

USE OF FORCE IN RELATION TO TERRORISM: UN PERCEPTION

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Abstract:

Terrorist acts as a threat to international community of states. United Nations has taken keen interest to assist and guide in the development of effective and efficient multilateral legal response to various diversified forms and actions of the terrorist attacks and drafted thirteen multinational conventions and protocols concerning terrorism addressing the roles and responsibilities of member nations. The paper covers the working of the various institutions established by the Security Council and General assembly such as Counter Terrorism Committee and the provisions of the UN Charter i.e. Article 2(4) and Article 51 dealing with the use of force. Kofi Annan, former Secretary General of United Nations; launched —5 D’s basic pillar Strategy to combat terrorism. A working operational strategy is what is talked about here and which will also take into account all the countries to raise a voice and more importantly raise their actions against these unacceptable actions. A long term solution will be the comprehensive strategy which will address all the relevant and non-relevant conditions which explain the framework to create and increase the power and effectiveness of the strategies. The judgements of ICJ in Oil Platforms Case, Nicaragua Case concerning the use of force and right to self defence have been dealt. The need of the hour is to place counter terrorism in such a rule of framework which would protect the socio-economic-political rights at domestic level and would yield results safeguarding the International regime.

KEYWORDS: Resolutions, Avowed, Comprehensive, etc.

WHAT IS TERRORISM?

One of the greatest hindrances to a cogent discussion of terrorism and counter terrorism is a lack of clear, concise, universal definition. Even different government agencies within the United Nations have varied definitions of terrorism. As is well known, and has been documented and

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examined extensively elsewhere, no universal definition of terrorism currently exists. Wilkinson describes these in the following terms:

Terrorism may be used on its own or as a part of a wider unconventional war. It can be employed by desperate and weak minorities, by states as a tool of foreign and domestic policy, or by belligerents as an accompaniment in all stages and types of warfare.....Terrorism is not a movement or a philosophy. It is a method.² (Wilkinson 2006)

In terms of the UN's role in shaping these existing norms, most significant here have been General Assembly's now annual resolutions on the elimination of terrorism ; Security Council resolutions ; and the negotiations surrounding and subsequent adoption of international anti-terrorism treaties within the context of the General Assembly and the work of its Sixth Committee . The first definition is that adopted by the General Assembly Declarations on Measures to Eliminate International Terrorism in 1994. It defines terrorism in the following terms:

Criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for the political purposes are in any circumstances unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or any other nature that may be invoked to justify them.³

Then in 2004, the Security Council adopted a more extensive working definition of terrorism in its resolution 1566. In particular it recalled

That criminal acts, including against civilians, committed with 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 of an international organization to do or to abstain from doing any act, which constitute offences within the scope of and as defined in the international conventions and protocols relating to terrorism, are under no circumstances justifiable by considerations of a political , philosophical , ideological,

² Paul Wilkinson, *Terrorism versus Democracy*, 2nd Edition (London, Rout ledge, 2006) 15-16.

³ UNGA Res 49/60 (9 December 1994) UN Doc A/RES/49/60, Para 3.

racial, ethnic, religious or other similar nature, and calls upon all States to prevent such acts and, if not prevented, to ensure that such acts are punished by penalties consistent with their grave nature.⁴

The most recent definitional approach is reflected within Article 2 of the draft UN Comprehensive Convention, which states that:

1. Any person commits an offence within the meaning of the present Convention if that person, by any means, unlawfully and intentionally, causes:

(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 to the environment; or

(c) Damage to property, places, facilities or systems referred to in paragraph 1 (b) of the present article resulting or likely to result in major economic loss;

When the purpose of the conduct, by its nature or context, is to intimidate a population, or to compel a Government or an international organization to do or to abstain from doing any act.⁵

Organisation of Islamic Conference also gave a definition, as far as the OIC is concerned, it has its own institutional definition of terrorism, which is articulated in Article 1(2) OIC Convention on Combating International Terrorism.⁶

“Any act of violence or threat thereof notwithstanding its motives or intentions perpetrated to carry out an individual or collective criminal plan with the aim of terrorizing people or threatening to harm them or imperilling their lives, honour, freedoms, security or rights or exposing the environment or any facility or public or

⁴ UNSC Res 1566 (8 October 2004) UN Doc S/RES/1566, Para 3.

