



UNITED NATIONS ROLE IN COUNTERING TERRORISM AND PAKISTAN'S RESPONSES TO ITS POLICIES

Dr. Muhammad Imran
Assistant Professor
College of Law
Government College University
Faisalabad - Pakistan
adv.drmimran@gcuf.edu.pk

Dr. Rohaida Nordin
Associate Professor
Faculty of Law
The National University of Malaysia
Malaysia
rohaidanordin@ukm.edu.my

ABSTRACT

Several international and regional organisations are continuing to work hard to develop a comprehensive strategy to combat terrorism. The United Nations has played a valuable part in this regard. Ratification of a vast number of international and regional conventions relating to the prevention and suppression of terrorism shows that the United Nations is playing an integral part to counter terrorism by their establishing a contemporary legal framework for international counter terrorism approaches. The United Nations started contemplating terrorism in the early 1970s, where the General Assembly and Security Council started their work on terrorism identifying issues that concentrated on the procedures and particular terrorist acts. This paper analyses the counter terrorism measures taken by the United Nations and its organs such as the General Assembly and Security Council. It also reviews Pakistan's struggle to comply with international laws in fulfilling its obligations as a Member State of the United Nations. This paper finds that the United Nations has played a vital role in the prevention and suppression of terrorism by forming its contemporary legal framework for international counter terrorism measures. It concludes with suggestions to repress the menace of terrorism.

Keywords: *Combat, Pakistan, Strategy, Terrorism, United Nations.*

1.1 INTRODUCTION

The term terrorism means “violent criminal acts committed by individuals and / or groups who are inspired by, or associated with, designated foreign terrorist organizations or nations”.



Over the past few decades, increased terrorist activities have badly disrupted the peace and order of the entire world . Therefore, terrorism has become a constant international threat.Thus, worsened peace and order situation of the world compelled international community to take stringent measures to repress and stop terrorism.

United Nations (UN) being an international organisation played an effective role in this regardby forming and providing a framework for its member States to effectively curb this menace.The United Nations is an international organization founded in 1945. Currently made up of 193 Member States, the UN and its work are guided by the purposes and principles contained in its founding Charter.The UN has evolved over the years to keep pace with a rapidly changing world.

UN design strategies to protect people from existing or future threats of terrorism via sequential national and international measures. For instance approval of counter terrorism laws, ratification of international and regional counter terrorism conventions and the freezing of the financial assets of terrorists and terrorist organisations. Therefore, counter terrorism comprises of widespread national and international policies which are comprised of offensive and defensive responses.

This paper analyses the counter terrorism measures taken by the UN and its organs such as the General Assembly (GA) and Security Council (SC). It also reviews Pakistan's struggle to comply with international laws in fulfilling its obligations as a Member State of the UN.

1.2 COUNTER TERRORISM MEASURES AND THE UNITED NATIONS

Several international and regional organisations are continuing to work hard to develop a comprehensive strategy to combat terrorism. The UN has played a valuable part in this regard. Ratification of a vast number of international and regional conventions relating to the prevention and suppression of terrorism shows that the UN is playing an integral part to counter terrorism by their establishing a contemporary legal framework for international counter terrorism approaches.

1.2.1 The United Nations Organs' Role to Counter Terrorism

The UN started contemplating terrorism in the early 1970s, where the SC and GA started their work on terrorism identifying issues that concentrated on the procedures and particular terrorist acts. All six organs of the UN have been working to cope with terrorism-related problems in several ways. For example, the GA has passed resolutions, held lengthy discussions and ratified conventions. Similarly, the SC has passed resolutions and established the Counter terrorism committee (CTC) to counter terrorism related issues. Likewise, the Trusteeship Council copes with the issues of terrorism through non-debate on freedom fighters against terrorists and the connection to autonomy.

The ICJ through its judgments and advisory opinion settle disputes between the UN Member States. All organs of the UN continue to work on addressing the issues of terrorism. The



Secretary-General in his speech at the international summit on democracy terrorism and security on 10 March 2005 suggested five strategies which he called:

“five Ds” (Kofi Annan, 2005): (i) to dissuade disaffected groups from choosing terrorism as a technique to achieve their goals; (ii) to deny terrorists the means to carry out their attacks; (iii) to deter States from supporting terrorists; (iv) to develop State capacity to prevent terrorism; and (v) to defend human rights in the struggle against terrorism.

Five Ds can be the basis for international counter terrorism struggles and to make all States more competent and accountable for inhibiting fighting and mirroring terrorist activities.

a. The United Nations General Assembly

The GA plays a critical part in developing an international legislative structure that encourages collaboration among governments to work more diligently in countering terrorism. The GA in its Resolution 49/60 on December 1994 reasserted that terrorist acts are “criminal and unjustifiable wherever and by whoever committed” (UNGA Resolution No. 49/60, 1994, Para I (1)). It was also stated that “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 are in any circumstance unjustifiable whatever the consideration whether it be political, philosophical, ideological, racial, ethnic religious or any other forms that may be invoked to justify them” (UNGA Resolution No. 49/60, 1994, Para I (3)).

The GA is the only body that has the powers to assist in establishing inclusive measures and strategies to counter terrorism. After the 9/11 attacks, the GA adopted various resolutions on common and specific terrorism-related problems. The GA codifies international laws to counter terrorism through the Adhoc committee (UN Office on Drugs and Crime).

I. The Global Counter Terrorism Strategy

The GA approved the Global Counter terrorism Strategy on 8 September 2006. Given the adoption of the Global Counter terrorism strategy, all Member States have accepted for the first time to a joint working strategy to counter terrorism not only giving a strong message that terrorism is intolerable in all its forms and manifestations but also determining to take effective measures separately and jointly to stop and fight against terrorism.

