

The Fight Against Terrorism, the Common Responsibility of States? A Look at the Israel - Hamas Conflict

Awa Njoworia Valerie Adamu (Ph.D.)

Lecturer, University of Bamenda, Cameroon

Abstract: Since the September 11 terrorist attack on the US, many states have been fighting terrorism individually in their different countries and with the assistance of other states. For decades now, terrorism has been a disturbing issue to the US and the world at large. This paper seeks to examine the role of states and the International Community as whole in the fight against terrorism especially in the Israel – Hamas conflict. Adopting the doctrinal research method, this paper questions if it is the common responsibility of States to fight terrorism. It argues that, the fight against terrorism should be the common responsibility of states due to the responsibility to protect upon states and the international community as a whole. Findings reveal that states are not united in the fight against terrorism in the Israel – Hamas case and this may send a false message to terrorist groups that their action is encouraged by some states. It therefore concludes that, the fight against terrorism should be the common responsibility of states. This will send a warning signal to terrorist groups and will help curb terrorism.

Keywords: Terrorism, fight against terrorism, responsibility to protect, responsibility of states, Israel – Hamas conflict.

Introduction

The term 'terrorism' came into use at the end of the 18th century, primarily to refer to violent governmental acts designed to ensure popular submission. Terrorism comprises acts of violence meant to instill fear; that fear then generates alarm of future attacks perpetrated by individuals, groups, or governments against a civilian population, their symbols of power, and property. Rachel Monaghan writes in 'Studies in Conflict and Terrorism' that, terrorism is the "use of violence in an attempt to achieve a change in, or the maintenance of the status quo. Perpetrators of these acts are human beings acting against other human beings with the intention to physically harm, psychologically terrorize, and inflict general destruction. Groups denied human rights, such as certain ethnic groups in submissive states, like the ANC (African National Congress) in South Africa, nationalist groups like the PFLP (Popular Front for the Liberation of Palestine) in Palestine, and certain religious groups, such as Christian fundamentalists in the U.S, resorted to acts of violence over real or perceived injustices against their groups. Precursors to terrorist acts

include poverty, persecution, lack of human rights, oppression, occupation, and ideologies, such as secular beliefs, and religious and ethnic discrimination.¹

The term ‘terrorism’ was initially coined to describe the ‘Reign of Terror’, which was the period of the French Revolution from 5 September 1793 to 27 July 1794, during which the Revolutionary Government directed violence and harsh measures against citizens suspected of being enemies of the Revolution. In turn, popular resistance to Napoleon’s invasion of the Spanish Peninsula led to a new form of fighter, the ‘guerrilla’, which derives from the Spanish word *Guerra*, meaning ‘little war’. As a weapon of politics and warfare, however, the use of terrorism by groups can be traced back to ancient times, and as noted by Falk, “in various forms, terrorism is as old as government and armed struggle, and as pervasive”.²

Modern terrorism can be traced back to nineteenth century revolutionary radicalism, and, in particular, the emergence of ‘anarchist’, ‘collectivist anarchist’ and ‘anarcho-communist’ groups. For example, from the mid-nineteenth century onwards, groups led or influenced by the Frenchman Pierre-Joseph Proudhon, author of ‘What is Property?’ (1840), the German Karl Marx, and the Russian Mikhail Bakunin, were promoting one or another anti-establishment model. Within a decade, similar groups had appeared throughout Western Europe, the Balkans and Asia. The principal violent method of spreading terror utilized by virtually all such groups at the time was targeted assassination, which not only carried with it serious personal risk but also the potential for political martyrdom. The assassination of Czar Alexander II in 1881 by the Russian revolutionary group Narodnaya Volya is emblematic of this period of terrorism.³

The Al-Qaeda attacks of September 11, 2001, shocked the world. Their goal was to strike at the heart of the Western world and they succeeded in doing so. They targeted symbols of US economic, military, and democratic strength. Approximately 3,000 people were killed in the attacks and more than twice that number injured. Even today, more than 20 years later, the horror of September 11 is still fresh in the minds of many. The aftermath of September 11 attacks continue to shape global politics and societies around the world to the present day. The fact that the al-Qaeda terrorist network could successfully carry out such devastating attacks over a period of several years and in different countries without being detected indicated that there were serious loopholes.

Terror affects innocent people, spreads fear and is the cause of some of the gravest violations of human rights and international law. Terror must never be tolerated and can never be justified. It must be prevented and combated, at both the national and the international level.⁴

Terrorism aims at the destruction of democracy and the rule of law, in turn negatively impacting civilians’ enjoyment of human rights, particularly the rights to life, liberty and physical integrity. Terrorism often results in catastrophic events, threatening the livelihood of governments and its people. According to the United Nations (UN), terrorism attacks the values that lie at the heart of the Charter of the UN: rules governing armed conflict and the protection of civilians, tolerance among people and nations, and the peaceful resolution of conflict. Therefore, terrorist acts can destroy cooperation among states, jeopardizing a government's territorial integrity and safety,

¹ Khalil Azar, “Causes of Terrorism”, Undergraduate Research Journal, Vol. 6, 2003.p.1

² United Nations Office on Drugs and Crime (UNODC), “Counter Terrorism”, Education for Justice, 2018.p.1. Available at: <https://www.unodc.org/terrorism> Accessed: 17/01/2024

³ UNODC, “Counter Terrorism”, Education for Justice, 2018.pp.4,5. Available at: <https://www.unodc.org/terrorism> Accessed: 17/01/2024

⁴ Jonas Gahr Store, “Foreign Policy Strategy For Combating International Terrorism”, Utenriks departementet, 2006.p.4

while undermining the smooth-functioning of civil society organizations (CSOs). Ultimately, the country and surrounding nations face social, political, and economic risk.⁵

Terrorism not only undermines the smooth functioning of the rule of law and jeopardizes government's territorial integrity and safety; it also threatens the economic and social fabric of countries. Hence, terrorism imposes significant economic and social costs on societies and leads not only to direct material damages, but also to long-term negative effects that hinder countries' economy and their capability to grow.⁶

Terrorism has been a bitter pill in the mouth of States in modern times. Since September 11 2001, terrorism has spread like wild fire over the globe with so many states being victims. New terrorist groups emerge every day in different continents with majority and most popular ones being Islamist groups from Middle East. Most popular of these terrorist groups include Al-Qaeda, Hamas, Hezbollah, Taliban, Boko Haram, ISIS etc. The emergence of new terrorist groups in countries in the form of separatists is causing death, untold suffering and destruction of properties which affect economies negatively. The case of Israel-Hamas conflict and its devastating effects is a case in point and its effects on civilians show the urgent need to combat this ill. States are to act collectively to combat and prevent terrorism especially with its devastating consequences.

To effectively fight terrorism, there is need for states to do so collectively. This explains why many states have entered into Counter-terrorism Agreements and signed Conventions to support each other in the fight against terrorism coupled with the Responsibility to Protect under International Law to suppress terrorism. Notwithstanding this responsibility, the International Community has not been united in the fight against terrorism in the Israel – Hamas case despite the deadly attack by Hamas on Israel on October 7, 2023. Some states have been against Israel acting in self-defence, others criticizing America's involvement, calling for ceasefire while some are neutral. This problem pushes us to question if the fight against terrorism is the common responsibility of states. If so, what responsibilities do states have in the fight against terrorism? The purpose of this research is to critically examine the role of states in the fight against terrorism in order to propose a way forward in preventing and fighting terrorism while minimizing civilian casualties. In order to achieve this objective, this research adopts the qualitative research method appropriate in law, that is, doctrinal research method as data is generated through content analyses of primary and secondary sources.

The subsequent paragraphs of this work will take a look at the fight against terrorism under international law with focus on the role of the United Nations, the UN Security council and States; the role of the US in the fight against terrorism globally with particular attention to the Israel – Hamas conflict and the criticisms against Israel and US in the fight against Hamas.

