

ԵՐԵՎԱՆԻ ՊԵՏԱԿԱՆ ՀԱՄԱԼՍԱՐԱՆ  
ԱՐԵՎԵԼԱԳԻՏՈՒԹՅԱՆ ՖԱԿՈՒԼՏԵՏ

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**Հրատարակվում է Երևանի պետական համալսարանի  
արևելագիտության ֆակուլտետի  
գիտական խորհրդի որոշմամբ**

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## EVOLVING LEGAL FRAMEWORKS IN COUNTERING TERRORISM AFTER 9/11

**Keywords:** *terrorism, the legal framework of terrorism, counterterrorism, the UN, Resolution 1368, Resolution 1373*

This research is an attempt to analyze the contribution of the international community, mainly such an organization as the UN immediately after 9/11 in developing legal frameworks for combating terrorism as a global threat.

It can be stated, that while some inroads had been made in the Pre 9/11 attacks in developing legal frameworks but the compliance and ratification record of these treaties and conventions was abysmally low. This suggests that before September 2001, while the United Nations was able to orchestrate a range of legal conventions and protocols, only a generic framework for fighting terrorism was developed. Such a generic framework was incapable of curbing the menace of international terrorism. Moreover, in the climate of sharp ideological differences regarding the content, nature and scope of terrorism, it was difficult to find any comprehensive solution that would act as a preventive framework in deterring global terrorism<sup>2</sup>.

According to Norman, this lackadaisical approach adopted by the UN before 2001 seemed to be incapable of fighting terrorism or the root causes associated with terrorism<sup>3</sup>. From the perspective of Cortright, it can be argued that the attacks of 9/11 on US soil created a new sense of urgency and priority for the global community to tackle terrorism on the world stage, albeit under the pressure of the United States of America<sup>4</sup>.

The attacks of September 11, 2001, has exposed the chink in the armour

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<sup>2</sup> See: Mohammed Haj Ibrahim, The analysis of the theoretical and conceptual frameworks associated with terrorism, *Journal of Oriental Studies*, № 17, Yerevan, pp. 39-49.

<sup>3</sup> Norman, P. (2004). The United Nations and Counter-terrorism After September 11: towards an assessment of the impact and prospects of counter-terror 'spill-over' into intertaional criminal justice cooperation, Paper to British Society of Criminology Conference 6-9th July 2004, University of Portsmouth, p. 9, from: <http://britsoccrim.org/new/voulme7/004.pdf>

<sup>4</sup> Cortright, David, A Critical Evaluation of the UN Counter-terrorism Program. Accomplishments and Challenges // *Global Enforcement Regimes Transnational Organised Crime, International Terrorism and Money Laundering*, TNI Expert Seminar, Asterdam, 28-29 April 2005.

of the UN and global community about their previously espoused rhetoric in curbing and dealing with terrorism<sup>5</sup>.

The gap that was so evident between the rhetorical intent and commitment of the international community that it necessitated the immediate and urgent involvement of the Security Council, the most important body of the UN to create and ratify new resolutions and frameworks relating to terrorism. According to Ward, this strategic intervention of the Security Council in the aftermath of '9/11' proved to be a decisive break-point for generating a fresh look at the concept of terrorism and terrorist activities<sup>6</sup>. Though it may be stated that the fresh perspective was only provided for leveraging the interests of the US and other advanced western countries and not for the interests of the developing world that have also been victim to senseless terrorism.

The dramatic response provided by the UN Security Council, albeit under significant pressure of the United States can be regarded as a potent factor in highlighting the new changing face of the UN about the seriousness it accords to terrorism and terrorist operations.

It is also argued that such a dramatic shift in the stance of the UN in involving its most important Organ, the Security Council is focusing on terrorism was also largely facilitated through increased political commitment and financial sponsorship provided by G8 group countries. That has eventually led to a greater percolation of counter-terrorism strategies and frameworks across regional, and sub-regional international government organizations and entities.