This strategy takes the form of Resolution 60/288 which consists of an extensive range of approaches ranging from escalating the State’s ability to combat terrorist threats to improving the coordination of counter terrorism actions of the UN. The Secretary-General established the Counter terrorism Implementation Task Force (CTITF) for better coordination among different organs of the UN. The GA evaluates the strategy every two years in creating alive document under UN Member States counter terrorism primacies. The Global Counter terrorism Strategy comprises four pillars (UN Office of Counter Terrorism, Counter terrorism Implementation Task Force):



- i. Addressing the conditions conducive to the spread of terrorism;
- ii. Measures to prevent and combat terrorism;
- iii. Measures to build State capacity to prevent and combat terrorism and to strengthen the role of the UN system in this regard; and
- iv. Measures to ensure respect for human rights for all and the rule of law as the fundamental basis for the fight against terrorism.

II. Counter terrorism Implementation Task Force (CTITF)

The Secretary-General established the CTITF in 2005 which was later endorsed by the GA in 2006 through the United Nations Global Counter Terrorism Strategy. The CTITF enhances the coordination, information sharing and consistency of counter terrorism measures of the UN and comprises of 38 international entities, with each entity playing its part having its own mandate (UN Office of Counter Terrorism, Counter terrorism Implementation Task Force). For instance, INTERPOL which collects, stores and analyses information about suspected individuals and groups and their activities, and the exchange of data with the Member States and other international organisations. Moreover, INTERPOL issues “the INTERPOL-United Nations Security Council Special Notice” to alert the Member States, persons and entities associated with Al-Qaeda and the Taliban, as listed by the 1267 Committee of the UN SC, and to assist countries in implementing the freezing of assets, travel bans and impeding arms (INTERPOL).

The CTITF acts as a platform to recognise strategic issues and to identify innovative means for countering terrorism. Further, it addresses the issues which include integrated implementation of the strategy, the abuse of the internet for terrorist purposes, countering the financing of terrorism to protect vulnerable targets, to assist domestic legislation of the Member States to protect human rights and victims and also for the formation of the response to a nuclear chemical or biological attack.

The UN and entities can achieve much better outcomes by working together rather than on their own. Likewise, the CTITF can only be successful with the assistance of the Member States, taking full responsibility for the strategy and its implementation at both the domestic and international levels. The CTITF does not receive funds from the UN and relies merely on the donations of a few Member States (Organisation for the Prohibition of Chemical Weapons).

III. Terrorism Prevention Branch (TPB)

The TPB of the UN Office on Drugs and Crime (UNODC) also plays an important role in international counter terrorism efforts. Based in Vienna, for well over a decade, it has been working to provide technical assistance to the Member States in the legal counter terrorism area. It assists the Member States at their request through ratification and legislative integration to implement a collective legal framework against the menace of terrorism and provides international guidelines regarding criminal issues such as crime prevention, drug



control, planned transnational crime, money laundering, and corruption and in maintaining the rule of law, operating with active field level ability.

Furthermore, it assists intergovernmental organs concerning counter terrorism issues and coordinates with related stakeholders both inside the UN and also with other external organisations (The UN Office on Drugs and Crime and Terrorism Prevention).

IV. Committees of the General Assembly

GA works in the form of subordinate committees, with almost all Member States as its members. The committees which work directly with the issues of terrorism include the Social Humanitarian and Cultural Committee (Third Committee), the Adhoc Committee and the Legal Committee (Sixth Committee).

i. The Social Cultural and Humanitarian Committee (SOCHUM) or Third Committee

The Social Cultural and Humanitarian Committee, (SOCHUM) was established in 1947 which deals with issues regarding social and humanitarian affairs. An important element of the committee's work emphasises on the examination of human rights questions and dealing with terrorism crime prevention and criminal justice prospects. The SOCHUM protects fundamental freedoms in countering terrorism to the "elaboration, promotion and protection of human rights questions including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms". Further, it also focuses on the social issues for instance; promotion of the fundamental freedoms and the right to self-determination by eliminating racism (UNGA). The Third Committee considered over 60 draft resolutions at the 71st session of the GA, more than half of which were submitted under the human rights agenda item alone. The Third Committee considered over 60 draft resolutions during the 73rd session of the GA in 2018, 32 of which were submitted under the human rights agenda items (General Assembly of the United Nations, Social, Humanitarian & Cultural Issues (Third Committee)).

ii. The Adhoc Committee

The GA in 1996 through Resolution 51/210 established an Adhoc Committee to elaborate on an International Convention for the Suppression of Terrorist Bombings and subsequently, the International Convention for the Suppression of Acts of Nuclear Terrorism to supplement related existing international instruments and a means of developing a comprehensive legal framework of convention dealing with international terrorism. Since its establishment, the Adhoc Committee has negotiated several texts resulting in the adoption of three treaties; the International Convention for the Suppression of Terrorist Bombings adopted by the GA in Resolution 52/164 of 15 December 1997; the International Convention for the Suppression of the Financing of Terrorism adopted by the GA in Resolution 54/109 of 9 December 1999; and the International Convention for the Suppression of Acts of Nuclear Terrorism adopted by the GA in Resolution 59/290 of 13 April 2005. Since 2000 it has begun working on



drafting a comprehensive convention on international terrorism which is still not enforced (Adhoc Committee established by GA Resolution 51/210, 1996). However, no Adhoc Committee has been called up since 2008. Although, the work of the Adhoc Committee has endured in the agenda of a working group of the Sixth Committee (Adhoc Committee on the Criminal Accountability of United Nations officials and experts on mission).

iii. The Legal Committee (Sixth Committee)

The Sixth Committee is one of the main committees of the GA which considers legal questions. All Member States are entitled to be represented on the legal committee of the GA. The Sixth Committee defines terrorism as a criminal act that is “unjustifiable wherever and by whoever committed” through the adoption of the Declaration on Measures to Eliminate International Terrorism. In 1994, the Sixth Committee adopted the Declaration on Measures to Eliminate International Terrorism which states that “the States Members of the UN solemnly reaffirm their unequivocal condemnation of all acts, methods and practices of terrorism, as criminal and unjustifiable, wherever and by whoever committed” (UNGA sixth).

b. The Security Council (SC)

The SC as one of the main organs of the UN is responsible for maintaining international peace and security. The SC under Article 23 of the UN Charter comprises of 15 Member States which include five permanent Member States: China, France, the Russian Federation, the US and the United Kingdom (UK). It also consists of 10 non-permanent Member States which are elected for two years under Article 29 of the UN Charter. According to Articles 25 and 48 of the UN Charter resolutions endorsed by the SC are binding on all UN Member States.