1. The Fight Against Terrorism under International Law

The human cost of terrorism has been felt in virtually every corner of the globe. The United Nations family has itself suffered tragic human loss as a result of violent terrorist acts. The attack on its offices in Baghdad on 19 August 2003 claimed the lives of the Special Representative of the

⁵ Amman Center for Human Rights Studies, "The Negative Effects of Terrorism on the Enjoyment of Human Rights and Fundamental Freedoms: The Case of Jordan". 2018,p.5. Available at: <https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/AdvisoryCom/Terrorism/AmmanCenterHumanRightsStudies.pdf> Accessed: 17/01/2024

⁶ *Ibid*.p.7

Secretary-General, Sergio Vieira de Mello, and 21 other men and women, and injured over 150 others, some very seriously.⁷

The international community's efforts following 11 September 2001 have shown that there are no simple solutions in the fight against international terrorism. Military force may in certain cases be required, but it is not sufficient. States must apply a broad approach, including political, legal, economic, humanitarian and diplomatic measures. In order to identify effective counter measures, it is essential to have a basic understanding of how terrorist groups operate and of the motivation that drives them and their supporters.⁸

International terrorism is dominated by Islamist groups linked to or inspired by the Al-Qaeda network. Al-Qaeda's claim that Muslim societies and values are under attack from the West appears to find considerable resonance in parts of the Muslim world. It is, however, important to point out that the vast majority of Muslims strongly disapprove of terrorism.⁹

As early as 2004, the UN Security Council introduced a definition of terrorism in paragraph 3 of its Resolution 1566, recalling that "criminal acts, including against civilians, committed with the intent to cause death or serious bodily injury, or taking of hostages, with the purpose to provoke a state of terror in the general public or in a group of persons or particular persons, intimidate a population or compel a government or an international organization to do or to abstain from doing any act, which constitute offences within the scope of and as defined in the international conventions and protocols relating to terrorism...". Terrorism is under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature, and calls upon all States to prevent such acts and, if not prevented, to ensure that such acts are punished by penalties consistent with their grave nature. In 2006, the United Nations used this definition as a basis for its Global Counter-Terrorism Strategy.¹⁰

Four pillars were elaborated for a plan of action:

- Preventing people from committing and/or supporting acts of terrorism;
- Depriving terrorists of the means to commit terrorist attacks;
- Building State capacities for the prevention of terrorism;
- Protecting human rights in the fight against terrorism.¹¹

At its meeting in Bratislava at the beginning of June 2019, the NATO Parliamentary Assembly, referring to the fight against terrorism, noted that countering terrorism has been regarded as a crucial issue since 11 September 2001 and will remain a priority area of activity in the future. Reacting to the terrorist attacks against the United States on 11 September 2001, the Allies invoked the collective defence clause enshrined in Article 5 of the NATO Treaty for the first time in the history of the Alliance. The fight against international terrorism became the number one issue on NATO's agenda. From then on, NATO directed its agenda as well as its military and political capabilities towards the goal of countering non-state terrorist groups and the related challenges, including failed states and piracy at sea. Consequently, NATO substantially broadened

⁷ Office of the United Nations High Commissioner for Human Rights, "Human Rights, terrorism and Counter-Terrorism", Fact Sheet No. 32, 2008.p.1

⁸ Jonas, G. S., *Op.cit.* note 4.pp.5,6

⁹ *Ibid.*

¹⁰ Reinhold Lopatka, "The Fight Against Terrorism and the Focus of Inter-Parliamentary Cooperation and United Nations", Austrian Institute for European Security Policy, 2019.p.5

¹¹ *Ibid.*pp.5,6

the geographic scope of its activities as well as the range of its operations. NATO's engagement in Afghanistan is perceived as one of the crucial driving forces for the Alliance's deployment of lighter, more mobile and more lethal armed forces. The NATO mission in Afghanistan dominated defence planning in all NATO countries and had been one of the core tasks of NATO since the early 2000s.¹²

According to the universal Legal Framework Against Terrorism of the United Nations Office on Drugs and Crime adopted on the basis of Chapter VII of the UN Charter, the resolutions are legally binding on all UN member states. States are required to:

- Prevent and suppress financing of terrorist acts (Criminalize the financing of terrorism and Freeze the funds/assets/economic resources of terrorists)
- Criminalize terrorist acts as serious offences
- Repress preparation and support of terrorist acts
- Ensure Greatest measure of international cooperation in criminal matter
- Deny safe haven for terrorists
- Extradite or prosecute
- Prevent forgery/fraudulent use of identity papers & travel documents¹³

International law through the UN, Security Council, states (individually and collectively), and other bodies play a role in the fight against international terrorism as will be seen in the subsequent paragraphs.

A. The Role of the Security Council in the Fight Against Terrorism

With the League of Nations' inability to maintain international peace and security, the Allied Powers of World War II began to work on the creation of an international organization that would be more efficient and powerful in matters of international peace and security. The result was the establishment of United Nations in 1945. Although the system envisaged in the UN Charter for the maintenance of international peace and security resembled that of the League of Nations, it differed on a crucial point. The responsibility for maintaining international peace and security was given to a smaller body, the Security Council (SC).¹⁴

The role of the Security Council has been one of the central aspects of the responsibility to protect concept throughout its development. The International Commission on Intervention and State Sovereignty (ICISS), which articulated the idea of the responsibility to protect in 2001, regarded the role of the Security Council as "of paramount importance." The 2005 World Summit Outcome expressed the preparedness of the international community to take collective action, through the Security Council, to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity on a case by case basis. The Security Council itself reaffirmed the provisions of the World Summit Outcome regarding this responsibility.¹⁵

¹² *Ibid.*p.16

¹³ Resolution 1373, United Nations Office on Drugs and Crime (UNODC), The Universal Framework against Terrorism, National workshop, 2009. Available at: www.unodc.org Accessed: 17/01/2024

¹⁴ Elif Yeneroglu Kutbay, "Maintenance of International Peace and Security: A Historical Assessment of the Evolution of the United", *Ege Academic Review*, 2004.p.125

¹⁵ Hitoshi Nasu, "The UN security Council's Responsibility and the 'Responsibility to Protect'", *Max Planck Yearbook of United Nations Law*, Vol. 15, 2011.p.379

The attack of 11 September transformed the UN's role on counter-terrorism. Using its quasi-legislative powers, the Security Council passed Resolutions 1368 and 1373, establishing the three pillars of the current global counter-terrorism system:

1. The first pillar is based on Resolution 1368's principle that states have a right to self-defense when attacked or threatened by terrorism groups or state supporters of terrorism.
2. The second pillar is the establishment of a universal counter-terrorism legal framework. According to Resolution 1373, the Security Council obligates all states to criminalize terrorism, to ratify the international conventions(which inter-a-lia include; Convention on Prevention and Punishment of Crimes against Internationally Protected Persons, Convention for the Suppression of Terrorist Bombing, Convention against Terrorist Financing, Convention against the Taking of Hostages, Convention for the suppression of acts of Nuclear Terrorism, Convention on offences and Certain other Acts committed on Board Aircraft), and to modify their counter-terrorism laws in accordance with international best practices.¹⁶

According to SC Resolution 1456 of 2003, member states must take appropriate measures to counter terrorism. In doing so, their actions must comply and be in accordance with International law on human rights, Refugee law and humanitarian law.¹⁷

Under Resolution 1624 (2005) dealing with Incitement to Terrorism, the Security Council called upon all States to:

- Prohibit & prevent incitement
- Freedom of expression
- Deny safe haven
- Report to the Counter Terrorism Committee¹⁸

Under Security Council resolution 1540, states must ensure

- Domestic controls to prevent proliferation of WMD
- No support to non-state actors
- A Committee reporting to the Security Council¹⁹

In other words, the Security Council has required all states to build their capacity to fight terrorism at the domestic level in order to constrain terrorist groups' ability to operate globally. In line with this requirement, many states have introduced terrorism laws including Cameroon which introduced the 2014 Terrorism Law. In addition, the Security Council has argued that if all states adapt their legal infrastructure in accordance with International Law and emerging best practices, it would improve interstate cooperation on counter -terrorism efforts.