In the immediate aftermath of the September 11, 2001 attacks, the Security Council adopted and passed two major resolutions: U.N. Security Council Resolution 1368 and U.N. Security Council Resolution 1373.

It would be pertinent to observe some of the paragraphs associated with the aforementioned resolution as articulated by the UN to understand its newfound seriousness in its resolve to tackle holistically the problem of international terror.

The following paragraphs provide a glimpse of some of the salient features associated with the aforementioned resolutions.

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<sup>5</sup> Anita Blagojevic, International legal efforts to fight terrorism: some constitutional implications // Economic and Social Development (Book of Proceedings), 27th International Scientific Conference on Economic and Social Development, Ed. Marta Bozina Beros, Nicholas Recker, Melita Kozina. 2018, pp. 635-36.

<sup>6</sup> Ward, Curtis A. "Building capacity to combat international terrorism: the role of the United Nations Security Council." *Journal of Conflict & Security Law* 8, no. 2 (2003): 289-305. <http://www.jstor.org/stable/26294277>



**The Brief Excerpts of The UN Security Council Resolutions**  
**Security Council Resolution 1368<sup>7</sup>**

The Security Council, reiterating the principles and purpose of the Charter of the United Nations determined to combat, by all means, threats to international peace:

Point 3. Calls on all States to work together urgently to bring to justice the perpetrators, organizers and sponsors of these terrorist attacks and;

Point 4. Calls also on the international community to redouble their efforts to prevent and suppress terrorist acts including by increased cooperation and full implementation of the relevant international anti-terrorist conventions and;

Point 5. Expresses its readiness to take all necessary steps to respond to the terrorist attacks of 11 September 2001, and to combat all forms of terrorism, by its Responsibility.

In a similar vein, the next Resolution 1373<sup>8</sup> further enhanced the scope and coverage of the previous UN Security Council resolutions. A brief perusal of some relevant points from Resolution 1373 indicates:

Resolution 1373 stipulates the following: the Security Council, reaffirming its resolutions 1269 and 1368; reaffirming further that such acts, like any act of international terrorism, constitute a threat to international peace and security:

Article 2. Decides also that all States shall: (b) take the necessary steps to prevent the commission of terrorist acts, including by provision of early warning to other States by exchange of information.

Article 3. Calls upon all States to (c) Cooperate, particularly through bilateral and multilateral arrangements and agreements, to prevent and suppress terrorist attacks and take action against perpetrators of such acts.

In fact, in addition to the improving coverage and scope of previous resolutions, it can be noted that Resolution 1373 did also impose and extend unprecedented legal obligations on all UN states for complying appropriately with measures designed to count, deter and prevent terrorism per se.

Furthermore, to monitor the enforcement of these measures, the Security Council displaying its heightened sense of emergency created the

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<sup>7</sup> Resolution 1368 (2001) / adopted by the Security Council at its 4370th meeting, on 12 September 2001,

[https://digitallibrary.un.org/record/448051/files/S\\_RES\\_1368%282001%29-EN.pdf](https://digitallibrary.un.org/record/448051/files/S_RES_1368%282001%29-EN.pdf)

<sup>8</sup> Resolution 1373 (2001) / Adopted by the Security Council at its 4385th meeting, on 28 September 2001, [https://www.unodc.org/pdf/crime/terrorism/res\\_1373\\_english.pdf](https://www.unodc.org/pdf/crime/terrorism/res_1373_english.pdf)

CTC (Counter-Terrorism Committee) consisting of all fifteen members of the Security Council. This act reflected the level of priority accorded to this newly formed consultative committee. In the words of Kofi Annan, the CTC committee would serve as the centre of global efforts for fighting and curbing terrorism<sup>9</sup>.

In 2004 through the creation of the Counter-Terrorism Executive Directorate, the Security Council had managed to create a special secretariat in dealing with implementation and ratification of counter-terrorism measures that it had created or had been in the pipeline in the 1990s.

