

2002

**A CRITICAL ANALYSIS OF THE NATURE, AND
LEGAL, ECONOMIC AND SOCIAL REPERCUSSIONS
OF INTERNATIONAL TERRORISM:
A GLOBAL COMPARATIVE APPROACH**

BY

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LLB
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2002*

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**A PAPER SUBMITTED TO THE UNIVERSITY OF ZAMBIA IN PARTIAL
FULFILLMENT OF THE REQUIREMENT FOR THE AWARD OF A
BACHELOR OF LAW'S DEGREE - LLB.**

THE UNIVERSITY OF ZAMBIA

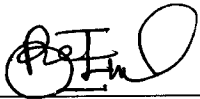
SCHOOL OF LAW

I recommend that the obligatory essay prepared under my supervision by **Mr. ARNOLD CHIKOLI**,

Entitled:

**A critical Analysis Of The Nature And Legal, Economic And Social
Repercussions Of International Terrorism: A Global Comparative
Approach,**

be accepted for examination. I have checked it carefully and I am satisfied that it fulfils the requirements relating to the format as laid down in the regulations governing obligatory essays.



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DECLARATION

I CHIKOLI ARNOLD ,currently a fourth year student of Law at the university of Zambia, with a National Registration Card Number 243601/16/1 ,do hereby solemnly declare, in my right state of mind , that to the best of my academic knowledge, this is a challengingly original and innovative piece of work in Law School at UNZA ,emanating from my own analytical mental struggle .And that if any work of this nature, calibre and magnitude exists anywhere in UNZA ,the same is not to my attention and shall as such be Deemed to be without prejudice to this document.

ACKNOWLEDGEMENTS

With indelible academic scars, bruises and maims, I emerge victoriously from the vast thicket of law and I am now closer to a soft cushion in the corner of my pavillion. Admittedly, though, this victory could have remained a day dream without the guiding professional light from Mr. Enock Mulembe; my supervisor over this work. Sir, with the help of your critical analytical mind, I have been able to put this paper in a professional standard. You are simply amazing. Your personality is a rare combination for wisdom, humility and inquisitiveness. You are eager not only to teach but also to meet new challenges. Without reservations, you spared enough time towards the perfection of this paper which looks at something completely new in the vocabulary of Zambians. More incredible is the fact that you have never been a deliberate threat to any hard-working students continued existence in law school. Thus, greater success is near your door-step. God bless you.

I also give thanks to my antie; Ms. E.N. Hamankuli for typing this document with the maximum patience and care it deserved. I say 'bravo' antie. I also remember my friends of all academic seasons; Edie Mwitwa, Felix Mutale, James Tembo, Sydney Mulengeshi, Paul Mulenga, Maipepi Mulele, Liya Banda just to mention but a few, for your material and moral support throughout this long professional walk. I also thank the personnel at the American Centre Library; particularly Ms. Mwangala

for making available to me, various magazines on Terrorism and also for allowing me to use your internet facilities there during the period of my research. Hence, I pride in you all.

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CHAPTER ONE

1.0 GENERAL INTRODUCTION

Terrorism, a phenomenon whose exact definition is still a serious matter of great controversy between developed and developing countries, has for many decades now been looked at as a distant problem by most people in the World. Some intellectually short-sighted people have considered terrorism as a concern only for political and economic giants who are physically involved in wrangles pertaining to terrorist attacks. Due to lack of legal and economic analytical tools which could otherwise put them in strategic positions to perceive the terrible side ways and down ward contagious effects of international terrorism, those people rejoice at the calamity of other countries which become victims of terrorist attacks, worrisomely contending that such is their own 'Lisping baby to nurse' owing to bad foreign political and economic policies perpetrated by such victim states. This is a catastrophic perception of the phenomenon which has far-reaching spill-over effects on the whole world and should as such be met with the correct amount of condemnation it deserves because it triggers massive human rights violations.¹

As a multidimensional problem encompassing not only illegal diversion of aircrafts, holding hostage of some selected categories of people and in some extreme instances, physical acts of violence inspired by ideologies tainted with racism, and economic jealous, *inter alia*, terrorism has multiple nefarious consequences. Apart from lamentable loss of innocent lives, and rampant cases of torture involved during terrorist attacks, terrorism has a negative impact on

the international community because it does not only subvert standard rules of conflict resolution established under international law², such as negotiation, arbitration, among others, but also ignores the purpose and principles of the charter of the United Nations concerning the maintenance of international peace and security and promotion of friendly relations and co-operation among states.³ Consequently international trade ties are threatened and an alarming exodus of refugees is sparked by violence naturally inherent in international terrorism, the victims of whom are mostly innocent women and children who are the most vulnerable group.

Thus, the fact that terrorism acts as a serious curtailment of the fundamental rights, including the right to life, liberty and security of person, as set out in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights⁴, makes it a concern for everyone. Hence, it becomes almost imperative that a short but informative and educative paper on international terrorism is written not only for international lawyers, but also doctors, economists, social scientists and ordinary people world-over who may peruse through, because as Antonio Cassese observes:

International law is no longer a tool handled exclusively by governments, as it can also be used by individuals, by private organisations and by certain categories of people. [Thus] an international lawyer should no longer write for rulers alone (who may not heed his words) [but] ought now write mainly for ordinary citizens, offering them parameters by which to judge international affairs, and analytical mechanisms for examining the intricacies of the world community⁵.

Bearing in mind that the paper is not only aimed at the incredibly learned but also the humbly educated, a down-up approach is harnessed in the analysis

of the problem. Therefore, section two of the paper tries to define terrorism, identifying its main forms, including aerial piracy as a new element of international terrorism, among other equally important aspects. This section will demonstrate that there is no universally accepted definition of terrorism. From various tentative definitions that will be critically analysed, a working definition, at least for purposes of this paper, will be selected to provide guidance for the foregoing discussion.

The third chapter endeavours to identify the main causes of international terrorism and focusses on political, economic and ideological causes in their broadest possible sense. The identification of causes, it is hoped, will act as an indispensable pillar for any possible solution. The section recognises the truth that it is in most cases the controversial nature of the political and economic policies of some countries which trigger terrorism, among other things.

The fourth chapter will dig deeper into effects of terrorism, paying particular attention to the legal, economic and socio-psychological repercussions of the same. This will simply be the climax of the note as it will bring out multifarious legal and economic issues.

The fifth chapter entitled 'Tools against Terrorism' tries to identify means of combating international terrorism. This chapter specifically singles out two main traditional weapons of terrorism namely 'peaceful means' and 'violent means.'⁶ Under peaceful means, bilateral and multilateral treaties such as the three aerial piracy conventions namely Tokyo Convention 1963, Hague Convention 1970 and the Montreal Convention 1971, among other equally

vital conventions and United Nations resolutions, will be critically analysed. Under 'violent means' the use of armed forces in response to terrorist attacks through a claim of self defence under Article 51 of the United Nations Charter, will be critically analysed, pointing out the flaws inherent in those tools.

Finally Chapter six, which marks the anticlimax of the paper will make recommendations on various possible ways of eradicating international terrorism, followed by a conclusion. The note generally takes a global comparative approach, implying that the analysis of terrorism and the consequential recommendations are beyond Zambian boundaries, transcending the African horizons, echoing across Europe, Asia and America. This is in appreciation of the wise saying that:

'Man cannot discover new oceans if he has no courage to lose sight of the shore'.

And as professor Dias observes in his jurisprudence:

"The best guarantee of independence and originality in thought is the breadth of view, a sense of perspective and a sympathetic appreciation of what people have said and are saying."⁷

END NOTES FOR CHAPTER ONE

1. Antonio Cassese, Terrorism Politics and Law Cambridge, Polity 1989), p.1.
2. Ibid., p. 140.
3. International Convention Against the Taking of Hostages (December 17, 1979), in its preamble, stresses the point in question.

Article 1 of the Charter of United Nations, emphasises the need to maintain international peace, security and friendly relations.
4. Ibid. Also article 6 of the International convention on Civil and Political Rights stresses the need for the protection of the right to life and article 7 of the same condemns torture or any cruel or inhuman treatment.
5. Antonio Cassese (1989), Op. cit., preface at p. viii.
6. Ibid., at page 8.
7. Professor R.W.M. Dias: Jurisprudence (1985), preface.

CHAPTER II

NATURE AND DEFINITION OF TERRORISM

2.0 INTRODUCTION

Deeply concerned about the world-wide escalation of acts of terrorism in all its forms which endanger or take innocent human lives, jeopardise fundamental freedoms and seriously impair the dignity of human beings¹, an attempt is hereon made to identify the real nature of the same (terrorism). Today, terrorism is a night mare haunting the international community, along with the threat of nuclear conflict, the ever more frequent cases of 'conventional' armed conflict within and between states, and the increasing occurrence of glaring violations of human rights², and yet the fact still remains that the general populace does not thoroughly comprehend all multifarious facets or dimensions of terrorism.

2.1 TERRORISM DEFINED

It must be acknowledged from the onset that it is very hard to come up with the definition of terrorism which will receive a universal appreciation because in an era of dynamic transition in international relations, characterised by a plurality of different, sometimes directly competing political-ideological systems with their various legal values, and legal priorities, it is hardly possible to achieve or to maintain any sufficient inter-systemic consensus to base a successful act of international legal codifications.³

However, in the broadest sense, terrorism can be thought of as the use or threatened use of force against civilians designed to bring about political or social change.⁴ But this definition is too simplistic and crude because it does not bring out all intricacies inherent in terrorism and could therefore be deceptive.

In other words, this definition does not specify or attempt to specify acts which constitute terrorism and seems to have a narrow coverage of the use or threatened use of force against 'civilians', implying that use or threatened use of force against non-civilians (for instance against a military government) does not constitute terrorism; a proposition which is highly questionable.

On the other hand, the League of Nations Convention of 1937, popularly called the **Convention for the Prevention and Punishment of Terrorism**, attempted to essay a much more acceptable but general definition of 'acts of terrorism' as:

'criminal acts directed against a state and intended or calculated to create a state of terror in the minds of particular persons or group of persons or the general populace.'⁵

It becomes vivid, therefore, that this second definition is more embracing than the first one because it is not limited to threat or use of force to 'civilians'. Infact, the same convention enumerates specific examples of acts of terrorism and these include:

'any willful act causing death or grievous bodily harm or loss of liberty to (a) heads of states (who are politicians), persons exercising the prerogatives of the head of the state, their hereditary or designated successors, the husbands or wives of the above mentioned persons and the persons charged with public functions or holding public positions when the act is directed against them in their public capacity.'⁶

The above also include 'willful destruction of or damage to public property or property devoted to a public purpose belonging to or subject to the authority of another high contracting party.'⁷ This definition further encompasses 'any willful act calculated to endanger the lives of members of the public.'⁸

Noteworthy, however, is the fact that some scholars criticise the just given definition of terrorism, contending that it 'hangs in the vacuum' currently because the convention which coined it did not come into force as from the time the convention was opened for signature in 1937, the condition precedent set in its article 26 'that it would only come into force after the receipt of the third instrument of ratification or accession' was not fulfilled. This was due to the truth that although 24 states including France signed the convention, only India, ratified it.⁹ Hence, the definition under the 1937 convention may not be so reliable to some critical scholars since it is contained in a 'fallacious instrument.'

Despite the above definitional misfortune, it must be stressed that a number of states have, in their municipal legislation, formulated definitions of terrorism. The United Kingdom Prevention of Terrorism (Temporary provisions) Act 1984, for instance provides in Section 14(1) that:

'Terrorism means the use of violence for political ends and includes any use of violence for the purpose of putting the public or any section of the public in fear.'¹⁰

Analytically, the above definition portrays some deficiencies, as serious questions may arise as to the context in which the word 'violence' has been used

because in common parlance, 'violence' creates an impression of physical disturbance, in which case, the above definition would appear to ignore use of biological methods in effecting a terrorist attack by, for instance, the use of hazards like viruses, which are just 'smartly left,' without any perceptible physical violence. The possible technical use of the word 'violence' should have been explained for a layman's sake.

Thus, a more precise definition is needed if we are to reach a situation where those who commit acts of terrorism can no longer claim to legitimise their acts by, in effect, defining them away.¹¹

After seriously considering various bilateral and multilateral treaties, and many resolutions of such international bodies as the United Nations General Assembly and International Conventions on wars between states and between states and National Liberation movements, some scholars argue that:

'any violent act against innocent people intended to force a state or any other international subject, to pursue a line of conduct it would not otherwise follow is an act of terrorism [and] such acts are prohibited, both in times of peace and cases of armed conflict, whether civil strife, a war of national liberation or armed conflict between states.'¹²

Nevertheless, even the above given definition of terrorism has been met with mixed feeling particularly by third world countries, because of the inclusion of a 'war of national liberation' as an act of terrorism. Thus due to various political and ideological inclinations, Third World states, have taken the view that it is quite legitimate for those fighting for self-determination to use all available means to achieve their ends.¹³

Hence, a typical statement representing actual view of the third world on terrorism is one which was made in 1985 by an Angolan representative in the General Assembly that:

'Acts of terrorism cannot be compared, under any pretext, with the acts of those who are fighting colonial and racist oppression, and for their freedom and independence.'¹⁴

A while later in 1986, the Palestine Liberation Organisation's (PLO)'s representative at the Security Council stated that:

'the acts of violence by freedom fighters against their oppressors and against the alien forces of occupation should never be confused with acts of terrorism'.¹⁵

Thus, the contradictions in the perception of what exactly constitutes terrorism between the western countries and third world states seem to vindicate or justify judge A.D. Sofaer's (formally US Legal Advisor) argument that:

The law applicable to terrorism is not merely flawed, it is perverse. The rules and declarations seemingly designed to curb terrorism have regularly included provisions that demonstrate the absence of international agreement on the propriety of regulating terrorist activity. On some issues, the law leaves political violence unregulated. On other issues the law is ambivalent, providing a basis for conflicting arguments as to its purposes. At its worst, the law has, in important ways, actually served to legitimise the international terrorism and to protect terrorists from punishment as criminals.¹⁶

It, hence becomes amply clear from the above that even the observation of the Ad hoc committee on International Terrorism, created by the United Nations General Assembly Resolution No. 3034 (XXVII) of 18th December 1972, continued in 1977 by a further resolution (Number 147 (XXXII) of 16th December, was correct when it argued that:

“there was the danger of applying double standards in this field, treating one and the same kind of terrorism, in one case as a crime and in another case as a form of political opposition and struggle for human rights ... based on ideological criteria and vestiges of the cold war concepts.”¹⁷

From the above, it may be submitted that the definitional problem of terrorism emanates from the fact that the phenomenon is a compound of ideological, political and philosophical intricacies all intertwined and interwoven together as an international phenomenon.

Without prejudice to the above arguments which portray a conflict of views on the nature of terrorism, the following have generally been identified as the four main forms or types of terrorism by non-state groups:

2.2 Types of Terrorism

It has been demonstrated, earlier in the note, that terrorism is devoid of any universally acceptable definition as its real nature varies with the analytical spectacles one is wearing at a particular time. Thus, it may be a great temptation for the current author to try and classify terrorism in terms of specific names, when it has no specific characteristics per se. However, I must hasten to emphasise that various international scholars agree to the general classification of terrorism in terms of its various causes and hence, the following have been identified as the main types of terrorism by non-state groups:

A) The first type of terrorism is one emanating from highly ideological inspirations. These are anchored on different and conflicting political, economic, religious and social convictions of particular groups of people within the large international community. This could be Marxists, in the broadest sense of the term and the examples here could include terrorists groups in western Europe in such countries as France, Italy and the then Federal Republic of Germany (currently simply called 'Germany' after the 1989 re-unification of West and East Germany).¹⁸ As already alluded to above, this type of terrorism convasses religious convictions such as the Islamic fundamentalism, which uses terrorism as one of its forms of action and penetration abroad.¹⁹

B) The second form of terrorism perpetrated by non-state groups is one seemingly inspired by ideals of national independence. One group of people feels it has a moral obligation, and legal duty to fight for both political and economic emancipation. The best example for this could include the case of IRA in Northern Ireland in which one religious group is struggling to free itself from 'dominant' ruling group, and to acquire independent status within the international community.²⁰ In Africa, the Tusi-Hutu conflict in Burundi, for instance, demonstrates the foregoing explanation as the minority group is fighting for self-determination as guaranteed under international law and uses the most readily available means to achieve its ends, and thus, their actions in some instances, amount to terrorism. It must be noted, however, that the governments opposed by the groups are not necessarily authoritarian or

oppressive, as they are prepared, in some cases, to grant a certain degree of autonomy to the ethnic group in question. The latter, nevertheless not content with the limited sphere of action, continues to struggle for complete independence and uses terrorism as one means for achieving this goal.²¹ The IRA of Northern Ireland case already cited exemplifies the foregoing argument as here, protestants are fighting for complete independence from the ruling Catholics whom they accuse of being inherently oppressive and arrogant as the latter think they were created to be leaders.

C) A similar form of terrorism is that used by certain or most liberation movements which are furiously fighting in the name of the principle of self-determination of the peoples as enshrined in the United Nations Charter. Examples here previously included liberation movements such as the African National congress in South Africa, (before Namibia's independence in 1990) the South West Africa People's Organisation (SWAPO) in Namibia, the Palestine Liberation Organisation (PLO) and the various groups in Eritrea that were fighting against the central governments of Ethiopia, before Eritrea became an independent state.²²

As in the second previous form (B) above, the group using terrorism is ethnically different from the ruling group and is also fighting for independence. The difference, however, lies in the fact that here the group, being subject to colonial or alien domination, falls squarely within the accepted United Nations definition of people having the right of self-determination [and] it is the very

existence of this principle which lends such groups an autonomous identity, making it easier for the international community to recognize and accept them than groups of the second type which falls outside the terms of the United Nations definition.²³

D) The fourth form of terrorism is essentially different from the above three and this is spearheaded by armed bands and other movements that are fighting oppressive regimes which are promoting and perpetrating slavery through lamentable political and economic exploitation.²⁴ These are normally of the same ethnic, religious and racial background as the government they oppose. The example here could include various movements which often resort to terrorism, that are relentlessly fighting or have fought against military dictatorship in Latin America.²⁵

Noteworthy, however, is the fact that the above four private or non-state forms of terrorism are not, by any pretext, conclusive of the dimensions of the same. Thus, the following have also been identified as acceptable types of terrorism equally gravely destructive to the international peace and security.

E) State Terrorism:

The notion of state terrorism was developed much fully by a Soviet jurist, Professor Staroushenko, who, in noting that acts of terrorism result in unnecessary deaths, disrupt the diplomatic activities of states and the international transportation routes said that:

'If a state proclaims terrorism as an instrument of its foreign policy, if the governmental authorities get involved in bringing about the criminal acts following, such activities become terrorist activities of state State terrorism opens the way to use of armed forces and hence poses a direct threat to the world peace. That is why it is dangerous. Using the armed force against another state's sovereignty, its territorial integrity and political independence, and being the first one to do so constitutes an act of aggression. Inflicting any 'preventive' blows without the security council sanctioning them, is also a crime [and] state terrorism is therefore, the shortest way to aggression and very often it is a deliberate preparation for aggression.²⁶

In a nutshell, therefore, state terrorism is one protected and encouraged or even organised by states. Some western countries, think, for instance, that Libya and Iran have given and still give financial and logistical support to terrorist groups that attack foreign countries. The recent suspicion by United States of America that Libya may have been involved in the September 11, 2001 terrorist attack on the World Trade Centre and Pentagon generally represents the western thought.

Admittedly, it is not easy to find any concrete proof of the two countries' connection and yet, at least in one case involving the capture and detention of United States diplomats as hostages by Iran in 1980, the International Court of Justice held that Iran, as an international subject, had kept the American diplomatic and consular staff prisoners. Although, at first, that state was merely responsible for omitting to arrest the students who had captured and detained Americans, it became more deeply involved later. The hostage's galoers acted as official agents of Iran.²⁷

In the light of the above, it becomes amply clear that some states have certainly been found guilty of acts of terrorism, just like non-state groups, in some circumstances.

Despite the above detailed exposition on the main forms of terrorism, it can not, in any way be claimed that the list is very conclusive and inclusive of multiple facets of international terrorism as many misconducts are gradually being criminalised with a view to enhancing the international peace and harmony. Aerial piracy and hostage taking, for instance are considered as new but pernicious elements of international terrorism, and these inevitably need to be briefly explained below:

2.3 Aerial Piracy as an Element of International Terrorism

In a general and popular parlance, the term aerial piracy simply refers to the illegal diversion, by force or other means of an aircraft to a destination other than that envisaged in its original flight plan.²⁸ Thus, the aerial piracy episodes of the 1960s and the 1970s, originating in attacks upon national commercial aircrafts, frequently spilled over into international Air communications created an additional international problem, ripe for both national and international legal solutions.²⁹

And the re-emergence of aerial piracy in the mid 1980s as a strictly international terrorism was linked, it must be noted, to the marked evolution of 'direct action' as a preferred mode of international conflict resolutions for political actors who have evidently, concluded that the ordinary national and

international constitutional - legal processes for political change have become clogged or incapable of effective and rapid adjustment to radically new societal facts of the contemporary world community.³⁰

But such a quest for radical political changes does not refine piracy of its criminality because as **Story J.** of the **US Supreme Court** observed in the case of **US v. Smith (1820)**.³⁰

'whatever may be the diversity of definitions in other respects, all writers concur in holding that robbery or forcible depredations upon the sea, 'amimo furandi', is piracy The common law too recognises and punishes piracy as an offence against the law of nations (which is part of the common law), as an offence against the universal law of society, a pirate being deemed an enemy of the human race.'

From the above, it may be submitted that piracy is a serious act of international terrorism which calls for an immediate international legal intervention. It is for this reason that the **Geneva Convention on the High Seas, 1958** extends the definition of piracy. According to its Article 15, piracy consists of any of the following g acts:

'any illegal acts of violence, detention or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a pirate air craft and directed on the high seas, against another ship or aircraft or against persons or property on board of such ship or air craft [and] against a ship, aircraft, persons or property in a place outside the jurisdiction of any state.'³¹

One naked truth surfaces from the above provision which does not only exemplify how embracing the problem of piracy is, but also confirms that the following constituted acts of international terrorism in relation to piracy:

- The interception of a privately owned Libyan aircraft flying to Syria with an official delegation of Syrians on board, on **4th February 1986**, in

international air space, by two Israeli fighter planes, forcing it to land on Israel territory, amounted to piracy and hence terrorism.³²

- Similarly, the high jacking of the **achille Lauro**, an Italian ship, on **7 October, 1985**, by four members of the faction of the Palestine Liberation Front, as it sailed from Alexandria to port Said, constituted an act of international terrorism in form of piracy.³³
- Besides, the hijacking of a (U.S.) T.W.A. civil aircraft on an Athens to Rome flight, in **June 1985**, with 104 United States citizens on board, and its forcible diversion to Beirut, with one of the United States citizens killed and the rest held for 17 days before being finally released, and the destruction of an Air India Civil Aircraft over the Atlantic on a flight from Canada to India,³⁴ equally amounted to a grave crime of international terrorism, just like the latest **September 11, 2001**, wanton attack on the World Trade Centre in the United States of America.

The above few cases, among many others, confirm that aerial piracy constitutes a worrisome aspect of international terrorism. Infact this problem gets compounded by the multifaceted nature of aerial high jackings themselves, the main species of which include the following:

A. Political Escape High Jacking:

This is a form or type of aerial high jacking which commenced after the World War II with the inauguration of the Cold War era when various people, sometimes military personnel and sometimes civilians seized military or civilian

aircraft to flee from the communist countries of Eastern Europe so as to claim political asylum in the west. Perpetrators of this type of high jacking were normally barred from obtaining normal exist visas and they therefore seized aircrafts as the 'last resort' means of escaping.³⁵ This type, thus differs from the second form of aerial high jacking which is called: 'Lunatic Fringe' High-jackings

B) 'Lunatic Fringe' high jackings

These are high jackings perpetrated by emotionally disturbed or mentally unbalanced people with very little or completely no political or social awareness, and drawn mainly by the contagion of past example and the lure of the massive publicity given by the communication media (newspapers, television and radio) to past successful high jacking attempts.³⁶

This type began with Fidel Castro's accession to power in Cuba, and the termination of direct diplomatic relations between the United States and Cuba that followed shortly after. Since early 1961 when the first United States civil passenger aircraft was high jacked to Havana, a wave of similar high jackings followed over the decade of the 1960s and these were tainted with political motives, though to a larger extent had psychological roots.³⁷ The above two forms of aerial highjackings differ from the third type which is summarised below.

C) Skybandits or Skyjackings:

These are hijackers for profit, as the dominant motive being the expectation or hope of instant, large-scale financial gain for the criminal

perpetrator. Thus, the skybandit who proceeds to hold the air crew and passengers to ransom for large sums of money usually possesses physical daring since successful execution of the hijacking plan will normally require escape from the hijacked passenger aircraft by a parachute together with ransom money.³⁸ This group of hijackers will normally be composed of ex-army paratroopers or civilian sports parachutist (Sky divers).

The notable example of this category of aerial hijackings is a case of a hijacker identified only as 'D.B. Cooper' who parachuted from a **North-West Orient Airlines Boeing 727** jet passenger aircraft on **24th November 1971**, somewhere between Seattle, Washington, and Reno, Nevada with \$200,000 in ransom money, after holding the air crew and stewardesses as hostages. Cooper, who by 1987 was still unapprehended, had been made the subject of popular song ballads.³⁹

The above explained forms of aerial piracy are not conclusive of the types as there is a fourth form which is called privileged or irregular combatancy. Hijackers whose nature can briefly be summarised below:

D) Privileged or Irregular Combatancy Hijackers:

These are hijackers, falling within the main ambit of aerial piracy, and whose prime motive, among a plethora of different motives, is the resolution of unresolved international conflicts by novel or unconventional means. This final group, according to some scholars, is confined in geographical terms essentially to the middle Eastern Countries or at least nationals or former nationals of those

countries.⁴⁰ This group's terrorist actions mostly emanate from the great dissatisfaction with the present legal mechanism of conflict resolution, which is believed to be long and ineffective. The Palestine Arab nationalist groups for instance, are believed to fall in this type.