The final pillar is Counter-Terrorism Committee (CTC), established following the Security Council's adoption of Resolution 1373, and the Counter-Terrorism Executive Directorate (CTED), a specialized staff created in 2004 by the Security Council to assist the CTC's efforts.²⁰

¹⁶ William B. Messmer and Carlos Yordan,"The Origin of United Nations' Global Counter-Terrorism System", HAOL, No. 22, 2010.p.173

¹⁷ Resolution 1456 United Nations Office on Drugs and Crime (UNODC), The Universal Framework against Terrorism, National workshop, 2009. Available at: www.unodc.org Accessed: 17/01/2024

¹⁸ Resolution 1624, United Nations Office on Drugs and Crime (UNODC), The Universal Framework against Terrorism, National workshop, 2009. Available at: www.unodc.org Accessed: 17/01/2024

¹⁹ *Ibid.* Resolution 1540

Security Council's Role in the Israel – Hamas conflict

On October 7, 2023, Gaza Strip-based militants led by the Palestinian Sunni Islamist group Hamas (a U.S.-designated foreign terrorist organization) engaged in a series of surprise attacks against Israel. The assault targeted Israeli military bases and civilian areas during the final Jewish high holiday, almost exactly 50 years after the Egypt-Syria surprise attack that sparked the 1973 Yom Kippur War. The Biden Administration and Israel have stated publicly that they do not have evidence that the Iranian government had a planning role, but are looking at the question. Some figures from Hamas and the Iran-backed Shia Islamist group Lebanese Hezbollah (also an FTO) have claimed that Hamas received support for the attacks from Iran, though a senior Hamas official has denied an Iranian planning role. Iranian officials have praised the assault publicly. The attacks' scope and lethality against Israel have no precedent in the 16 years Hamas has controlled Gaza. The nature of the violence stunned Israelis; apparent intelligence and operational failures in preventing the assault surprised Israeli, U.S., and other Western officials.²¹

In response, Israel's cabinet formally declared war on Hamas, with Prime Minister Benjamin Netanyahu asserting that Israel will win a long and difficult campaign. As it seeks to push militants out of Israeli territory, target them in densely populated Gaza, and recover hostages, the Israeli government announced a total siege on Gaza described as a halt on the supply of electricity, food, water, and fuel. Features similar to past rounds of Israel-Hamas conflict include indiscriminate Hamas rocket fire into Israel, regular Israeli air strikes in Gaza, humanitarian concerns on both sides, and Israel's deployment of the Iron Dome anti-rocket system. Reportedly, more than 900 Israelis (and at least 11 American civilians) and 680 Palestinians in Gaza died as of October 10, with Israel claiming that the bodies of around 1,500 dead militants have been found in southern Israeli areas recaptured by its military. Additionally, militants are reportedly holding more than 100 persons hostage in Gaza, and Hamas has reportedly threatened to kill hostages in the event of Israeli strikes on civilian targets in Gaza.²²

Many Palestinians and people in other countries in the region have expressed support for the Hamas attacks. Hamas' military leader alleged Israeli encroachments on Muslim holy sites in Jerusalem, and called on all Arabs to "expel the (Israeli) occupiers." West Bank-based Palestinian Authority (PA) President Mahmoud Abbas has emphasized "Israeli aggression" in Gaza and the well-being and defense of Palestinians. Some analysts have described the PA as "wanting to see Hamas fail but unable to openly cheer for Israel". Other Arab governments have called for an end to violence, with a statement from Saudi Arabia calling for restraint and protection of civilians while pointing to longtime Israeli policies as potentially provocative.²³

Hezbollah exchanged fire with Israel across the Lebanese border "in solidarity" with Hamas on October 8. It did so again on October 9 in supposed retaliation for lethal Israeli cross-border shelling, after Israeli forces engaged in a deadly standoff with several militants possibly from Palestine Islamic Jihad (another FTO) who came over the border. Escalation with Hezbollah would likely present major challenges for Israel and its population centers, given Hezbollah's capabilities and arsenal of rockets and missiles.²⁴

²⁰ William B. Messmer and Carlos Yordan, "The Origin of United Nations' Global Counter-Terrorism System", HAOL, No. 22, 2010.p.173

²¹ Congressional Research Service, "Israel and Hamas: Major Conflicts after surprised attacks", CRS Insight, 2023.p.1 Available at: <https://crsreports.congress.gov> Accessed:5/01/2024

²² *Ibid.*

²³ *Ibid.*

²⁴ *Ibid.*

The SC is the UN organ charged with the responsibility to maintain international peace and security globally. Since the commencement of this conflict, the SC has taken certain measures in order to ensure ceasefire, humanitarian aid and protection of civilians in Gaza and Palestine as a whole.

Under resolution 2720, the UN Security Council called for more aid deliveries and for steps to be taken to create conditions for a sustainable cessation of hostilities. Unlike in two previous votes, the US did not veto. The resolution demanded the facilitation of ‘safe and unhindered delivery of humanitarian assistance’. The resolution also called for the creation of conditions for a sustainable cessation of hostilities without demanding an immediate end to the fighting. It requested the appointment of a UN Humanitarian Coordinator to oversee the entry of aid into the Gaza Strip. It stated that the delivery mechanism will be managed in consultation with all relevant parties, including Israel. An earlier draft had called for the aid mechanism to be put under exclusive UN control.²⁵

Thus, the following can be highlighted from the SC’s role in the Israel – Hamas conflict;

- The UN Security Council succeeded in finding unity, adopting resolution 2712 on the Israel-Palestine crisis that began on 7 October 2023, with 12 members voting in favour, none against and three abstentions (Russia, United Kingdom, United States). The resolution called for urgent and extended humanitarian pauses and corridors in Gaza for a sufficient number of days to allow full, rapid, safe and unhindered access for UN agencies and partners.
- The Council “calls for the immediate and unconditional release of all hostages held by Hamas and other groups, especially children, as well as ensuring immediate humanitarian access”, by the terms of the resolution
- The Council, by additional provisions in the text, calls on all parties to refrain from depriving the civilian population in Gaza of basic services and aid indispensable to their survival, consistent with International Humanitarian Law.²⁶

Looking at the role the Security Council has played so far and the resolutions taken, focus has been ceasefire, humanitarian aid, protection of civilians and the release of hostages. This is a normal reaction from an organ charged with the responsibility to maintain international peace and security. In every conflict, the interest of civilians is considered first to ensure they are not victimized and to ensure that humanitarian rules are respected. The SC must be applauded for working towards ensuring the respect of these humanitarian norms and taking steps to ensure a ceasefire.

Notwithstanding this giant step by the Security Council, nothing is mentioned in the resolution condemning Hamas’ attack on Israel on 7 October, 2023 which left at least 1200 persons dead including children, women and civilians as a whole. This creates a lacuna on the part of the SC especially because Hamas is a terrorist group which needs to be suppressed but the SC has paid no attention on this deadly game initiated by Hamas. While encouraging humanitarian aid, ceasefire, protection of civilians, measures should also be taken to suppress Hamas. The responsibility is on the SC to call for collective action of states to do so. The SC has however taken no measures to that effect, which could send a warning signal to other terrorist groups harnessing plans of attacking any state, that there will be a collective come back against them. The silence of the SC on the action of Hamas and failure to call for a collective action against them gives the impression

²⁵ <https://www.dw.com/en/israel-hamas-war-un-security-council-passes-gaza-resolution/live-67795998> Accessed: 18/01/2024

²⁶ <https://news.un.org/en/story/2023/11/1143632> Accessed: 18/01/2024

that, Israel does not have the right to act in self-defense which is contrary to Article 51 of the UN Charter. This may encourage terrorist groups to forge ahead with their deadly plans knowing that the hand of international justice is not long enough to reach them. Thus, much still remains to be done by the SC in order to combat terrorism and put an end to their actions starting with Hamas.

States equally have the responsibility under international law to combat terrorism individually and collectively as will be seen in the subsequent paragraphs.

B. The Role of States in the fight against terrorism

Prior to September, 11 2001 terrorist attack on United States, terrorism was of minor concern to governments, policy makers and academia. The major concern of policy makers during the period bordered on issues like illicit drug abuse, religious and ethnic crises, nuclear proliferation, civil war, etc. However, the past few decades have witnessed terrorist activities in almost all parts of the world and therefore huge resources are invested at both the domestic and international arena to curb terrorism all over the globe.²⁷

In the period following the terrorist attacks on the USA on 11 September 2001, international terrorism and the proliferation of weapons of mass destruction have emerged as the principal threats to international security. Terrorism has since struck innocent civilians in Moscow and Madrid, on Bali, Baghdad, London, Mumbai and Amman. Terrorism is a global threat and must be combated globally. The UN, NATO, EU and other international organisations have therefore given the fight against terrorism top priority. This threat looms over all people and all societies, and all countries have an obligation to support the fight in line with UN decisions. This was underlined in the 2005 UN World Summit Outcome Document, in which the member states condemned all terrorism, irrespective of its form and purpose, and declared that terrorism is one of the most serious threats to international peace and security.²⁸

In response to the terrorist attacks of September 11, 2001, almost all of the members of the G20, comprising the nineteen most important industrialized and newly industrializing countries and the EU, passed anti-terrorism laws of their own. In order to protect their citizens, these laws also restrict their personal freedoms to the present day and extend the powers of the executive branch, in particular, the law enforcement agencies, in the name of national security. Under autocratic regimes, parliaments and courts have in any case little power and controlling authority; but once a terrorist threat has been declared to be a national crisis, democratic states also restrict the checks and balances that are supposed to secure individual liberties. In most other countries, anti-terrorism laws were enacted swiftly in response to the new threat situation, but initially only for a limited period on account of the serious restrictions on freedom. But even 20 years later, these measures still have not been revoked. Many of the laws and directives that were passed in an exceptional situation are still in force and, in the meantime, have even been expanded, in part in response to further terrorist attacks.²⁹

Under Resolution 1373, States are required to Prevent and suppress financing of terrorist acts (para. 1)

➤ Criminalize the financing

²⁷ Solomon Adebayo Adedire, "Combating Terrorism and Insurgency in Nigeria: An International Collaborations Against Boko Haram", Fountain University Journal of Management and Social Sciences, Vol. 5, Issue 1. 2016. P.67

²⁸ Jonas Gahr Store, "Foreign Policy Strategy For Combating International Terrorism", Utenriksdepartementet, 2006.p.5

²⁹ Josef Braml, "Anti-Terrorism Laws and Powers: An Inventory of the G20 States 20Years After 9/11", Friedrich Ebert Stiftung, 2021.p.4

- Freeze the funds/assets/economic resources
- Criminalize terrorist acts as serious offences (para.2)
- Repress preparation and support of terrorist acts (para.2)
- Deny safe haven for terrorists
- Extradite or prosecute them
- Prevent forgery/fraudulent use of identity papers and travel documents.³⁰

Many States and regions around the world continue to face gaps in the implementation of counter terrorism mechanisms and in building coherent responses to terrorism. These challenges can be addressed through effective implementation of comprehensive strategies and plans of action supported by adequate resources and built upon the understanding of local contexts. The four pillars of the United Nations Global Counter-Terrorism Strategy take a comprehensive approach to countering the scourge of terrorism (CT/PVE (Prevention of Violent Extremism) initiatives in Africa, CT/PVE initiatives in Asia, CT/PVE initiatives in Latin America and the Caribbean, CT/PVE initiatives in the Middle East and North Africa). Development and implementation of national and regional counter- terrorism strategies, based on the holistic framework provided by the Global Counter-Terrorism Strategy and the Plan of Action to Prevent Violent Extremism are key requirements to effectively counter terrorism and prevent violent extremism in a comprehensive, integrated and preventative manner. The aftermath of the 11 September 2001 attacks in the United States of America saw a surge in terrorism and violent extremism across the globe. In a sense, these attacks gave a boost to existing security threats by Al-Qaeda and other terrorist groups owing to a plethora of grievances. They also precipitated the emergence of new terrorist groups such as Islamic State in Iraq and the Levant (ISIL), Boko Haram, Islamic State in West African Province (ISWAP) and Al-Shabaab. Subsequently, the collapse of Al-Qaeda and the defeat of ISIL in Iraq and the Syrian Arab Republic resulted in the relocation of foreign terrorist fighters (FTFs) to various regions to enhance local jihadist terror groups, in particular in North and West Africa, and gave rise to a spike in violence in the already fragile States of the Global South and beyond. Countries in the Sahel and West Africa have embarked on multilateral and regional approaches by establishing, for example, the G5 Sahel and the Multinational Joint Task Force (MNJTF) to combat terrorism and violent extremism. Other regions have also developed several initiatives towards the same objective.³¹

In recent years, the West African sub-region has been faced with a wave of terrorism, resulting in the death of hundreds of people, destruction of public and private properties, and the displacement of millions. In response, states and multilateral institutions within and outside the sub-region have developed and introduced different mechanisms to address the issue. Based on their activities and relationship with well-known international terrorist networks, notable terrorist groups in the sub-region include Boko Haram and Ansaru in northern Nigeria, and Ansar Dine (or Ansar Eddine), Al-Qaeda in the Islamic Maghreb (AQIM) and the Movement for Oneness and Jihad in West Africa (MOJWA), as well as al-Mourabitoun and Front de Libération du Macina (FLM), AQIM affiliates, all in Mali. These groups have, at times without number, perpetrated premeditated violent attacks on people, state officials and state infrastructure, government institutions and national and multi-national organisations, thereby undermining the peace, security and stability of

³⁰ UNODC, “The Universal Legal Framework Against Terrorism”, Regional Centre for East Asia and the Pacific, 2009.

³¹ United Nations Office of Counter-Terrorism, “ Global South Initiative to Counter-Terrorism and Prevent Violent Extremism”, United Nations Counter-Terrorism Centre, 2022.p.5.

the sub-region. West Africa is made up of independent, sovereign countries like Benin Republic, Burkina Faso, Cape Verde, Cote d'Ivoire, The Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone and Togo. A number of these countries have in recent years experienced terrorist attacks in which lives were lost and private and public properties destroyed. Mali, Nigeria, Burkina Faso and Cote d'Ivoire, for example, experienced terrorist attacks between 2015 and 2016. While Hotel Splendid and Cappuccino Café in Ouagadougou, Burkina Faso, were attacked by terrorists in November 2015, the Radisson Blue Hotel in Bamako, Mali, the tourist beach of Grand-Bassam near Abidjan, Cote d'Ivoire, and mosques in Maiduguri, Nigeria were attacked at different times by terrorists between January and March 2016.³²

Regionally, ECOWAS has been a platform for collaborations for member states to develop and implement counter- terrorism measures. In 2006, for instance, Heads of state and governments of the member states of ECOWAS, deliberated on the rising cases of terrorism and money laundering in the region and directed all member states to enact laws to accommodate the revised Anti-Money Laundering and Combating of the Financing of Terrorism standards.³³

Security of lives and properties has been considered as fundamental responsibility of governments. The attack on Nigerian populace by the Islamist group called 'Boko Haram' has threatened the security of the country. Also, the killing of innocent citizens and foreign investors by 'Boko Haram' sect has called for international collaborations against violent crimes, terrorism and insurgency.³⁴

Since the inception of terrorism and insurgency in Nigeria, the government has developed various strategies towards curbing the activities of Boko Haram. First is the use of brute military force against insurgent groups and deployment of over 8000 troops into affected parts of northern Nigeria in order to suppress the activities of Boko Haram. Second is the acquisition of more sophisticated, adequate and appropriate military hardware. Third is the approval given by international bodies authorizing neighbouring States like Chad, Niger and Cameroon to lawfully deploy troops on Nigerian soil. Fourth is the declaration of a state of emergency in the three most affected northern states; Adamawa, Borno, and Yobe. Fifth is the government's encouragement to both public and media to enable them provide information regarding terrorist groups or their activities.³⁵

The State of Cameroon has equally been fighting the terrorist group, Boko Haram in the Northern region of the country. There has been assistance from neighbouring countries like Chad and also from the US. States in most of the continents have been victims of terrorism but for Latin American countries that have witnessed little or no terrorist attacks. From the above analyses, terrorism has been a threat in the past decades and collectively, states have been fighting it. The recent conflict between Israel and the terrorist group Hamas has raised concerns on the fight against terrorism and role of states. Different states have reacted differently to the situation initiated by the terrorist group Hamas which has led to the loss of lives (over 1200) in Israel and over 20.000 lives in Palestine.

³² Olajide O. Akanji, " Sub – Regional Security Challenge: ECOWAS and the War on Terrorism in West Africa", *Insight of Africa*, Vol. 11, Issue 1, 2019.pp.94, 95, 96

³³ *Ibid*.p.101

³⁴ Solomon, A. A.,*Op.cit.* note 27

³⁵ *Ibid*.p.70

1. The Role of States in the Israel - Hamas conflict

Since the outbreak of the Israel – Hamas conflict on October 7, 2023, states have reacted differently to the situation with the US playing a leading role assisting Israel militarily. This part will look at some of the roles/reactions of some states to Israel's fight against terrorism in Palestine.

The United Arab Emirates stated that, it will continue calling for a cessation of hostilities between Israel and Hamas. Lana Zaki Nusseibeh, the UAE's Ambassador to the UN, stated that, UAE will never get tired of calling for a humanitarian cease-fire.³⁶

Slovenia formally join proceedings in the ICJ seeking an advisory opinion on Israeli control of, and policies in, the West Bank, Gaza strip and East Jerusalem, a motion that precedes South Africa's genocide allegations heard in the court. In the wake of the current conflict in Gaza, the Slovenian Foreign Minister announced that Slovenia has decided to "Actively participate" in the motion for an advisory opinion due to the current conflict in Gaza and the situation in the West Bank. Slovenia has consistently called for additional sanctions against Hamas and violent Israeli settlers in the West Bank, as well as for the establishment of a permanent ceasefire in Gaza, unrestricted humanitarian access and early start of a two-state solution peace process.³⁷

Since the beginning of the Israel-Hamas conflict on 7 October 2023, France has maintained a clear position in line with its traditional policy in the Middle East: supporting Israel's right to self-defense and its war against Hamas' terrorism, while advocating for a two-state solution and an immediate humanitarian truce. On 10 November 2023, French President Emmanuel Macron exhorted Israel to cease the bombing of civilian population, called for a humanitarian pause, and urged a prompt ceasefire. While these statements have been widely criticized in Israel, notably by Israeli Prime Minister, Benjamin Netanyahu, the French President maintains a consistent position since the Hamas terrorist attack on 7 October 2023. The French peace initiative is based on three pillars: an immediate humanitarian truce, a collective response to the terrorist challenges posed by Hamas, and the paving of the way for a political solution by ensuring the creation of a Palestinian state, a necessary condition to ensure the stability and security of Israel.³⁸

Prime Minister Rishi Sunak of the UK has condemned the 7 October 2023 attack by Hamas. He has defended Israel's right to defend itself, said Israel should take steps to protect civilians in Gaza, and that the UK will work diplomatically to secure the delivery of humanitarian aid and prevent regional escalation. The Prime Minister and both the current and former Foreign Secretaries have met with Middle East leaders to discuss aid, de-escalation and the release of hostages. The UK Government has deployed military assets to the Middle East to promote de-escalation and conduct surveillance activities. The Government says it has not provided "lethal or military equipment other than medical supplies to Israel" since 7 October 2023.³⁹

Since Hamas' October 7 terrorist attack on Israel and the subsequent Israeli strikes on Gaza, Beijing has positioned itself as an advocate for peace, calling for an immediate cease-fire in Gaza

³⁶ <https://p.dw.com/p/4aW02> Accessed: 29/01/2023

³⁷ <https://www.timesofisrael.com/slovenia-joins-icj-motion-against-israel-practices-in-west-bank-gaza-e-jerusalem/amp> Accessed: 29/01/2024

³⁸ <https://www.rsis.edu.sg/rsis-publication/idss/ip23087-why-the-israel-hamas-conflict-is-significant-for-france/#:~:text=Since%20the%20beginning%20of%20the,and%20an%20immediate%20humanitarian%20truce.>

Accessed: 29/01/2024

³⁹ <https://commonslibrary.parliament.uk/research-briefings/cbp-9874/#:~:text=UK%20military%20and%20humanitarian%20response,to%20Israel%E2%80%9D%20since%207%20October.> Accessed:29/01/2024

and the establishment of an independent Palestinian state while criticizing the United States' support for Israel.⁴⁰

In the weeks since Hamas attacked Israel on October 7 2023, a handful of western leaders have visited the Middle Eastern country to offer support amid the reignited conflict between Israelis and Palestinians. Canadian Prime Minister Justin Trudeau's absence in Israel is not indicative of a lack of support from Canada. The Prime Minister issued a statement a day after the attack and has since spoken with Israeli President Isaac Herzog, with accompanying meeting summary affirming "the need for Israel to defend itself in accordance with International Law". But analysts say, Trudeau has taken a more cautious approach to the war in the Middle East than his western peers, perhaps a reflection of recent polling which shows his citizens are divided on the conflict and Canada's support for Israel.⁴¹

Saudi Crown Prince Mohammad Bin Salman called on all countries to cease arms export to Israel which is posing another roadblock in Washington's monumental plan to get Saudi Arabia and Israel to normalize relations. Demonstrations have erupted throughout the region calling for an end to Israeli aggression in Gaza, and even in support of Hamas. Although strict bans on speech freedoms have left Saudi streets quieter than in neighbouring countries, Saudi social media channels are loud with anger towards Israel. The Saudi leadership is treading carefully in its wartime rhetoric, balancing a public increasingly frustrated by Israel normalization agreement on the table. But as the war rages on and civilians are being killed at unprecedented pace, the Saudi's 'status quo' rhetoric is not enough to meet swelling public anger.⁴²

Recently, in reaction to the Israel – Hamas conflict, South Africa brought an allegation of genocide before the ICJ. The 84-page allegation stated that, the acts and omissions by Israel in Gaza are genocidal in character because they are intended to bring about the destruction of a substantial part of the Palestinian national, racial and ethnical group in violation of the 1948 Genocide Convention. The ruling issued by the ICJ ordered six provisional measures including for Israel to refrain from acts under the Genocide Convention, prevent and punish the direct and public incitement to genocide, and take immediate and effective measures to ensure the provision of humanitarian assistance to civilians in Gaza.⁴³

There are many strategies that have been put in place by states to prevent/ counter terrorism which is non-military in nature but in a situation where there is an ongoing attack by the terrorist group, military action must be used against such group collectively by states. Thus, military force may not be needed to prevent terrorism, instead measures like preventing terrorist financing etc may be used. But if there is an attack and killing from such a group, then the use of military force is inevitable.