Given the newfound impetus accorded to Terrorism by the UN, its principal organ the Security Council and its Secretary-General, it was no surprise that the Security Council Resolution 1373 was virtually unanimously adopted by all states on September 28, 2001. The Resolution also required every country to freeze the financial assets of terrorists, deny any sort of refuge accorded to terrorists and prevent recruitment or supply of weapons through better coordination and sharing of intelligence with other countries. In addition, to capitalize on the newfound momentum generated by the UN, member states were strongly directed to sign and ratify the previous twelve UN antiterrorism conventions. Thus, it can be argued that in the perspective of the modern era of terrorism, Resolution 1373 was virtually unparalleled in history as it brought about a whole range of new legal obligations on states and facilitated greatly in mobilizing the international community for cooperating on a collective platform.

In March 2004, the Security Council also approved Resolution 1535<sup>10</sup>, which sought to revitalize and provide additional resources for CTC, while Resolution 1540<sup>11</sup> sought to expand and enlarge the UN counter-terrorism program.

Ironically, it has been claimed that the first four years of the newfound tempo of the UN in combating terrorism was primarily built up on the support and direction provided by the United States. In addition, Great Britain also played an influential role in the drafting of the very Resolutions

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<sup>9</sup> Annan outlines three-pronged UN strategy to combat terrorism worldwide, 4 October 2002, <https://news.un.org/en/story/2002/10/47322-annan-outlines-three-pronged-un-strategy-combat-terrorism-worldwide>

<sup>10</sup> Resolution 1535 (2004) / adopted by the Security Council at its 4936th meeting, on 26 March 2004, [https://digitallibrary.un.org/record/518306/files/S\\_RES\\_1535%282004%29-EN.pdf](https://digitallibrary.un.org/record/518306/files/S_RES_1535%282004%29-EN.pdf)

<sup>11</sup> Resolution 1540 (2004) / adopted by the Security Council at its 4956th meeting, on 28 April 2004, [https://www.un.org/ga/search/view\\_doc.asp?symbol=S/RES/1540%20\(2004\)](https://www.un.org/ga/search/view_doc.asp?symbol=S/RES/1540%20(2004))

such as 1373, 1535, and 1540 to facilitate and leverage their interpretation of terrorism and the global war on terror.

Due to the partisan bias inherently built in the UN and the strong-arm tactics resorted by the United States, the genuine voice and concern about terrorism from the perspective of developing countries and the Arab world still has largely remained muted. As a result, there seems to be no solution in the immediate future for the Israel Palestinian conflict despite the blatant nature of state-sponsored terrorism resorted to by Israel.

It was also clear that after the event of September 11th, members of the Security Council were willing to accept the legality of action in self-defence in response to the terrorist attacks on the World Trade Centre, as they had unanimously passed Resolution 1373 on 28th September 2001. However, from the counter perspective it has been claimed that while the resolutions recognize and reaffirm the right to self-defence, they do not help articulate a broader framework regarding self-defence in general.

The apparent confusion in invoking the right of self-defence in response to terrorist aggression or anticipated terrorist aggression as in the context of Iraq remains a highly charged and controversial issue for the global community.

Overall, it can be argued that after years of operation, the UN counter-terrorism program can at best be touted to have a mixed record of accomplishment. The moot question of defining terrorism and developing a generic universal framework for curbing terrorist activities has not yet materialized. The euphoria of passing two Security Council Resolutions for facilitating the invasion of Afghanistan and continued support to the US's global war on terror is no longer relevant, as the United States has demonstrated that it can act unilaterally as it did in the context of Iraq.

