



RESEARCH PAPER

Pakistan's Cautious Navigation through the Evolution of International Counter-Terrorism Law: An Analysis

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ABSTRACT

The objective of this research is to study the development of counter-terrorism law in Pakistan in the context of the evolution of international counter-terrorism law. Terrorist activities conducted by organizations within the confines of a state for the advancement of their goals predominantly constitute an internal matter of the state. However, the matter becomes relevant to international concern when such organizations direct their actions against the interests of other states. The doctrinal legal analysis approach was adopted in this study. The result of this study found that the stance of Pakistan on counterterrorism is complicated due to several factors, i.e., the will of the state to counterterrorism, geopolitical and sociopolitical considerations, the policies of international and regional players, and the policy and legal apparatus in Pakistan. It is recommended that the state of Pakistan adopt a wholistic approach, according to the dynamics of terrorism, to counter terrorism in letter and spirit.

KEYWORDS Counterterrorism, International, Law, Pakistan, Terrorism

Introduction

International law plays a crucial role in shaping and enforcing the global response to terrorism. It comprises a complex legal framework that includes international conventions, resolutions of the United Nations General Assembly, and United Nations Security Council mandates. Each of these elements uniquely contributes to the international legal architecture for counterterrorism (Guillaume, 2004).

International conventions, such as the International Convention for the Suppression of the Financing of Terrorism, provide a binding framework for states to cooperate in preventing and combating terrorism. These conventions define terrorism-related offenses and mandate state parties to enact domestic legislation to criminalize such conduct, ensuring a coordinated international approach (Rosand, 2003).

The United Nations General Assembly, through its resolutions, sets norms and guiding principles for counter-terrorism efforts (Yaseen, et. al., 2019). Although these resolutions are not legally binding like international conventions, they carry significant moral and political weight. They often call upon states to adopt and implement comprehensive strategies to combat terrorism while respecting human rights and the rule of law (Ward, 2003).

The United Nations Security Council, under its mandate for maintaining international peace and security, has passed several binding resolutions on counterterrorism, which oblige member states to prevent and suppress the financing of terrorism, criminalize the provision of haven to terrorists, and enhance international cooperation in countering terrorism (Stromseth, 2003).

Terrorist activities can lead to substantial economic losses, disrupt trade and investment, and divert resources from development to security needs, posing a significant threat to global economic stability and development. (Yaseen & Muzaffar, 2018). This economic dimension of terrorism affects developed and developing countries, hindering global efforts towards sustainable development and poverty alleviation (Lavallo, 2000).

The international community is also concerned about the potential link between terrorism and other transnational crimes, such as drug trafficking, arms smuggling, and human trafficking. This nexus poses additional challenges to law enforcement and international legal frameworks. In response, there is growing consensus on the need for a coordinated, multifaceted approach to counter-terrorism (Nawab, et. al. 2021). This includes strengthening international cooperation, sharing intelligence and best practices, enhancing legal frameworks, and addressing the root causes of radicalization and terrorism, such as social injustice, political marginalization, and economic disparities. There is also an emphasis on upholding human rights and the rule of law in counter-terrorism efforts, recognizing that the erosion of these principles can fuel the grievances that lead to terrorism (Saul, 2011).

Literature Review

Various bodies have also been established under international law to facilitate and oversee the implementation of counter-terrorism measures. Key among these is the Counter-Terrorism Committee (CTC) established by the Security Council, which assists member states in enhancing their legal and institutional ability to fight terrorism. Other vital entities include the United Nations Office of Counterterrorism and the Financial Action Task Force (FATF), which focus on policy coordination and setting standards for combating money laundering and terrorist financing. Together, these components of international law represent a comprehensive effort to establish a global legal framework for countering terrorism. This framework balances the need for security with respect for human rights and the principles of sovereign equality among states. Moreover, the prosecution procedure must be based on scientific and forensic evidence (Ajmal & Rasool, 2022).

There are several international conventions held with the purpose of combating the menace of terrorism. The conventions and protocols are grouped according to the specific forms of terrorism they address, including aviation security, protection of internationally protected persons, maritime security, suppression of terrorist bombings, financing of terrorism, and nuclear terrorism.

