



**RESEARCH PAPER**

**Checkered Past and Uncertain Future: UN Attempts to Define Terrorism**

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**ABSTRACT**

Defining terrorism was at one point a stand out feature of all UN conventions and resolutions on terrorism. Even though direct confrontation with the problem was usually avoided and the task was often delegated to future conventions, the matter was still deemed indispensable. Over time however, this failure to engage with the problem directly and the tendency to delegate the responsibility to future conventions proved to be detrimental. Among other things, it encouraged the UN to adopt indirect measures and approaches that were otherwise meant to be only provisional and auxiliary. Gradually and somewhat inadvertently, the UN began to treat these ad hoc approaches as a substitute for the definition of terrorism. By methodically dissecting the numerous UN conventions and resolutions on terrorism over the years, this article intends to expose the silent acceptance of these indirect approaches that were intended to be purely transitional. It will evaluate the fallout of this tacit policy that seriously undermines the ultimate goal of defining and codifying terrorism.

**Key Words:** Terrorism, Definition, Failure, UN Conventions, UN Resolutions, Sectoral Approach

**Introduction**

Failure to define terrorism though often treated as a curse of the academic community has equally however plagued policy circles and political enterprises. Nowhere is this predicament more visible and pronounced than perhaps in the attempts undertaken by the United Nations over the years. With well over dozens of conventions on terrorism and having directly taken up the definitional issue on a number of occasions, the UN has largely failed to make any meaningful headway. Not only does terrorism continues to be understood poorly, the UN has of late demonstrated an increasing reluctance to even engage with the problem.

Repeated failure to adequately define and codify terrorism has visibly discouraged the UN from taking up the issue directly. This among other things has encouraged a reliance on indirect approaches (the sectoral approach in particular) that do not take the definitional debate head on but instead find innovative ways around the problem. While the novelty of all such indirect approaches needs to be applauded in some respects (given the misgivings over defining terrorism generally), it is equally important to understand their limitations and shortcomings.

As these indirect approaches continue to gain broader acceptance, the dream of defining and codifying terrorism increasingly becomes a distant reality. Considering what is potentially at stake, it is imperative to weigh the indirect approaches, how they came about and can they ever be treated as a substitute for a definition of terrorism.

The paradigm shift that appears to have taken place in the UN approach to defining terrorism follows a trajectory that can be traced back to the earliest conventions on terrorism. To understand how this qualitative change came about and how it gradually

assimilated itself in the wider ethos of UN workings, it is necessary to analyze the numerous conventions and resolutions on terrorism over the years. Such an analysis will not only allow us to acknowledge the changing dynamics but will also put UN attempts to define terrorism in a broader context.

### **Missed Opportunities: UN Conventions and Resolutions on Terrorism**

It was primarily the advent of international terrorism that “prompted efforts to gain international agreement on a concerted approach to the suppression of terrorism” (Wardlaw, 1989). The earliest international efforts to address the problem of terrorism were initiated by the League of Nations (Young, 2006); (Nawab, Yaseen, & Muzaffar, 2021). The first important international convention in this regard was the 1937 *Convention for the Prevention and Punishment of Terrorism* conducted (Zlataric, 1975). The convention was mainly aimed at criminalizing international incidents against heads of state and internationally protected persons (League of Nations, 1937). This convention was signed by twenty-four countries but incidentally it never actually came into effect (Franck & Lockwood, 1974, pp. 68-70). Arguably an important reason for this failure was the start of World War II that overshadowed all other international issues, but an equally important reason was the prevailing confusion over what constituted terrorism. Failure to adequately define terrorism at the start seriously impaired the initiative taken by the League of Nations at the time (Wardlaw, 1989).

The United Nations inherited these subsequent problems of international cooperation on defining and understanding terrorism from its predecessor the League of Nations. To add insult to injury, the problem of terrorism was almost entirely neglected and forgotten for nearly three decades since the inception of UN. Finally in 1973, the UN General Assembly was somewhat forced to take up the issue of terrorism after the massacre of twenty-eight people at Israel’s Lod Airport and the ruthless killing of eleven Israeli athletes at the Munich Olympic games in September 1972 (Moore, 1973). The incident jumpstarted a series of conventions and resolutions on terrorism that for analytical purposes can be regarded as first-generation UN conventions.

### **First Generation UN Conventions**

Popularly referred to as the 1972 black September attack or simply the Munich Olympics massacre, the terrorist attack captured public imagination all over the world. As the Olympic events were being broadcasted to a live audience globally, the attack also marked the advent of modern-day terrorism, when it started becoming increasingly potent and theatrical. In light of this unprecedented attack and mounting public pressure, the United Nations felt compelled to take some immediate action. Subsequently, the UN established an ad hoc committee of 35 Member States in the same year to look into the growing problem of terrorism. Constituted under the Resolution 3034 of General Assembly (United Nations, 1972), the primary purpose of the committee was to achieve international cooperation in devising measures to counter such acts of terrorism and to study the underlying causes for their increasing frequency and occurrence.

However the haphazardly constituted 1972 ad hoc committee largely fell short of achieving any of its desired objectives, not to mention that the committee remained suspended for nearly three years following its inception (Sharma, 2002). Additionally, the committee also failed to generate any meaningful dialogue over the definition of terrorism. It is perhaps worth noting that at the time defining terrorism was neither a priority nor even particularly felt necessary. In most of these earlier UN resolutions and conventions, the meaning of terrorism was either ignored or simply taken for granted and it was only several decades later that the need to first understand and define terrorism was formally acknowledged.

Following the 1972 failings, a number of conventions such as the 1973 Convention on the *Prevention and Punishment of Crimes against Internationally Protected Persons* and the 1979 *International Convention against the Taking of Hostages* were held at the UN forum. Although all such conventions were essentially prompted by the rapidly growing number of terrorist attacks, none made any effort of engaging with the definition or meaning of terrorism. In fact, most of these first generation UN conventions did not even use the term terrorism and most of the references to terrorism were either indirect or incredibly vague. To hold a convention in order to prevent increasing cases of hijacking and hostage taking and not even use the term terrorism is somewhat ironic and paradoxical. This is because, not only were all such incidents popularly referred to as terrorist at the time, there was also no other suitable or substitute words to describe such activities.

This trend would continue to be the norm for the following two decades as the UN undertook a number of similar half-hearted initiatives that proved to be just as ineffective and unproductive as the first one (Clutterbuck, 1987; Young, 2006; Wardlaw, 1989). This partial and indirect engagement with terrorism or simply choosing to deal with its international fallout is what characterizes all first generation UN conventions. Even though a number of resolutions and protocols on terrorism were regularly being initiated at the time, direct references to terrorism were few and far between or worse absent altogether.

Part of the reason for this deliberate neglect is the cold war that squarely divided the world along ideological lines. Fractured political preferences and the very pervasive super power rivalry played right into the hands of the adage *one man's terrorist is another man's freedom fighter*. With the label terrorism subject to political and ideological preferences, its precise meaning understandably was a matter of serious discord and contention. Given the geopolitical dynamics of the time, the constant evasion and oversight of UN conventions and resolutions over the issue of terrorism, is somewhat understandable.

The end of the cold war in the early 1990s brought the overly restrictive first generation UN conventions to an abrupt and welcome end. The sudden collapse of the East-West divide subsequently paved the way for a 'second generation' of UN resolutions with the promise to liberate the organization from its operational impasse (Alvarez, 2003, p. 873). Free from the ideological dichotomy of the cold war, the UN could in theory take on contentious issues that were previously deemed irresolvable. Terrorism with its inherent tendency to divide its observers was one such standout issue. No longer would left-wing inspired terrorism enjoy the protection of their former Soviet patrons and with the world now supposedly united, the UN could potentially take on bolder initiatives with regard to terrorism in general.