⁵ Letter dated 3 August 2005 from the Chairman of the Sixth Committee addressed to the President of the General Assembly, UN Doc A/59/894, Appendix II Draft Comprehensive Convention against International Terrorism, 9.

⁶ OIC Convention on Combating International Terrorism (adopted 1 July 1999, entered into force 7 November 2002).

private property to hazards or occupying or seizing them, or endangering a national resource , or international facilities, or threatening the stability, territorial integrity , political unity or sovereignty of independent states.”

It is immediately apparent that this approach is quite different to the three UN working definitions just considered, not least in terms of the scope of both its prohibited criminal acts and specific intent elements.

TERRORISM CONVENTIONS

The United Nations has drafted thirteen multinational convention and protocols relevant to terrorism addressing the roles and responsibilities of member nations. However, these conventions are characterized by one glaring fundamental weakness: terrorism not defined. Given the centrality of terror bombing to contemporary terrorism, The International Convention for the Suppression of terrorist bombing (1997) is of particular importance.⁷

Terror bombing, at its broadest conception, is the greatest threat presently posted by terrorists. A comprehensive definition of terror bombing includes the following: dirty bombs, suicide bombs, bombs triggered by remote control from a safe distance, and nuclear weapons. The fragmented nature of the terrorist organization makes it virtually impossible for the organisation to conduct anything other than small scale acts.⁸

The Convention for the Suppression of Terrorist Bombing is a United States initiative in response to the 1996 bombing of American military personnel in Saudi Arabia.⁹ The Convention has two important provisions:

⁷ *International Convention for the Suppression of Terrorist Bombing* (1997), UN Office on Drugs and Crime, available at http://www.unodc.org/unodc/en/terrorism_convention_terrorist_bombing.html (last visited July 10, 2010).

⁸ Frank A. Biggio , *Neutralizing the Threat : Reconsidering Existing Doctrines in the emerging War on terrorism* , 34 Case W. Res , J. Int'l L. 1 (2002).

⁹ H R. Rep. No 107-307, at 7 (2001) (“ The International Convention for the Suppression of Terrorist Bombings was conceived by the United States by the United States in the wake of the bombing attack of the U.S. military personnel in Saudi Arabia in 1996.”)

1. It establishes universal jurisdiction over those using explosives and other devices in public places with the intent to kill , cause serious bodily injury , or cause extensive destruction of a public place;
2. Obliges nation to extradite for prosecution persons accused of committing or aiding such offenses.

The Convention became effective on 23rd May, 2001 today 58 nations are signatories. Because the drafted wanted a legal framework whereby nations could prosecute those involved in bombings, the convention established universal jurisdiction over terror bombings. According to Professor Whitten “it is anticipated that these additional offenses [stated in Convention Art 2] will strengthen the ability of international community to investigate, prosecute and extradite conspirators or those who otherwise direct or contribute to the commission of offenses defined in the convention.”¹⁰ (Whitten 1998)

SELF DEFENSE - U.N CHARTER

According the Article 2(4) of the U.N Charter.

“All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any manner inconsistent with the Purpose of the United Nation.”¹¹

This means that all the member states are refrained from using force of any manner against the international community of states. This Article expresses one of the primary tenets of International law: prevention of war between member states. The only exception to Article 2(4); is the Article 51 of the UN Charter which deals with Self-defence or in cases with the permission of United Nations Security Council. Article 51 states that

¹⁰ Whitten , *The International Convention for the Suppression of Terrorist Bombings* , 92 American Journal of International Law , 774-775 (1998)

¹¹ United Nations, Charter of the United Nations, 24 October 1945, 1 UNTS XVI, available at: <http://www.refworld.org/docid/3ae6b3930.html> [accessed 27 April 2016]