Aviation Security

The international community's concern with terrorism's threat to aviation security is evident from the early establishment of conventions such as the Convention on Offences and Certain Other Acts Committed on Board Aircraft (1963) and its subsequent 2014 Protocol. These foundational texts set the stage for international cooperation in addressing crimes committed on aircraft, emphasizing jurisdiction and enforcement issues. The Convention for the Suppression of Unlawful Seizure of Aircraft (1970) and its 2010 Protocol furthered this effort by criminalizing aircraft hijacking. The Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (1971) and its 1988 Protocol expanded the scope to include acts of violence at airports serving international civil aviation, demonstrating an evolving understanding of the threats to aviation security.

Protection of Internationally Protected Persons

The Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents (1973), responded to the increasing targeting of diplomats and international officials by terrorists. It established international norms for criminalizing attacks on internationally protected persons, setting a precedent for global cooperation in protecting diplomats.

Maritime Security

Recognizing the maritime domain's vulnerability to terrorism, the international community adopted the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (1988) and its 2005 Protocol. These instruments aimed to enhance maritime security by criminalizing unlawful acts against ships and maritime navigation, reflecting growing concerns over piracy and maritime terrorism (Ghani, et. al. 2017). The Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf (1988) and its 2005 Protocol addressed similar concerns for offshore oil and gas installations.

Suppression of Terrorist Bombings

The International Convention for the Suppression of Terrorist Bombings (1997) marked a significant advancement in the international legal architecture against terrorism. It provided a legal basis for the prosecution and extradition of individuals involved in bombings, recognizing the global threat posed by such acts of terrorism.

Financing of Terrorism

The International Convention for the Suppression of the Financing of Terrorism (1999) addressed a critical aspect of counter-terrorism efforts: the financial networks supporting terrorist activities. By criminalizing the provision of funds for terrorism, this convention underscored the importance of targeting the economic underpinnings of terrorist operations.

Nuclear Terrorism

The International Convention for the Suppression of Acts of Nuclear Terrorism (2005) responded to the post-Cold War era's emerging threats, focusing on preventing terrorism involving radioactive materials and nuclear devices. This convention represents a pivotal moment in the international community's efforts to address the catastrophic potential of nuclear terrorism.

Recent Developments

The Beijing Convention (2010), formally known as the Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation (2010), illustrates the ongoing efforts to adapt the international legal framework to emerging terrorist threats, particularly in evolving aviation security challenges.

The literature review on the United Nations' efforts to counter terrorism, mainly focusing on the control of Weapons of Mass Destruction (WMD) and Chemical, Biological, Radiological, and Nuclear (CBRN) weapons, reveals a multifaceted approach encapsulating General Assembly Resolutions, Security Council Resolutions, and the operational activities of various United Nations bodies. The pivotal resolutions, such

as 1373 (2001), 1540 (2004), and 2325 (2016), lay down a comprehensive framework for member states to combat terrorism and prevent the proliferation of WMDs and CBRNs. This review synthesizes insights from academic literature, official UN documents, and scholarly analyses to evaluate the effectiveness and challenges of these measures.

United Nations Security Council Resolutions

Resolutions 1373 (2001), 1540 (2004), and 2325 (2016) represent cornerstone legal instruments in the global fight against terrorism and the proliferation of WMD/CBRN. Resolution 1373 (2001), enacted in the wake of the September 11 attacks, mandates countries to prevent and suppress terrorism financing and improve international cooperation. Resolution 1540 (2004) expands this mandate by explicitly addressing the non-proliferation of nuclear, chemical, and biological weapons and their delivery systems by non-state actors. Resolution 2325 (2016) further strengthens 1540 by enhancing its implementation mechanisms and emphasizing the need for capacity building among member states. These resolutions underscore the Security Council's proactive role in shaping a legal and normative framework for counter-terrorism efforts and non-proliferation.

Karlsrud (2017) debates the potential expansion of UN counter-terrorism operations, considering the evolving nature of terrorist threats and the need for more robust international response mechanisms. Minnella (2019) examines the impact of counter-terrorism resolutions on listing terrorists and their organizations, highlighting the legal and human rights implications of such measures. There must be capacity building among the relevant holders to handle the intricacies of legal matters (Ajmal et al., 2023).

