

# Social Protection in International Platform

Pooja Kurian  
Alliance School of Law  
Bangalore, India

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## Abstract:

This article elucidates the process of application of concept Social Protection to combat international terrorism for achieving and maintaining the goal of international peace and security. For this, it focuses on illustrating the role and application of the international organisations in the international platform in combating terrorism. The various anti-terrorism legislations have been described in detail, and subsequently, an analysis has been made to determine their use as a tool of social protection for achieving the aforementioned goals.

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## I. INTRODUCTION

Social Protection, as defined by United Nations Research Institute for Social Development, *is concerned with preventing, managing, and overcoming situations that adversely affect people's well-being*<sup>1</sup>. Thus, it can be said that, it includes protection of human rights, which are a part of the peremptory norms or 'jus cogens'. These peremptory norms are to be upheld by all the international bodies at all times. The acts of terrorism threaten the harmonious adherence of this fundamental norm. Social protection has a vital role to play in this regard by aiding the international bodies to formulate anti-terrorism legislations. There are various international resolutions, conventions and treaties of the United Nations which act as a tool in combating international terrorism. Also, there are several regional conventions regarding the same.

Such instruments have been in existence since 1960's and have done a great deal in,

a) Addressing the problem of international terrorism, b) Preventing and Combating terrorism, c) Strengthen capacity of member states in fighting terrorism, d) Ensuring the respect for human rights for all as the fundamental rights of combating terrorism.<sup>2</sup>

This article aims to, firstly elucidate as to how the different organs of United Nations have contributed in combating terrorism. Secondly, to throw light on the existing anti-terrorism conventions and their effectiveness in combating terrorism, as means of social protection, to attain the goal of international peace and security. Lastly, to point out as to how efficiently the concept of social protection, has tackled the problem of international terrorism.

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<sup>1</sup> *Social Protection*, WIKIPEDIA, (July 07, 2018, 02:34 PM), [https://en.wikipedia.org/wiki/Social\\_protection](https://en.wikipedia.org/wiki/Social_protection).

<sup>2</sup> *UN Global Counter-Terrorism Strategy*, UNITED NATIONS OFFICE OF COUNTER-TERRORISM, (July 07, 2018, 02:46 PM), <https://www.un.org/counterterrorism/ctitf/en/un-global-counter-terrorism-strategy>.

## II. THE ROLE OF UNITED NATIONS IN COMBATING INTERNATIONAL TERRORISM IN ACHIEVING THE GOAL OF SOCIAL PROTECTION:

### A. *General Assembly*

The General Assembly has an important role in explaining and outlining an international legal framework which would promote cooperation among international bodies against terrorism and will encourage governments to work as one in combating the threat of terrorism.

### B. *Security Council*

The Security Council decides upon the acts which may or may not constitute an act of terrorism, which may pose a threat to international peace and security. For this, it has adopted several resolutions concerning the threat of terrorism under chapter VII<sup>3</sup> of the United Nations Charter.

The Security Council has also set up three Committees, in this regard to oversee the proper implementation of resolutions concerning terrorism. The members of these Committees consist of all the fifteen members of Security. These Committees established by the Security Council which deal with all the issues in relation to terrorism are the *Al-Qaida and Taliban Sanctions Committee*, the *Counter-Terrorism Committee (CTC)*, and the *1540 Committee*.

### C. *Terrorism Prevention Branch*

The Terrorism Prevention Branch (TPB) is a subsidiary organ of the Vienna-based United Nations Office on Drugs and Crime (UNODC). Its purpose is to provide technical assistance in legal and other such areas in countering terrorism.

It provides technical assistance to countries, when requested for, in the legal and other such aspects of counter-terrorism, particularly for ratification and implementation of the international legal instruments against terrorism and also for strengthening the capacity of the justice systems of the countries in application of the said provisions in coherence with the rule of law.

### D. *International Court of Justice*

The Security Council and General Assembly may seek advisory opinions upon any legal issue. The other organs of the United Nations may seek advisory opinion if the legal issue relates to their scope of activities and in accordance with specific rules. These advisory opinions are not binding but they present a precedential stance in relation to several questions of international law.<sup>4</sup>

<sup>3</sup> Action with respect to threats to the peace, breaches of the peace, and acts of aggression.

<sup>4</sup> *Frequently Asked Questions on International Law Aspects of Countering Terrorism*, UNITED NATIONS OFFICE ON DRUG AND CRIME, (July 07, 2018, 03:04 PM), <https://www.unodc.org/documents/terrorism/Publications/FAQ/English.pdf>.

### III. THE ROLE OF VARIOUS ANTI-TERRORISM LEGISLATIONS IN ACHIEVING THE GOAL OF SOCIAL PROTECTION IN THE INTERNATIONAL PLATFORM:

#### A. *International Conventions and Protocols*

There is a set of nineteen international conventions and protocols in relation to the prevention and suppression of terrorism and are binding on States parties. They are as follows<sup>5</sup>:

- ***1963 Convention on Offences and Certain Other Acts Committed On Board Aircraft (Tokyo Convention)***

It is applicable to acts concerning in-flight safety. It also adorns an authorisation upon the aircraft commander to impose reasonable measures, including restraint, on any person, when there is a reason to believe that the person has committed or is about to commit an act, where it is necessary to protect the safety of the aircraft and the contracting States require to take custody of offenders and to return the control of the aircraft to the lawful commander.

- ***1970 Convention for the Suppression of Unlawful Seizure of Aircraft (Hague Convention)***

This convention considers it an offence for any person on board of an aircraft or flight to "unlawfully, by force or threat thereof, or any other form of intimidation, [to] seize or exercise control of that aircraft" or to attempt to do so; requires parties to the convention to make hijackings punishable by "severe penalties". Further, it also requires that the parties have the custody of offenders to either extradite them or submit the case for prosecution and also for parties to provide assistance to each other in regard to criminal proceedings brought up under this convention.

- ***1971 Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (Sabotage Convention or Montreal Convention)***

It requires State Parties to make it an offence for any person unlawfully and intentionally to perform an act of violence against a person on board an aircraft in flight, if that act is likely to endanger the safety of the aircraft; to place an explosive device on an aircraft; to attempt such acts; or to be an accomplice of a person who performs or attempts to perform such acts.

- ***1973 Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons (Diplomatic Agents Convention)***

This convention defines an 'internationally protected person' as the Head of the State, Minister for Foreign Affairs, Representative or Official of a State or international organisation; he and his family are entitled to special protection in a foreign State. It also requires parties to criminalise and make punishable 'by

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<sup>5</sup> *International Legal Instruments*, UNITED NATIONS OFFICE OF COUNTER-TERRORISM, (July 07, 2018, 03:21 PM), <http://www.un.org/en/counterterrorism/legal-instruments.shtml>.

appropriate penalties which take into account their grave nature' intentional murder, kidnapping or other such attack upon a person's liberty of an internationally protected person, a violent attack upon the official premises, private accommodations or means of transport of such person; threat or attempt to commit such attack; and any act 'constituting participation as an accomplice.

- ***1979 International Convention against the Taking of Hostages (Hostages Convention)***

This convention provides that a person who seizes or detains or threatens to kill, or injure or to continue to detain other person in order to compel a third party, namely, any State, international inter-governmental organization, or natural or juridical person, or a group of persons, to do or abstain from doing any act as an explicit or implicit condition for the release of the hostage commits an offence of taking of hostage within this convention.

- ***1980 Convention on the Physical Protection of Nuclear Material (Nuclear Materials Convention)***

This convention criminalises unlawful possession, use, transfer or theft of nuclear material or threatens to use nuclear materials to cause death, serious injury or extensive property damage.

- ***1988 Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation (Airport Protocol)***

It expands the provisions of Montreal Convention to incorporate criminal acts at airports serving international civil aviation.

- ***1988 Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (Maritime Convention)***

This convention establishes a legal regime made applicable to acts against international maritime navigation that is similar to the regimes established for international aviation. It also makes an offence for a person who unlawfully and intentionally tries to seize or exercise control over a ship by force, threat or intimidation, to person an act of violence against a person on board of a ship, if that act is likely to endanger the safe navigation of the ship. Further, it applies to acts which includes an act to place a destructive device or substance aboard a ship and other acts against the safety of the ship.

- ***1988 Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf (Fixed Platform Protocol)***

This protocol institutes a legal regime which is applicable to any acts which is against fixed platforms on the continental shelf which is similar to the regimes made for protection of international aviation.

- ***1991 Convention on the Marking of Plastic Explosives for the Purpose of Detection (Plastic Explosives Convention)***

The convention is designed to control and limit the use of unmarked and undetectable plastic explosives. The parties are obligated to ensure control over unmarked plastic explosives in their respective territories.

- ***1997 International Convention for the Suppression of Terrorist Bombings (Terrorist Bombing Convention)***

This convention creates a regime of universal jurisdiction over the unlawful and intentional use of explosives and other lethal devices in, into, or against various defined public places with intent to kill or cause serious bodily injury or with intent to cause extensive destruction of public places.

- ***1999 International Convention for the Suppression of the Financing of Terrorism (Terrorist Financing Convention)***

This convention puts for a requirement upon the parties to take steps to prevent and counteract the financing of terrorists, whether direct or indirect, through groups claiming to have charitable, social or cultural goals or which engage in illicit activities such as drug trafficking or gun running as well. The States are also urged to hold those who finance terrorism criminally, civilly or administratively liable for these acts and provides for the identification, freezing and seizure of the funds allotted for terrorist activities and for sharing of forfeited funds with other member States on a case-by-case basis. Further, bank secrecy is not considered as an adequate justification for refusing to co-operate.

- ***2005 Protocol to the convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation***

The protocol criminalises the use of a ship as a device to further an act of terrorism. It also criminalises transport on board a ship various materials knowing that they are intended to be used to cause, or threaten to cause, death or serious injury or damage to further an act of terrorism and transporting on board a ship of persons who have committed an act of terrorism. Further, it introduces procedures for governing the boarding of a ship believed to have committed an offence under the convention.

- ***2005 Amendments to the Convention on the Physical Protection of Nuclear Material***

This convention makes it legally binding for the State parties to protect nuclear facilities and material in peaceful domestic use, storage, as well as transport and provides for an increased co-operation among member States, in relation to rapid measures to locate and recover stolen or smuggled nuclear materials, assuage any radiological consequences or sabotage, and prevent and combat related forces.

- ***2005 International Convention for the Suppression of Acts of Nuclear Terrorism (Nuclear Terrorism Convention)***

This convention encompasses a broad range of acts and possible targets, including nuclear power plants and nuclear reactors. It also deals with crisis situations (assisting States to solve the situation) as well as post-crisis situations [rendering nuclear material safe through the International Atomic Energy Agency (IAEA)].

- ***2010 Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation (Beijing Convention)***

Under this Convention, the State parties assent to criminalisation of using civil aircraft as a weapon and using dangerous materials to attack aircraft or other targets on the ground. The illegal transport of biological, chemical, and nuclear weapons is also criminalised under the Convention.

- ***2010 Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft (Beijing Protocol)***

This is a supplementary protocol to the Convention for the Suppression of Unlawful Seizure of Aircraft. As of October 2016, this protocol has been signed by 32 States and ratified by 16 States. It will come into force after it has been ratified by 22 or more States.

- ***2014 Protocol to Amend the Convention on Offences and Certain Acts Committed on Board Aircraft***

This is a protocol to amend the Convention on Offences and Certain Other Acts Committed on Board of an Aircraft.

- ***The proposed Comprehensive Convention on International Terrorism***

This convention is a proposed treaty which intends to criminalise all forms of international terrorism and deny terrorists, their finances and supporters access to funds, arms and safe havens.

### ***B. Resolutions of Security Council***

The United Nations Security Council has adopted a number of resolutions relating to terrorism over the years to combat international terrorism. Some of these Security Council resolutions are adopted under chapter VII of the United Nations Charter and impose obligations on the member states. The most recent ones are<sup>6</sup>:

- ***S/RES/2396 (December 21, 2017)***

This resolution was passed to combat the threat of foreign terrorism.

- ***S/RES/2395 (December 21, 2017)***

<sup>6</sup> UN Documents for Terrorism: Security Council Resolutions, SECURITY COUNCIL REPORT, (July 07, 2018, 03:38 PM), [http://www.securitycouncilreport.org/un-documents/search.php?IncludeBlogs=10&limit=15&tag="Security Council Resolutions"+AND+"Terrorism"&ctype=Terrorism&rtype=Security Council Resolutions&cotype=terrorism](http://www.securitycouncilreport.org/un-documents/search.php?IncludeBlogs=10&limit=15&tag=).

This resolution was passed for the renewal of the mandate of the Counter-Terrorism Committee Executive Directorate (CTED) until 31 December 2021.

- *S/RES/2370 (August 2, 2017)*

This resolution was on preventing terrorists from acquiring weapons.

- *S/RES/2368 (July 20, 2017)*

This resolution was passed for renewing and updating the 1267/1989/2253 ISIL (Da'esh) & Al-Qaida Sanctions regime. An annexure to the said resolution added eight individuals or organisations to the sanctions list.

- *S/RES/2354 (May 24, 2017)*

This resolution was on a 'comprehensive international framework' to counter-terrorism narratives.

### **C. Regional Legislations**

There are a large number of regional and sub regional organizations whose mandate includes work relating to terrorism. They are as follows<sup>7</sup>:

- *OAS Convention to Prevent and Punish Acts of Terrorism Taking the Form of Crimes against Persons and Related Extortion that are of International Significance*, was concluded at Washington D.C. on February 2, 1971 (was deposited with the Secretary-General of the Organisation of American States).
- *European Convention on the Suppression of Terrorism*, was concluded at Strasbourg on January 27, 1977. An amending protocol was concluded at Strasbourg on May 15, 2003 (was deposited with the Secretary-General of the Council of Europe).
- *SAARC Regional Convention on Suppression of Terrorism*, was signed at Kathmandu on November 4, 1987 (was deposited with the Secretary-General of the South Asian Association for Regional Co-operation).
- *Arab Convention on the Suppression of Terrorism*,<sup>8</sup> was signed at a meeting held at the General Secretariat of the League of Arab States in Cairo on April 22, 1998 (was deposited with the Secretary-general of the League of Arab States).
- *Treaty on Cooperation among States Members of the Commonwealth of Independent States in Combating Terrorism*, was concluded at Minsk on June 4, 1999 (was deposited with the Secretariat of the Commonwealth of Independent States).

<sup>7</sup> *Supra* note 5.

<sup>8</sup> *Ibid.*

- *Convention of the Organization of the Islamic Conference on Combating International Terrorism*, was adopted at Ouagadougou on July 1, 1999 (was deposited with the Secretary-General of the Organisation of the Islamic Conference).
- *Organization of African Unity Convention on the Prevention and Combating of Terrorism*, was adopted at Algiers on July 14, 1999 (was deposited with the Secretariat of the Organisation of African Unity).
- *Association of South East Asian Nations (ASEAN), ASEAN Convention on Counter Terrorism*, was adopted at Cebu, Philippines on January 13, 2007.
- *Council of Europe Convention on the Prevention of Terrorism*, decided in Warsaw on May 16, 2005 (was deposited with the Secretary-General of the Council of Europe).

The legal framework provided by the regional legislations are restricted to their geographical area and their scope is limited to it. Though they are very useful in this limited sense, they cannot replace the international conventions which have their scope extending to all its member states and not restricted to a particular geographical area.

#### ***D. Scope of the international legislations***

The international legislations in relation to terrorism are formulated to combat international terrorism, so their scope extends and is limited to such acts which have an international aspect. For example, the conventions on the safety of civil aviation, apply only to international flights and international airports.<sup>9</sup>

Another important characteristic of these legislations are that they are concerned with the intention with which the act was committed. Like, the international legislations on the safety of civil aviation and the 1988 Convention on maritime navigation criminalize specific acts without any definite requirement as to the intention with which they are committed. Whereas, motive is an important aspect of the act criminalized by the 1979 Convention against hostage-taking.<sup>10</sup>

But, the recent conventions against international terrorism, provide some kind of protection to military and civilian personnel and installations. The scope of their applicability is restricted in co-relation to international humanitarian law.<sup>11</sup>

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<sup>9</sup> Article 3(3) of the Convention for the Suppression of Unlawful Seizure of Aircraft; Article 4(2) of the Convention on the Safety of Civil Aviation; Article 1 of the Protocol for the Suppression of Unlawful Acts of Violence at Airports.

<sup>10</sup> Article 1(1) of the International Convention against the Taking of Hostages (Hostages Convention).

<sup>11</sup> Daniel O'Donnell, *International Treaties Against Terrorism and the Use of Terrorism During Armed Conflict and by Armed Forces*, INTERNATIONAL COMMITTEE OF THE RED CROSS, (July 07, 2018, 04:23 PM), <https://www.icrc.org/en/international-review/article/international-treaties-against-terrorism-and-use-terrorism-during-armed>.



### *E. Effectiveness of the International Legislations*

The international community has established several conventions and come up with numerous strategies to combat the threat of terrorism. In spite of all the above mentioned endeavors, there remain several loopholes to the task of counter-terrorism. This includes opposing views on the legitimacy and authority of counter-terrorism institutions and the failure to comply with such bodies and non-enforceability of the rules made by them. Also, the non-state actors which are not bound by these rules, can easily cross borders and function in civilian areas and thus pose as a threat.

The present day counter-terrorism system is deficient of a central global institution which is committed to the aim of elimination and suppression of the threat of terrorism. Thus, there is no consistency that exists in the world order regarding counter-terrorism. 'It is multilayered—ranging from legally binding instruments and strategic guidelines, to multilateral institutions and regional frameworks.'<sup>12</sup>

The United Nations is instrumental in amalgamating all the efforts of the global order against terrorism. This has been made possible through the nineteen conventions established by it that target different aspects of terrorism, including terrorist financing, hijacking, acquiring weapons of mass destruction, and hostage taking etc. However, 'threat perceptions' differ for the member nations of the United Nations. Some do not recognize terrorism as a significant threat as compared to other challenges like AIDS or crime. These divergences are a major impediment to the formation of a comprehensive convention that would integrate all facets of counter-terrorism as a whole. Also, as of now, only eight member states of the United Nations are signatories to all nineteen conventions and even signing of these instruments does not guarantee their enforcement.<sup>13</sup>

It is a notable fact that the United Nations conventions<sup>14</sup> have been efficacious in tackling state sponsorship of terrorism, especially in Libya and Sudan, but has not been similarly successful against non-state actors, like al-Qaeda and the Taliban since their removal from power.

Other multilateral and regional bodies and initiatives are no less as they have made noteworthy efforts to suppress and eliminate terrorism. For example, the Financial Action Task Force (FATF) and the Group of Eight (G8), Counter-terrorism Action Group (CTAG), were created and operate independently, with varying degrees of success. Also, several regional organizations, such as the European Union (EU), African Union, and the Association of Southeast Asian Nations (ASEAN), have conveyed their strong and dedicated commitment to combat the threat of terrorism by legislating several conventions.

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<sup>12</sup> International Institutions and Global Governance Program, *The Global Regime for Terrorism*, COUNCIL ON FOREIGN RELATIONS, (July 07, 2018, 05:17 PM), <http://www.cfr.org/terrorism/global-regime-terrorism/p25729#p2>.

<sup>13</sup> Ibid.

<sup>14</sup> International Convention for the Suppression of the Financing of Terrorism.

Thus, for achieving the end of social protection, which is to secure human rights of the international community and safeguard them from situations which might adversely affect their well-being, the international institutions through the legislations and other initiatives as discussed, are working diligently and unceasingly with the said aim in consideration. Though, the implementation of the conventions is hampered by various hindrances as discussed above, nevertheless, international organisations and international conventions have attained considerable success.

#### **IV. CONCLUSION:**

All the international bodies, especially the United Nations being the key player in the international platform, have been actively making efforts to eradicate terrorism. This remains a priority of the international discourse, to ensure international co-operation to fight against the threat and challenge of terrorism. Also, all international bodies and their legislative instruments are inter-linked to each other and not in isolation. So, it has been a collaborative effort by these bodies.

In spite all these efforts, the following flaws continue to exist; firstly, there is no unanimity in the international community over the specific constituents of terrorism. Secondly, the said conflict has hindered proper enforcement of the proposed actions against terrorism. Lastly, limited resources have also been an impediment to the implementation.

Promoting and protecting human rights along with co-operative efforts by the international bodies is still a challenge because recognition and incorporation of these human rights, still remains an insignificant priority to the international bodies in their counter-terrorism efforts. Also, the General Assembly is not capacitated to pass binding resolutions in this regard. Though, certain international conventions do make it obligatory for member states to adhere to the human rights standards, they still lack enforceability.

The concept of social protection has been tried as a tool to combat terrorism and achieve international peace & security. Nevertheless, a lot more is required to be done to improve the situation as lot many obstructions still persist as discussed in the article.