

CHAPTER 5

THE ROLE OF THE UNITED NATIONS IN THE FIGHT AGAINST TERRORISM

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INTRODUCTION

The purpose of establishing the United Nations was to conserve the fundamental values of the international system and to create a normative order for international society. Even though the operations for such purpose are subject to criticism, these operations are of great importance for the activities of adjusting the order mechanism of international society and for the international system. The operations for developing strategies to prevent dangerous elements such as terrorism, extremism and radicalism (which are known adverse effects of globalization) and to solve such issues are significant.

The dangers, which have emerged due to the effect of globalization, have increased the functions of the United Nations. The 9/11 attacks in particular made the United Nations enter an active phase to prevent terrorist threats. Terrorism during the Cold War was regarded as a secondary issue for the United Nations. However, terrorism established the most prominent item of the agenda following the aforementioned attacks. An urgent progress concept was developed to this end, and the United Nations brought the international society together to collaborate in order to ensure an efficient struggle strategy led by the Security Council. The agreed resolutions and conventions led by the organization in order to prevent terrorism and provide security for states did not remain limited to the organization but started to contribute to the normative development of the world based on the concept of “international convention”.

This study analyzes the activities of the United Nations in terms of fighting against terrorism in order to ensure a better examination of foregoing developments. In this sense, primarily, the policy of the United Nations to fill the current gaps in terms of anti-terrorism policy will be examined. In addition, the duties against terrorism undertaken by the Security Council and General Assembly (the most significant bodies of the United Nations), and, to this end, effective developments will also be analyzed.

1. The Development of the United Nations Program to Fight against Terrorism during the Period of Globalization

The United Nations has a central place in the order of modern international relations and has a significant position in the solution of the crises of the global system. Despite the recent state-centered approach of the international system, it continues to be among the significant players of international relations. Globalization has made significant impacts on the work of the UN and other similar international organizations. The United Nations affects states in particular, along with the other key players in international relations due to socio-political, economic and legal parameters. The meaning and function of states have been altered by the play of different agents such as non-state actors, and they have been obliged to undertake new features and duties according to the globalization period in which the international system has been transformed.¹ Therefore, it became a must for both the United Nations and any related institutional organizations to refer international problems to initiate certain changes and adjust their systems according to the new world order. In this context, the United Nations desires to create a universal legal order in order to maintain international peace and security by enacting various regulations through the organizations under the UN and by drawing international conventions and protocols.² Non-state actors and terrorism, which accelerated the change, were the most important factors for these developments.

After the 9/11 attacks, the struggle against international terrorism became the most important item on the agenda for the United Nations. Following these attacks, the necessity to develop new norms and regulations in order for international society to fight against terrorism was clearly specified. During these attacks, Kofi Annan, the Secretary General of the UN, stated that “the terrorists who attacked the United States

1 Erdem, Denk, *Uluslararası Örgütler Hukuku Birleşmiş Milletler Sistemi*, Siyasal Bookstore, pp.25-26

2 Doğan Şafak Polat, “Uluslararası Terörizmle Mücadelede Birleşmiş Milletlerin İşlevi, Yeteneği ve Sınırları”, *Güvenliğin Gündeminden, Çatışma, Ayrılıkçı Ayaklanma ve Terörizm*, edited by S.Demirci, Ankara: Nobel Press, 2015, pp.157

on September 11 aimed at one nation but wounded an entire world”.³

As part of the regulations developed by the UN in the struggle against terrorism, the most important principles were determined, and various studies were initiated to develop a strategy. The strategies to be considered in the study were determined as follows:

- Terrorism and attacks must be condemned whatever their purpose might be. Terrorism is a crime that must always be punished.
- All kinds of support for terrorists are also support for the development of terrorism. For this reason, all types of such support must be prohibited.
- Double standard practices should be eliminated. Accepting terrorists of a country as freedom fighters is the biggest obstacle in the fight against terrorism.
- States must collaborate in the international arena to fight against terrorism. For such purpose, information must be shared in order to prevent terrorism; efficient protocols and conventions must be executed for legal and other supportive issues which should ensure the extradition and arrest of terrorists:
- Infrastructures must be examined to share experiences and information while developing efficient struggle methods for the fight against terrorism; analyses must be carried out to such an end; solutions must be adapted for the fight against terrorism through political and ideological methods; the infrastructure of the states who took part in the fight against terrorism must be examined.
- The UN norms must be complied with in order to fight against terrorism. Acts that do not comply with the UN purposes and principles must not be committed, and peaceful solutions must be created for discrepancies.
- The actions that violate Human Rights must be abstained from, and the norms and principles for such purposes must be complied with.
- The security of civil society must be protected in general, and the violation against human rights and freedom must be abstained from.
- Worldwide religions and beliefs and, in particular, Islam must be protected against radical movements, and cultures and nations must be protected against any type of prejudice and attack.⁴

The Fight against terrorism after the 9/11 attacks helped states to come to a long-term

3 Kofi, Annan, “Obyedinimsya Protiv Terrorizma”, *Kommersant Newspaper*, No 173, 22.09.2001, <https://www.kommersant.ru>, (December 18, 2018).

4 E, Vasetsova, “OON i Borba s Mejdunarodnim Terrorizmom”, <https://www.intraffairs.ru/jauthor/material/565>, (December 18, 2018)

mutual agreement and to view terrorism from another point of view. Therefore, it is possible to analyze this fight against terrorism in three periods.

The first period started immediately after the attacks and covered the years between 2001 and 2014. This was a period in which the international community did not take great heed of radical terrorism despite the attacks in which terrorism was approached as part of the struggle.

Towards 2014, it was understood that terrorism needed to be scrutinized further because terrorism had become a threat which many states had encountered. This led to discussions that new regulations must be brought for the security of the international society and that the role of the UN in such matters must be expanded. The prevention of radical terrorism became one of the most significant issues at the center of the UN. In 2014-2016, a new process was initiated to develop normative regulations at the Security Council and General Assembly of the UN for the prevention of and struggle against terrorism.⁵

2. Factors Reducing the Effectiveness of The United Nations in the Fight against Terrorism

Most of the measures taken against terrorism are the result of events after the attacks. Almost all of the international conventions are instruments that appeared subsequent to an attack. Before the 9/11 attacks, the ratification of conventions took a very slow course. There were 12 conventions against terrorism before the attacks against the Twin Towers, and they were only executed between Great Britain and Botswana. However, in 2003, the number of conventions increased to 35. In 2014, the number of conventions executed to fight against terrorism increased to 176. The analyses of such conventions reveal that the period between the execution and the ratification of these instruments was 4 years. Nevertheless, the period of participation extends to decades. The longevity of the acceptance period of the conventions is one of the elements that decreases their efficiency.

The aim of the agreements made against the fight against terrorism is to develop the laws of criminality before domestic law by the supporters and then to turn it into an important strategy with international cooperation. However, these developments prescribe that states make great amendments to their domestic laws and leads to a great change in the formulaic order of states. The states that incurred difficulties in realizing such changes frequently abstain from signing these conventions. For example, Japan underwent a serious domestic

5 D. Borisov, "Ekstremizm i Kontterroristicheskaya Povestka OON ve XXI Veke", *Mirovaya Poitika*, No 1, 2018, pp.52

law amendment process for the approval of the law against Financing Terrorism in 1999, and claimed that domestic law was under the risk of annihilation before the change.⁶

International conventions have a function to clarify the determination of an issue. Most of conventions are drawn up to define the attacks as a crime and to ensure that the perpetrators of attacks are punished. Yet, current conventions do not have a mechanism to identify and combat the cause of terrorism and to ensure measures for prevention. Moreover, the long acceptance and ratification processes of international conventions both decelerates the technical and legal efficiencies and becomes a late step to pronounce the reaction of the international society against terrorism.

States face the challenges of realizing the fight against terrorism on both a national and international scale. The inexperience and insufficiency of a part of some states are the most important obstacles before the fight against terrorism. The other biggest handicap is the states which do not take their power from the fight against terrorism, but from supporting pro-terrorism and which avail of terrorism as a political key and a weapon for their interests.⁷ The limited conduction of international law based only on conventions and conventional mechanisms makes international law a mechanism that is based on statistics which is far from flexible. Decisions that are not taken and implemented on time clearly feature the weakness of international security and decrease the confidence of the international society in the legal system based on joint protection. Today, the necessity of taking new measures which would accelerate the decision-making, ratification and implementation mechanism and develop the decision-making/-implementing system of international organizations in order to ensure international security is clearer than ever.⁸

3. Activities of the United Nations in the Fight against Terrorism

The first steps of the implementations in the fight against terrorism were taken before the United Nations ever existed by the League of Nations in the 1930s. There was a clearly determined need to develop new norms for the fight against terrorism when Alexander I, the King of Yugoslavia, and Lui Bartu, the Prime Minister of France, were murdered in 1934. Immediately after, on December 10, 1934, the League of Nations made a decision that “all states must avoid supporting terrorism for their political purposes and allowing terrorist

6 A.Masahiko, “Security Council Resolution 1540 to Combat WMD Terrorism: Effectiveness and Legitimacy in International Legislation”, *Journal of Conflict & Security Law*, 2009, Vol 13. No3, pp.303-332.

7 Ward C.A. Building Capacity To Combat International Terrorism: The Role of The United Nations Security Council// *Journal of Conflict and Security Law*, 2003.Vol.8. No2, pp.289-305

8 Chernyadyeva, “Rol Rezolyutsiy Soveta Bezopasnosti OON v Sovershenstvovaniyi Antiterroristicheskogo Prava”, *Vestnik Permskogo Universiteta*, 2(28), 2015, pp. 176-177

activities within their borders”⁹ Until that period, terrorism was not a matter on the agenda of the League of Nations. Therefore, there was a lack of clear and versatile norms and decisions to fight against terrorism. On November 16, 1937, “The Prevention and Punishment of Terrorism” contract was signed by the League of Nations. The League of Nations also tried to provide an explanation for terrorism. The “Terrorist attack,” which was specified in the convention, was described as a crime committed against states in order to cause terror among masses of people or in certain individuals.¹⁰ The failure of the convention to be realized was not the only issue that made the League of Nations insufficient in the fight against terrorism, and deviated the organization from the role, which could help it to change the world order to a great extent.

In 1972, the issue of terrorism shook international society once more with the tragedy of Munich. When the Israeli athletes were taken hostage and murdered, the General Assembly of the United Nations decided upon “Measures to Prevent International Terrorism” no. 3034 (XXVII).¹¹ During the Cold War, the issue of the fight against terrorism in the UN was limited to this decision and all powers on this issue were transferred to the General Assembly. In that period, the Security Council considered that terrorism was a domestic issue of states. Therefore, it was sufficient for the Council to “condemn” terrorist attacks as a reaction.¹² There had been 16 international conventions¹³ under the UN executed for the prevention of

9 Morozov.G.I, “Terrorizm –Prestupleniye Protiv Chelovechestva”, *Mejdnarodniye Otmosheniya*, Moskva 1997, pp.20

10 1937 Draft Convention for the International Prevention and Punishment of Terrorism (Report Adopted by the Committee on April 26th, 1937, League of Nations, Committee for the International Expression of Terrorism). Geneva; 1937, 13.p

11 For the Decree no. 3034 (XXVII) dated 18.12.1972, see: <http://daccess-dds-ny.un.org/doc/RESOLUTION/NR0/270/64/IMG/NR027064.pdf>, (December 16, 2018).

12 William B. Messmer and Carlos L.Yordan, “ A Partnership to Counter International Terrorism: The UN Security Council and the UN Member States”, *Studies in Conflict&Terrorism*, 34 December 2009, pp. 845

13 1. Convention on Offences and Certain Other Acts Committed on Board Aircraft, Tokioo 1963, effective on 1969, <http://www.un.org/en/sc/ctc/docs/conventions/Conv1pdf>, (December 16, 2018).

2. Convention for the Suppression of Unlawful Seizure of Aircraft, La Hey 1970, effective on 1971, <http://www.un.org/en/sc/ctc/docs/conventions/Conv2.pdf>, (December 16, 2018).

3. Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, Montreal 1971, effective on 1973, <http://www.un.org/en/sc/ctc/docs/conventions/Conv3pdf>, (December 16, 2018).

4. Convention on the Prevention and Punishment of Crimes against Internationally Pretotected Persons, Including Diplomatic Agents, <http://www.un.org/en/sc/ctc/doc/conventions/Conv4pdf>, (December 16, 2018).

5. International Convention Against the Taking of Hostages, New York, 1979, effective on 1981, www.un.org/en/sc/ctc/doc/conventions/Conv5pdf, (December 16, 2018).

6. Convention on the Physical Protection of Nuclear Material, Vienna 1979, effective on 1983, www.un.org/en/sc/ctc/doc/conventions/Conv6pdf, (December 16, 2018).

7. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Montreal 1988, effective on 1989, www.un.org/en/sc/ctc/doc/conventions/Conv7pdf, (December 16, 2018).

8. SUA – Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, Rome 1988, effective on 1992, www.un.org/en/sc/ctc/doc/conventions/Conv8pdf, (December 16, 2018).

terrorism since 1963. However, none of these documents defined what terrorism was. The greatest obstacle blocking the fight against terrorism has been the inability to make a general definition of terrorism among states in both the past and today. The reason why states fail to agree on a single definition has many causes which extend from the inequality of the power of states to their political systems, ideologies, political interests and priorities. Terror and terrorism is a reflection of the political and ideological interests of states. However, it is not possible for states to fail to distinguish their policies clearly. Therefore, the term ‘terrorism’ became a pejorative concept which is used to attack and blame. No state or organization would like to define itself as terrorist.¹⁴

Towards the end of the Cold War, the Security Council started to take a stronger stance against terrorism. The approach of the Security Council was towards defining methods more clearly rather than filling normative gaps. In this sense, it tried, first of all, to assess the conditions and then to take measures for a solution.¹⁵ After serious events such as the Lockerbie disaster and the 1995 assassination attempt against Hosni Mubarak, the former President of Egypt, the Security Council took measures to reveal the perpetrators of terrorist attacks while imposing sanctions on the states that supported terrorism.¹⁶

The General Assembly of the UN adopted a systematical and long-term approach for the prevention of international terrorism. In this sense, it accepted “The Declaration concerning the Measures to Eliminate Terrorism” no. 49/60¹⁷ on December 9, 1994. For such purpose, upon the execution of resolution no. 51/210 dated December 17, 1996, the General Assembly of the UN established an Ad Hoc committee *inter alia* which was responsible for drawing up an extensive convention about the prevention of terrorism, and the committee carried out its activities to perform this goal.¹⁸ The Declaration proposed

9. Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, Rome 1988, effective on 1992, www.un.org/en/sc/ctc/doc/conventions/Conv9pdf, 16.12.2018

10. Convention on the Marking of Plastic Explosives for the Purpose of Detection, Montreal 1991, effective on 1998, www.un.org/en/sc/ctc/doc/conventions/Conv4pdf, (December 16, 2018).

11. Convention for the Suppression of Terrorist Bombings, were accepted with the General Assembly’s resolution no. A/RES/52/164 dated 15.12.1997. 23.05.2001, www.un.org/en/sc/ctc/doc/conventions/Conv4pdf, Reference: Ayhan, Halis, “Terör Kavramı, Güvenlik Konseyi ve Genel Kurul Özelinde Birleşmiş Milletlerin 2001 Sonrası Terör Yaklaşımı”, *Güvenlik Stratejileri*, 11th year, issue 21, pp.128-129

14 Fatma, Taşdemir, *Uluslararası Terörizme Karşı Devletlerin Kuvvete Başvurma Yetkisi*, Usak Press, 2006, pp. 11-12

15 İbrahim, Kaya, *Terörle Mücadele ve Uluslararası Hukuk*, Ankara, Usak Press, 2005, pp.93

16 Tamer, Kaşıkçı, “Küresel Terörizm ve Birleşmiş Milletler Sistemi”, *The Turkish Yearbook of International Relations*, Volume 47 (2016), pp. 4

17 Measures to Eliminate International Terrorism”, A/RES/49/60, 9 December 1994, <http://www.un.org/documents/ga/res/49/a49r060.htm> (December 16, 2018).

18 Fatma, Taşdemir, *ibid.*, pp. 24

that the UN member states should come together and collaborate against terrorism. The purpose of the states that collaborated in this way was to ensure sanctions on states that supported, financed and hosted terrorism and to regulate domestic laws for the extradition of criminals upon their arrest.¹⁹

The Changed Approach of the United Nations against Terrorism after the Cold War

The approach of the UN against terrorism underwent various change phases following the Cold War. The point of view of the UN altered from “determining a group’s own destiny” to “condemning terrorism as a crime whatever its purpose might be”. When the Secretary General of the UN attempted to add “Measures to Prevent Terrorism” to the items of the agenda of the General Assembly meeting for the first time, the member states rejected such an intention. The item was added to the agenda consequently, but the title was amended and accepted as such upon resolution no. 3034. “*Measures to prevent international terrorism which endangers or takes innocent human lives or jeopardizes fundamental freedoms and study of the underlying causes of those forms of terrorism and acts of violence which lie in misery, frustration, grievance and despair and which cause some people to sacrifice human lives, including their own, in an attempt to effect radical changes*”.²⁰ Upon this, the General Assembly started a study on terrorism, having established an international terrorism committee consisting of 35 members. Between the 1970s and 1980s, the United Nations attributed the decisions taken by states for such purposes to self-determination due to the freedom struggles faced by states in order to get rid of the colonization of bigger states,²¹ and the armed groups in such countries were not considered as terrorists.²² Therefore, the resolutions prohibiting terrorism were not to cover the states which were struggling for their self-determination. The resolutions which allowed certain states to act freely with regards terrorism were accepted a couple of times more in 1977, 1979, 1981 and 1983. However, 13 years after the establishment of the committee in 1985, the General Assembly made a resolution that condemned all types of terrorism. Even though there were also resolutions made in 1987, 1989 and 1991

19 Andrey Lebedev, “Rol OON v Borbe s Terrorismom”, *Nauchno-Analitcheskiy Jurnal Obozrevatel-Observer*, No 5(220)-2008

20 A/RES/27/30/34 (1972), M. Halberstam, “The Evolution of United Nations Position on Terrorism: From Exempting National Liberation Movements to Criminalizing Terrorism Wherever and By Who Ever Committed”, *Columbia Journal of Transnational Law*, N.Y, 2003-Vol.41

21 Kaya, İbrahim, *ibid.* pp. 91

22 Aşın İnci, Sökmen, “Terörizmle Mücadele ve Birleşmiş Milletler”, https://www.academia.edu/20035555/Ter%C3%B6rizmle_M%C3%BCcadele_ve_Birle%C5%9Fmi%C5%9F_Milletler, (December 7, 2018).

which condemned terrorism, these resolutions made references to self-determination like the former resolutions.²³

The efficient attempts against terrorism by the General Assembly of the United Nations commenced with a Declaration attached to Resolution no. 49/60 of the General Assembly. Upon this declaration, the United Nations called all member states to immediately review the international provisions which prescribed the prevention of terrorism and its emergence in order to create an extensive legal frame that covers the entire aspect of the issue.²⁴

The declaration did not define terrorism. However, it was stated that no act could be accepted which encouraged terrorism for political purposes between different societies and groups. The declaration also includes the assigned units' and the Secretary General's recommendations about the measures to be taken for the prevention of terrorism. The declaration was ratified with the resolutions taken in 1995, 1996, 1997 and 2001 and called for immediate action to eliminate terrorism, abstain from financial and other kinds of support for terrorist organizations and take measures. After 1991, terrorism was accepted as an item on the agenda of the UN.²⁵ Furthermore, the 1994 declaration consisted of documents that clearly and explicitly condemned terrorism. In 1999, the Security Council of the UN took resolutions that condemned Taliban and el-Qaeda²⁶: 1267 (1999), 1822 (2008), 1989 (2011), 2133 (2014). These resolutions stressed that all types of terrorism were the most important threats against world security. After 1999, the UN Security Council started to see the increasing terrorist attacks as worldwide threats that could not be ignored. The Fight against terrorism thus became the primary item on the agenda of the Security Council. The purpose was to avail on the decision-making and resolution mechanisms as a reaction of the public opinion of the world against terrorist attacks, civil war and other types of offenses.²⁷ Nevertheless, it cannot be claimed that all of the resolutions emerged out of innocent purposes. Further examination of these resolutions reveals that the clauses have political motivations rather than the prevention of terrorism. During the discussions on the disarmament of Iraq,

23 M. Halberstam, , "Evolutsiya Positsiyi OON po Terrorizmu: Ot Iskluchenia iz Etogo Ponatia Natsionalno-Osvoboditel'nykh Dvitseniy do Formulirovaniya Ponatia Kriminalizatsii Terrorizma Nezavisimi ot togo, Gde i Km Osushestvlaetsa Terroristicheskiy Akt", *Gosudarstvo i Pravo*, , Vol. 4, No 3, 2001, pp.120

24 İbrahim Kaya, *ibid*, pp. 91

25 M. Halberstam, *ibid*, pp.120

26 Cheerniadeva N.A "Rol Rezoljucij Soveta Bezopasnost,i OON v Sovershenstvovanii antiterroristicheskogo Prava (The Role of the UN Security Council Resolutions in the Improvement of Anti Terrorism Legislation) *Vestnik Permskogo Universiteta. Juridicheskie Nauki – Perm University Herald, Yuridical Sciences*, 2015 No 2(28), pp.178

27 D. Ward, "Building Capacity To Combat International Terrorism : The Role of The United Nations Security Council", *Journal of Conflict and Security Law*, 2003, Vol. 8, No2, pp. 289-305

the government of Iraq was blamed by the Security Council for supporting terrorist groups, harboring them and taking part in terrorist attacks, and these accusations underlie the aforementioned political interests.²⁸

The declaration accepted in 1994 had reflections that international terrorism was a phenomenon that had developed in parallel with state-supported terrorism. That is, the concerns were increasingly voiced that states contributed directly or indirectly to the spread of international terrorism. Even though state-supported terrorism was accepted as the most concerning issue to the Security Council after the fall of the Iraqi government, the agenda was rather occupied by the deflection and spread of terrorism through international networks. In Resolution no. 1511 dated 2003, the Security Council condemned the attacks against Turkish Ambassadors,²⁹ the UN Headquarters in Baghdad³⁰ and political leaders and diplomats. The Resolution, which was issued after these events, pointed out the necessity to punish the terrorists who attacked the Iraqi people and the United Nations.³¹ This explanation implied that even though terrorism did not have a generally accepted definition, the terrorist acts, that is, the attacks against ambassadors and assassinations against diplomats and political and religious leaders would be accepted as terrorist attacks. The resolutions taken and the definition of terrorism in this period showed changes in the light of two varying political orders. Though the terrorist attacks in the Middle East were condemned as state terrorism before the USA intervention in Iraq, the attacks that occurred after the USA intervention in Afghanistan and, subsequently, in Iraq following the 9/11 attacks were presented as international terrorism. Conflicting assessments for terrorism in such political order confirm the political counter-terrorist approaches of the Security Council of the UN.³²

28 Saul B, "Definition of "Terrorism" in the UN Security Council: 1985-2004", *Chinese Journal of International Law*, 2005, Vol. 4, No 1, pp. 141-166

29 On October 14, 2013, an assassination attempt was made against the Baghdad Ambassador of Turkey. Iraqi security personnel were also injured during the event. Reference: <http://www.mfa.gov.tr>, (December 10, 2018).

30 The UN Representative in Iraq, Sergio De Mello, was also a victim of the bomb attack against the UN Headquarters in Baghdad on August 19, 2003. Reference: <http://www.arsiv.ntv.com.tr>, (December 10, 2018).

31 For further information concerning the decree, see: European Court of Human Rights, file:///C:/Users/sadat/Downloads/CASE%20OF%20AL-SKEINI%20AND%20OTHERS%20v.%20THE%20UNITED%20KINGDOM%20-%20[Turkish%20Translation]%20by%20the%20COE%20Human%20Rights%20Trust%20Fund.pdf, 11.12.2018, Cheerniadeva N.A, *ibid*, pp. 178

32 For the views specifying this thesis, see: Kaplan, F, "The Insurgents: David Petraeus and the Plot to Change the American Way of War". Hardcover, First Edition (U.S). 2013. S 432; Hatch C.R.O, "Restoring The Rule of Law in Post-War Iraq: Steps, Missteps and a Call to Maximize International Support for Iraqi-Led Process. United States Army. U.S Army War College. Carlisle Barracks, Pennsylvania 17013. URL: Dtic.Mil/Get-TR-DOC/Pdf?AD=Ada424378, 11.12.2018, Cheerniadeva N.A, *ibid*, pp.178

The Fight against International Terrorism Concept of the United Nations

The “Fight against International Terrorism” application, which was started by enabling the NATO by USA in 1990s, coincided with the uncertain passing environment of this period. Indeed, some “general” UN Security Council Resolutions were taken within the framework of Section VII in this period. However, the steps in this direction came to the forefront completely under the leadership of USA after the September 11 Attacks. In this context, resolution number 1373, which was unanimously accepted on 28 September 2001, is rather remarkable. Yet the resolution, which brought the all-out fight against “terrorism” in a sense, is not only for all members but also for “all states” as distinct from the application adopted traditionally. However, the targeted application is to prevent and to prohibit the finance and supporting of Al-Qaeda along with similar organizations in any way. Furthermore, more comprehensive obligations have been imposed on the states including prevention of foreign terrorist fighters passing through their countries with resolution 2178 made on September 24, 2014 for increasing the effectiveness of organizations such as ISIS at the time of the Syrian civil war.³³

However, the September 11 attacks were the main cause of the unilateral intervention of the United States in the internal affairs of all states with the aim of “protecting international peace and security” or “humanitarian reasons”. The September 11 attacks caused the further deepening of the UN system’s approach to global terrorism at that time. After the attacks, the Security Council declared global terrorism as the most important item on the agenda. It began to address independently from the General Assembly, and from that day onwards, it has adopted a system that produces norms rather than applying norms. These attacks further aggravated the growing stance of the UN against international terrorism.³⁴ The September 11, 2001 attacks were a clear indication of the changing dimensions of international terrorism. It was understood due to the attack that it should be handled as the biggest threat to international security by all the security units. The changing global dimension of terrorism and the exacerbation of extremist attacks were highlighted in resolution 1373 accepted in 2001 by the UN Security Council³⁵ which shows a more serious approach to the fight against international terrorism. The resolutions taken in this regard were intended to indicate concrete and anti-terrorist activities. The resolution indicates the actions, which is required to be taken as a precaution and to be complied within the framework of fight against terrorism by states.

33 Erdem, Denk, *ibid*, p. 260

34 Tamer, Kaşıkçı *ibid.*, p. 8

35 D.Borisov, “Ekstremizm i Kontrterroristicheskaya Povestka OON v XXI veke”, *Mirovaya Politika*, No1, 2018 p. 2

Some of the precautions are to make effective applications in order to prevent the support of terrorism and all ways for providing finance and to predict serious penal sanctions against the supporters such as finding new members of terrorist organizations, providing weapon utility, and acting as an accessory. In addition to these measures, decisions were taken regarding the activation of cooperation in the process of sharing all kinds of information about the points of departure and activities of the members of the inter-state terrorist organization and the extradition and prosecution of the captured terrorists. The resolution called on all states to be parties to all documents made by the UN Security Council on the issue of anti-terrorism in the fight against terrorism. It was also decided to send an annual report to the Anti-Terror Committee established by the states in the circle of terrorism. In this way, it was envisaged that states would be provided with a fight against terrorism and a mechanism expanding with inter-state cooperation of the domestic law circle. The objective was to concentrate on the prevention of terrorist organizations that might occur outside the established organizations.³⁶

In the post-cold war era, another important factor that developed the normative structure in the fight against global terrorism was the resolution of the Security Council dated 2004, numbered 1540.³⁷ In parallel with the increase in the number of international terrorist groups and their actions, the rapid spread of weapons of mass destruction has increased the possibility that weapons might fall into the hands of terrorist groups. With resolution 1540 enacted to address this subject, it was decided that all states should adapt not only their international instruments but their domestic legal systems in order to prevent the development, acquisition, transfer and use of nuclear, chemical or biological weapons by non-state organizations.³⁸

The Anti-Terrorism Committee (TMK) was established in accordance with Article 6 of S/RES/1373 (2001) on September 28, 2001 in order to monitor the implementation of this resolution. The main objective of the Committee was to ensure the implementation of Resolution 1373 (2001) by the States and to establish a mechanism to implement the monitoring, observation and control point in this regard. For this reason, a report was issued by the President of the TMC on the problems encountered in the implementation of UNSC Resolution 1373 (2001) on January 26, 2004.³⁹ Article 8 of Section IV of this report proposes establishing the Executive Director of Anti-Terrorism Committee (TMKİD).⁴⁰

36 Cherniadeva N.A, *ibid*, p. 180

37 1540 numbered Resolution of UN Security Council: S/Res/1540, Article 1-2, 28 April 2004, [http://www.un.org/en/ga/search/view_doc.asp?symbol=S/Res/1540\(2004\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/Res/1540(2004)), (December 11, 2018).

38 Tamer, Kaşıkçı, *ibid*, p. 11

39 See, S/2004/70 (Report by CTC Chair on Problems Encountered in Implementation of Resolution 1373(2001), <http://www.un.org/en/sc/ctc/resources/index.html> (December 11, 2018).

40 Doğan, Şafak, Polat, *ibid*, s.161

A report was published specifying the frameworks for the fight against terrorism by the High Level Wise Men Group composed of scientists and statesmen from various countries in order to make the Alliance of Civilizations established in December 2004 with the support of the UN working more effectively. Recommendations on security, terrorism, human rights and evaluation of the fight against corruption were included in the report entitled, “In Larger Freedom: towards Development, Security and Human Rights for all”.⁴¹

The UN clarified the framework of the actions to be applied in terms of the States in the fight against terrorism with this document. The principles that stand out here are: a) the connection of security and development, b) Looking at terrorism in the same way as civil war, poverty and underdevelopment problems, c) Creating a common idea that non-state actors threaten the collective security of all states. With this report⁴² the aim of the UN was to observe the threat risks caused by international terrorism on a wider scale at first.⁴³

The Problem of Defining Terrorism in the Fight against Terrorism

It is a common idea in many states that international terrorism cannot be defined without first defining terrorism. One of the important factors that make this definition difficult is that the common criteria of terrorism are not clearly defined. As it was mentioned before, 13 conventions and 3 protocols in the name of the fight against terrorism have been signed as a result of UN initiatives since 1963. However, the defining criteria of terrorism were not specified in any of the documents. The reason for this is that none of the conventions are intended to punish terrorist attacks rather, they aim to investigate the cause of terrorism. It was enough for many of these documents to identify the types of terrorist attacks in order to keep the UN’s policy against terrorism alive. The hijacking of planes, taking hostages, supporting and financing terrorism, terrorist attacks by using nuclear weapons are all examples of such attacks. The second step taken by the UN in the fight against terrorism was to identify the scope of terrorism and try to define it by addressing the criteria that do not exceed the definition in the UN conventions. For instance, is it possible to characterize the killing of or causing grievous bodily harm to civilians, who are not related with the organization, by forcing them to protest or not to protest in line with the demands of the state, within the framework of terrorist attack term?

41 “Human Rights Committee Proposal in United Nations”, *Hürriyet* www.hürriyet.com.tr/dunya/bmde-insan-haklari-konsey-onerisi-305464, (December 14, 2018).

42 The report of the High-Level Panel on Threats, Challenges and Change, A/59/565+Corr.1 december,2004, <https://www.securitycouncilreport.org>, (December 14, 2018).

43 D.Borisov, *ibid*, p. 2

The aim of this section is to distinguish terrorism from other types of attack and to specify the criteria to be separate terrorist attacks. Two important criteria have been identified at this point: the use of violence against civilians who are not involved in random conflicts and the use of violence to gain a certain benefit, not to gain a military victory.⁴⁴

Every attempt to define terrorism utilizes the term “attack”. However, it cannot be said that the elements of the definition, for example the attack criteria, are very clearly defined in these explanations. It is not difficult to predict that this will lead to new debates on the criteria of terrorist attacks.

The problems caused by globalization have made the concept of international terrorism more common than terrorism at a national level, but this kind of terrorism does not have a definition that has been generally accepted by all states. The idea of “International Terrorism” was first used by the United Nations as a concept in the late 1970s.⁴⁵ The attack types determined in the conventions signed by the UN in order to fight against terrorism were explained with the “Declaration on Measures to Eliminate International Terrorism”⁴⁶ (no 49/60 dated December 9, 1994). In order to increase the effectiveness of the General Assembly on the fight against global terrorism and the awareness of the States on this issue, the report “Uniting Against Terrorism: Recommendations for a Global Counter Terrorism Strategy”⁴⁷ was published in 2006 by Secretary General Ban-ki Moon and, in accordance with this report, the declaration of United Nations Global Anti-Terror Strategy came with decision 60/288.⁴⁸ The criteria of the terrorist attacks in the UN conventions characterize terrorism as not only a legal action but also a sociological and political one. It is an indication that the common criteria of terrorism cannot be clarified in many respects since the interests of states are different in terms of sociological and political structures despite the fact that these documents determine terrorism as the most threatening element of security. Therefore, the UN is obliged to apply a way to determine the issue of combating terrorism through its narrow conventional conventions, which do not require the joint approval of all states.⁴⁹

44 D.Borisov, *ibid*, p. 2

45 International Convention Against the Taking of Hostages, New York 1979, enforcement date 1981, www.un.org/en/sc/ctc/doc/conventions/Conv5pdf, (December 16, 2018).