Material and Methods

The doctrinal legal analysis approach was used to analyze the variables under study.

Results and Discussion

One of the recurrent themes in the literature is the challenge of balancing security measures with human rights protections. The resolutions and UN efforts have been critiqued for their potential overreach and the implications for civil liberties. Additionally, the effectiveness of these measures is contingent upon the political will and capacity of member states to implement them. The evolving nature of terrorism, with the increasing use of cyberspace and sophisticated means to acquire WMD and CBRN materials, calls for a dynamic and adaptable UN counter-terrorism strategy.

The 19 International Conventions and Protocols for Countering Terrorism collectively represent a comprehensive effort by the international community to address the multifaceted nature of terrorism. While these conventions and protocols have significantly contributed to international counter-terrorism efforts, they also highlight the challenges of achieving a unified definition of terrorism and the need for continuous adaptation to new threats. Their success and effectiveness depend on the commitment of states to implement and enforce these international norms within their jurisdictions, demonstrating the essential role of international cooperation in combating terrorism.

The United Nations' framework for countering terrorism and preventing the proliferation of WMD and CBRN is comprehensive, involving a range of legal

instruments, specialized bodies, and collaborative efforts. While the Security Council resolutions provide a robust legal foundation, the effective implementation of these measures relies on the collaborative efforts of member states, the UNCCT, and other UN bodies. The literature underscores the importance of continual adaptation, capacity building, and the need to uphold human rights standards in the fight against terrorism. Future efforts should address the gaps in implementation, enhance international cooperation, and adapt to the changing modalities of terrorism and technological advancements.

Terrorist activities conducted by organizations constitutes the confines of a state for the advancement of ideological goals and predominantly constitute an internal matter of that state. However, when such organizations direct their actions against the interests of other states, the nature of their activities transcends national boundaries, evolving from a domestic to an international concern. This transformation recognizes these acts as potential threats to global peace and security. Notably, despite the absence of a universally accepted definition of terrorism, certain violent acts and incidents have been internationally categorized under the ambit of global terrorism. Thus, the law must be amended keeping in view the ground realities (Ajmal & Rasool, 2023).

Determining what constitutes such acts is largely contingent upon the consensus reached within the United Nations Security Council. International conventions and resolutions play a pivotal role in denouncing and imposing sanctions against terrorism and related activities. Pakistan's counter-terrorism stance is complex due to both internal and external factors. Domestically, the intricate socio-political landscape and the influence of internal groups pose significant obstacles to uniformly implementing counter-terrorism measures. The capacity and willingness of Pakistan's law enforcement and judicial systems to deal with terrorism effectively are also in question. Additionally, geopolitical considerations, particularly its relationships with neighboring countries and the broader international community, further complicate Pakistan's counter-terrorism stance. Pakistan's strategic importance and its involvement in regional conflicts have led to a nuanced and sometimes contradictory approach towards counterterrorism. However, Pakistan needs to adhere to international norms and address the reality of domestic and regional political considerations to combat terrorism effectively.

Conclusion

The problem of terrorism and preventing its spread beyond national borders is a significant concern for the global community. International laws, such as conventions, resolutions, and protocols, have been established to create a united front against terrorism. However, their effectiveness depends on individual countries' commitment to enforcing and adhering to them. Pakistan, a nation that has been at the center of regional terrorism, has made significant progress in combating terrorism within its borders, including military operations and legal measures. However, some critics argue that there is inconsistency in the application and enforcement of these measures. The international community has called for decisive action against all forms of terrorism. However, some argue that Pakistan's response has been half-hearted due to allegations of selective action against terror groups and the existence of safe havens within its territory. This perceived ambivalence poses a significant challenge to the integrity of international legal frameworks aimed at counterterrorism. The challenge lies in balancing national security interests with international obligations. This is not unique to Pakistan but is particularly pronounced in nations facing complex internal security dynamics and external pressures. To effectively contribute to the global fight against terrorism, Pakistan must align its efforts more closely with international expectations. This requires a nuanced