Article 25 of the UN Charter states that “the members of the United Nations agree to accept and carry out the decisions of the SC under the present charter” (UN Charter Resolutions, Article 25). Whereas Article 48 states that “the action required carrying out the decisions of the SC for the maintenance of international peace and security shall be taken by all the members of the UN for and by them, as the SC may determine. Such decisions shall be carried out by the members of the UNs directly and provide action in the appropriate international agencies of which they are members” (UN Charter Resolutions, Article 48).

The aftermath of the 9/11 attacks has brought with it significant changes in the policies of the UN SC to combat terrorism. Before the 9/11 attacks, international instruments regarding specific criminal offences approved counter terrorism measures but the SC counter terrorism measures which were not obligatory were disregarded. After 9/11 attacks, the SC took counter terrorism measures under Chapter VII of the UN Charter. For example, the SC under Chapter VII of the UN Charter approved Resolution 1373 to stop and repress international terrorism. Likewise, the UN Member States have the responsibility to safeguard international peace and security including their own national peace and security against the menace of terrorism established in the SC's Resolution 1373. After the 9/11 attacks countering terrorism has been one of the highest prioritised agenda items of the UN. The GA and SC have taken measures



to combat terrorism through approving resolutions and by establishing several committees (UN Charter, Chapter VII).

I. The Security Council Resolutions Relating to Terrorism

The SC resolutions which are directly related to terrorism comprise of Resolutions 1267, 1269, 1368, 1373, 1624 and 2396 of which will be discussed in the following paragraphs.

i. RES/1267

Resolution 1267 was approved on 15 October 1999 under Chapter VII of the UN Charter which imposed binding fiscal sanctions on the Taliban in Afghanistan and its allies. Within paragraph 4, it states that all States shall “freeze funds and other financial resources, including funds derived or generated from property owned or controlled directly or indirectly by the Taliban or by any undertaking owned or controlled by the Taliban...” This resolution establishes a committee of the SC comprising of all Member States to supervise the efforts of Member States to execute the said sanctions. The collective work of the 1267 Committee resulted in the establishment of expert analytical support and sanctions monitoring team under Resolution 1526 which was adopted on 30 January 2004. The 1267 Committee adopts strong actions for penalising or coercing changes in the behaviour of the Taliban, their allies and 263 individuals and 82 entities listed by its committee (Security Council Committee Pursuant to Resolutions 1267, 1999), (1989, 2011) and (2253, 2015)).

There is also some debate regarding the violation of human rights by States due to the implementation of the provisions of this resolution (UN Charter Resolution No 1267, Chapter VII, Para 4). The European Court of Justice (ECJ) convened on the inharmoniousness of the resolution with basic European rights in the famous *Qadri and Al Barakaat International Foundation v Council of European Union* 2008 (European Commission Legal Service). A Saudi Arabian resident Mr Yaseen Abdullah Qadri and the Al Barakaat International Foundation which was established in Sweden were listed by the 1267 committee being linked with Al-Qaeda, and their assets were subsequently frozen. Mr Yaseen Abdullah Qadri and the Al Barakaat Foundation successfully appealed against the 1267 committee’s decision in front of the ECJ (European Commission Legal Service).

a. Pakistan’s Responses to Security Council Resolution No.1267

Pakistan has a band of 33 terrorist organisations in response to the SC’s Resolution 1267 (Imran, 2019, P.160-162). Pakistan adopted punitive measures against the Hafiz Saeed JuD leader to comply with resolution 1267 and was placed under house arrest. Moreover, the Falah-e-insaniat Foundation (FIF) an organisation which is linked to JuD was inhibited from collecting charity by the government of Pakistan (Sofia, 2018).

ii. RES/1269



The SC Resolution 1269 which was adopted on 19 October 1999 identified international terrorism as a serious threat to international peace and security. Resolution 1269 was assumed as a plan for international society given the track record presented by great powers on the subject of terrorism. This resolution demands that the States parties implement existing conventions against international terrorism and provide assistance in their framework by requesting all Member States to take the necessary measures to stop and repress terrorist attacks and their financing in their respective territories.

This resolution called upon all Member States “to take appropriate steps to co-operate with each other, particularly through bilateral and multilateral agreement and arrangements, to prevent and suppress terrorist acts, protect their nationals and other persons against terrorist attacks and bring to justice the perpetrators of such acts; prevent and suppress in their territories through all lawful means the preparation and financing of any acts of terrorism; deny those who plan, finance or commit terrorist acts, provide safe havens by ensuring their apprehension and prosecution or extradition; take appropriate measures in conformity with the relevant provisions of national and international law, including international standards of human rights, before granting refugee status, for the purpose of ensuring that the asylum seeker has not participated in terrorist acts; exchange information in accordance with international and domestic law, and cooperate on administrative and judicial matters in order to prevent the commissioning of terrorist acts” (International Peace and Security, Terrorism, Security Council Resolution No 1269, 1999, Para 4).

The SC emphasised strengthening the fight against terrorism both at the regional and international levels and called upon all Member States to adopt suitable measures as determined in Resolution 1269 for countering terrorism. There was no assigned compulsion or mandate to apply the steps specified in Resolution 1269 and no monitoring system to analyse the obedience of Member States. Consequently, most of the provisions of this resolution were ignored (International Peace and Security, Terrorism, Security Council Resolution No 1269, 1999).

a. Pakistan’s Responses to Security Council Resolution No. 1269

As SC Resolution 1269 urges the Member States to deny safe haven for terrorists; therefore Pakistan’s military action in its tribal areas to destroy terrorists and their networks legitimately demonstrate Pakistan’s compliance with Resolution 1269.

iii. RES/1368

The SC Resolution 1368 which was adopted on 12 September 2001 determined the legitimate basis in which to take military action to cope with the menace of international terrorism. This resolution condemned the 9/11 attacks in the strongest terms, regarding such acts like any act of international terrorism as a threat to international peace and security and has given international legality to take armed actions against the perpetrators and sponsors of the 9/11 attacks. The SC also expressed its readiness to take all appropriate measures in responding to the 9/11 attacks and also to combat all types of terrorism. Although, the question remains,



whether the SC had authorised the US to use force against the Taliban regime in Afghanistan in the wake of the 9/11 attacks and whether the right of self-defence justified the use of force.

Ulfstein stated that the inherent right of self-defence is authorised under Article 51 of the UN Charter. Therefore, the use of force in self-defence does not require authorisation from the SC. However, under Article 51 it is deemed applicable until the SC steps in and takes necessary measures to restore international peace and security. Moreover, Ulfstein also stated that the wording of Resolution 1368 is similar to Article 51. Hence, it referred to the right of self-defence in similar terms provided under the UN Charter. Resolution 1368 represents political acceptance of the idea that the use of force in exercising the right of self-defence may be appropriate in the case of terrorism. Although, Resolution 1368 is contradictory to SC Resolution 661 of 1990 which also referred to the right of self-defence but at the same time linked the right of self-defence to the armed attack by Iraq against Kuwait (Ulfstein, 2003, p. 152-167). According to Resolution 661, the Victim State has the right to self-defence only in the case of an armed attack against it.

a. Pakistan's Response to Security Council Resolution No. 1368

The SC Resolution 1368 called upon the UN Member States to take measures to repress and stop terrorism. Therefore, Pakistan's counter terrorism regime (Imran, 2019, p. 124-126) and counter terrorism strategies (Imran, 2019, p. 126-127) demonstrate Pakistan's will to stop and repress all kinds of terrorism.

iv. RES/1373

The SC Resolution 1373 which was adopted unanimously on 28 September 2001 under Chapter VII of the UN Charter confirms that an act of international terrorism is a threat to international peace and security. It comprises of several counter terrorism approaches such as the prevention of the financing and backing of terrorists, the criminalisation of such actions, effective border controls to prevent the movement of terrorists, eliminating the supply of weapons to terrorists, ways to intensify and to accelerate the exchange of information between Member States in accordance with domestic and international law to increase cooperation in order to prevent and suppress terrorist attacks.

The Resolution 1373 established the CTC with rule 28 of its provisional rules of procedure to monitor the compliance of Member States with the provisions of this resolution. According to SC Resolution 1535 (2004), the CTED is obliged to help the CTC in its efforts to monitor the implementation of SC Resolution 1373 (2001) by the Member States. In this regard, the CTC requested the CTED to formulate the "technical guide" to serve as a reference guide and to help ensure consistent analysis of States' implementation efforts. Resolution 1373 calls upon all 192 Member States to take appropriate measures to counter terrorism. It also determined equivalent compulsions for all 192 Member States apart from the existing international counter terrorism conventions and protocols that bind only State parties to them, and all 192 Member States are State parties to this resolution. It is an exceptional measure or action of SC Resolution 1373 and is one of the most inclusive resolutions adopted by the SC. Further,



it calls upon the Members States to report the steps they have adopted to implement the provisions of Resolution 1373 (UNSC Resolution No 1373, 2001).

However, it has restricted immigration laws by calling upon all Member States to take suitable actions in compliance with the related provisions of domestic and international law as well as international standards of human rights before granting refugee status. States must ensure that perpetrators organisers or facilitators of terrorists are not abusing the refugee status and claims of political motivation are not recognised as grounds for the rejection of requests for the extradition of alleged terrorists (Simeon, 2010, p. 104-137).

The SC through Resolutions 1368 and 1373 extended their enforcement actions against terrorist groups. Here, the SC reaffirmed the right to self-defence in Resolution 1368 against the perpetrators of the 9/11 attacks and adopted an inclusive set of obligations requiring serious legal and administrative actions by the Member States. However, neither these two resolutions nor the customary international law allowed pre-emptive war or unlimited use of military aid against host States that do not have effective control over the terrorist groups inside their territories. Therefore, according to Resolutions 1368, 1373 and customary international law, US pre-emptive drone strikes against Pakistan are illegitimate.

O'Connell also stated that SC Resolution 1373 did not allow the US to use military forces in self-defence against Afghanistan following the 9/11 attacks. Nevertheless, the resolution does conclude that the 9/11 attacks were of significant intensity to trigger the right of self-defence if other conditions of legality are met. Moreover, it is quite clear that the resolutions did not intend to display self-defence by the US with images after the attack (O'Connell, 2001, p. 889).

a. Pakistan's Responses to Security Council Resolution No.1373

UNSC Resolution 1373 demands the Member States to criminalise the financing of terrorism within their domestic legislation. The ATA has already criminalised all possible terrorist financing offences which are also included in the predicate offence list of the Anti-money Laundering Act 2010. For criminalising, Pakistan depends on sections 6(7), 11H, 11I, 11J, 11K and 11N to criminalise the financing of terrorism in response to UNSC Resolution 1373. The summary of provisions regarding criminalising the financing of terrorism is presented in Table 1.1.

Table 1.1 Criminalising the Financing of Terrorism

No.	Section of ATA,1997	Subject	Provision
1	6	Terrorism	The term "terrorist" includes an individual who has been concerned in the commission, preparation, facilitation, funding or



2	11-H	Funds Raising	<p>instigation of acts of terrorism.</p> <p>i. A person commits an offence if he/she invites another person or organisation to provide money or other property, and intends that it should be used, or has reasonable cause to suspect that it may be used, for the purpose of terrorism.</p> <p>ii. Similarly, a person commits an offence if he/she receives money or other property, and intends that it should be used, or has reasonable cause to suspect that it may be used for the purpose of terrorism.</p> <p>iii. Also, a person commits an offence if he/she provides money or other property; and knows or has reasonable cause to suspect that it will or may be used for the purpose of terrorism.</p>
3	11-I	Use and possession	A person commits an offence if he/she uses money or other property for the purpose of terrorism, or possesses money or other property, and intends that it should be used, or has reasonable cause to suspect that it may be used for the purpose of terrorism.
4	11-J	Funding Arrangements	A person commits an offence if he/she enters into or becomes concerned in an arrangement as a result of which money or other property is made available or is to be made available to another and has reasonable cause to suspect that it will or may be used for the purpose of terrorism.
5	11-K	Money Laundering	A person commits an offence if he/she enters into or becomes concerned in any arrangement which facilitates the retention or control, by or on behalf of another person, of terrorist property by concealment, by removal from the jurisdiction, by transfer to nominees, or in any other way.
6	11-N	Punishment under Sections 11H to 11K	Any person who commits an offence under Sections 11H to 11K, shall be punishable on conviction with imprisonment for a term not less than five years and not exceeding ten years and with fine.

Source: National Counter Terrorism Authority, 2013.



The SC resolution demands that all Member States freeze funds and other financial assets or economic resources of persons or entities who are involved in terrorism-related activities. Therefore, being a Member State Pakistan's ATA, 1997 under subsections 11B, 11E, 11EE, 11EEEE, 11O, 11OO and 11P of ATA, it authorises Pakistan's law enforcement agencies to freeze and seize terrorist assets and provisional measures required under UNSC Resolution 1373. A summary of these measures is given in the following table:-

Table 1.2 Freezing and Confiscation of Terrorist Assets, Provisional Measures and Confiscation under UNSC Resolution No 1373

No.	Section of ATA, 1997	Subject	Provision
1	11-B	Proscription of the Organisation	The Federal Government may list an organisation as a proscribed organisation in the First Schedule if there are reasonable grounds to believe that it is concerned in terrorism; or owned or controlled, directly or indirectly, by any individual or organisation proscribed under ATA; or acting on behalf of, or at the direction of, any individual or organisation proscribed under the ATA.
2	11-E	Measure to be taken against a Proscribed Organisation	<ul style="list-style-type: none"> • Where any organisation is proscribed, amongst other measures to be taken by the Federal Government: <ul style="list-style-type: none"> • Its offices, if any, shall be sealed; • All literature, posters, banners, or printed, electronic, digital or other materials shall be seized; and • Publications, printing or dissemination of any press statements, press conferences or public utterances by or on behalf of or in support of a proscribed organisation shall be prohibited. • The office bearers, activists, or the members or the associates of the proscribed organisation may be liable: <ul style="list-style-type: none"> • Shall not be issued any passport or allowed to travel abroad; no bank or financial institution or any other entity providing financial support shall provide any loan facility or financial support to such persons or issue credit cards to such persons; • Arms licenses, if already issued, shall be deemed to have been cancelled and the arms shall be deposited forthwith at the nearest Police Station. No fresh license to such persons for any kind of weapons shall be issued; and



- | | | | |
|---|-----------|--|--|
| 3 | 11-EE | Proscription
Person | <p>of</p> <ul style="list-style-type: none"> • The proscribed organisation shall submit all accounts of its income and expenditure for its political and social welfare activities and disclose all funding sources to the competent authority designated by the Federal Government. |
| 4 | 11-EEEEEE | Prohibition on
Disposal of Property | <p>of</p> <p>The Federal Government may list a person as a proscribed person in the Fourth Schedule of the ATA,1997 if there are reasonable grounds to believe that such person is concerned in terrorism, an activist, office-bearer or an associate of an organisation kept under observation under Section 11D or proscribed under Section 11B, and in any way concerned or suspected to be concerned with such organisation or affiliated with any group or organisation suspected to be involved in terrorism or sectarianism or acting on behalf of, or at the direction of, any person or organisation proscribed under the ATA, 1997.</p> <ul style="list-style-type: none"> • If during the course of the investigation, the police officer or Joint Investigation Team has sufficient evidence to believe that any property which is the subject matter of investigation is likely to be removed, transferred or otherwise disposed, such officer or the team may direct the owner or any person who is, for the time being, in possession thereof not to remove, transfer or otherwise dispose of such property before an order of appropriate authority for its seizure is obtained. • Any contravention of the order shall be punishable with rigorous imprisonment which may extend up to two years, or with fine, or with both. |
| 5 | 11-O | Seizure, Freeze and
Detention | <ul style="list-style-type: none"> • On proscription made under Sections 11B or 11EE: <ul style="list-style-type: none"> • The money or other property owned or controlled, wholly or partly, directly or indirectly, by a proscribed organisation or proscribed person shall be frozen or seized, as the case may be; • The money or other property derived or generated from any aforementioned property shall be frozen or seized, as the case may be; • No person shall use, transfer, convert, dispose of or remove such money or other property with effect from proscription; and |



- Within forty-eight hours of any freeze or seizure, the person carrying out the freeze or seizure shall submit a report containing details of the property and the persons affected by the freeze or seizure to such offices of the Federal Government as may be notified in the official Gazette.
 - Any person who violates the above provisions shall be liable to a penalty of fine not exceeding ten million rupees and the legal person violating the provision shall be liable to a penalty of fine not exceeding ten million rupees, and every director, officer or employee found guilty of the violation shall be punished in terms thereof:
 - On an application by any affected person, the Federal Government shall inquire into the ownership and control of any money or other property that has been frozen or seized and, if it is satisfied that the money or other
 - property has inadvertently been frozen or seized, the same shall be ordered to be released; and
 - No prosecution, suit or other proceedings shall lie against the government or any other person complying or purporting to comply with the provision done in good faith to affect freeze seizure.
- | | | | |
|---|-------|---|--|
| 6 | 11-OO | Access to Services, Money or other Property | The Federal Government may permit a person to make available to a proscribed organisation or proscribed person such services, money or other property as may be proscribed, including such money as may be required for meeting necessary medical and educational expenses and for subsistence allowance. |
| 7 | 11-P | Attachment of Terrorist Property | <ul style="list-style-type: none"> • An investigating officer may apply to a court for an order for attachment of a terrorist property; and • Any cash attached under this section shall be held in a profit and loss account and the profit and loss so earned shall be added to it on its release or forfeiture. |

Source: National Counter Terrorism Authority 2013.

v. RES/1624



The SC Resolution 1624 which was adopted on 14 September 2005 in its 5261st meeting considered terrorism as a serious and grave threat to international peace and security and reaffirmed that terrorism must be countered in all its forms by using all means. It also stressed on the need that any measures taken by States for countering terrorism must comply with international law (UNSC Resolution No 1624, 2005).

The SC was extremely concerned about the stimulation of terrorist acts aggravated by extremism and bigotry which poses a serious threat to human rights values, social and economic development of all States and challenges universal stability and prosperity. Therefore, the SC through resolution 1624 stressed to all Member States to take “all necessary and appropriate measures in accordance with international law to (a) prohibit by law incitement to commit a terrorist act or acts; (b) prevent such conduct; and (c) deny safe haven to any persons with respect to whom there is credible and relevant information giving serious reasons for considering that they have been guilty of such conduct” (UNSC Resolution No 1624, 2005, Article 1).

The SC also emphasised the need to take appropriate measures consistent both at the domestic and international levels for protecting the right to life. The SC showed its concern for the increasing number of victims resulting from terrorism and extremism in several parts of the world and reaffirmed its deep solidarity with the victims of terrorism and their families. It also stressed the importance of assisting the victims of terrorism and providing support to them and their families to cope with their loss and misery.

The SC also recognised the role of UN in the universal effort to counter terrorism and called upon all Member States to become party as an issue of exigency, to the international counter terrorism conventions and protocols whether or not they are party to regional conventions on the issue and give precedence deliberation to sign the International Convention for the Suppression of Acts of Nuclear Terrorism adopted by the GA on 13 April 2005 (International Convention for the Suppression of Acts of Nuclear Terrorism, 2005).

SC re-emphasised on on-going international efforts to augment dialogue and widen the understanding among societies as an effort to inhibit the indiscriminating targeting of various religions and cultures and addressing unresolved regional conflicts, and universal issues that will contribute to strengthening the international fight against terrorism. It also stressed on the significance of the role of the media, civil and religious society, the business community and educational institutions in their efforts to augment dialogue and widen understanding, fostering tolerance, cohabitation and promoting an environment which is not contributing to the incitement of terrorism. Also, the State should act cooperatively to inhibit terrorists from misusing modern technology to incite support for criminal acts.

The SC also stressed that States must ensure that any measures taken to implement Articles 1, 2 and 3 of Resolution 1624 must be in accordance with their obligations under international law especially International Human Rights Law (IHRL), refugee law and called upon all States to report to the CTC on the measures they have adopted to implement Resolution 1624 (Joseph & Mcbeth, 2010, p. 519).



a. Pakistan's response to Security Council Resolution No. 1624

In response to SC Resolutions 1373 and 1624, Pakistan has approved the Anti-money Laundering Bill 2005, but its enforcement was delayed which was finally approved in January 2010 by the Parliament of Pakistan and became an act. Under the money Anti-money Laundering Act 2010 “anyone who acquires, converts, possesses or transfers money, knowing or having reason to believe that such property is proceeds of crime (The Anti-Money Laundering Act, 2010, Section 3) shall be punishable “rigorous imprisonment for a minimum term is 1 year which can be extended to 10 years and shall also be liable to fines which can be extended to 1 million rupees and shall also be liable to forfeiture of property involved in money laundering or property of equivalent value.“Fines may be extended to 5 million rupees in the case of a company, director, officer or employee of the company found guilty under section 4 of the Anti-money Laundering Act, 2010 and shall also be punishable under this section (The Anti-Money Laundering Act, 2010, Section 4).

vi. RES/2396

The SC Resolution 2396 which was adopted on 21 December 2017 by reaffirming its Resolutions “1267 (1999), 1325 (2000), 1368 (2001), 1373 (2001), 1566 (2004) 1624 (2005), 1894 (2009), 2106 (2013), 2133 (2014), 2150 (2014), 2170 (2014), 2178 (2014), 2195 (2014) 2199 (2015), 2242 (2015), 2249 (2015), 2253 (2015), 2309 (2016) 2322 (2016), 2331 (2016), 2341 (2017), 2347 (2017), 2354 (2017), 2367 (2017), 2368 (2017), 2370 (2017) 2379 (2017)” and related presidential statements reaffirmed that terrorism in every form constitutes a serious threat to international peace and security and that any acts of terrorism or criminal are unjustifiable regardless of their motivations whenever, wherever and by whomever committed. It remained determined to contribute to support further, augmenting the success of global efforts to fight the menace of terrorism on a universal level. This resolution also stressed that joint efforts on national, regional and international levels are needed for countering terrorism in accordance with the international law and UN Charter (UNSC Resolution No 2396, 2017, Para 1).