While the CTC has helped to establish political and legal authority for the global counter-terrorism effort to some extent, nevertheless the consolidated comprehensive coverage necessitated for tackling terrorism has not been achieved as yet. Although it can be noted that one clear indication of the success of the new changing face of the UN was reflected by the increase in the number of states that have now joined the twelve UN counter-terrorism conventions. The most important of these legal agreements are the International Convention for the Suppression of Terrorist Bombings (1997)<sup>12</sup> and the International Convention for the Suppression of the Financing of

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<sup>12</sup> International Convention for the Suppression of Terrorist Bombings (1997), [https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg\\_no=XVIII-9&chapter=18&clang=\\_en](https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=XVIII-9&chapter=18&clang=_en)

Terrorism (1999)<sup>13</sup>.

Both of these conventions have recorded a sharp rise in their rate of ratification since September 2001

Another notable result is that the new focus of the UN on terrorism has created greater awareness on the prevention of nuclear terrorism. In a conducive anti-terrorism climate, the International Convention for the Suppression of Acts of Nuclear Terrorism was adopted by the General Assembly on 13 April 2005 and by April 2007. What is remarkable in this context is that the aforementioned convention has already received over 100 signatories and 17 ratifications.

In conclusion, this research has helped us to prepare a brief conceptual understanding of the different relevant legal frameworks associated with terrorism as well as how these frameworks evolved. The study has also highlighted the changing role of the UN and the degree of newfound urgency that the UN has started to impart on the development of a comprehensive framework for tackling global terrorism.

The study has found that while there has been a new impetus generated by the UN in dealing with terrorism, nevertheless, the focus has largely centred on creating a convenient map for America in facilitating its aggression and invasion of Afghanistan and later on Iraq.

Through proclaimed wars based on rhetoric and deceit as in the context of the Global War on terror, it can be inferred that the US has failed in its moral and legal obligations towards the global fraternity per se. Instead of collating resources with other member nation's states for tackling the root causes of terrorism, US War on Terror is nothing more than a convenient sham. With naked invasions and aggressions made in the context of Iraq and Afghanistan the sovereignty of these nations has been jeopardised by the United States to a large extent.

In summation, it can be stated that September 11, 2001, serves as a grim reminder about the potency of modern-day terrorism, nevertheless, the crucial need of the hour is to develop a proactive and well co-ordinated macro strategy for comprehensively dealing with terrorism. Though the UN reacting to the watershed event of 9/11 has improved its legal frameworks for fighting terrorism, still there are many problems in the implementation of these frameworks. The global community arguably seems to be at least in spirit and intent unanimous in developing tangible measures and undertaking participative approaches for tackling the issue of global terrorism.

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<sup>13</sup> International Convention for the Suppression of the Financing of Terrorism (1999), <https://treaties.un.org/doc/db/terrorism/english-18-11.pdf>

**ԱՀԱՐԵԿՉՈՒԹՅԱՆ ԴԵՄ ՊԱՅՔԱՐԻ ԻՐԱՎԱԿԱՆ  
ՇՐՋԱՆԱԿԻ ՄՇԱԿՈՒՄԸ 9/11-ԻՑ ՀԵՏՈ**

***Մոհամմեդ Հաջ Իբրահիմ***  
**(Ամփոփագիր)**

Մույն հետազոտությունը նպատակ ունի ուսումնասիրել միջազգային հանրության, մասնավորապես, ՄԱԿ-ի արձագանքը և հակահարեկեցական պայքարի դրսևորումները 9/11 ահարեկչություններին անմիջապես հաջորդող ժամանակահատվածում:

Չնայած այն հանգամանքին, որ 9/11 ահարեկչությունները իրթանեցին ՄԱԿ-ի Անվտանգության խորուհոյի կողմից 1368 և 1373 բանաձևերի ընդունումը, չի կարելի ասել, որ դրանք համախմբող դեր կատարեցին՝ միջազգային հանրությանը միավորելու համար հակահարեկեցական միասնական պայքարում: Հակահարեկեցական պայքարը շարունակվում է օգտագործվել տարբեր միջազգային սուբյեկտների կողմից իրենց աշխարհաքաղաքական շահերը սպասարկելու համար: