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The Tokyo Trials: An Analysis from a Modern Perspective

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ABSTRACT

The Tokyo Trials took place in the small period before the beginning of the Cold war and the aftermath of the second World War. The Nuremberg Trials of the Nazis played a major role in guiding as well as building a biasness while deciding the case of Japanese war criminals. It will try to discredit the popular belief that both the Nuremberg Trials and Tokyo Trials are identical. The trials in the Contemporary world are often termed as Victors Justice meaning thereby that the justice meted out was in fact, biased, only sided with the Allied Nations narrative of the war. The lack of research carried out on this and the delay in providing the public with copies of trial proceedings are indeed a small hint to the bigger issue of flawed justice. This paper aims to shed light on the inconsistencies between the application of the same law on the Nazi war criminal and the Japanese war criminals. Dissenting opinions are also of immense importance because they point out exactly why the trial was unsuitable in the first place. Justice Pal's opinion is regarded timeless because of the issue which he raised regarding the whole trial itself and then went on give a verdict of not guilty angering most of the Tribunal members. The analysis of the judgement taking in regard the vast development of Law on war crimes and its significance in the contemporary culture.

Keywords: *Victor's Justice, Flawed Justice, Inconsistent application*

I. INTRODUCTION

The first World War brought along with it massive destruction of cities as well as the loss of human life and repetition of this war in the future was a matter of concern for the International community. The Paris peace Conference was held which resulted in the signing of various treaties, the Treaty of Versailles being the most important one. This Conference was also where the League of Nations was created. The objective behind the creation was to prevent another world war and essentially secure international peace.² However the league failed and Germany

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²Eugene C. Massie, *Constitution of the League of Nations*, 5 THE VIRGINIA LAW REGISTER 20-31 (1919), www.jstor.org/stable/1106607.

waged war on Poland and then a few days later France and Britain declared war on Germany. This marked the beginning of the second World War, which would go on to cause even more destruction than the first one.³

The war lasted from 1939 to 1945 after Japan surrendered. One of the first tasks the Allied powers had was to indict and punish the people accountable for such enormous destruction. Thus, the International Military tribunal was created through the 1945 Charter of the International Military tribunal.⁴ The Nazi war criminals were tried at Nuremburg according to the rules that were enshrined in the charter. At the Potsdam conference, the terms for Japan to surrender were declared and one of them was that “justice would be meted out to all the war criminals.”⁵ This was one of the reasons the Allied nations called for the setting of a military tribunal to arraign the Japanese war criminals. The Charter for the International Military Tribunal of the far-east was enforced and approved by General MacArthur and the International Military Tribunal of the Far-east was constituted. The charter was modelled more or less on the Nuremburg Charter and generally referred to as the Tokyo Charter.⁶

Originally the tribunal constituted judges representing all the nine signatories of the Tokyo Charter, but later it was amended to include one representative from India as well as the Philippines as it was demanded by the Far Eastern Commission.⁷ This commission was the highest authority regarding any decisions to be made about Allied Occupied Japan under “United Nations War Crimes Commission.”⁸ The nine judges were Sir William Webb representing Australia who headed the tribunal, Sir Edward Stuart McDougall on behalf of Canada, Mei Ju-ao representing China, Henri Bernard from France, Bert Röling from Netherlands, Erima Harvey Northcroft on behalf of New Zealand, Lord Patrick representing Great Britain, John Higgins from The United States who was later replaced by Major General Myron C. Cramer, Major-General I.M Zaryanov on behalf of The Soviet Union. The amendment later added judges from British India and Philippines, namely Radhabinod Pal and

³ Randall L. Schweller, *Tripolarity and the Second World War*, 37 INTERNATIONAL STUDIES QUARTERLY 73–103 (1993).

⁴ Agreement for the Establishment of an International Military Tribunal The Legal Basis for Trial of War Criminals, 19 TEMP. L.Q. 160–161 (1945).

⁵ Proclamation of Terms for Japanese Surrender signed by the United States of America, China and United Kingdom, July 26th, 1945, 3 BEVANS 1204, 1205 (1968).

⁶ Zachary D. Kaufman, *The Nuremberg Tribunal v. the Tokyo Tribunal: Designs, Staffs, and Operations International Justice in the 21st Century: The Law and Politics of the International Criminal Court*, 43 J. MARSHALL L. REV. 753–768 (2009).

⁷ International Military Tribunal for the Far East, 3 INTERNATIONAL ORGANIZATION 184–186 (1949).

⁸ 30 YUKI TANAKA, TIM MCCORMACK & GERRY SIMPSON, BEYOND VICTOR’S JUSTICE? THE TOKYO WAR CRIMES TRIAL REVISITED.

Colonel Delfin Jaranilla.⁹

Under Article 5 of the Tokyo Charter, the defendants were charged on three classes of crimes, “Class A-crimes against peace, Class B- conventional war crimes and Class C- crimes against humanity. The initial indictment included 55 counts of charges against the 28 Japanese defendants. However, the Final verdict had considered charges regarding only 10 counts.”¹⁰ The final judgement was that Japan was indeed guilty on account of all charges that it had been indicted for, however, there were dissenting opinions by Justice Pal and Justice Bernard and one partially dissenting opinion from Justice Röling.

In recent times, it has been in discussion due the lack of research done on it. The research when related to war crimes and their prosecution has mostly been concentrated on the Nuremburg trials and the Tokyo Trial has only been studied very sparsely. Scholars have attributed this to the non-availability of trial records for a very long duration of time and it was only in the year 1977 that the University of Amsterdam published the Judgement of the tribunal along with the separate, dissenting and concurring as well as the majority judgement. Justice Röling has opined that the less importance that has been showed to the Tokyo Trials can be attributed to the fact that, “the British and the Americans were perhaps a bit ashamed of what happened there . . . I suspect that they didn’t want the Tokyo Trial to become very well known. But I have no evidence for that. It’s just a strange thing that the ‘biggest trial in recorded history’, as it has been called, was so over-looked.”¹¹

Development of International Law always changes the way we look at situations from the past and often it is the inconsistencies present in these almost similar situations that further this development. The dissenting judgements highlight the faulty nature of the Trial when compared to that of the Nuremburg Trials. This research would try to bring in another new perspective of the judgement. This is important because a lot of time has passed since the trials and the advancement of International Criminal Law has also taken place. Issues raised in dissenting opinions are of great value in today’s era because they shed light on the gaps that were in existence in the law during that time

This paper aims to understand the difference in the acts committed by the accused under the

⁹Robert B. Walkinshaw, *The Nuremberg and Tokyo Trials: Another Step Toward International Justice*, 35 AMERICAN BAR ASSOCIATION JOURNAL 299–363 (1949).

¹⁰International Military Tribunal for the Far East, 3 INTERNATIONAL ORGANIZATION 184–186 (1949), www.jstor.org/stable/2703937.

¹¹M. FUTAMURA, WAR CRIMES TRIBUNALS AND TRANSITIONAL JUSTICE: THE TOKYO TRIAL AND THE NUREMBURG LEGACY (2008), <https://books.google.dm/books?id=QmRFPgAACAAJ>.

Nuremberg Trials and the Japanese War criminals. To also review as well as analyse the judgement by giving equal importance to both the majority and dissenting opinions. To bring out any legal discrepancies that might have occurred. To learn more about this least discussed war crimes tribunal.

With the help of these objectives this research would try to answer question such as whether the Tokyo Trial should have not been mirrored on the Nuremberg Trial? What were the reasons for indicting the accused with the chargers while focusing on the connection of evidence with the individual in command as well as the reasons for dissenting opinions? What were the gaps in the Law during the beginning of International War Crimes prosecution? How does the trail affect the modern-day scenario?

II. JUDGEMENT OF THE TRIAL

The judgement given at the trial included five separate opinion given along with the majority opinion. While two judges had given a dissenting opinion Justice Bernard from France and Justice Pal from India. Rolling from Netherlands gave a partially dissenting opinion. The President of the Tribunal Justice Webb gave a separate opinion while Justice Jaranilla gave a concurring opinion to that of the majority opinion.¹²

It wanted to follow in the steps of legacy that trial at Nuremburg has established. The majority judgement convicted all the accused for the violation on international treaties and waging an aggressive war and carrying out crimes against peace and humanity. It held individuals have criminal liability for the collective actions of the state.¹³ The tribunal convicted on 10 counts which included the conspiracy charge, waging of war and breaches of law and customs of war against the armed forces, prisoners of war and the civilian captives of the allied nations. The judgement failed to differentiate between war crimes and crimes against humanity¹⁴, it did not prosecute anyone for the charges of crime against humanity. The judgement deeply condemned the atrocities done by the Japanese in China as well as the Pacific. The judgment made no mention of the atrocities Japan had committed in Korea and Taiwan while it had colonised them. No attention was given to the Japanese colonies and the violation of human rights done by Japan in those colonies.

The President of the Tribunal Justice Webb who had given a separate opinion did not agree

¹² Y. TOTANI, *THE TOKYO WAR CRIMES TRIAL: THE PURSUIT OF JUSTICE IN THE WAKE OF WORLD WAR II* (2009), <https://books.google.co.in/books?id=ZGcOAQAAMAAJ>.

¹³ *BEYOND VICTOR'S JUSTICE? THE TOKYO WAR CRIMES TRIAL REVISITED*, (Yuki Tanaka, Timothy L.H. McCormack, & Gerry Simpson eds., 2011), <https://brill.com/view/title/16591> (last visited Nov 5, 2020).

¹⁴ *Id.*

with excluding the Emperor out of the trial proceedings. According to him, the fact that the Emperor was just acting on what his cabinet was advising him on was contradicting the evidence presented at the trial. It was the Emperor's responsibility as he was the constitutional monarch during the war and "no ruler can commit the crime of launching aggressive war and then validly claim to be excused for doing so because his life would otherwise have been in danger ... It will remain that the men who advised the commission of a crime, if it be one, are in no worse position than the man who directs the crime be committed."¹⁵ In totality he did agree with the majority opinion of conviction.

Justice Bernard in his dissenting opinion highlighted that the trial of the accused on the charges of Class A crimes had no legal backing because they were not being subjected to a fair trial. It would have been a fair trial even the tribunal had also taken into consideration the conduct of Allied Nations as well. He acknowledged that there was difficulty in punishing for new crimes under the ambit of the existing International Law. He believed that this tribunal was construed with the motive of undermining the Asian Colonialism dream that Japan had. He opined that individual criminal responsibility existed but should be added to collective criminal responsibility and not be disregarded because its principles are rooted in Natural law.¹⁶

On the other hand, Justice Roling who gave a partially dissenting opinion. He observed that since the war had ended in peace treaties of Potsdam declaration and the Japanese instrument of surrender, the tribunal has no authority or jurisdiction to try these acts as crimes against peace. He mostly differentiated from the majority opinion regarding factual findings of the court. He also disagreed on the concept of holding civilians criminally responsible later termed as cabinet liability as being too broad and leading to unjust convictions.¹⁷

The judgement given at the trial garnered attention due the reason that one of the judges had given a separate dissenting opinion which acquitted all the accused. At the very onset of the trial, he had been on toes with the rest of the members. The three broad reasons for Justice Pal's dissenting opinion was that the law was being applied retrospectively which goes against the basic Principle of Law i.e. no Ex post facto Legislation, in his opinion the Japanese Foreign Policy did not have any element of conspiracy and he found the war that Japan indulged in was rather defensive and not motivated by aggression.¹⁸ According to Pal war was never a crime,

¹⁵ INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST., BERNARD VICTOR ALOYSIUS. RÖLING & C. F. RÜTER, THE TOKYO JUDGMENT : THE INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST (I.M.T.F.E.), 29 APRIL 1946-12 NOVEMBER 1948 (1977).

¹⁶ Tokyo Major War Crimes Trial, above n 1, Vol 105, Dissenting Opinion of Justice Bernard, 10

¹⁷ Tokyo Major War Crimes Trial, above n 7, Vol 109, Dissenting Opinion of Justice Röling, 207–10, 238A–243.

¹⁸ Zhang Wanhong, *From Nuremberg to Tokyo: Some reflections on the Tokyo trial (on the sixtieth anniversary of the Nuremberg trials)*, 27 CARDOZO L. REV. 1673 (2005).

it was only regulated in the international scenario. He also said that, “When the conduct of Nations is taken into account, the law will perhaps be found that only a lost war is a crime.”¹⁹ There was no distinction between war crimes and crimes against humanity.

The crimes for which Japan was tried was something that the European Nations were also doing while they went around the world colonizing it. The bombing at Hiroshima and Nagasaki was far worse than the attack on Pearl Harbor which was not even on the American mainland. His reliance on the maxim “*nullem crimen sine lege, nulla poena sine lege*” which means that no one can be punished retrospectively.²⁰ He also said that since the sovereignty of nations was a vital pillar in international relations, any act which was done in the national interest of a nation, it would be unwarrantable under international law as the individuals would be outside the ambit of international law.²¹ The concept of individual responsibility on which both the trials at Nuremberg and Tokyo were both based would have no application. He also concluded that there were no traces of conspiracy to carry out any crimes against peace.²² These points briefly sum up his opinion on the whole tribunal and the apparent dispensing of justice.

III. DISPARITIES BETWEEN NUREMBERG AND TOKYO TRIALS.

The trial at Nuremberg of the Germans and the trial at Tokyo of the Japanese were both the outcome of the Allied winning the war and carrying out what they believed was justice. The trial at Nuremberg was the first International trial on war crimes to ever be conducted and it was on the basis of this trial that the Japanese criminals were tried at Tokyo. The charters that gave power to the judges at these courtrooms to try and reach a verdict of guilt were almost identical in nature²³, but the kind of crimes committed by Germany and Japan were not very similar.²⁴ There are notable contrasts between the design of the tribunal, the working staff and the way in which they operated. The disparity which matters the most is that which affects the verdict substantially which have been broadly classified into three broad categories. Firstly, the issue of fairness and the involvement of politics which plagued the judgement, secondly, the intense involvement of the U.S in the proceedings of the Tokyo Trial and thirdly, the pursuance

¹⁹B.V.A. RÖLING & A. CASSESE, *THE TOKYO TRIAL AND BEYOND: REFLECTIONS OF A PEACEMONGER* (1993), <https://books.google.co.in/books?id=amhhQgAACAAJ>.

²⁰ Latha Varadarajan, *The trials of imperialism: Radhabinod Pal's dissent at the Tokyo tribunal*, 21 *EUROPEAN JOURNAL OF INTERNATIONAL RELATIONS* 793–815 (2015).

²¹ TOTANI, *supra* note 11.

²² Varadarajan, *supra* note 19.

²³ Kaufman, *supra* note 5.

²⁴ Benjamin Munn Ziegler, *Crimes Against International Law*. By Joseph Berry Keenan and Brendan Francis Brown. (Washington, D. C.: Public Affairs Press. 1950. Pp. x, 226. \$3.25.), 45 *AMERICAN POLITICAL SCIENCE REVIEW* 895–896 (1951).

of crimes against peace rather than crimes against humanity.²⁵

The issue of fairness arose when there was disparity between in the procedures. There were no British lawyers present because the government of U.K had banned their lawyers from practicing at foreign jurisdiction, on the other hand the lawyers from America arrived two weeks after the trial had begun.²⁶ The issue here was that the western law along the lines of which the charter was drafted was not something the Japanese lawyers were well versed with, this gave the defendants an huge disadvantage. When compared with the Nuremburg trials, where only four countries had prosecuted the Germans, the Tokyo trial had eleven countries prosecuting, also the countries in Asia where Japan had carried out these crimes all had different native languages. So, the need for translators was paramount. The prosecution got an unfair advantage over the defense as they had more translators which eased out their work while the defense struggled to keep up.²⁷ They were also, “constant breaches of security” and unauthorised disclosure of confidential information to the media which was later attributed to the translators at the prosecution side.²⁸

The rift between United States and Russia is very clear throughout the whole tribunal proceedings. The existence of a bi-polar world dominated by two opposite ideologies was not possible. Towards the end of the trial it was evident that the aim of United States was to use Japan as an ally to combat the growth of Communism in Asia.²⁹ After the verdict of the trial was announced and the twenty three defendants were sentenced, United States Representative General MacArthur declared that the second round of prosecution of Class A war crimes suspects would not be conducted and they were released.³⁰ By the time the 1960's ended all the Japanese soldiers that were in prisons aboard were released with the exception of China and Russia. This made one aspect of the whole trial very lucid, that the motive behind the conduction of the trial was never justice but rather “ leaving behind a didactic legacy and a specific historical narrative for the future Japanese Generations,”³¹ it was also to justify the American attack on Hiroshima and Nagasaki as a payback for Pearl Harbour attack³² and “ethical example of democracy, showing that the law and justice can be applied even to enemies

²⁵ Caroline Joan (Kay) Picart, *Attempting to Go Beyond Forgetting: the Legacy of the Tokyo IMT and Crimes of Violence Against Women*, 7 EAST ASIA LAW REVIEW 1 (2011).

²⁶ Kayoko Takeda, *Interpreting the Tokyo War Crimes Tribunal* (2010).

²⁷ *Id.*

²⁸ Meiron Harris & Susie Harris, *Sheathing The Sword: The Demilitarization Of Japan* (1989).

²⁹ FUTAMURA, *supra* note 10.

³⁰ *Id.*

³¹ Picart, *supra* note 24.

³² FUTAMURA, *supra* note 10.

through a fair trial.”³³

The involvement of United States in Tokyo Tribunal was more than the Nuremberg Trial. The proceedings at Nuremberg stemmed out of the London Agreement which had been co-declared by United States, France, Soviet Russia and United Kingdom which was later ratified by nineteen other nations in addition to these four.³⁴ On the other hand, at the Tokyo trials through the International Military Charter of the Far East Commission, General MacArthur who represented United States had the authority to appoint the Judges as well as the president, also the right to examine their judgements.³⁵ While in Nuremberg the four countries that initiated the London Agreement appointed the judges at their own discretion. The granting of immunity to the Emperor of Japan at General MacArthur's behest³⁶ was the tipping point in coming to the conclusion that the trial was just because of United States Political interest to make Japan their ally in fighting communism. The atrocities done by the Japanese army in Korea and Japan which included the abuse of young girls and women by forcing them to work as sex slaves, commonly called as comfort women were never addressed at all³⁷. In my opinion this is indeed a major crime which can be classified as a crime against humanity. The emergence of a new world order which was slowly taking place throughout the time of this trial made this into a mere show trial.³⁸

IV. RELATION BETWEEN INTERNATIONAL CORE CRIMES AND TERRORISM

The trials conducted in the aftermath of the world war indeed paved the way for development of international law. They were part of the first international trial which punished for acts of crimes against peace, humanity and war crimes. It hinted towards the building of an international community for a peaceful world order and helped in the establishment of International Criminal Court. The trials indeed established that the commission of crimes against peace, humanity and war crimes all hold account for individual criminal responsibility. Individual criminal responsibility for war crimes is regarded as a law and it has been further developed by the military tribunal for Yugoslavia and the International Criminal Court.

However, the provisions of war crimes under the Rome Statute is restricted by the need for the prohibited conduct to be associated with an international or non-international armed conflict.

³³ *Id.*

³⁴ Walkinshaw, *supra* note 8.

³⁵ TAKEDA, *supra* note 25.

³⁶ *Id.*

³⁷ *Id.*

³⁸ Neil Boister, *The Application of Collective and Comprehensive Criminal Responsibility for Aggression at the Tokyo International Military Tribunal: The Measure of the Crime of Aggression?*, 8 JOURNAL OF INTERNATIONAL CRIMINAL JUSTICE 425-447 (2010).

It is quite evident that some acts which are regarded as war crimes under Article 8 of the Rome Statute are similar to that of terrorist activities. For example, “intentionally directing attacks against the civilian population, and intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians when these acts are committed in an armed conflict.”³⁹The only element of differentiation is the presence of an armed conflict is required for it to be classified as a war crime.

The Tribunals established in the after math of the division of Yugoslavia had held that to construe an armed conflict from the viewpoint of a non-state actor one has to look into the intensity of the violence and the parties involved to have connections with another party in an armed conflict. This issue brings in the difficulty of trying terrorist group members.⁴⁰

Crimes against humanity was introduced during the Nuremburg Trials but was never properly differentiated from that of war crimes.⁴¹ This is considered as one of the drawbacks of the trial. Further development in this field was able to differentiate between the two crimes. According to the Tribunals of Rwanda and Yugoslavia, under the Rome Statute of ICC, crimes against humanity had three essentialities, Firstly, “The perpetrator has taken part in the commission of an inhumane act causing great suffering, or serious injury to the body or mental or physical health, that is, the perpetrator has committed one of the enumerated acts/underlying offences, Secondly, The underlying offence was committed as part of a widespread or systematic attack directed against a civilian population and lastly The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack against a civilian population”⁴² This has clearly established that crimes against humanity do not warrant the need for state policy as a necessity to instigate the crime, it can also be the objective or policy of a non-state actor.

Terrorism has been on the rise and is extensively discussed on the International level after the 9/11 attacks on United States.⁴³ It was President Bush who passed a military order after the attack that the attacks have created a situation of armed conflict in the country and warranted the use of force. This attack is termed as a crime against humanity and an act of due to its wide and systematic nature to cause violence against a large civilian population.⁴⁴ To establish a

³⁹ Daryl A. Mundis, *ICTY (Appeals Chamber): Prosecutor v. Delalić (“Čelebići Case”)* *, 40 INTERNATIONAL LEGAL MATERIALS 626–725 (2001).

⁴⁰ Georges Anderson Nderubumwe Rutaganda v. The Prosecutor, Case No. ICTR-96-3-A

⁴¹ Varadarajan, *supra* note 19.

⁴² Georges Anderson Nderubumwe Rutaganda v. The Prosecutor, Case No. ICTR-96-3-A.

⁴³ Walter Enders & Todd Sandler, *Distribution of transnational terrorism among countries by income class and geography after 9/11*, 50 INTERNATIONAL STUDIES QUARTERLY 367–393 (2006).

⁴⁴ JACKSON NYAMUYA MAOGOTO, *BATTLING TERRORISM: LEGAL PERSPECTIVES ON THE USE OF FORCE AND THE WAR ON TERROR* (2016).

liaison between the trials and national security, the statement that, “terrorism is the peacetime equivalent of war”⁴⁵ should be comprehended. It can be easily said that in the recent times war in the scale of world wars has not taken place, although armed conflicts have occurred is common knowledge. Examples of which can be the middle eastern conflict, division of former state of Yugoslavia etc., the international community has been unable to reach at a concrete definition of terrorism which is accepted by all, the Supreme court of India in *Madan Singh v. Bihar* has defined terrorism as, “If the core of war crimes- deliberate attacks on civilians, hostage-taking and killing of prisoners is extended to peacetime, we could simply define acts of terrorism as peacetime equivalent of war crimes.”⁴⁶ National Security of any nation is threatened by the presence of terrorist activities. The emergence of radical groups has caused fear in the masses and caused the states to look into stricter legal sanctions to prohibit the activities of these non-state actors without the presence of an armed conflict.

V. CONCLUSION

The Law enforced by the International Military Charter after the end of second world war laid the foundation for international criminal law and opened the gates for individual criminal responsibility for state actions. This was showcased when cabinet ministers were prosecuted at the Tokyo trials because they had failed to install countermeasures for the acts and atrocities that the military of Japan had been committing. There is no doubt that the trial collectively ignored violence against women and the issue of comfort women in Taiwan and Korea. An issue which still plagues the Japanese and South Korean foreign relations.

There various inconsistencies between the trial at Nuremberg and at Tokyo which have been briefly addressed. This still causes debate over the objective and the actual effect which the trial at Tokyo had on the people of Japan. There is however no objection to the fact that these trials were the American way to uphold their history as the proclaimer of Democracy and justice. The backdrop of incoming Cold war also affected the verdict in numerous ways. These are incidents of the past. In the recent years, the role of non- state entities in causing destruction and inculcating fear has increased. Terrorism has gained an uphold in the world and is a threat to the peaceful order.

The Statutes do not take into consideration that these preconceived and pre planned attacks can indeed be considered as an act of war. Firstly, because they are targeting innocent civilians in a systematic manner in the name of enforcing a radical ideology, secondly, they create a

⁴⁵ Michael Scharf, *Defining Terrorism as the Peacetime Equivalent of War Crimes: Problems and Prospects*, FACULTY PUBLICATIONS (2004), https://scholarlycommons.law.case.edu/faculty_publications/229.

⁴⁶ *Madan Singh v. State of Bihar*, (2004) 4 SCC 622.

situation of threat to the peace of the nation. If the terrorism is included into the International Legal instruments as equal to an act of war or a crime against peace or humanity, states would be able to use military action to eradicate these organisations. The act wouldn't have to be preceded by an armed conflict. Most terrorist attacks never are accompanied or done when a situation of armed conflict is present, they are done even when the nations are at peace internally and externally.