“Nothing in the present Charter shall impair the inherent right of the individual or collective self-defence if an armed attack occurs against a member of United Nation, until the Security Council has taken the measures necessary to maintain international peace and security. Measures taken by members in the exercise of this right of self-defence shall be immediately reported to the security council and shall not in any way affect the authority and responsibility of Security Council under the present Charter to take any time such action as it deems necessary in order to maintain or restore international peace and security.”¹²

Determining the extent of self defence is critical to a discussion examining the relationship between international law and counter terrorism. The International Law Commission Report, 1966 were of the view that —The Law of the Charter concerning the prohibition of the Use of Force in itself constitutes a conspicuous example of a rule in International Law having the character of *jus cogens*.¹³ (International law Commission Yearbook 1966)The term force has not been defined in the Charter. However force can be an act of aggression, a military or a non-military attack, merely war or even small wars.

The efforts to develop the criminal justice system under the international law have been taken up by the United Nation through its various committees, international campaigns, conventions, protocols as well as campaigns against organized crimes, drugs, human rights, trafficking, refugee camps as well as terrorism.¹⁴ The United General Resolution and the Security Council Resolution are the two pillars of the institution of United Nations. The two institutions have passed various resolutions for the combating of terrorism; however, their effectiveness depends only on the nation states to abide by it.

The extent of the prohibition in Art.2 (4) is not clear from the text. The Security Council and the General Assembly , being political rather than judicial bodies , have not spent much time debating the niceties of international law in particular cases so that, with some exceptions , there is not a

¹² United Nations, Charter of the United Nations, 24 October 1945, 1 UNTS XVI, available at: <http://www.refworld.org/docid/3ae6b3930.html> [accessed 27 April 2016].

¹³ International law Commission Yearbook, 1966, Vol. II, 247 Para: 1

¹⁴ Dr. Paul Norman, *The United Nations and Counter-terrorism After September 11: towards an assessment of the impact and prospects of counter-terror _split-over_ into international criminal justice cooperation*, British Society of Criminology, University of Portsmouth, July 2004, available at: <http://britsocrim.org/new/volume7/004.pdf>

great deal to be found in their practice on the meaning of Art 2(4). Most of the delight of the International lawyers state that NICARAGUA¹⁵ (Nicaragua v. United States of America 1956) , case gave the ICJ an unprecedented opportunity to explore and look into the law governing the use of armed force ante bellum and intervention by the states and to do so in the area in which it was most in need of clarification. The Nicaragua case confirms that the giving of assistance to rebels may be an indirect use of force contrary to customary international laws. Everything turns upon the kind of assistance. The court held that the US had infringed the rule prohibiting the threat or use of force by “the arming and training of the contras.” But it had not done so by the mere supply of funds” The International Court of Justice in the case of Nicaragua, stated that “armed attacks not only includes the acts done by armed bands which occur on significant scale, but also assistance to rebels in the way of provisions of supports and weapons, and similar support may be regarded as threat or the use of force. Terrorists often operate in loose networks from dispersed locations, receiving logistic support in ways intended to mask their nature. Taking them on is a daunting task that typically requires extremely aggressive measure.¹⁶ (Schmitt n.d.)

Article 51 of the Charter allows use of force if justified and necessary. However, the same can be considered lawful only after the same has been intimidated to the UN Security Council¹⁷ and the council takes up all the measures to maintain international peace and security. The ICJ in the Oil Platform¹⁸ (Islamic Republic of Iran v. United States of America 2003) stated that, for a state to use force in regards to self-defence requires proving that an armed attack exists. Furthermore, when an armed attack comes to an end, the attacked state cannot retaliate using armed forces, because such an act would then be considered as revenge under international law.¹⁹ (Shah 2010) However, in the globalized and technologically developed world, where the era is of digitalization and nuclear weapons and missile technology is increasing, whether there occurs threat or use of force, against the states possessing them is a question whose answer today remains unanswered.

