

NALSAR UNIVERSITY OF LAW

UNITED NATIONS AND  
TERRORISM

BY

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# Outcome of this Session

- Understanding the meaning and definition of Terrorism
- Understand the role of United Nations in countering terrorism
- Initiatives taken by United Nations in Counter-terrorism

# What is Terrorism?

- Terrorism is commonly understood to refer to acts of violence that target civilians in the pursuit of political or ideological aims. In legal terms, although the international community has yet to adopt a comprehensive definition of terrorism, existing declarations, resolutions and universal "sectoral" treaties relating to specific aspects of it define certain acts and core elements.
- In 1994, the General Assembly's Declaration on Measures to Eliminate International Terrorism, set out in its resolution 49/60, 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, in its resolution 1566 (2004), referred 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”.
- In 2004, the Secretary-General's High-level Panel on Threats, Challenges and Change described terrorism as any action that is “intended to cause death or serious bodily harm to civilians or non-combatants, 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 Convention on the Suppression of Financing Terrorism - 2002, Art. 2(1), defines Terrorism as -

- (a) An act which constitutes an offence within the scope of and as defined in one of the treaties listed in the annex;
- (b) Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such 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.

- Draft Counter-terrorism convention , by GA, article 2 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.”
- The draft article further defines as an offence participating as an accomplice, organizing or directing others, or contributing to the commission of such offences by a group of persons acting with a common purpose.

# Impact of Terrorism on global peace and security

- UN says, terrorism -
- Threatens the dignity and security of human beings everywhere, endangers or takes innocent lives, creates an environment that destroys the freedom from fear of the people, jeopardizes fundamental freedoms, and aims at the destruction of human rights;
- Has an adverse effect on the establishment of the rule of law, undermines pluralistic civil society, aims at the destruction of the democratic bases of society, and destabilizes legitimately constituted Governments;

- 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;
- Has adverse consequences for the economic and social development of States, jeopardizes friendly relations among States, and has a pernicious impact on relations of cooperation among States, including cooperation for development; and
- Threatens the territorial integrity and security of States, constitutes a grave violation of the purpose and principles of the United Nations, is a threat to international peace and security, and must be suppressed as an essential element for the maintenance of international peace and security.

## Initiatives to counter terrorism

### Instruments regarding civil aviation

- 1963 Convention on Offences and Certain Other Acts Committed On Board Aircraft
- 1970 Convention for the Suppression of Unlawful Seizure of Aircraft
- 1971 Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation
- 1988 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
- 2010 Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation
- 2010 Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft
- 2014 Protocol to Amend the Convention on Offences and Certain Acts Committed on Board Aircraft

Instrument regarding the protection of international staff  
And  
taking of hostages

- 1973 Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons
- 1979 International Convention against the Taking of Hostages

Instrument regarding the nuclear material  
And  
explosive materials

- 1980 Convention on the Physical Protection of Nuclear Material
- 2005 Amendments to the Convention on the Physical Protection of Nuclear Material
- 1991 Convention on the Marking of Plastic Explosives for the Purpose of Detection

# Instrument regarding the maritime navigation

- 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation
- 2005 Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation
- 1988 Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf
- 2005 Protocol to the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms located on the Continental Shelf

# Instrument regarding terrorist bombings, financing of terrorism and nuclear terrorism

- 1997 International Convention for the Suppression of Terrorist Bombings
- 1999 International Convention for the Suppression of the Financing of Terrorism
- 2005 International Convention for the Suppression of Acts of Nuclear Terrorism
- UN Draft Comprehensive Terrorism Convention – under negotiation since 2000

# The UN Global Counter-Terrorism Strategy, 2006 (GA/RES/60/288)

4 pillars of strategy :

- Addressing the conditions conducive to the spread of terrorism
- Measures to prevent and combat terrorism
- Measures to build states' capacity to prevent and combat terrorism and to strengthen the role of the United Nations system in that regard
- Measures to ensure respect for human rights for all and the rule of law as the fundamental basis for the fight against terrorism

# Security Council Resolution 1373

- SC Res. 1373 (2001) – for the first time qualified terrorism as such, i.e. without any reference to a concrete situation as a “threat to international peace and security”
- Subsequently also in SC Res. 1535, 1566, 1617, 1624 – no formal rejection from states against this approach by the SC!
- Introduced a ‘smart sanctions’ system.
- SC Res. 1373 (2001) – for the first time addressed “all member States” and has therefore been compared to a legislative act.

# Security Council Resolution 1373 (2001)

## Combatting financing of terrorism

- Reaffirming further that such acts, like any act of international terrorism, constitute a threat to international peace and security,...
- Acting under Chapter VII of the Charter of the United Nations,
- 1. Decides that all States shall:
  - (a) Prevent and suppress the financing of terrorist acts;
  - (b) Criminalize the wilful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be 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

# Security Council Resolution 1373

## The Counter-Terrorism Committee (CTC)

- 6. Decides to establish, ... a Committee of the Security Council, consisting of all the members of the Council, to monitor implementation of this resolution... and calls upon all States to report to the Committee,, no later than 90 days from the date of adoption of this resolution and thereafter according to a timetable to be proposed by the Committee, on the steps they have taken to implement this resolution;

# United Nations Office of Counter-Terrorism (UNOCT)

- provides strategic leadership, coordination and capacity building support to Member States and to the members of the United Nations Global Counter-Terrorism Coordination Compact Task Force, in support of their efforts to implement, in a comprehensive and balanced manner, the UN Counter-Terrorism Strategy and its review resolutions, as well as relevant Security Council resolutions.

Pre 9/11: de-centralized approach through

- Sectoral conventions
- The obligation to criminalize specific acts in domestic orders;
- Establishment of the principle "aut dedere aut judicare" for specific offences;
- Encouraging mutual co-operation.

Post 9/11:

- Centralized approach through the SC smart sanctions system
- complements the decentralized approach from before 9/11
- Shifting paradigm to the use of force against terrorists

End

Any Questions?