In a nutshell, terrorism is a very complicated phenomenon, which does not only encompass the forms of aerial hijackings elaborated earlier, but also Hostage Taking, (inter alia) which is analysed below:

2.4 Hostage Taking - As An Aspect of International Terrorism

Hostage taking is yet another offence of grave concern to the international community such that it is urgently necessary to develop international co-operation between states in devising and adopting effective measures for the prevention, prosecution and punishment of all acts of taking of hostages as manifestations of international terrorism.⁴¹

By article 1 of the **International Convention Against the Taking of Hostages (1979)**, a person commits Hostage Taking when she or he:

Seizes or detains and threatens to kill, to injure or to continue to detain another person (hereafter referred to as the hostage) in order to compel a third party, namely a state, an international organisation, a natural or juridical person or a group of persons, to do, or abstain from doing any act as an explicit or implicit condition for the release of the Hostage.⁴²

Hence, coming out amply clear from the above definition, is accuracy inherent in the International Court of Justice's holding that Iran, had committed an offence of Hostage Taking, in 1980, when it captured and detained the

American diplomatic and consular staff through its agents; the students, as articulated on earlier.

Besides, it should be noted that there are other recent incidences of hostage-taking that are illustrative of the seriousness of this problem. These include the holding hostage of the Japanese Embassy diplomats and consular staff in Lima Peru by a guerrilla group of ten men calling itself the **Tupac Amuru Rebels**, in 1998, and the holding hostage of the French and American missionaries by a group of terrorists calling themselves the **Abu Sayebu Rebels**, in Philipines in 2001. The latest incidence of hostage taking as of 21st August 2002, was the nabbing of the Iraq Embassy Diplomats and Consular staff on August 20, 2002 in the Germany capital, Berlin, by a group of Iraqi dissidents calling itself the **Democratic Iraqi Opposition of German**.⁴³

In the limelight of the above, it can be submitted, without losing much credibility, that hostage taking poses as a threat to the purposes and principles of the charter of the United Nations pertaining to the proper maintenance of international peace and security and the promotion of cordial relations and co-operation among states.

2.5 Synoptic Conclusion of Chapter II

Although it is admittedly not easy to draw a straight forward and confident conclusion about a polycentric problem-situation like that involving terrorism, an analytical synopsis of the overall chapter reveals that there is no universally acceptable definition of it and as such, the working definition of the

same varies with who is looking at it at a particular time. This emanates from an obvious difference in political economical and ideological inclinations among individuals and states world-over. Hence, for the purpose of this paper, the definition provided by the **Convention for the Prevention and Punishment of Terrorism, (1937)**, will deliberately be awakened and adopted as it, in comparative terms with other given tentative definitions, appears more and reasonably encompassing. Thus, it could be a serious legal misfortune to let it die a natural death.

Further, we attempted to demonstrate that terrorism is an extremely complicated problem, with multifarious dimensions, embracing not only aerial piracy, but also hostage taking, among other equally catastrophic facets. And as the president of Tunisia, **Ben Ali** maintained as he narrated how he won the war against terrorism:

'The battle against terrorism would not be won simply by arresting and trying terrorists. It would only be won when conditions conducive to [its] growth no longer existed. To defeat terrorism, the whole social, political and economic structures would have to be examined and changed. The war on terrorism would also be a war on poverty and need, a war on ignorance, a war on despondency and marginalisation, a war on disease, a war on inequality and a war on oppression.⁴⁴

It is with the above intellectual observation in mind that I propose to examine, in the next chapter, various roots or causes of terrorism. This would possibly create a conducive strong foundation upon which to formulate a workable strategy on how to eradicate the scourge.

END NOTES FOR CHAPTER TWO

1. The United Nations General Assembly: Resolution **40/60** on Measures to Prevent International Terrorism, adopted on 9th December, 1985, in its preamble.
2. Antonio Cassese, Terrorism, Politics and Law, The Achille Lauro Affair (1989), Cambridge, Polity Press, p. 1.
3. Edward McWhinney: Aerial Piracy and International Terrorism: The Illegal Diversion of Aircraft and International Law (1987) 2nd Edition, Dordrecht, Martinus Nijhoff Publishers, p. 167.
4. The Post, Wednesday, October 10, 2001, p. 22.
5. Article 1 (2) of the Convention for the Prevention and Punishment of Terrorism (League of Nations), 16 November 1937.
6. Ibid., article 2 (1).
7. Ibid., article 2(2).
8. Ibid., article 2(3).
9. Edward McWhinney (1987), op. cit. p. 130.
10. Section 14(1) of The United Kingdom Prevention of Terrorism (Temporary Provisions) Act 1984.
11. Antonio Cassese (1989), op. cit. p. 5.
12. Ibid., p. 6.
13. Ibid., p. 7.
14. Ibid., p. 7.
15. Ibid., p. 7.
16. Ibid., p. 5.
17. 1979 Report of the Adhoc Committee on International Terrorism, created by the United Nations General Assembly Resolution No. 3034 (XXVII) of 18 December 1972, p. 7.

18. Cassese Antonio (1989), op. cit. p. 1.
19. Ibid.
20. Ibid.
21. Ibid. p. 2.
22. Ibid.
23. Ibid.
24. Ibid.
25. Ibid. p. 3.
26. Extract from the (1984), Report of the International Law Association (Paris Reunion, pp. 168-91 as reproduced by McWhinney (1987), Op. cit. at p. 153.
27. Antonio Cassese, Op. cit., p. 3.

The United States Diplomatic and consular Staff in Tehran ICJ (1980) 3.

Damages were ordered in compliance with the decision in CHORZOW FACTORY (indemnity case (1928) pub. PCIJ), in which it was stated that it is the principle of International law that any breach of an [international Treaty] engagement involves an obligation to make reparations'.
28. McWhinney (1987), p. 5.
29. Ibid., p. 3.
30. 5 Wheat, 153, 160-161 (19820).
31. Article 15, of the Geneva Convention on the High Seas (1958).
32. Antonio Cassese op. cit. p. 72.
33. Ibid., p. 24.
34. McWhinney, op. cit. p. 123.
35. Ibid. p. 9.

36. Ibid. p. 10.
37. Ibid. p. 9.
38. Ibid. at p. 10.
39. Ibid. at p. 11, as extracted from the Berkeley Borb, San Francisco, 12-18 May, 1972.
40. Ibid., at p. 11.
41. International convention Against the Taking of Hostages (December 17, 1979), preamble.
42. Ibid. article 1.
43. The Post, Wednesday August 21, 2002.
44. The African Business (Magazine), November 2001, No. 270, at p. 27.

CHAPTER THREE

CAUSES OF TERRORISM

3.0 INTRODUCTORY SUMMARY OF THE CAUSES OF TERRORISM

Since 1972, the United Nations has been engaged, under the mandate of the United Nations General Assembly Resolution 3034 (XXVII) of 18th December 1972, in the study of underlying causes of international terrorism and the quest for practical operational measures to combat it.¹ Thus, an adhoc committee on international terrorism, which was fully representative in political, ideological and also legal systemic terms, with the balance between the western and the Soviet blocs and third world countries, was created.²

Although the report of the committee reflects political-ideological divisions and the influences they have on the basic definitions of the problem itself, it must, however, be noted that the causes of international terrorism were to be attributable to the policy of aggression and oppression pursued by some imperialist and colonialist and reactionary states.³ And such underlying causes of violence as misery, frustration and despair should be studied in the same way as the sociological problems connected to criminality are analysed or studied.⁴

The above point was amplified in one of the interesting working papers on the underlying causes of international terrorism, submitted to the Adhoc Committee by a group of twelve third world countries (including such third world opinion leaders as Algeria, India, Nigeria, Venezuela and the former Yugoslavia) ... which identified causes both of a political character and also of

an economic and social character, for international terrorism, in addition to ideological causes.⁵

3.1 Political causes of International Terrorism

Among the political causes are colonialism and maintenance of colonial domination, racism, racial discrimination, policy of apartheid, and genocide, aggression, use of force contrary to the Charter of the United Nations and violations of the political independence, national sovereignty and territorial integrity of states, occupation of foreign territories and foreign domination over those territories and their people and interference in the internal affairs of other states.⁶ These factors, should therefore, be analysed in a much more detail below:

A. Colonialism and Maintenance of Colonial Domination

Colonialism, a process by which most European powers politically dominated, exploited and sometimes oppressed, the underdeveloped states of Africa, Asia, Latin America, among others, is one of the main causes of international terrorism. Most of those African countries, were made colonies with a consequential absence of political independence, national sovereignty and territorial integrity. This emanates from the fact that a colony is a 'territory which a state has made legally dependent without conferring the same legal status upon indigenous population as upon the population of its own territory.'⁷ Thus, a colony lacks its own legal personality in public law relations.

Through colonialism, colonial masters exploited the natural raw materials in their colonies and siphoned them to their own territories for economic development at the expense of the economic emancipation of local people in colonies. The right to self-determination which is guaranteed under the United Nations Charter,⁸ was violated, and consequently, hunger, poverty, misery and illiteracy flourished in colonies. This prompted frustrated people and National Liberation Movements to use subversive means to effect some favourable change. Thus, National Liberation Movements like the African National Congress (ANC) in South Africa and the Palestine Liberation Organisation, *inter alia*, resorted to unconventional means to fight against colonial domination, and members of such organisations were labelled terrorists. Thanks for the Geneva Convention of 1949, which has given liberation movements a special legal status.⁹

Hence, in one working paper, third world countries averred that National Liberation Movements, since involving the right to self-determination and independence of peoples under colonial and racist regimes and other forms of alien domination, should come within the preview of the Geneva Convention of 1949 and Additional Protocols thereto of 1977, and could therefore not be identified with terrorists.¹⁰

In a nutshell, it should be noted that although decolonisation has been achieved by way of negotiation in some instances, as in the case of Ivory Coast, it has, in many circumstances resulted from length military conflict, as can be learned from the experiences of Algeria, Mozambique and Angola.¹¹

Closely related to colonialism as a political cause of International terrorism, is **Imperialism**, which is discussed below:

B. Imperialism - As Another Cause of International Terrorism

Imperialism, which Lenin understood as the final stage of capitalism and as such the real cause of the First World War, is yet another cause of international terrorism.¹²

Insatiable imperialism, meant that the old feudal order was replaced by the capitalist order that necessarily led to the system of empire-building, under which new entrepreneurs of major European countries like Britain, France, Holland, Portugal, Spain and Germany looked toward the poor and backward parts of the world for the sake of collecting raw materials and converting them into profitable markets.¹³

Thus, although the shrewd scholars of the new system justified their advances in the name of 'civilising missions', they in reality thrived fully on the prevalence of blind superstitions in the subjugated areas and eventually led to the lamentable exploitation of **Latin American, African and Asian countries**.¹⁴

And as some scholars observe, insatiable imperialism, which is a modified and much catastrophic form of colonialism, naturally leads to the trend of potentially embullient militarism [usually] in form of terrorist attacks.¹⁵

From the above observation, it becomes reasonably clear that imperialism is one of the serious causes of international terrorism, just like the illegal invasion

or occupation of foreign territories; which must be analysed below as yet another cause of terrorism:

C. Occupation of Foreign Territories - As a Cause of International Terrorism

Among the most bloody causes of international terrorism is the illegal occupation of foreign territories and foreign domination over those territories and their people, with an eventual interference in their internal affairs. The Japan-China case may be demonstrative of the foregoing submission.

By the Treaty of Versailles, Japan acquired from Germany the Leased territory of Kweichow in the Shantung province of China, in protest against which China refused to place its signature on the Treaty. With a strong desire for naval supremacy in the Pacific, Japan ignored China's protest and advanced, in July 1937 into the Chinese territory and such advances resulted in a clash between Japanese and Chinese troops, which clash led to the lamentable death of the defenseless multitudes.¹⁶ Acts of wanton destruction of property and people which instilled a sense of insecurity in National leaders and the general populace, which rightfully amounted to some elements of terrorism given in the definition, became rampant. Even now, a certain degree of suspicion still hovers over the relationship of the two countries concerned.

The Iraq-Kuwait case, is perhaps another appropriate illustration of how invasion or occupation of foreign territories can trigger international terrorism.

The Iraq invasion of Kuwait (the latter of which is believed to be the wealthiest nation on earth), and the subsequent annexation of the **Sheikdown** pushed to new heights what had been a smouldering dispute since Kuwait's independence.¹⁷ This annexation of Kuwaiti would have given Iraq control of more than twenty-percent (20%) of the known global crude oil reserve.¹⁸ And by declaring on 25 June, 1961 that Kuwaiti was then an integral part of Iraq, Iraq threatened the independence and territorial integrity of Kuwait to an extent that war broke out in 1980 to 1988 between them.¹⁹ And the occupation of Emir's palace by Iraq in 1990 led to a spate of terrorist attacks aimed at effecting favourable changes.

The above two cases appear to be a satisfactory indication of the validity of the point under consideration, as the causes of terrorism. And the Palestine-Israel case is the latest evidence of the foregoing.

It must be stated, however, that all the above given causes of international terrorism are not per se conclusive of such political causes, as racism and apartheid fall within the same ambit, and should as such be briefly analysed below:

D. Apartheid and Racial Discrimination - As a Cause of International Terrorism

In international political and legal practice the term apartheid denotes the policies of racial segregation pursued until recently by the Republic of South Africa.²⁰ Apartheid was proclaimed the official policy of government of the

Union of South Africa in 1948, after the electoral victory of the Nationalist party under D.F. Malan.²¹

Thus, an essential element of the concept of apartheid is that it does not only accept and promote discrimination based on race, but also that this discrimination is legally endorsed in a carefully constructed legal order premised on racial separation.²²

Hence, with the legalisation of the concept, systemic segregation and discrimination was introduced into all spheres of life like political participation, labour, education, distribution of land and public amenities in general; and under a scenario of that nature, blacks were subjected to the most severe discrimination while the coloured and Indian/Asian segments of the population enjoyed a relatively more privileged legal status.²³

In desperate efforts to effect favourable non-discrimination changes, various unconventional means were employed by those oppressed on their oppressors. Thus, cases of terrorist attacks became prevalent, with most blacks including Nelson Mandela ending in jail on flimsy grounds. And cases of racial discrimination were not only in South Africa but also in the United States of America between black Americans and white Americans and in Brazil among blacks, Indians and coloureds.

In light of what has been said, it may be submitted that political factors constitute a worrisome source of international terrorism almost to the same degree as economic factors which are elaborated below:

3.2 Socio-Economic Causes of International Terrorism

There are generally many socio-economic causes of international terrorism, the notable ones of which include: the persistence of an unjust and inequitable international economic order, foreign exploitation of natural resources of a country (such as the Iraq-Kuwait case already highlighted), massive violation of human rights, massive arbitrary imprisonments, use of torture, reprisals and prevalence of poverty, hunger, misery and frustrations.²⁴ These may be analysed under the following much more clearer sub-headings:

A. Opportunistic and Discriminatory Foreign Economic Policies - As Causes of International Terrorism

Some scholars of international economics and politics argue that among the main causes of international conflicts, including terrorism, are the opportunistic and crafty foreign policies of some countries. These policies promote discrimination in trade relations and hence reduce a key benefit of economic competition and free trade.²⁵ And a short synopsis of the American foreign policy appears vindicative of the above general proposition.

A study of the American foreign policy towards Europe during the inter-war period presents a strange dilemma of aloofness versus commitment, and it is on account of this that while the isolationists rather than insulationists did not permit the administration to involve itself into the contentions of European powers, they strove hard for forcing it to fight for the protection and promotion of their economic interest.²⁶

Thus, the United States strategically adopted a particular economic policy so as to reap benefits from trade with European countries while maintaining an attitude of political aloofness so far as the contentious matters of European politics were concerned, and for that reason, the United States indirectly helped Germany after witnessing her ruthless suppression at the Paris conference under the Treat of Versailles.²⁷

Other critics of the American foreign policy maintain that since the time of George Washington, 'splendid isolationism' has been the outstanding feature of American foreign policy in its attitude toward European powers ... and that the American statesmen's main concern has been the protection and promotion of their economic interest, and for this reason, while keeping themselves away from European contentions, they could well bank upon 'twisting the tail of the British lion.' And hence, they could defend American interest abroad in negative terms of neutrality and abstention from power, politics, and positive terms of promoting commerce by championing Neutral trading rights, freedom of the sea, most favoured Nation Treatment and the open door in the orient.²⁸

Furthermore, some analysts contend that behind the dexterous plea of saving the weak states of the western hemisphere from colonial exploitation of European powers like France, Spain, Austria and Russia, the statesmen of United States sought to perpetuate their exclusive hold over them. And in the name of pan-Americanism, the United States not only managed to keep the hands of some European powers off from the western hemisphere, but also to establish her suzerainty over the weak states of Cuba, Mexico, Nicaragua and Haiti.²⁹

The elusive nature of the American foreign policy has been a source of indignation, particularly in the Muslim world and other poor countries. Other scholars are convinced, also that America is behind the Britton Wood institutions, namely World Bank, and the International Monetary Fund (IMF) which have brought much misery in less developed countries through imposition of Structural Adjustment programmes.

In view of such policies, terrorism has been seen, by some people as the only means of effecting change of the international economic order, because diplomacy has proved fruitless.

Apart from the above economic cause of terrorism, there is violation of Human Rights, as another cause and is explained below:

B. Violation of Human Rights - As a Cause of Terrorism

Massive violation of human rights, under despotic governments or regimes, through arbitrary imprisonments, use of torture and reprisals triggers terrorism just like other factors already expounded on.³⁰ This accounts for rampant cases of violence and other subversive actions in South Africa during apartheid under which most fundamental rights and freedoms were arbitrarily curtailed. This also explains the prevalence of tyrannicide, in the western world in 19th century, which was targeted at the assassination of despotic heads of states³² or their military and civil governors under whom human rights were unattainable and unenjoyable. In view of the above, it is submitted that even at international level, violation of human rights through arbitrary detentions,

torture, among others, equally sparks feelings of abhorrence which may lead to terrorist attacks as revenge.

And closely linked to the massive violation of human rights are poverty, hunger, misery and frustration, which in themselves qualify to be causes of terrorism and should thus be highlighted below:

C. Poverty, Hunger, Misery and Frustrations - As Causes of Terrorism

When people are faced with poverty, hunger, misery and frustrations emanating from bad economic policies perpetuated by a national or international despotic regime, they may, as their final resort, use unconventional means to bring about change. And the president of Tunisia, **Ben Ali**, buttressed the foregoing in his advisory note on how to fight terrorism when he argued that:

'To defeat terrorism, the whole social, political ... and economic structures would have to be changed. The war on terrorism would also be a war on poverty and need, a war on ignorance, a war on despondency and marginalisation, a war on disease, a war on inequality and a war on oppression.'³²

The above, therefore, indicates that everywhere in the world, there is a direct link between extremist ideas and appalling social conditions, and that the prevalence of poverty, misery and frustration may trigger serious cases of terrorism.

It should be noted, however, that in addition to the political and socio-economic causes of terrorism discussed above, there are also ideological factors which are equally pernicious and lead to worrisome cases of terrorism. Hence it

is vital that some light is cast on ideological factors as causes of international terrorism.

3.3. Ideological Causes of Terrorism

Generally, ideological causes of international terrorism emanate from variations in ideological inclinations which exist in every multi-cultural society. Acts of violence, however, originate from specific dogmas inherent in such ideologies. The mostly cited ideological cause of international terrorism is Islamic fundamentalism,³³ which in compliance with Jihad (holy war) justifies suicidal acts of violence in form of terrorism, for the benefit of the remnants.

Thus, on September 11, when terrorists reduced the twin towers in New York to a gigantic pile of rubble, burying some 5000 people in process, the world finally woke up to the full dangers posed by religious extremism, because the ferocity, determination and utter ruthlessness with which the terrorists carried out their mission shocked and horrified the west.³⁴

Admittedly, though, there are other political extremist groups which are not even advocates of Islamic fundamentalism but wear Islamic musks.

These are extremist groups with political agendas, hiding their true motives under the cloak of religion and have unleashed horrific reigns of terror on innocent civilians - slaughtering thousands, blowing up and burning property and carrying out spates of assassinations. Thus, their main aim at national level is to create chaos and panic in order to overthrow legitimate governments through the use of force.³⁵

It must be stressed notably, however, that Islam under which these political extremists hide is a religion of peace and tolerance and expressly forbids the taking of innocent lives for any reason [and] the fact that the fundamentalists use violence and murder shows that their motivation is not religious but exclusively political.³⁶

3.4 CONCLUSION

In view of what has been articulated earlier on, in this chapter, it may be stressed in conclusion that the causes of international terrorism are evidently diverse, ranging from political, socio-economic and ideological in nature. This has a corresponding bearing on the effects of terrorism which are equally diverse and range from legal, economic and socio-psychological in status, and should as such be discussed in detail in the next chapter.

END NOTES FOR CHAPTER THREE

1. Edward Mcwhinney, Aerial Piracy and International Terrorism, the Illegal diversion of Aircraft and International Law, Dordrecht, Martenus Nijhoff publishers, 1987, p. 138.
2. Ibid., p. 139.
3. Ibid.
4. Ibid.
5. Ibid.
6. Ibid.
7. Rudiger Wolfrum and Christiane Philip (eds), United Nations: Law Policies and Practice, Dordrecht, Martinus Nijhoff Publishers, 1995, p. 390.
8. Article 1(2) of the United Nations Charter articulates that the purpose of United Nations include "to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace".
9. Article 1, of the Geneva convention of 1949, additional protocol (1977) recognises National Liberation Movements as legal entities with the right to self-determination.
10. Edward M.C. Whinney, 1987, Op. Cit. p. 140.
11. Rudiger Wolfrum and Christiane Philip, (1995), op. cit. p. 394.
12. J.C. Johari, International Relations and Politics Diplomatic History Between Two World Wars, New Delhi, Sterling Publishers Pvt. Ltd. (1995), p. 10.
13. Ibid.
14. Ibid.
15. Ibid. p. 11.
16. Ibid. p. 389 and p. 370.

17. Rudiger Wolfrum and Christiane Philip, (1995), op. cit.
18. Ibid.
19. Ibid. p. 264.
20. Ibid., p. 27.
21. Ibid.
22. Ibid.
23. Ibid., p. 28.
24. Edward McWhinney, (1987), Op. Cit. p. 140).
25. Rudiger Wolfrum and Christiane Philip (1995), p. 425.
26. J.C. Johani (1995), Op. Cit., p. 348.
27. Ibid. p. 349.
28. Ibid., p. 353.
29. Ibid.
30. Edward McWhinney (1987), op. cit. p.140.
31. Ibid. p. 128.
32. Anver Versi, 'How Tunisia Won the War Against Terrorism' in African Business [Magazine], November 2001, No. 270, page, 27.
33. Antonio Cassese, Terrorism, Politics and Law, Cambridge, Polity Press, (1989), p. 1.
34. Anver Versi, op. cit., p. 25.
35. Ibid.
36. Ibid. p. 27.

CHAPTER FOUR

EFFECTS OF INTERNATIONAL TERRORISM

4.0 INTRODUCTION

As a multidimensional, difficult-to-understand problem, terrorism has multiple nefarious legal and socio-economic consequences or implications on the entire world. In other words terrorism is a phenomenon with far reaching spill-over effects on all the four corners of the world, meaning that it does not only affect those countries which are physically involved in terrorist wrangles, but also causes some ripples in the universal socio-economic and legal arena. Thus, it is imperative that these worrisome and contagious repercussions of terrorism are analysed not only from a legal point of view but also through the economic and socio-psychological spectacles.

4.1 Legal Effects of International Terrorism

The fundamental point, needing to be understood for one to meaningfully and satisfactorily comprehend the magnitude of the legal damage caused by international terrorism is that everyone has the right to life, liberty and security of person, as set out in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights,¹ *inter alia*. Hence, the fact that terrorism acts as a serious curtailment of the above basic rights, makes it a concern for everyone.

It should be stressed from the onset that adverse legal implications of international terrorism are quite diverse because apart from a lamentable loss of

lives and rampant cases of physical and mental torture involved during some terrorist ambushes, terrorism has a negative impact on the international community since it does not only subvert standard rules of conflict resolution established under international law,² such as negotiation, arbitration, and adjudication, among others, but also ignores the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and security and promotion of friendly relations and co-operation among states.³

Eventually, the international legal order is threatened, and an alarming exodus of refugees is triggered by violence naturally inherent in terrorism, the victims of whom are innocent women and children who constitute the most vulnerable group.

More than five-thousand (5000) people, for instance, were reported dead during the September 11, 2001 terrorist attack on the World Trade Centre and the Pentagon in the United States of America.⁴ Similarly, the 1998 embassy bombing in Nairobi and Dar-es-Salaam which killed more than 207 Kenyans and Tanzanians and 12 United States citizens, leaving four-thousand (4000) wounded,⁵ constituted a remarkable human rights issue. Those were very innocent and defenceless people dying in cold blood and thus, what ever the cause of the attack, the incidence is a tragic one because people lost their fundamental right to life, guaranteed under many international human rights instruments including the Universal Declaration on Human Rights and the International Covenant on civil and Political Rights.⁶

Besides, even the **African Charter on Human and People's Rights (1981)** maintains that 'human beings are inviolable [and] every human being shall be entitled to respect for his life and the integrity of his person [and thus] no one may be arbitrarily deprived of this right.'⁷ In other words, every individual is deemed entitled to the right to liberty and to the security of his person.⁸

Furthermore, terrorism sparks a serious refugee crisis which has a lot of not only legal implications but also socio-psychological effects. Following the recent United States' military attack on Afghanistan, in the aftermath of a terrorist attack on the World Trade Centre and the Pentagon, for instance, thousands of Afghans have become refugees in neighbouring Pakistan. This entails a massive curtailment of basic rights such as the right to work, freedom of movement, right to a proper shelter, health, adequate food and clean water and even to participate in the government of one's own country.⁹

More disturbing, however, are the cases of torture which practically characterise some terrorist attacks. This torture ranges from physical to the mental aspects. Terrorism, in form of hostage taking, for example, greatly embraces torture both physically and mentally. Those held hostage do not only suffer from acute mental anguish of trying to predict what will happen next, but may also be subjected to some violent interrogations.¹⁰

In support of the above assertion, the **Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)** defines torture as:

any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as attaining from him

or a third person information or a confession, punishing him for an act he or a third person has committed....¹¹

Other than the Convention Against Torture, all acts of torture violate articles 5 of the Universal Declaration of Human Rights and article 7 of the International Covenant on Civil and Political Rights, both of which provide that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.¹²

It is for the above reason that each state party to the Convention against Torture is expected to take effective legislative, administrative, judicial or other measures to prevent acts of torture.¹³

More frightful, however, is the fact that international terrorism leads to the subversion of standard rules of conflict resolution as laid down by international law, as alluded to earlier, because its bloody effect provokes incredible tensions and emotional disarray which make it almost impracticable to follow long conventional legal process. The United States' response to the latest terrorist attacks on the World Trade Centre and the Pentagon appears to be supportive of the foregoing submission. Even the United States of America's attack on Libyan military base in 1980, provoked by a bomb outrage in West Berlin, which Americans believed had been organised by terrorists under Gaddafi,¹⁴ equally breached international law modes of conflict resolution provided for under the United Nations Charter.

On the basis that one of its purposes is that of achieving international co-operation in solving international problems of an economic, social, cultural or humanitarian character and in promoting and encouraging respect for human

rights and for fundamental freedoms for all,¹⁵ the Charter of the United Nations requires all members to settle their international disputes by peaceful means in such a manner that international peace and security, and justice are not endangered.¹⁶

UN members are expected to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state,¹⁷ unless under exceptional circumstances as stipulated under article 51 of the Charter, in the genuine and justifiable spirit of self-defence.

Thus, the decision of the United State's District Court for the District of Colombia in **USA v. Fawaz Yunis** (12 February, 1988), demonstrates greater reliance on peaceful means of dealing with terrorists and hence, compliance with the United Nations Charter's requirement of peaceful means of putting international disputes to rest. The case involved a Lebanese alleged to have hijacked a Jordanian aircraft carrying a number of United States' nationals, who were arrested and taken to the United States for trial under relevant American anti-terrorist legislation. No force was used against any state.

It must be noted, nevertheless, that the **Fawaz Yunis** case does not, by itself and in itself, completely dispel the submission that international terrorism terribly leads to breaches of international peaceful means of conflict resolution under international law, and thus, terrorism should still be met with the correct amount of condemnation it deserves primarily due to sorrowful human rights violations it triggers.¹⁸

Notably, the rights of children are massively impaired by the international terrorism particularly in relation to the legal implications of the refugee problem. The **Convention on the Rights of the Child (1989)**, recognises that the family is the fundamental group of society and the natural environment for the growth and well-being of all its members, especially children, and that for the full and harmonious development of his or her personality, a child should grow up in a family environment, in an atmosphere of happiness, love and understanding, and in the spirit of peace, dignity, tolerance, freedom, equality and solidarity.¹⁹

Hence, no child should be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence nor to unlawful attacks on his or her honour and reputation.²⁰

And children's rights under the **Convention on the Rights of a Child** which are directly adversely affected under a refugee crisis sparked by terrorism include the right to protection against unlawful detachment from parents under article 9, the right to enjoyment of the highest attainable standard of health care under article 24(1), right to proper education under article 28(1), and the right to protection against sexual harrassment and sexual abuse (particularly of a girl child) under article 34, among others.

In view of the foregoing, it becomes amply clear that terrorism has many legal repercussions, including the refugee crisis which promotes family disintegration with consequential limitation on the enjoyment of the already stated fundamental rights and the general protection of the law.

It ought to be emphasised, nevertheless, that narrowing the analysis of the effects of terrorism to the legal perspective alone, would limit people's appreciation of the problem because the same has mournful and frightful economic and socio-psychological eventualities which should be examined below.

4.2 SOCIO-PSYCHOLOGICAL AND ECONOMIC EFFECTS OF INTERNATIONAL TERRORISM

As alluded to earlier, terrorism may spark serious armed conflict which inevitably promotes and worsens the refugee problem and such violence has pernicious socio-psychological effect on victims, which effects beg for a reasonable analytical attention below:

A. Socio-Psychological Effects of Terrorism

The first joint to note is that there are more than twelve (12) million refugees in the world, and the tragedy of so many men, women and children uprooted from their homes and lands because of armed conflict and intolerance is shared by all five continents.²¹ The plight of refugees carries with it destructive socio-psychological implications because although in the past, most refugees had the opportunity to integrate and become useful and productive members of their host societies, today's refugees often find themselves confined in overcrowded refugee camps and settlement which may be little more than a dead end where human dignity is liable to be crushed and hope and regeneration seriously endangered.²²

Apart from immense disintegration of family ties, the refugees [or people in general] under terrorist traumas may face catastrophic psychological torture through mock execution, torture of family members, threats to family members and friends and in some instances, through gross humiliation, on the way.²³ In some cases, women may be raped and others may be assaulted physically and because all the people are forced to witness what goes on, such victims of rape are psychologically affected.^{24(a)}

Infact, even when they arrive in host societies, refugees (mostly women and children) are confronted with difficulties of adjusting to a new environment, of finding work, of coping with the language and the new culture and this may lead to serious health and related social problems.^{24(b)}

Besides, their experiences may lead to somatic complaints and rampant cases of suicide attempts and such refugees may portray abnormal forms of behaviour (anti-social behaviour) and blantant cases of anxiet and dipression. And long-stayers in camps seem to die internally because outwardly, they have lost everything, ranging from families, and their original countries to culture and suddenly, they find they are nobody,²⁵ because everything is done for them and there is simply no future for them, nobody wants them and years have gone by and some of them who came as youths are now young men who, under normal circumstances should be marrying, having children, working and building life, but there is practically nothing attainable.²⁶ Notable cases of sexual harrassment by workers in refugee camps before distributing relief food have also been reported in West and East Africa.

Noteworthy, however, from the foregoing analysis is that the socio-psychological effect of terrorism through its element of violence, is more pronounced in children. Infact all situations of [terrorist] violence constitute a threat to the growth or development of the child and this does not only cause disturbances at the level of material needs but also at the level of psyco-social and spiritual needs.²⁷

With regard to material needs, many children experience hunger and lack of physical care and protection prior to their arrival in the refuge camps or country of settlement and hence risk retarded growth due to mulnutrition.²⁸

And as one of the main objectives of the use of terror as a method of social control is the intimidation of the civilian population, children frequently experience unspeakable cruelties, and these events linked to [terrorist] violence signify for a certain number of children, the tragic disappearance of parents or close relatives - tragedies to which unfortunately the child has been made the eye-witness and hence, the child is characterised by fear and anguish associated with the abrupt disappearance of parents, and also by despair and extreme distress through disorganisation and breakdown of family structures.²⁹

As if the above effects are not lamentable enough, terrorism further shakes the international economic arena and repercussions there on should be critically analysed below:

B. Economic Effects of International Terrorism

Intellectually speaking, one does not have to be formally trained in economics to be in a position to perceive terrible spill-over effects, and adverse downward and sideways economic implications of international terrorism. Hence, it is common knowledge that terrorism disrupts international trade, instills a sense of insecurity in general populace thereby affecting the airline industry, triggers the plight of refugees with its consequential detrimental effect on health, education, food security and employment and has serious environmental effects.

It is with the above realisation that I opt to come up with a short synopsis of the economic repercussions of international terrorism particularly in relation to the recent attacks on the World Trade Centre and the Pentagon. An analysis of the economic effect of that recent atrocity will lay a strong foundation upon which the general proposition about the economic implications of international terrorism will be based.

1) General Economic Effects of the September 11 Terrorist Attacks on the World Trade Centre

September 11, 2001 will be a date etched forever in our memories and it will definitely go down in history as one of the horrific or horrendous acts of terrorism the world has ever witnessed.³⁰ And as people around the world struggle to come to favourable terms with the fact that more than 6,000 people died, the international political landscape has shifted dramatically, tilting the economic malaise with it. Terrorism, once a vague remote threat in western

minds, is now a deadly reality. America and its allies are bombing Afghanistan and most of the Arab World is in turmoil or uproar, but nobody has any reliable idea where **Osama Bin Laden** is. Bioterrorism is suddenly on everyone's lips as envelopes contaminated with Anthrax were mailed to high profile Westerners.³¹ in the immediate aftermath of the September 11 attacks.

But one startling truth surfaces that the full economic implications of the horrific terrorist attacks in the United States are still to be felt around the world. In other words, when the twin towers of the World Trade Centre and part of the Pentagon were demolished by terrorists in September, 2001, the immense damage was not confined to the number of human lives lost but the global economy also took a severe pounding. And the economic tremors are still expanding and although the final cost cannot be calculated until the dust settles, if it ever will, there is little doubt that no country in the world will entirely escape the fall-out.³²

After the occurrence of the event there has been massive loss of wealth in the United States and around the globe as share prices collapse, causing a sharp drop in most unit trusts. For instance, **CISO) Systems**, the largest supplier of routers and similar equipment for the internet and for networking which was, at one stage in 2000, the largest company in the world by market value, has subsequently fell by eighty-five percent (85%) and today remains near the bottom of its price range and the same applies to Nokia, Ericson, British Teleco Vodaphone and others.³³

Infact, according to Forbes Magazine, the 50 wealthiest Americans had incurred losses of at least forty-four billion USA dollars (\$44 billion) in net cash worth since the horrific events, barely after one week, and that the **New York Financial Services Industry** (representing 2.7% of the United States Gross Domestic Product) has suffered collateral damage and human capital losses.³⁴

Furthermore, in terms of economic costs, one week after the terrorist attack a staggering eleven thousand billion United States Dollars (\$11,000 billion) was wiped, of the value of shares world over, and the global insurance industry has already lost fifteen billion United States dollars (\$15 billion), with the aviation industry suffering a loss of at least Ten billion United States dollars (\$10 billion) and at least one million people have been laid off in the United States, with the leisure industry and consumer confidence in America plummeting to the lowest levels.³⁵

In the light of the above shocking economic losses, one can justifiably argue that international terrorism is an economic hazard which should be completely eradicated if any viable international investments are to be ventured into.