Furthermore, it also emphasised that terrorism and extremism should not be linked to any specific religion or nationality. It stresses that sovereignty and political independence of all states must be respected in accordance with the UN Charter and all Member States are obliged to counter extremism and terrorism contributing to terrorism, and the measures taken by name and the Member States must comply with international law especially IHRL, international refugee law and international humanitarian law (IHL). Further, it emphasised that the respect for human rights, fundamental freedoms and the rule of law corresponds and mutually strengthens with successful counter terrorism measures and disobeying obligations included in the UN Charter is one of the basic reasons for increased violence (UNSC Resolution No 2396, 2017, Article 42-44).

Notwithstanding, it also includes various counter terrorism measures such as prosecution, rehabilitation and integration of foreign terrorists and their families. It also focuses on the



needs to improve domestic information sharing within relevant CJSs for effective monitoring, returning and transferring foreign terrorists and other persons radicalised to ferocity or instructed by ISIL or other terrorist sets to commit terrorist acts complying with the international law. Moreover, it stresses on the Member States to provide a safe and humane environment in prisons in order to avoid inmates who are convicted of terrorism-related crimes from radicalising other prisoners to ferocity or extremism ((UNSC Resolution No 2396, 2017, Article 40). This Resolution 2396 regarding Border Security and information security stresses on the Member States “to prevent the movement of terrorists by effective national border controls and controls on issuance of identity papers and travel documents, and through measures for preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents” (UNSC Resolution No 2396, 2017, Article 2).

a. Pakistan’s Response to Security Council Resolution No. 2396

In response to UNSC Resolution 2396, Pakistan has established a Task Force to review Pakistan’s existing border control and security system to align the national system with the Global Aviation Security Plan (GASP) and to develop mechanisms for international coordination for the identification and verification of financial profiles of foreign terrorist fighters (FTFs) along with “information sharing with foreign governments” (The News, 2018).

II. Committees of the Security Council

The SC has created following three committees comprising of all 15 Member States such as the Al-Qaeda and Taliban Sanctions Committee (1267 Committee), the CTC and the 1540 Committee.

i. Al-Qaeda and Taliban Sanction Committee (1267 Committee)

The Al-Qaeda and Taliban Sanction Committee (1267 Committee) was created by the SC under Resolution 1267 on 15 October 1999 to monitor the implementation of UN sanctions imposed against Al Qaeda and the Taliban. It was reformed and improved by dozens of SC Resolutions such as 1333 in 2000, 1390 in 2002, 1455 in 2003, 1526 in 2004, 1617 in 2005, 1735 in 2006, 1822 in 2008, 1904 in 2009 and 1989 in 2011 and 2083 in 2012 (collectively known as 1267) adopted under Chapter VII of the UN Charter. This sanctions regime was created to impose sanctions on individuals and entities linked with Al-Qaeda or the Taliban wherever they were located. These sanctions included air embargo and freezing of assets on the Taliban which was imposed by the 1267 Committee (Garvey. 2015, p. 551-556). On 24 January 2018, the monitoring team of the UNSC 1267 sanction committee arrived in Pakistan to assess Pakistan’s compliance with the international sanctions regime and also to mount international pressure on Pakistan to act against Hafiz Saeed and the individuals linked to the Mumbai attack mastermind Hafiz Saeed.

The 1267 Committee prepares annual reports of its activities and reports annually to the SC on the implementation of the sanction measures. On 13 April 2018, the 1267th committee



held joint informal consultations with the committee established under resolution 1988(2011) to hear the presentation of the monitoring team after its two-day visit to Pakistan between 24 January and 25 January 2018. The Committee is also mandated to designate individuals and entities who meet the listing criteria specified in the related resolutions. The listing and delisting criteria of individuals and entities are highly criticised because of the failure to consider human rights values and due process set out in the SC Resolution 1267.

The Office for Democratic Institutions and Human Rights (ODIHR) mentioned that by following Resolution 1267, the SC is now behaving like a “quasi-criminal”, investigating, prosecuting and sentencing agency. It is beginning to do things which were previously carried out by national judges, police, prosecutors and intelligence officials (ODIHR, 2008).

ii. The Counter terrorism Committee (CTC)

The CTC was established by SC Resolution 1373 in 2001 in the wake of the 9/11 attacks in the US. The CTC, including all 15 Member States of the SC, was tasked to implement the provisions of Resolution 1373, 2001 in order to improve their legal and institutional capabilities to combat terrorism at both domestic and international levels. The SC directed the CTC to include Resolution 1624 of 2005. Therefore, since 2005 it is included in all dialogues with the Member States on their efforts to combat terrorism. The work of the CTC is assisted by the CTED (UNSC Resolution No 1373, 2001).

The CTED makes the policy decisions of the CTC to provide legal expertise and also to provide technical assistance to the Member States for countering terrorism. The CTC is authorised to introduce universal standards with the aims of inhibiting and repressing terrorism along with locating and prosecuting terrorists. The CTC and Resolution 1267 have played a crucial part in creating States awareness of the procedures to repress and stop terrorist attacks (UNSC Resolution No 1267, 1999).

iii. The 1540 Committee 2004

The SC established the 1540 Committee by SC Resolution 1540 under paragraph 4 of this resolution which imposes binding obligations on all States to adopt legislation to prevent the proliferation of nuclear chemical and biological weapons and their means of delivery and also institute proper domestic control over related materials to stop their illegal trafficking (UNSC Resolution No 1540, 2004, Para 4).

An expert group assists and supports the 1540 Committee work. On 29 June 2012, the SC through the adoption of Resolution 2055 in 2012 increased the membership of the group of experts to support the work of the 1540 Committee from 8 to 9 members. The 1540 committee works through State reporting and is mandated to prevent the weapons of mass destruction entering into the hands of non-state actors and terrorists by reviewing the reports submitted by the States. On 28 April 2011, the SC by adopting Resolution 1977 extended the mandate of the 1540 Committee for a period of 10 years to 2021 which "reaffirms that the



proliferation of nuclear chemical and biological weapons and their means of delivery constitute a threat to international peace and security” (Adopting Resolution 2055, 2012).

1.3 CONCLUSION

Owing to the increased threats of terrorism, several international and regional organisations are trying to develop an inclusive policy for encountering terrorism. The UN has played a vital role in the prevention and suppression of terrorism which is shown by its contemporary legal framework for international counter terrorism measures.

Despite the UN resolutions and conventions and counter terrorism measures adopted by Pakistan and several other States in the form of making stringent counter laws or in the form of armed actions, terrorist acts are still occurring which indicates that to repress terrorism and other international criminal acts, more effort is needed than international measures. It involves decreasing both the supply and demand for terrorism along with de-legitimising it via international instruments. Following the inclusive study of international laws, the researcher finds that it is the duty of all States including Pakistan to stop and repress terrorism within their State boundaries. Although, Pakistan has taken measures to counter terrorism, the presence of weaknesses in the judicial and legal system of Pakistan has made those efforts unproductive.



REFERENCES

- Adhoc Committee established by GA Resolution 51/210.(1996 December). <http://legal.un.org/committees/terrorism/>
- Adhoc Committee on the Criminal Accountability of United Nations officials and experts on mission (2006 December). http://legal.un.org/committees/criminal_accountability/.
- APP, (2018 July 2). Pakistan Calls for Boosting International Cooperation to Wipe Out Terrorism. *The News*.
- CTED, United Nations Security Council Resolution No 1373 (2001). <https://www.un.org/securitycouncil/ctc/>
- European Commission Legal Service. (1952). http://ec.europa.eu/dgs/legal_service/arrets/05c402_en.pdf
- Garvey, J. I. (2015). Targeted sanctions: resolving the international due process dilemma. *Tex. Int'l LJ*, 50, 551. <https://heinonline.org/HOL/LandingPage?handle=hein.journals/tlj50&div=25&id=&page=>
- General Assembly of the United Nations, Social, Humanitarian & Cultural Issues (Third Committee) <http://www.un.org/en/ga/third/index.shtml>
- General Assembly of the United Nations. <http://www.un.org/en/ga/sixth/>
- Imran, M. (2019). Counter Terrorism Measures and Challenges facing the Criminal Justice System in Pakistan [PhD dissertation, the National University of Malaysia].
- International Convention for the Suppression of Acts of Nuclear Terrorism (2005 April). https://treaties.un.org/pages/ViewDetailsIII.aspx?src=TREATY&mtdsg_no=XVIII-15&chapter=18&Temp=mtdsg3&clang=en
- International Peace and Security, Terrorism, Security Council Resolution No 1269 (1999 October). <https://www.refworld.org/docid/3b00f1d35a.html>
- INTERPOL. <https://www.interpol.int/Crime-areas/Terrorism/Terrorism>
- Joseph, S., & McBeth, A. (Eds.). (2010). *Research handbook on international human rights law*. Edward Elgar Publishing.
- National Counter Terrorism Authority 2013 (NACTA). (2013). <https://nacta.gov.pk/wp-content/uploads/2018/11/15102018-guidelines-on-actions-to-be-taken-by-competent->



[authorities-for-implementation-of-united-nations-security-council-resolution-no.-1373-without-covering-letter-1.pdf](#)

O'Connell, M. E. (2001). Lawful self-defense to terrorism. *U. Pitt. L. Rev.*, 63, 889.

ODIHR, (2008). Combating the Financing of Terrorism While Protecting Human Rights: A Dilemma? Organisation for Security and Co-operation in Europe, Davos, Switzerland. <https://www.osce.org/files/f/documents/f/2/36220.pdf>

Secretary-General Kofi Annan Launches Global Strategy against Terrorism in Madrid. (2005). <https://www.un.org/press/en/2005/sg2095.doc.htm>

Security Council Committee Pursuant to Resolutions 1267 (1999), 1989 (2011) and 2253 (2015) Concerning ISIL (Da'esh) Al-Qaeda and Associated Individuals Groups Undertakings and Entities. https://www.un.org/sc/suborg/en/sanctions/1267/aq_sanctions_list.

Simeon, J. C. (2010). Complicity and culpability and the exclusion of terrorists from convention refugee status post-9/11. *Refugee Survey Quarterly*, 29(4), 104-137.

Sofia Asghar, (2018). Pakistan's Compliance with the UNSC Resolution 1267. <https://cscr.pk/explore/themes/politics-governance/pakistans-compliance-uns-resolution-1267/>.

The Anti-Money Laundering Act 2010.(2020 September) . <https://www.fmu.gov.pk/docs/Anti-Money-Laundering-Act-2010-amended-up-to-Sep.%202020.pdf>

The Security Council Resolution No 1624.(2005 September). Prohibition of Incitement to Commit Terrorist acts. http://www.mofa.go.kr/mofat/htm/issue/policyplanning/UNSCR_1624.pdf

The Security Council Resolution No 2396, (2017 December). <https://www.un.org/securitycouncil/content/sres23962017>

Ulfstein, G. (2003). Terrorism and the Use of Force. *Security Dialogue*, 34(2), 153-167.

United Nations Charter Resolutions. (1945 June). <https://www.un.org/en/about-us/un-charter/full-text>

United Nations Office of Counter Terrorism, Counter terrorism Implementation Task Force (2005). <https://www.un.org/counterterrorism/ctitf/en/about-task-force>.

United Nations Office on Drugs and Crime. (1997). <https://www.unodc.org/documents/terrorism/Publications/FAQ/English.pdf>



United Nations Security Council Subsidiary Organs, Sanctions Measures, (1999 Oct).
<https://www.un.org/sc/suborg/en/sanctions/1267>.