorism. The 9/11 attack on USA has changed the colour and texture of the response of UNs. Through resolution 1368, it authorized state's right of self defence by all means and thus opened the gate to use military action by states in the name of self defence. While General Assembly keep considering terrorism as a crime and played vital role of developing a normative framework on terrorism and encouraging cooperation among states, the Security Council view has been to consider it as a security issue and remain focused on preventing acts of terrorism through law enforcement and cooperation between the security agencies. Though, UNs still struggling to give a common definition of terrorism, however it has managed to criminalized almost all form of terrorism. The resolution 1368, 1373, 1540 and Global Counter Terrorism Strategy has enormous impact to establish a effective global counter terrorism system, but surely there is disappointment on its efficacy to ensuring the implementation through global cooperative security structures. Underlying cause of terrorism which lies largely in domain of member states, needed to address the ground real grievances. It has to overcome the transnational regionalism and self interest politics, bringing structural changes and honest attitude to construct a global level anti terrorism mechanism with human face.

Chapter 6

Suggestions and Conclusion

“No more war, never again war”.

Pope John XXIII

6.1 Introduction

The terrorism has been a complex phenomenon to the society at large and government at particular. The form of terrorism is highly subjective & contested and quite disparate among the scholars. Irrespective of actor, whether it is non state, state or mix of two, the common feature has been use of unlawful force or violence for creating disjunction in society to achieve political, religious, or ideological objectives. With the globalization and advent of ICT, the network of a terrorist group is not confined to a particular region; it has global reach and consequences. The results of these excess of violence in a society are in many ways traumatic even as economic penalty to states. It may destabilize political structure and poses constant threats to community peace and security. The act of terror also contradicts and violates the human rights.

Terrorism is threat to community peace and violates human right, therefore, UN has to react, since it has mandate to react. The basic structure and nature of measures was largely depends upon the contemporary environment in which measures were taken. The 9/11 attacks on USA has been a driving force behind UNs multiple approach in control of terrorism. The various measures undertaken by United Nations is broadly pinned on three foundations. First is the counter terrorism, which includes various measures adopted by UNs to counter terrorism. This is based on the UN resolution 1368, which recognized states inherent right of self

defense in case of armed terrorist attack. Second, the establishment of universal anti terrorism legal frame work. This is based on normative frame work provided by General assembly and Security Council. In this aspect, resolution 1373 and UN Global Counter Terrorism Strategy is notable whose scope is enormous. Under resolution 1373, all members states have been obligated to take a exhaustive list of anti terrorism actions, including criminalizing the terrorism, stop financing of terrorism, amend their domestic anti terrorism laws in accordance to international practices, ratify international conventions. Third, the establishment of Monitoring Mechanism. The member states not only been asked to comply with the resolutions, but they were also asked to submit report on implementation to Counter Terrorism Committee (CTC).

The research infers the measures undertaken by United Nations have resulted into given a mix response. The very fact of actions by UNs in the absence of an agreed upon definition of terrorism undermines its legitimacy, selectism or the lack of universality in response among its failures. But it has been proudly able in the light of complexities to manage involved to cover almost all form of terrorism by its various conventions. It has played important and useful role in formulating norms & framework and the result of its efforts in control of terrorism is not discouraging. The resolution has put a significant set of limits to terrorist activities including to even those situation where violence might could be used legitimately. Certainly it helped to raise awareness among most countries about need to control terrorism and importance of multilateralism to build a sound and effective counter mechanism system. The statics of continuation of number of attack however indicates that these measures were necessary but not sufficient and still lot is to be done. Probably the encouragement of the

member states for cooperation over its national interest and giving more look toward the addressing the root causes of terrorism rather than attempt to suppress it are going to give better result.

6.2 Conclusion

The paper concludes that though UN has draw deficiency in operational counter terrorism activities, but it has proven itself a global venue in establishment of broad multilateral normative and cooperative frameworks for collective actions. It has created a conducive environment to fight and control the terrorism for the member states who genuinely wish to eliminate this menace. The prevention will reduce the terrorism threat. The UN is required to focus on prevention on economic, social and political conditions that believe to rise in terrorism along with the compliance and accountability. But the threat will never be addressed as long as national governments are motivated solely by self interest.

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