¹⁵ Nicaragua v United states, I.C.J Reports 1986.

¹⁶ Michael Schmitt, Counter-Terrorism and Use of Force in International Law, International Law and War on Terror, Editors: Fred L. Borch & Paul S. Wilson, International Law Studies, Vol. 79

¹⁷ Under the United Nations Charter, the use of force as an act of self-defense is justified and legitimate, if the Security Council under article 42 mandate to such use of forces; unless the purpose and preamble of the UN Charter i.e. to maintain international peace and security is not hampered

¹⁸ Oil Platforms Case (Iran v. US); 2003 I.C.J. (November 6); 42 I.L.M. 1334, 1356

¹⁹ The same has been considered so under the General Assembly Resolution 2625, Para 122; UN Doc, A/8028, (1970). Cited in Sikander Shah, War on Terrorism: Self-Defense, Operation Enduring Freedom, and Legality of US Drone Attacks in Pakistan, Washington University Global Studies Law Review, Vol. 9 Issue 1 2010

SELF DEFENCE AGAINST TERRORISM

The attacks on the Pentagon and the World Trade Centre on 11 September 2001 brought a revolutionary challenge to the doctrine of self defence and a reassessment of the law in this area.

²⁰Before 11 September 2001 the use of force in response to terrorist attacks on national's abroad had been controversial; only Israel and the USA had expressly claimed to exercise such a right.

In response to the attacks on 11 September 2001 on the World Trade Centre and the Pentagon, the USA began Operation Enduring Freedom on 7 October 2001 with the aim of disrupting the use of Afghanistan as a terrorist base. It relied on the self defence as the basis for its use of force against Afghanistan ; in its report to the security Council under Article 51 the USA claimed it be acting in self defence. NATO invoked Article 5 of the NATO Treaty for the first time; this provides that an attack on one member state is an attack on all .In resolution 1368²¹ passed on 12 September to condemn the attacks the Security Council had expressly recognized the right of self defence. Subsequently Resolution 1373²² on measure against international terrorism, passed on 14 November 2001, also included express reference to individual and collective self defence. This was the first time that the Security Council had recognized the right to use in self defence against terrorist action.

This use of force goes beyond the traditional model of self defence in many ways. Article 51 originally envisaged self defence against an attack by a state and those invoking the right generally took care to attribute responsibility to a state.

One restriction for many states may be, new doctrine of self defence against terrorism may exist only in cases where the right has been asserted by the Security Council, as here in resolutions 1368 and 1373. Several States regarded this Security Council backing as crucial to the US Claim to self defence.

²⁰ Account of facts in (2002) 96 AJIL 237, and editorial comments in (2001) 95 AJIL 833.

²¹ UN Security Council, Security Council resolution 1368 (2001) Threats to international peace and security caused by terrorist acts, 12 September 2001, S/RES/1368 (2001), available at: <http://www.refworld.org/docid/3c4e94557.html> [accessed 2 February 2016]

²² UN Security Council, Security Council resolution 1373 (2001) [on threats to international peace and security caused by terrorist acts], 28 September 2001, S/RES/1373 (2001), available at: <http://www.refworld.org/docid/3c4e94552a.html> [accessed 2 February 2016]

UN APPROACHES TO TERRORISM.

United Nations approaches to terrorism, specifically those of the General Assembly and the Security Council, have continued to evolve since the 1960's²³ (Saul 2006) particularly in terms of its law making activities.²⁴ (N D White 2012)

This period can be divided into three, possibly four, distinct normative periods. The first Period is between the Declaration on the Granting of Independence to Colonial Countries and Peoples in 1960²⁵ and the late 1980's when much of UN General Assembly terrorism – related discourse centred around self-discrimination struggles from colonialism and any other form of alien or foreign subjugation or domination, reflecting the changing composition of the General Assembly's Membership as newly decolonised states were added to its number.²⁶ (Wilson 1988)

The second period ranges from the early 1990's until 2001. During this era, there was a shift away from affirming, then even referring to the means of achieving self-determination within the General Assembly.²⁷

The third time period is since the 9/11 terrorist attacks to the present day. Undoubtedly 9/11 marked the start of a new counter – terrorism era, not least in terms of the development of new instruments, norms, and approaches. The General Assembly has remained apprised of terrorism matters as before, in particular through its adoption of resolutions²⁸ and the anti terrorist treaty negotiation work at the sixth Committee.²⁹

More recently, a new fourth period of law –making significance appears to be emerging. At least at the UN Policy level, there is an attempt to predetermine existing assumptions' and the

²³ B Saul, *Defining Terrorism in International Law* (Oxford, Oxford University Press, 2006) , Including 193-213.

²⁴ N D White , “ *The United Nations and Counter Terrorism : Multilateral and Executive Law Making*” in AM Salinas de Frias , KLH Samuel , and N D White (eds), *Counter Terrorism International Law and Practice* (Oxford , Oxford University Press , 2012(54-82).

²⁵ Declaration on the Granting of Independence to Colonial Countries and Peoples, UNGA Res 1514 (XV) (14 December 1960.

²⁶ H A Wilson, *International Law and the Use of Force by national Liberation Movements*,(Oxford , Oxford University Press , 1988) 61.

²⁷ H Higgins , *Regulating the Use of Force in Wars of National Liberation: The Need for a New Regime : A study of the South Moluccas and Aceh* , (Leiden , Martinus Nijhoff, 2010) 70-1:

²⁸ The principle ones have been its annual resolutions on ‘ measures to eliminate international terrorism’’, most recently UNGA Res 66/105 (December 2011) UN Doc A/RES/66/105; those on the ‘protection of human rights and fundamentals freedoms while countering terrorism’, most recently UNGA Res 65/221 (21 December 2010) UN Doc A/RES/65/221; and the adoption of the UN Global Counter Terrorism Strategy 2006 in UNGA res 60/288 (8 September 2006) UN Doc A/RES/60/288 (UN CT Strategy).

²⁹ The Ad Hoc Committee (established by UNGA Res 21/210 (17 December 1996) UN Doc A/Res /51/210), and the related Working Group, in particular their work on the drafting and negotiation of anti terrorism treaties which include the draft UN Comprehensive Convention.

prioritization of ‘traditional’ security threat (terrorism, conflicts, transnational organized crime, etc) to better accommodate the needs of ‘non-traditional’ ones (poverty, Illiteracy, feudalism, underdevelopment, climate change, natural disasters, etc). This is reflected in the UN Secretary – General’s agenda of reform announced on 25 January 2012,³⁰ which seeks to redefine as well as reorder peace and security related priorities in not only political and legal, but also social, economic, ecological, etc, terms.

The United Nations general assembly has taken various measures and steps to prevent and combat terrorism. There have been frequent passed or adopted resolutions³¹ (O’Connell 2002), conventions³², declarations³³ etc pertaining to terrorism as well as measures for fighting out terrorism. The general assembly has also called upon for the international cooperation among the states, and to take effective and sufficient measures, and act unilaterally and in uniformly to prevent, combat and eliminate terrorism and thereby maintain international peace and harmony amongst the international community of the states.

The Security Council Resolution 1373³⁴ reaffirms the right of individual to self-defence as recognized and reiterated in Security Council Resolution 1368 (2001), and re-affirmed, that the terrorist threats across the globe need to be fought in all possible ways and means, since the act of terrorist resorts to damage to international peace and security. The resolution calls upon the state to prevent the financing or any kind of support either actively or passively to the entities or persons so involved in such acts.³⁵ The member states are also are obliged to co-operate with the government and the international community of states on the anti-terrorism front and become

³⁰ The Secretary General’s Five Year Action Agenda, 25 January 2012, www.un.org/sg/priorities/sg_agenda_2012.pdf, accessed 18 July 2012. For recognition of the relevance of development to a counter-terrorism context, see eg UNSC Res 1963 (20 December 2010) UN Doc S/RES/1963. In Particular, the Resolution recognizes that ‘Development, peace and security, and human rights are interlinked and mutually reinforcing’ (preamble).