## **Second Generation UN Conventions**

The first and also one of most standout of these second generation UN conventions was the 1994 *Declaration on Measures to Eliminate International Terrorism* (United Nations, 1994) and its extension the 1996 *Supplementary Declaration*. Although the declaration did not change anything substantially, it can still be regarded as a significant milestone for the United Nations. Unlike its predecessors, the declaration interestingly did not shy away from the definitional debate, which in itself was a notable departure from past conventions. Acknowledging prior UN failures, it not only briefly identified the standout reasons for the existing definitional deadlock, but optimistically also proposed a pragmatic way out of it.

Expounded in the so-called "sectoral approach", this pragmatic way forward endorsed by the declaration was somewhat skeptical of taking the definitional debate head-on. Instead, it proposed an indirect approach to the problem that focused on individual cases, such as suicide bombing, hijacking and hostage taking (Perera, 2008, pp. 1-6). Since all such cases were incidentally also regarded as terrorist, there was supposedly no need to squabble over definitional trivialities. Moreover, with plenty of UN conventions on all such

cases, it was evidently also possible to codify and determine state responses to acts of terrorism, which had all along been the objective of a definitional pursuit anyway. “The sectoral approach,” as Rohan Perera (2008) notes, “was characterized by the adoption of a series of specific conventions, each dealing with a defined crime, involving the use of indiscriminate violence, which was likely to be committed by terrorists and which imposed upon the state parties the obligation to extradite or prosecute the offender” (p. 1).

This case specific and method-centric approach somewhat encouraged UN member states to bypass socio-political intricacies and overlook underlying causes of terrorism. The focus instead was on the criminal nature of the activity and the urgent need to counter it. The sectoral approach, in other words, urged member states to focus on the criminality of such acts instead of their political motivations or implications. By actively isolating the socio-political underpinnings of a terrorist activity, it astutely sought to overcome the longstanding definitional impasse.

Analysis of the sectoral approach is particularly crucial insofar as all UN resolutions and conventions on terrorism are concerned. This is because the approach in many ways epitomizes UN attempts to define and codify terrorism- both past and present. Where on the one hand its restrictive posture was clearly influenced by past evasions and failures, there its alleged pragmatic standpoint would continue to influence all future conventions and resolutions on terrorism. This became especially evident when the second-generation UN conventions received significant impetus after the watershed events of 9/11.

With US, the sole super power, declaring a war on terror and the era itself being referred to as the age of terrorism, the number of UN resolutions and conventions on terrorism increased exponentially after 2001. Alongside that rise came the promise and yet another opportunity to define and codify terrorism. However, as we will find out, these post-9/11 second generations UN conventions proved to be just as unhelpful as their disappointing predecessors.

Within days of the fateful 9/11 attacks, the UN Security Council passed a very strong worded resolution, namely Resolution 1373. The resolution first reaffirmed unequivocal condemnation of international acts of terrorism and vehemently asserted the inherent right of victim states to protect themselves. It expressed profound concerns over rising extremism and intolerance and the threat it posed to global peace and security. For the first time since its inception, the Security Council visibly flexed its muscles as it strongly urged all states to take or refrain from certain actions. It called upon all member states to tighten border controls, refrain from providing any kind of support or safe haven to terrorists, eliminate all financial and weapons support of terrorist groups and to cooperate with each other in exchanging vital information in order to prevent future terrorist acts (United Nations, 2001). The resolution also established a “committee of the council” that would monitor implementation of the resolution and also assist the member states, if necessary (Rosand, 2003).

Although Resolution 1373 (much like the 1994 Declaration) was a breakthrough of sorts, it did not however define the term terrorism, despite making several references to terrorism and terrorists. Young rightly sees this as a “lost opportunity”, where all states could have “comprehensively defined terrorism or at least codified” its existing meaning (Young, 2006, p. 44). Instead, the resolution, keeping up with the longstanding UN tradition, tiptoed around the conceptual and definitional issues, taking it either for granted or perhaps deliberately avoiding a divisive and complex undertaking.

The next major installment in these successive rounds of UN deliberations on terrorism was Resolution 1566. Reaffirming UN’s pledge to fight terrorism by any and all means possible and expressing deep concern over rising casualties, the resolution called upon all member states to cooperate fully with Security Council counter-terrorism

directives. Introduced by Russia after the Beslan school incident and adopted by the Security Council on October 8 2004, Resolution 1566 (United Nations, 2004) also attempted to compensate for the deficiencies of past conventions by generally describing (though still not defining) terrorism.

While Resolution 1566 provided a fairly elaborate description of a terrorist attack, it still has been subjected to criticism because it does not categorically define terrorism and like its predecessors, refers vaguely to international conventions and protocols related to terrorism for drafting the definition (United Nations, 2004). Moreover, the resolution was not binding and did not impose any penalties on states that failed to cooperate. Thus, not only was the resolution non-mandatory, but it unhelpfully and somewhat deceptively shifted the definitional responsibility to some vague past conventions and protocols, much like the aforementioned sectoral approach.

Spanning nearly two decades, the second generation UN conventions coincided with the most dramatic and eventful of times in all of terrorism's history. During this period, the rapidly changing geo-political landscape (the end of cold war, September 11 attacks and the subsequent war on terror) provided the UN with tremendous opportunities to finally define and codify terrorism. Yet these conventions too suffered from the usual drawbacks and fell for the same pitfalls as their predecessors.

While they clearly have their fair share of blame, in retrospect however, the second generation conventions, when compared with both their preceding and succeeding conventions, arguably played the most constructive role. Where the preceding first generation UN conventions were handicapped by the cold war divide and chose not to engage in a fundamentally divisive exercise, there the following third generation conventions would show signs of wariness and hopelessness over the whole definitional issue. With the definitional affair having dragged along for too long, recent third generation UN conventions (as will become evident in the following discussion) have demonstrated a nearly total lack of interest in the matter.

### **Third Generation UN Conventions**

As the US backed global war on terrorism continued to drag along with having achieved little if at all any success, the interest and zeal that were witnessed at the start slowly began to wane. With terrorism and the conventions on it increasingly becoming mundane, the issue was no longer a matter of urgency. After almost a decade of war on terror, there was a visible qualitative shift in the UN proceedings on terrorism. Other than the general lack of interest there was also clear unwillingness to engage with any definitional and conceptual issues.

This growing reluctance was perhaps partly influenced by the academic position on the matter, as a number of leading scholars such as Walter Laqueur were of the opinion that defining terrorism was a wasteful and futile exercise (Gillani, 2020). Other than academic uncertainty, the matter of definition had clearly lingered on for far too long and the UN was understandably becoming increasingly wary of a debate that had yielded little to no results. This rising wariness and despondency, becoming especially pronounced in the last decade, would subsequently go on to characterize the third generation UN conventions on terrorism.

The 2004 Resolution 1566 was initially succeeded by a string of similar resolutions that reaffirmed and repeated the all too familiar pledges and promises, while adding very little to the broader understanding of terrorism. Gradually even these halfhearted attempts to define and understand terrorism would disappear altogether, as the new generation of UN resolutions failed to even make those familiar customary pledges. Although the resolutions continued to highlight the dangers posed by terrorism and the collective action

required to counter it, there were hardly any references to the need of understanding it. Forgotten were the pledges of the first and second generation UN conventions that kept reiterating the urgency of understanding and defining terrorism, a task they had in hindsight casually and without much forethought delegated to future conventions.

The 2010 Resolution 1963 for instance, made analogous assertions and expressed similar concerns about terrorism and the threat it posed to the public at large. While it rightly acknowledged that terrorism could not be defeated by force alone and recognized the need to address the underlying factors that produced it, Resolution 1963 was largely silent on what constituted terrorism in the first place (United Nations, 2010). Similarly, Resolution 2253 in 2015 suffered from similar shortcomings. Prompted by the sudden emergence of the notorious ISIS in the Middle East, the lengthy resolution only expanded on the usual assertions and made no effort to engage with terrorism in any meaningful way (United Nations, 2015).

The recent toppling of the US backed Afghan government and the deadly attack on the Hamid Karzai International airport in Kabul prompted yet another Security Council resolution (namely Resolution 2593) on August 30 2021. The resolution, among other things, reiterated the dangers posed by terrorism and the necessity to combat it (United Nations, 2021). Predictably, Resolution 2593 also made no contribution to the general understanding of terrorism.

Failure of Resolution 2593 is not surprising for it follows a decade long trajectory of UN resolutions that slowly and gradually stopped engaging with any definitional and conceptual issues. It can of course be argued that there is no reason to engage with definitional matters in just about every resolution on terrorism. While that may be so, it is crucial to not forget the past pledges and promises that never truly materialized. For UN resolutions to not take on conceptual issues any more allusively suggests that the matter has long been resolved. Whereas in reality, the ambiguity surrounding the meaning of terrorism is just as pronounced as ever. The definitional dilemma of terrorism and the subsequent challenges it poses are far from settled.

### **Key Observations**

The urgency and the need to ultimately define terrorism was a standout feature of first and especially second generation UN conventions on terrorism. Though the task was somewhat deceptively delegated to future UN conventions, it does not undermine the fact that the issue at the time was deemed vital and indispensable. Moreover, early UN conventions essentially claimed to have laid down the necessary conceptual groundwork on which future resolutions could build on. However, far from building on previous efforts, recent third generation UN conventions demonstrate an increasing reluctance to even engage with the definitional debate. Instead, there is a tacit reliance on auxiliary and provisional measures that were supposedly only temporarily in place.

Owing to the longstanding misgivings over defining terrorism, early UN conventions exhibited a strong preference for indirect approaches just as they conveniently delegated the responsibility for defining terrorism to future resolutions and conventions. These indirect approaches were wary of taking the definitional debate head on and sought ways around the problem. The most standout of these indirect approaches is arguably the sectoral approach. With an inbuilt tendency to bypass the definitional problem, the sectoral approach encouraged member states to focus on individual cases and the corresponding UN convention on the matter. This supposedly would provide them with the appropriate toolkit to respond to an act of terrorism without the need to squabble over its definition. This so-called pragmatic way out of the definitional quagmire would go on to have a lasting impact on all future UN conventions and resolutions.

Reliance on the likes of sectoral approach has effectively discouraged the UN from embarking on the definitional quest. As a result of this, measures that were intended to be transitional, provisional and launching pads have instead become the end product. Meanwhile the UN has languorously reclined to a state where it readily employs the sectoral approach as a substitute for the definition of terrorism. Given this predisposition, the absence of constructive debate over the meaning of terrorism from all recent UN conventions on terrorism is hardly surprising.

As dependence on the sectoral approach continues to grow and as the dream of defining terrorism increasingly becomes a distant reality, it is necessary to also prepare for its eventual fallout. With it essentially being a case specific or method centric approach that actively sought to isolate the terrorist act from its socio-political underpinnings, the sectoral approach was bound to be controversial. Although the intention behind the sectoral approach needs to be applauded in some respects (owing to the general misgivings over defining terrorism), it has a number of obvious shortcomings that must be fully realized.

Firstly, it is worth bearing in mind that the political facet, in many ways, is the essence of all terrorist activities. Thus, if we take the political out then can the activity even be considered terroristic? Additionally, acts of terrorism in general are profusely entwined and intricately woven into the socio-political fabric of any crisis. Separating the two therefore is far from straightforward. The sectoral approach also largely fails to distinguish terrorism from other forms of violence and crime, which further complicates the situation as ordinary crimes could in principle demand similar amount of attention and resources as terrorism. Lastly, all UN conventions and resolutions referred to in the sectoral approach are essentially limited to international and transnational incidents that conveniently overlook local and domestic cases of terrorism. This oversight seriously restricts the universality and applicability of the sectoral approach.

With all these obvious shortcomings it is clear that the sectoral approach was never really meant to be a permanent solution. Other than supposedly being a pragmatic way out of the definitional conundrum, the sectoral approach was nothing more than a quick fix for what was clearly a legal nightmare.