understanding of its domestic challenges and a concerted effort to address them. This approach is crucial for Pakistan's international standing and the stability and security of the broader region and the international community. The problem of terrorism and preventing its spread beyond national borders is a significant concern for the global community. International laws, such as conventions, resolutions, and protocols, have been established to create a united front against terrorism. However, their effectiveness depends on individual countries' commitment to enforcing and adhering to them. Pakistan, a nation that has been at the center of regional terrorism, has made significant progress in combating terrorism within its borders, including military operations and legal measures. However, some critics argue that there needs to be more consistency in the application and enforcement of these measures. The international community has called for decisive action against all forms of terrorism. However, some argue that Pakistan's response has been half-hearted due to allegations of selective action against terror groups and the existence of safe havens within its territory. This perceived ambivalence poses a significant challenge to the integrity of international legal frameworks aimed at counterterrorism. The challenge lies in balancing national security interests with international obligations. This is not unique to Pakistan but is particularly pronounced in nations facing complex internal security dynamics and external pressures. To effectively contribute to the global fight against terrorism, Pakistan must align its efforts more closely with international expectations. This requires a nuanced understanding of its domestic challenges and a concerted effort to address them. This approach is crucial for Pakistan's international standing and the stability and security of the broader region and the international community.

Recommendations

To enhance Pakistan's compliance with international obligations, particularly in countering terrorism, the following recommendations are proposed: By adopting these recommendations, Pakistan can strengthen its role in the international community's collective efforts to combat terrorism while addressing its domestic security challenges comprehensively and effectively.

Strengthen Legislative Framework: Amend national laws to align with international conventions and resolutions on terrorism, ensuring that definitions, offences, and penalties are consistent with international standards. Measures related to the financing of terrorism must also be implemented, as outlined in the International Convention for the Suppression of the Financing of Terrorism.

Enhance Inter-Agency Cooperation: Establish and strengthen mechanisms for inter-agency cooperation within the country and with international counterparts. Enhancing information sharing and collaborative efforts are crucial for effective action against terrorist networks and their support systems.

Bolster Border Security and Monitoring: Improve border control mechanisms to prevent the movement of terrorists and the smuggling of weapons, funds, and materials used in terrorist acts. This includes using technology for surveillance and monitoring and international cooperation with neighboring countries.

Counter-terrorism Financing: Implement and enforce robust measures to counter the financing of terrorism, in line with Financial Action Task Force (FATF) recommendations. This involves improving the oversight of financial institutions, non-bank financial institutions, and other sectors vulnerable to abuse for terrorism financing.

Promote Deradicalization and Counter-violent Extremism: Invest in community-based deradicalization and counter-violent extremism programs that address the root causes of terrorism. Engaging religious leaders, educators, and community leaders in these efforts can be particularly effective.

Enhance Judicial Capacity: Strengthen the capacity of the judiciary to prosecute and adjudicate terrorism cases effectively and fairly, with full respect for human rights and the rule of law. This includes training for judges and prosecutors in international standards and practices. The judiciary must be trained sufficiently to handle matters of a technical nature (Ajmal & Rasool, 2024).

Comply with United Nations Security Council Resolutions (UNSCRs): Ensure full compliance with relevant UNSCRs, including those related to preventing the proliferation of weapons of mass destruction to non-state actors and combating the financing of terrorism. Compliance mechanisms should be transparent and regularly reviewed.

International Cooperation and Reporting: Enhance cooperation with international bodies and other countries in the fight against terrorism, including by sharing intelligence, joint operations, and mutual legal assistance. Regular reporting to relevant UN bodies on measures to implement resolutions and conventions is also crucial for transparency and accountability.

Protect Human Rights: Ensure that all counter-terrorism measures are implemented in a manner that fully respects human rights and fundamental freedoms. This includes safeguarding against arbitrary detention and torture and ensuring due process and the right to a fair trial.

Engage in Regional and International Counter-terrorism Initiatives: Actively participate in regional and international counter-terrorism forums and initiatives to share best practices, learn from the experiences of others, and contribute to a coordinated global response to terrorism.

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