46 Measures to Eliminate International Terrorism”, A/RES/49/60, 9 December 1994, Please see for the resolution text: <http://www.un.org/documents/ga/res/49/a49r060.htm>, (December 12, 2018).

47 “UN Global Fight against terrorism Strategy”, <https://www.un.org/counterrorism/ctitf/en/un-global-fight-against-terrorism-strategy>, (December 12, 2018).

48 T. Kaşıkçı, *ibid*, 13

49 Cherniadeva N.A, “Ponyatiye “Mejdunarodnyj Terrorizm” v Mejdunarodnyh Soglasheniah” OON”, *Lex Russia*, No 6, Cilt 70, 2011, s. 1185

The fact that the UN tries to draw attention to the links between terrorism and extremism in an attempt to define terrorism and the reasons of terrorism in this context are the important developments on the issue that it can come to fight against terrorism. The report states that terrorism develops in conditions of deep helplessness, poverty, political repression, extremism and human rights violations. As an important issue regarding the definition of terrorism, it can be shown that government pressure is not considered as a terrorist element. The document refers to the Geneva Convention for violations of human rights, and as such, violations are covered by the state's internal affairs mechanisms.

Extremism alone has never been considered as an element of terrorism in any UN convention made in the fight against terrorism. Rather, extremism is viewed more as a side element of terrorism. In global terrorism, there is an excess of everything. It is natural to perceive the terrorist as an extremist when fighting an element of terror that is not afraid to die while attacking. Extremism is included in this struggle while acting within the context of the fight against terrorism. The aim of the UN is to establish a concept of effectively tackling both by creating the legal and normative acts of both anti-terrorism and anti-extremism movements in terrorist organizations. However, it is clear that combating terrorism and extremism will not be particularly effective without defining the criteria for the two and separating extremism from terrorism while the cause of the emergence of terrorism is not clear just as in the common definition of terrorism.

CONCLUSION

Towards the end of the Cold War, the UN was tasked with combating a phenomenon that was both different from and more dangerous than the establishment's original goal. The attacks of September 11, 2001 were a clear sign and a turning point that terrorism was and is a major threat to all states. Until these attacks, neither states nor international organizations in the UN included the issue of the fight against international terrorism in their planned agenda. Up until these attacks, all documents signed in relation to the issue of terrorism came to be following an attack or conflict. The fight against terrorism, along with the attacks of September 11, is at the top of the agenda of the international community and the UN. The most important strategy developed by the UN in light of recent events in the fight against terrorism has been to separate terrorism and extremism and to separately examine the reasons for both. It is understood that the fight against these disasters should be tackled with separate strategies within the scope of the fight against radical terrorist organizations such as al-Qaeda and ISIS. The methods developed in the fight against terrorism are inadequate to combat extremism, which is becoming increasingly more aggressive. The dimensions of extremism

with its extremely aggressive nature have broader criteria than the concepts shown in the UN documents. For this reason, with the categories of terrorism determined in the Fight against terrorism strategy signed in 2006, the subject of extremism should be considered separately and the methods used against extremism should be determined in a similar way to the strategy of 2006 within an international context.

In order to combat terrorism, not only should fighting concepts be determined but also general security measures should too. The dimensions of these threats should be specified when determining the output criteria of extremism as being inevitable during the fight. If the reasons for the emergence of extremist radical groups become clear, the options available to deal with them would be wider.

The issue of the fight against terrorism and extremism has brought the international community and the United Nations together in the same mind. A report on severe extremism detailed by the Secretary General of the UN in 2015 received great reactions. However, without making a clear definition of criteria and addressing the common interest of all states using the same strategy to fight this extremism would only be the repetition of previous mistakes (as in the case of terrorism), moreover the fight would probably have no effect. Extremism is a situation that is frequently encountered in conflict zones, as is the case with terrorism, and these features should be taken into consideration especially during the formation of a response strategy.

The United Nations has established an Anti-Terrorism Committee to address the issue of fighting terrorism on an organizational basis. It is an important development that the UN cooperates with its member states in the fight against terrorism and acts in coordination with them. However, operating such commissions and committees in a similar task circle is a factor that slows down the UN's effectiveness in fighting against terrorism. The acts of committees that undertake similar duties with similar criteria do not reduce these problems.

Based on this, the contribution of crisis management and other social and peace projects in the regions of conflict and crisis should be considered. In addition to this, states should be encouraged to work in a more systematic way with the UN and other international organizations in the fight against terrorism since such cooperation is important at a level not to be underestimated in terms of crisis management in conflict zones.

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