³¹ General Resolution 62/71, UN Doc A/RES/62/71 (January 8, 2008). Cited at: Mary Ellen O’Connell, Lawful Self-Defense to Terrorism, Notre Dame Law School, Scholarly Works, paper 599, 2002

³² International Convention for Suppression of Terrorist Bombings, December 15, 1997, 2149 U.N.T.S. 256. Also see, Prevention and Punishment of Crimes Against Internationally protected Persons, including Diplomatic Agents, December 14, 1973, 1035 U.N.T.S. 167

³³ Declaration on Measures to Eliminate International Terrorism, General Resolution 49/60, UN Doc., A/RES 49/60, December 9, 1994

³⁴ Security Council Resolution 1373, UN Doc S/RES/1373 (2001) (September 28, 2001)

³⁵ Security Council Resolution 1373, UN Doc S/RES/1373 (2001) (September 28, 2001) Para 2

parties to all terrorism related conventions and protocols.³⁶ Thus, the resolution declares the acts done by the terrorist to be in contradiction to the purposes and principles of United Nations.

The Security Council Resolution 1624³⁷ talks about the need to battle against terrorism through every possible resource, and also the international community of states should take up preventive measures and must adhere to the international obligations keeping in mind the international law, refugee law, international humanitarian law and human rights. The resolution also directs the Counter Terrorism Committee to engage in dialogue with the other international community of states, exchange and get information as required and necessary for fighting against terrorism and give a report of the same to the council after the period of 12 months from the date of enforcement. The Counter-Terrorism Committee was established by Security Council resolution 1373 of 2001, which was adopted on 28 September 2001 in the wake of the 11 September 2001 terrorist attacks in the United States. The Committee comprises of 15 Security Council members with a task of monitoring implementation of resolution 1373 and members are responsible for requesting the countries to implement a number of measures intended to enhance their institutional and legal ability to counter terrorist activities.

The Security Council Resolution 1963³⁸, the council has cleared, that the terrorism that exists today cannot in any way be defeated through military forces, law enforcement mechanisms and intelligent operations alone; however, the community of states are required to have more strict and stringent rules for protection of human rights, protection in cases of violation against them, protection of fundamental freedom, good governance etc. can be an alternative to action against terrorism.³⁹

The Security Council, after the terror strike in France at Charlie Hebdo, passed a resolution 2178⁴⁰ reaffirming that terrorism in all forms is a threat to international community of states, its peace and security and it has to be prevented and fought against by the entire community of states keeping the principles of rule of law, International Humanitarian Law, Human Rights and Refugee Law in mind and respecting the aforesaid principles and acting in accordance to the provisions of the UN

³⁶ Security Council Resolution 1373, UN Doc S/RES/1373 (2001) (September 28, 2001) Para 3

³⁷ Security Council Resolution 1624, UN Doc S/RES/1624 (2005) (September 14, 2005)

³⁸ Security Council Resolution 1963, UN Doc., S/RES/1963 (2010) (December 20, 2010)

³⁹ Security Council Resolution 1963, UN Doc., S/RES/1963 (2010) (December 20, 2010) Pg. 1, Para: 4

⁴⁰ Security Council Resolution 2078, UN Doc., S/RES/2178 (2014) (September 24, 2014)

Charter. Also, the act of terrorism must be stopped because it disturbs the peace and harmonies as well as the innocent lives are at stake.