Since after September 11 attack on the US, many states have been fighting terrorism individually, collectively or with the support of other states like the US, France etc. states have entered into alliances signing bilateral and multilateral agreements to collectively fight terrorism. From these actions of state, it is clear that with the rise in terrorism and its devastating effects on economies

⁴⁰ <https://www.brookings.edu/articles/chinese-narratives-on-the-israel-hamas-war/#:~:text=Since%20Hamas'%20October%207%20terrorist,United%20States'%20support%20for%20Israel.>
Accessed: 29/01/2024

⁴¹ <https://www.usnews.com/news/best-countries/articles/2023-11-03/why-canada-is-taking-a-cautious-approach-to-the-israel-hamas-war> Accessed: 29/01/2024

⁴² <https://www.newarab.com/analysis/how-saudi-arabia-approaching-israels-war-gaza?amp> Accessed: 29/01/2024

⁴³ <https://www.vox.com/world-politics/24019720/south-africa-israel-genocide-case-gaza-hamas-palestinians>
Accessed:29/01/2024

and human lives, international terrorism is a common concern to states especially as the next victim to a terrorist attack cannot be determined. In the Israel – Hamas situation, states have not been united in the fight against Hamas as a terrorist group and the initiator of the conflict. Many states focus on ceasefire, humanitarian aid which is a great idea because of the need to protect civilians but lays no emphasis on the fight against terrorism / the suppression of Hamas which is a constant threat to Israel. While encouraging humanitarian aid, ceasefire, protection of civilians, states should not neglect the aspect of suppressing terrorism as a common responsibility. A combined effort by states would have suppressed Hamas in the shortest possible time, reduce the duration of the conflict and civilian casualties.

2. The Role of the US in the Fight against Terrorism

The United States responded to the terrorist attacks of September 11, 2001, on the American homeland by seeking to externalize the danger, i.e. to keep it as far away from its own borders as possible. In the ‘Global War on Terror’, US President George W. Bush and his executive deployed military and legal assets to combat the Al-Qaeda masterminds of the attacks, who were suspected to be in Afghanistan, and their Taliban supporters, initially through the allied-backed Operation Enduring Freedom (OEF).⁴⁴

The U.S. Department of Homeland Security was created in the wake of the devastating 9/11 attacks, and charged with coordinating and unifying the Nation’s homeland security efforts. The country confronts an evolving challenge of terrorism and targeted violence. While the threat posed by foreign terrorist organizations remains a priority for the Department, and for the Nation as a whole, the department has made great progress in its ability to detect, prevent, protect against, and mitigate the threats that these groups pose.⁴⁵

With the memories of the September 11 incident still fresh in the minds of the Americans, the government has taken steps in fighting terrorism by putting in place measures to internally guarantee the security of the country and also assist other countries that are victims to terrorist attacks by supplying troops and ammunitions. The US has entered into numerous agreements with other states in order to fight terrorism. Thus, the US has fought enemies who are non-state actors who fail to distinguish themselves from the civilian population and who do not respect the laws of war.

In order to combat international terrorism, the US has put in place a number of measures which inter-a-lia include diplomacy, economic sanctions, rewards for information program, extradition, military force and international agreements.

Over years, the U.S has actively supported countries in the fight against terrorism and recently she has been actively engaged in the fight against Hamas as will be seen below.

⁴⁴ Josef, B., *Op.cit.* note 29.p.24

⁴⁵ US Department of Homeland Security, “Strategic Framework for Countering Terrorism and Targeted Violence”, HomeLand Security, 2019.p.1

U.S Role in the Israel – Hamas conflict

On October 7, 2023, Gaza Strip-based militants led by the Palestinian Sunni Islamist group Hamas attacked Israel killing over 1200 persons and taking hostages. In retaliation, Israel has launched series of attacks against Hamas which has led to the death over 20,000 Palestinian civilians. Hezbollah, a Lebanese terrorist group has equally exchanged fire with Israel across the Lebanese border.

Since October 7, the Biden Administration has expedited the provision of U.S. military and security assistance to Israel. As of late December 2023, one report indicated that, since October 7, the United States has dispatched 240 transport planes and 20 ships to deliver more than 10,000 tons of armaments and equipment to Israel. The same report noted that Israel also has ordered \$2.8 billion in additional purchases from the United States.⁴⁶

On October 18, 2023, President Biden announced that the U.S is offering \$100 million for humanitarian assistance in Gaza and the West Bank to support over a million displaced and conflict-affected persons with clean water, food, medical care, and other essential needs via trusted partners, including UN agencies and international NGOs.⁴⁷

More than two months later, following Israel's strikes in Gaza that have killed thousands of civilians, unprecedented tensions over the war are widening between the White House and the government of Prime Minister Benjamin Netanyahu. President Biden accused Israel, for example, of carrying out "indiscriminate" bombing in an off camera political event. He used exceedingly blunt language which typically caused pushback from Israel's leaders, who insisted they tried to spare civilians but accused Hamas of using innocent Palestinians as cover.⁴⁸ US Secretary of State Anthony Blinken said, there was a gap between the Israeli government's declared intentions to protect civilians and the mounting casualties seen on the ground. "As we stand here... it remains imperative that Israel put a premium on civilian protection", Blinken said at a press conference after a meeting with British foreign Secretary, David Cameron in Washington.⁴⁹

President Joe Biden on Thursday 2, February 2024, issued an executive order that targets Israeli settlers in the West Bank, who have been accused of attacking Palestinians and Israeli peace activists in the occupied territory, imposing financial sanctions and visa bans in an initial round against four individuals. Those settlers were involved in acts of violence, as well as threats and attempts to destroy or seize Palestinian property, according to the order. The penalties aim to block the four from using the US financial system and bar American citizens from dealing with them. US officials said, they were evaluating whether to punish others involved in attacks that have intensified during the Israel – Hamas war. Biden's order is a rare step against America's closest ally in the Middle East, who Biden says has right to defend itself. The democratic President has pressed Israeli Prime Minister, Benjamin Netanyahu's government to show greater restraint in its military operations aimed at rooting out Hamas.⁵⁰

The U.S has been active in the fight against Hamas in support of Israel because of her strong desire to combat terrorism. From the above analysis, the US has actively supported Israel with

⁴⁶ Congressional Research Service, "Israel and Hamas Conflict in Brief: Overview, US Policy and Options for Congress", CRS Report, 2024.pp.7,8

⁴⁷ *Ibid.*p.9

⁴⁸ <https://amp.cnn.com/cnn/2023/12/14/politics/biden-netanyahu-tensions-analysis/index.html> Accessed: 31/01/2024

⁴⁹ <https://amp.theguardian.com/world/2023/dec/08/us-israel-hamas-war-gaza-civilian-protection-anthony-blinken> Accessed: 31/01/2024

⁵⁰ <https://apnews.com/article/biden-west-bank-israeli-settlers-palestinians-80f9e6be6f6a7bb75dc86360ac2fa6ce> Accessed: 31/01/2024

troops and munitions to fight Hamas and has equally given humanitarian assistance to civilians and victims of the conflict. Despite the supply of troops, the U.S discouraged Israel from all forms of indiscriminate attack that can victimize civilians indicating U.S respect for International Humanitarian Law. The U.S equally urged Israel to open the humanitarian corridor to permit assistance to civilians in Gaza and Palestine as a whole. It is therefore clear from the U.S and Biden's actions that, the US intention is to counter terrorism and not any kind of bias against Palestine. This is evident from the caution against the Israeli PM to regulate attacks in order to curb civilian casualties and sanctions given to Israelis at west Bank involved in attacking Palestinians.

3. Criticisms against U.S and Israel in the fight against Hamas

The role of America in the Israel – Hamas conflict has been greatly criticized with genocide allegations being referred to as U.S-Israel genocide in Gaza. South Africa has brought a genocide case against Israel before the ICJ. As part of the arguments, the Israeli team showed video footage and audio from the attacks. “The US stands by its position that South Africa’s genocide case against Israel at the ICJ is unfounded. The Court’s ruling is consistent with our view that Israel has the right to take action to ensure the terrorist attacks of October 7, 2023 cannot be repeated in accordance with international law”, US State Department Spokesperson tells the Times of Israel.⁵¹

One Jewish lawmaker became the first to call on Israel to ceasefire in Gaza Strip, another called the Palestinian death-toll in the Israel-Hamas war “unacceptable”, and a third said, suffering in Gaza was a “moral failure”. Senator Jon Ossoff, who has been a consensus-seeking voice on Israel within the Democratic party and who has carefully avoided overly criticizing the Jewish state since entering congress in 2021, issued a blistering critique of the IDF’s ongoing military operation against Hamas in Gaza. “The extent of civilian death and suffering in Gaza is unnecessary. It is a moral failure, and it should be unacceptable to the U.S”, Ossoff said in a speech from the Senate.⁵²

US President Joe Biden’s approach to the Israel – Hamas war, especially his seemingly preternatural support for Israel, has been criticized across much of the U.S political spectrum. An NBC News poll published November 19, 2023 found that, just 34 percent of registered voters approve of how Biden is handling the war. Many younger voters in particular are angry; and some Arab and Muslim Americans are telling pollsters they won’t vote for Biden in 2024 because of his stance.⁵³

A number of states have criticized Israel’s attack on Hamas terming it a “collective punishment” on the Palestinians. Others hold that war crimes have been committed by Israel and as a result have severed diplomatic ties with Israel. These inter-a-lia include countries like South Africa, Jordan, Bahrain, Turkey, Bolivia, Chile, Colombia.

Biden administration’s level of support for Israel amid its ongoing war on Gaza has caused anti-American sentiments to surge in the Middle East and North Africa (MENA). Outrage over the carnage in Gaza is not only coming from MENA countries. It is present all over the global south. Official US government talking points about Israel’s right to defend itself are extremely out of touch with public opinion globally. Across Africa, Latin America and Asia, many are mobilizing

⁵¹ <https://www.vox.com/world-politics/24019720/south-africa-israel-genocide-case-gaza-hamas-palestinians>
Accessed: 31/01/2024

⁵² <https://www.timesofisrael.com/in-a-shift-us-jewish-lawmakers-ramp-up-criticism-of-israels-war-on-hamas-in-gaza/amp/> Accessed: 31/01/2024

⁵³ <https://foreignpolicy.com/2023/12/01/biden-israel-hamas-war-policy-approach-response-criticism/> Accessed: 31/01/2024

in opposition to the U.S and other western powers backing Israel. The fact that five Latin American countries (Belize, Bolivia, Chile, Columbia and Honduras) have suspended diplomatic relations with Israel or withdrawn their Ambassadors highlights this point.⁵⁴

Despite the fact that Israel had the right to act in self-defense, recent trends have revealed that she has acted in excess to that right which has resulted in civilian casualties and partly why there have been criticisms.. The U.S reaction is a confirmation to that despite the fact that they are allies. In acting in self-defense, Israel must take steps to respect International Humanitarian rules. The criticisms by some states are understood considering the civilian deaths and displacement in Palestine. Collective action by states would have minimized these casualties and suppressed Hamas within a short time.

Theoretical and Conceptual Analysis

This research is premised on the concept of responsibility to protect (R2P) in International Law. The Responsibility to Protect – known as R2P – is an international norm that seeks to ensure that the international community never again fails to halt the mass atrocity crimes of genocide, war crimes, ethnic cleansing and crimes against humanity. The concept emerged in response to the failure of the international community to adequately respond to mass atrocities committed in Rwanda and the former Yugoslavia during the 1990s. The International Committee on Intervention and State Sovereignty developed the concept of R2P during 2001. The Responsibility to Protect was unanimously adopted in 2005 at the UN World Summit, the largest gathering of Heads of State and Government in history. It is articulated in paragraphs 138 and 139 of the World Summit Outcome Document. The R2P has three pillars;

- Every state has the responsibility to protect its populations from four mass atrocity crimes: genocide, war crimes, crimes against humanity and ethnic cleansing.
- The wider international community has the responsibility to encourage and assist individual states in meeting that responsibility.
- If a state is manifestly failing to protect its populations, the international community must be prepared to take appropriate collective action, in a timely and decisive manner and in accordance with the UN Charter.⁵⁵

The R2P by states and the international community is equally applicable to situations of terrorism, since most terrorists carry out indiscriminate killing and thus, commit these international crimes. This explains why the ICC is carrying out investigations of these crimes under its jurisdiction for both Hamas fighters and Israel.

In 2006, the UN adopted a Global Counter-Terrorism Strategy (GCTS). The framework provided by the GCTS strongly echoes the principles that are the basis of R2P:

- Addressing the conditions conducive to the spread of terrorism
- Measures to prevent and combat terrorism
- Measures to build States' capacity to prevent and combat terrorism and to strengthen the role of the UN system in that regard
- Measures to ensure respect for human rights for all and the rule of law as the fundamental basis for the fight against terrorism. Indicating the importance of human rights in counter-

⁵⁴ <https://www.newarab.com/analysis/how-us-support-israel-damaging-its-global-standing> Accessed: 31/01/2024

⁵⁵ <https://www.globalr2p.org/what-is-r2p/> Accessed: 1/02/2024

terrorism efforts, the UN Secretary General made it clear that, “effective counter-terrorism measures and the protection of human rights are not conflicting goals, but complementary and mutually reinforcing ones”.⁵⁶

It is clear from the above that the R2P under International Law is equally applicable to situations of terrorism as countering terrorism has to do with protection of the rights of the population who are mostly the victims of terrorist attacks. This therefore means that, the international community should assist states that are victims of terrorist attacks when and where necessary in order to counter terrorism and prevent human rights violations from terrorist attacks.

Methodology

The methodology used in this research is the qualitative research method appropriate in law, that is, the doctrinal research method. Data is generated from content analysis of primary sources which include Conventions, statutes, legislations and Secondary sources like textbooks, articles from various journals, magazines and internet are also used.

Findings

Some findings were made from the research:

1. Recent trends have revealed that, all States do not recognize Hamas as a terrorist group. Some view them as “freedom fighters” for the liberation of Palestine.
2. The Israel – Hamas conflict has revealed that, states are not united in the fight against terrorism.
3. Only a collective action can suppress terrorism. Individual states cannot successfully combat terrorism. This explains why some individual states even with the support of other states have been fighting terrorist groups for over a decade, for example, Cameroon and Nigeria in the fight against Boko Haram.
4. The position of certain states /individuals like Saunders in the U.S gives the impression that, the world is in support of Hamas’ action and that Israel doesn’t have the right to self-defense as stipulated in article 51 of the UN Charter, despite Hamas’ attack of October 7 which left over 1200 persons dead including women and children.
5. The international community is more focused on ceasefire, humanitarian aid, protection of civilians and has completely neglected the aspect of counter-terrorism in the Israel – Hamas case.
6. States cannot successfully fight terrorism without military force especially where there has been an attack from the terrorist group like the Israel – Hamas situation.
7. A combined effort by states would have suppressed Hamas within the shortest possible time, reduce the duration of the war and the effects on civilians.
8. Looking at the death toll in Palestine (over 20.000 civilian casualties), it is clear that there has been indiscriminate attack by IDF and there is need to minimize civilian casualties as they target Hamas fighters.