Gaps in international law and an absence of consensus over the meaning of terrorism made it very difficult to respond to international acts of terrorism. Provisions of asylum and divided political preferences often extended legal protection to those accused of terrorism. Thus, the priority all along was to impose obligations on state parties in matters of extradition and prosecution of alleged offenders. By urging member states to refer to some specific conventions when dealing with issues of kidnapping, hijacking and bombing etc (as the sectoral approach did), the UN effectively sought ways to only respond to cases of terrorism.

In other words, the primary objective of UN had always been combating terrorism as opposed to understanding it. Therefore, whenever defining terrorism got in the way of countering it, the UN had its priorities clearly laid out. Swift adoption of the indirect sectoral approach coupled with the increasing tendency of not directly engaging with definitional matters any more is evidence of this proclivity. This blatant partiality however raises a question that the UN has constantly been at odds with. How can you fight something, if you can neither understand it nor adequately define it? It is the paradox stemming from this question that limits the appeal of the sectoral approach and at the same time prevents total abandonment of the definitional quest.

## **Conclusion**

Analysis of UN resolutions and deliberations on terrorism reveals consistent failures and breakdowns. Whenever the UN confronted the issue of defining and codifying terrorism,

it either ignored the question altogether or made some vague references to past conventions and protocols and in some cases simply delegated the task to future UN conventions. This tendency to avoid direct confrontation with the definitional problem of terrorism has inadvertently encouraged a reliance on indirect and anfractuious approaches. All such approaches do not take the definitional debate head on and instead somewhat deceptively find a way around it.

Over time, these approaches have become deeply entrenched in the wider ethos of all UN proceedings. Thus, where at one point the UN would confront the definitional problem, as witnessed during the 1994 Declaration and the 2004 Resolution 1566, there an increasing reliance on indirect approaches has nearly eliminated any future prospects of such meaningful engagements. Over the last decade in particular, UN resolutions concerning terrorism have neither made any effort nor even any notable reference to defining and understanding terrorism.

The indirect approaches that have of late become a distinctive characteristic of all UN resolutions on terrorism are perhaps best manifested in the notorious sectoral approach. Advanced first during the 1990s, the sectoral approach was intended as a pragmatic way out of the definitional conundrum. Even though the sectoral approach offers some visible benefits, especially in relation to countering international acts of terrorism and sabotage, it is far from a permanent solution. With its inherent tendency to bypass socio-political realities and a striking inability to distinguish terrorism from other forms of crime and violence, the sectoral approach has notable shortcomings. Moreover, as the sectoral approach continues to gain currency and wider acceptance, it has also permanently damaged the prospects of ultimately defining terrorism.

Although a case can be made that the sectoral approach should have all along been used as a steppingstone to enable UN member states to gradually arrive at a definition of terrorism. However after a passage of several decades, it can hardly justify its position as a mere stepping-stone. Not only is there an ever-increasing dependence on the sectoral approach but also a growing reluctance to formally engage with the definitional debate. Regrettably, it is becoming increasingly clear that this is all that the UN can and perhaps will ever accomplish.

Nevertheless, in spite of all its handicaps, the sectoral approach is the closest the UN has come to defining terrorism, which in itself is a welcome respite. However, it is imperative to bear in mind that the sectoral approach and the likes were primarily provisional, filling in largely for the failings of the UN member states at the time. It was never intended to be permanent and was essentially to be utilized as a steppingstone for ultimately allowing a consensus to emerge around the meaning of terrorism. To see it otherwise or worse a substitute for the definition of terrorism is not only grossly misleading but also effectively regressive.

The myopic standpoint and considerable limitations of the sectoral and all indirect approaches in general are far too glaring to simply ignore. Furthermore, their intended purpose, both their transitional nature and how they were to serve as a steppingstone for definitional development should not be forgotten. Rather than grudgingly settling down for an approach that was meant to be provisional and auxiliary, it is important to continue the noble definitional pursuit. With the task far from over, it is crucial to not throw in the towel just yet.

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