In April, 2004 the UNSCR 1540 was passed.⁴¹ As per the resolution, the non-state actors were prohibited from obtaining weapons of mass destruction. It also includes prohibition and ban on use of chemical, biological and nuclear weapons falling under the category of WMD are, thereby reshuffling the existing law.⁴² (Melanie Colburn 2005) The main purpose of passing the said resolution is that, the resolution narrows down and almost shuts the fissures between the non-proliferation treaties and the conventions helping the terrorist to acquire the weapons of mass destruction. The resolution acts as a mandate for all the UN member states. The Security Council has ordered the states, to implement the same provisions under their domestic regimes and also enforce as well as abide by the laws strictly and stringently under the domestic and international rules

5 D'S BASIC PILLAR STRATEGIES TO COMBAT TERRORISM

Kofi Annan, former Secretary General of United Nations; gave —5 Dimension Strategy to fight and combat terrorism. The Strategic pillars are as follows:

1. Dissuade disaffected groups from choosing terrorism as a means to achieve their goals;
2. Deny terrorist the means to carry out their attacks;
3. Deter states from supporting terrorists;
4. Develop state capacity to prevent terrorism;
5. Defend human rights in the struggle against terrorism.

In context with the following strategies Mr. Annan states that the society should have its views clear that terrorism can in no way be accepted and for the groups or individuals who believe that

⁴¹ United Nations Security Council passed a Resolution 1540 on 28 April, 2004 regarding the non-proliferation of the Weapons of Mass-Destruction (WMD's). The resolution affirms that the use of chemicals, biological and nuclear weapons, as well as their trade and delivery is against the general principles and against the peace and harmony of international rules.

⁴² Melanie Colburn, The UN War on Terrorism, Global Policy Forum (Mother Jones), Nov, 21, 2005 available at: <https://www.globalpolicy.org/component/content/article/154/26851.html>

terrorism is an act similar to that of freedom fighters, should be made clear that, the supporting or favouring terrorism in any means is violation of international law and is unacceptable under all circumstances.

With respect to second Dimension- “Deny terrorist the means to carry out their attacks”, the terrorist should be denied access to nuclear weapons and also measures should be taken in securing, eliminating potential hazards as well as implementing effective export controls thereby taking preventive steps.

Through the third Dimension- “Deter states from supporting terrorists”, he suggests that, the above sanctions and implementations must be stringently followed, and the states, must abide by the rules, and any kind of collaboration or help to the terrorist would mean violation of international law and hence coercive measures against the state can take place.

The fourth Dimension- “Develop state capacity to prevent terrorism” focuses upon capacity building, wherein the poor countries could be provided international aids to prevent terrorism, and also at that stage, good governance plays a very pivotal role.

Through the last and the final Dimension-“Defend human rights in the struggle against terrorism”, Mr Kofi states that, in developing various policies for prevention and combating of terrorism, the imbibed principles of peace and harmony as well as protection of human rights, civilians, and respect between religion, faith and culture should not be forgotten.⁴³ (Kofi Annan and available at: <https://www.globalpolicy.org/component/content/article/154/26844.html> last accessed (10th April 2015)

CONCLUSION

The failure of the international community to develop an agreed upon the definition of terrorism is but one symptom of a larger issue that directly affects how the world both prevents and responds to terrorism. For International law to impact how nations conduct counterterrorism efforts while protecting innocent civilians, traditional principles must be modified to reflect the new reality. Therefore the UN Charter provisions on the use of force by states, Article 2(4) on the prohibition

⁴³ Kofi Annan, Former Secretary General United Nations, Annan Lays out detailed five points, Global Policy Forum (UN News), March 10, 2005; available at: <https://www.globalpolicy.org/component/content/article/154/26844.html> last accessed (10th April, 2015). Also see, Annan lays out detailed five-point UN Strategy to combat terrorism, UN News Centre, available at: http://www.un.org/apps/news/story.asp?NewsID=13599&#.VTEMC_mUd1U

of force and Article 51 on self defence, have produced fundamental divisions between states. There is a disagreement as to whether the prohibition on force should be interpreted strictly or whether it allows humanitarian intervention. There is also disagreement as to whether the right of self defence is wide or narrow. As regards to the collective Security, the original scheme of the UN Charter for the Security Council to play a primary role in the maintenance of international peace and security through its standing army has been fully implemented. Instead the UN has turned to member states to use force under Security Council authority in ‘coalitions of the willing’.