Conclusion

From the foregoing, it is clear that since the September 11 terrorist attack in the U.S, there has been growing efforts in countering terrorism. As a result, states have entered into agreement and

⁵⁶ <https://ecr2p.leeds.ac.uk/the-responsibility-to-protect-and-counterterrorism/> Accessed: 1/02/2024

conventions in order to fight against terrorist groups. There have been efforts not just to combat terrorism upon attack but also putting in place measures to prevent terrorism by preventing terrorist financing, improving education, fostering cultural understanding and promoting development. Force is therefore used as a last resort. In fighting terrorism, measures must be taken to minimize civilian casualties. Many Palestinians have been killed through indiscriminate attacks by the IDF including children which is against international humanitarian rules. Terrorism must be crushed and this should be a common responsibility of states. Recent trends have revealed that, individual states cannot successfully fight terrorism especially as terrorists cannot be easily identified. There is need for collective action. The situation between Israel – Hamas would have been different if there was collective action from States. Suppressing Hamas would have been easier and casualties minimized. This will equally send a warning signal to terrorists that the entire world is against them.

Recommendations

- In the Israel – Hamas situation, states should not just unanimously act to ensure humanitarian aid but should do so to suppress Hamas. This will send a warning signal to other terrorist groups and help curb terrorism.
- The fight against terrorism should be the common responsibility of states especially as individual states can hardly counter terrorism single-handedly.
- The Security Council should ensure that there is collective action in the fight against terrorism. This will help in the maintenance of international peace and security.
- Humanitarian interventions should be applicable in cases of terrorist attacks against states.

Funding Sources

The author received no financial support for the research, authorship, and publication of this article.

Conflict of Interest

The author declares no conflict of interest.

REFERENCES

1. Adedire, A. Solomon., “Combating Terrorism and Insurgency in Nigeria: An International Collaborations Against Boko Haram”, *Fountain University Journal of Management and Social Sciences*, Vol. 5, Issue 1. 2016
2. Akanji, Olajide., “Sub – Regional Security Challenge: ECOWAS and the War on Terrorism in West Africa”, *Insight of Africa*, Vol. 11, Issue 1, 2019
3. Amman Center for Human Rights Studies, “The Negative Effects of Terrorism on the Enjoyment of Human Rights and Fundamental Freedoms: The Case of Jordan”. 2018.
4. Azar, Khalil., “Causes of Terrorism”, *Undergraduate Research Journal*, Vol. 6, 2003
5. Braml, Josef., “Anti-Terrorism Laws and Powers: An Inventory of the G20 States 20Years After 9/11”, *Friedrich Ebert Stiftung*, 2021
6. Congressional Research Service, “Israel and Hamas Conflict in Brief: Overview, US Policy and Options for Congress”, *CRS Report*, 2024

7. Congressional Research Service, "Israel and Hamas: Major Conflicts after surprised attacks", *CRS Insight*, 2023
8. Kutbay, Elif., "Maintenance of International Peace and Security: A Historical Assessment of the Evolution of the United", *Ege Academic Review*, 2004
9. Lee, Rensselaer and Perl, Raphael., "Terrorism, the Future, and US foreign Policy", *CRS Issue Brief for Congress*, 2002
10. Lopatka, Reinhold., "The Fight Against Terrorism and the Focus of Inter-Parliamentary Cooperation and United Nations", *Austrian Institute for European Security Policy*, 2019
11. Messmer, William and Yordan, Carlo., "The Origin of United Nations' Global Counter-Terrorism System", *HAOL*, No. 22, 2010.
12. Nasu, Hitosh., "The UN security Council's Responsibility and the 'Responsibility to Protect'", *Max Planck Yearbook of United Nations Law*, Vol. 15, 2011
13. Office of the United Nations High Commissioner for Human Rights, "Human Rights, terrorism and Counter-Terrorism", *Fact Sheet* No. 32, 2008
14. Park, Yuni., "US - China Counter-Terrorism Co-operation and Its Perspective on Human Rights", *Asia Focus*, 2017
15. Store, Jonas., "Foreign Policy Strategy For Combating International Terrorism", *Utenriksdepartementet*, 2006
16. United Nations Office on Drugs and Crime (UNODC), "Counter Terrorism", *Education for Justice*, 2018
17. US Department of Homeland Security, "Strategic Framework for Countering Terrorism and Targeted Violence", *HomeLand Security*, 2019
18. <https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/AdvisoryCom/Terrorism/AmmanCenterHumanRightsStudies.pdf> Accessed: 17/01/2023
19. www.unodc.org Accessed: 17/01/2024
20. <https://crsreports.congress.gov> Accessed: 5/01/2024
21. <https://www.dw.com/en/israel-hamas-war-un-security-council-passes-gaza-resolution/live-67795998> Accessed: 18/01/2024
22. <https://news.un.org/en/story/2023/11/1143632> Accessed: 18/01/2024
23. <https://p.dw.com/p/4aW02> Accessed: 29/01/2023
24. <https://www.timesofisrael.com/slovenia-joins-icj-motion-against-israel-practices-in-west-bank-gaza-e-jerusalem/amp> Accessed: 29/01/2024
25. <https://www.rsis.edu.sg/rsis-publication/idss/ip23087-why-the-israel-hamas-conflict-is-significant-for-france/#:~:text=Since%20the%20beginning%20of%20the,and%20an%20immediate%20humanitarian%20truce>. Accessed: 29/01/2024
26. <https://commonslibrary.parliament.uk/research-briefings/cbp-9874/#:~:text=UK%20military%20and%20humanitarian%20response,to%20Israel%E2%80%9D%20since%207%20October>. Accessed: 29/01/2024

27. <https://www.brookings.edu/articles/chinese-narratives-on-the-israel-hamas-war/#:~:text=Since%20 Hamas'%20October%207%20terrorist,United%20States'%20support%20for%20Israel>. Accessed: 29/01/2024
28. <https://www.usnews.com/news/best-countries/articles/2023-11-03/why-canada-is-taking-a-cautious-approach-to-the-israel-hamas-war> Accessed: 29/01/2024
29. <https://www.newarab.com/analysis/how-saudi-arabia-approaching-israels-war-gaza?amp> Accessed: 29/01/2024
30. <https://www.vox.com/world-politics/24019720/south-africa-israel-genocide-case-gaza-hamas-palestinians> Accessed:29/01/2024
31. <https://amp.cnn.com/cnn/2023/12/14/politics/biden-netanyahu-tensions-analysis/index.html> Accessed: 31/01/2024
32. <https://amp.theguardian.com/world/2023/dec/08/us-israel-hamas-war-gaza-civilian-protection-anthony-blinken> Accessed: 31/01/2024
33. <https://apnews.com/article/biden-west-bank-israeli-settlers-palestinians-80f9e6be6f6a7bb75dc86360ac2fa6ce> Accessed: 31/01/2024
34. <https://www.vox.com/world-politics/24019720/south-africa-israel-genocide-case-gaza-hamas-palestinians> Accessed: 31/01/2024
35. <https://www.timesofisrael.com/in-a-shift-us-jewish-lawmakers-ramp-up-criticism-of-israels-war-on-hamas-in-gaza/amp/> Accessed: 31/01/2024
36. <https://foreignpolicy.com/2023/12/01/biden-israel-hamas-war-policy-approach-response-criticism/> Accessed: 31/01/2024
37. <https://amp.dw.com/en/israel-facing-growing-international-criticism-for-gaza-war/a-67319150> Accessed: 31/01/2024
38. <https://www.newarab.com/analysis/how-us-support-israel-damaging-its-global-standing> Accessed: 31/01/2024
39. <https://www.globalr2p.org/what-is-r2p/> Accessed: 1/02/2024
40. <https://ecr2p.leeds.ac.uk/the-responsibility-to-protect-and-counterterrorism/> Accessed: 1/02/2024