More worrisome was the reality that the aftershocks of massive blow to the United States' economy were being felt far and wide, as the demand for commodities on which Africa depends was falling rapidly, and the price of oil had crashed, and equally disturbing was that the markets for Africa's manufactured exports were contracting and foreign investment had come to an

abrupt halt.³⁶ Tourism was already in shambles from cancellations and insurance costs were rising daily due to delays in check points.

In relation to the above adverse impact of international terrorism, in particular the September 11, 2001 terrorist attack, the World Bank estimated that an extra Ten million (10 million) people would be plunged into abject poverty as a direct result of the terrorist attack, and at the same time the level of aid and the number of aid related programmes were being scared down.³⁷

The above prediction is supported by what a leading Texas Congressman on the United States Finance Committee said that:

We cannot even countenance the idea of foreign aid at a time when our own citizens are out of jobs and financially desperate. I am afraid the world will have to take care of its own.³⁸

It is predicted further that the cut in aid could lead to death of 25,000 to 50,000 children due to poverty.³⁹ Thus, it becomes apparent that the developing countries like Zambia, which greatly depend on the Western aid for most developmental projects will be hit hard by the terror in the United States.

Noteworthy, however, is the contention by some economists that the above predictions of such doom and gloom by the World Bank are exaggerated because the continent (Africa's) isolation from the power engines of the global economy could come to its aid.⁴⁰

'The state of Africa is a scar on our conscience', Tony Blair, the British prime minister said, indicating this belief that aid and investment flows to Africa should increase rather than decrease in order to make a determined assault on global poverty, the breeding ground of terrorism.⁴¹

Despite Blair's determination, it remains a notorious fact that the September 11 terrorist attack has had incredible adverse economic effects especially on the financial markets, among other equally crucial sectors of investment.

ii) Effects on the Financial Markets

As a result of the same terrorist attack, equity markets world over were, for instance, sent reeling, although the weakness in the United States economy has breathed new life into bond markets which have strengthened in most of the developed countries.⁴²

It had been a severely painful period for equity investors, including those South African investors whose off shore equity portfolio has to some extent been shielded in rand terms by a sharp depreciation in the currency.⁴³

Pointing to the above, **CITADEL**, one of big companies in South Africa, reveals that international equities were slaughtered after the September 11 terrorist strikes as nearly all the major markets lost almost a tenth of their value, wiping \$14 trillion off the balance sheet of investors.⁴⁴ And emerging markets suffered the worst as investors fled from traditionally more risky investments into safe havens such as government bonds.⁴⁵

Besides the **BOE Private Bank** of South Africa, further observes that financial markets world-over were shaken and central banks around the world [including the Bank of Zambia] have aggressively reduced interest rates to provide liquidity to markets.⁴⁶

RMB Investment Services, another south African company argues that due to recent tragic events in the United States in September, 2001, global financial markets ended the quarter on a cautious note. Prior to the terrorist attack on September 11, the world economy was already facing a global slowdown although it was unclear whether the United States of America's economy would go into recession because the data was mixed then. But after the terrorist attacks, a recession in the United States seems inevitable. And in view of dwindling United States consumer confidence, it is expected that global equity markets will remain weak.⁴⁷

In a nutshell, therefore, equity or financial markets belong to sectors of the economy adversely affected by the terrorist attacks. Infact, like previous military and political crises notably the Yom Kippur War (1973), the Iranian Revolution (1979), the Gulf conflict (August 1990) and the Gorbachev Coup (September, 1991), the September 11, 2001, terrorist attack made markets dive to their lowest levels.⁴⁸

It must be noted, nevertheless, that the economic tremors of that attack did not limit itself to financial markets, but also to tourism.

iii) Effects on Tourism

The east African tourism sector for example, has suffered a major setback since the September 11 terrorist attack on America with hundreds of potential tourists cancelling planned visits to game parks and other attractions in both

Kenya and Tanzania.⁴⁹ This was due to the erosion of consumer confidence, particularly when it comes to travelling by aeroplanes.

Kenya, for instance, saw cancellations by hundreds of American and European tourists in the first week following the attack, while tourism authorities in Tanzania reported more than 950 cancellations of hotel reservations country wide both in the mainland and in Zanzibar two weeks after the attack.⁵⁰ Thus, most Kenya's leading Hotels had remained almost completely empty of guests, and tour operators in the country had expressed fears that there may be more serious cancellations following uncertainty that had gripped the United States.⁵¹

On the basis of the above it becomes reasonable to submit that all countries which partially depend on the United States for developmental projects and other types of investments like in tourism, will definitely be affected by the possible recession in the United States economy. Zambia, is not an exception to the adverse waves of terrorism and this could be demonstrated through a short analysis of how Zambia's mining industry was affected by the latest September 11 terrorist attack on the U.S.

iv) Effects on Zambia's Mining Industry

According to the **Mining Mirror**; a newspaper aiming at reflecting a new era in the mining industry in Zambia, copper stocks running to over a million tonnes had piled up at international markets as prices of the commodity kept dropping. The drop at 65 cents per pound is as a result of an economic recession after the terrorist attacks of September 11 on the United States.⁵²

Despite the drop in prices, global mining industries continued to off-load the commodity on the market, with the major buyers' intake going down, and this has adversely affected the copper prices and the global mining industry as a whole.⁵³

Thus, there is a projection that there will be a recession in Zambia's economy which is being caused by a recession in the global economy arising from the terrorist attacks on the United States.⁵⁴

And according to the Konkola Copper Mines Chief Executive Officer Tim Wadeson, 'the fall in copper prices, as a result of the terrorist attack on the United States, has had very serious consequences on Konkola Copper Mine (KCM). The copper prices had actually been falling all that year from 87 cents per pound to 65 cents which is a serious reduction.'⁵⁵

Mr. Wadeson, further explained that the low copper and cobalt prices and low investment is what also forced KCM to postpone works for Konkola Deep mining project which was due to begin next year and that KCM has, as a result of the same recession, been compelled to cut down operations in unproductive areas due to the continued fall in world copper prices.⁵⁶

Some critical analysts seriously contend that the attacks on the United States were a calculated devious move to wreck not only the economy of the United States but even those of the struggling third world countries, and it was for that reason that Zambia, as one of the renowned copper producing countries, joined the rest of the world in condemning the terrorist attacks on the United States.⁵⁷

And now a tearful economic situation has confronted Zambia, due to the drastic fall in copper prices which has been worsened by the terrorist attacks on the United States, thereby compelling **Anglo American Corporation**, a major shareholder in Konkola Copper mine to withdraw from funding the operations there.

Hence, a terrorist attack on United States of America has proved to be a lamentable stunning blow on the entire Zambian economy which is now at the verge of collapse following the looming financial constraints the mining industry is likely to face in the aftermath of Anglo-American Corporation's withdrawal of funding.

4.3 CONCLUSION

In view of all that has been said under this chapter, I have no alternative but to maintain conclusively that international terrorism has many contagious legal and socio-economic effects on the whole world. Thus, instead of ululating in jubilation at other countries misfortune in form of terrorist attacks, people should be deeply concerned about the world-wide escalation of acts of terrorism in all its forms not only because it disrupts international trade, but primarily because it endangers or takes innocent human lives, jeopardizes fundamental freedoms and seriously impairs the dignity of human beings.⁵⁸

END NOTES FOR CHAPTER FOUR

1. International Convention Against the Taking of Hostages (December 17, 1979), preamble.
 - Article 3 of the Universal Declaration of Human Rights (1948) provides that 'everyone has the right to life, liberty and security of person.
2. Antonio Cassese, Terrorism, Politics and Law (1989), p. 140.
3. Supra Note 1, Preamble.
4. The Post Newspaper, Wednesday, October 2001, p.
5. Milan Vesely, 'Wounded USA has no time for Africa' African Business [Magazine] November 2001, p. 16.
6. Article 3 of the Universal Declaration of Human Rights (1948), guarantees such rights as shown in Supra note 1.
7. Article 4 of the African Charter on Human and Peoples' Rights (1981) specifically provides for the inviolability of human beings.
8. Ibid., article 6.
9. Article 13(1) of the Universal Declaration of Human Rights (1948) provides that everyone has the right to freedom of movement and residence within the borders of each state.
 - while Article 21(1) provides that everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
10. *Article 11 of the Convention Against Torture (1984) stresses the need to 'keep under review interrogation; rules, instructions, methods and practices.'*
11. Article 1, Ibid., defines torture.
12. Ibid. Preamble.
13. Ibid. Article 2(1).
14. Antonio Cassese (1989) op. cit. p. 57.

15. Article 1(3) of the Charter of United Nations.
16. Ibid., Article 2(3).
17. Ibid., Article 2(4).
18. Antonio Cassese, op. cit., p. 1.
19. Paragraph 7 of the Preamble and Article 37 of the Convention on the Rights of the Child (1989).
20. Ibid., article 16.
21. Diana Miserez, Refugees - The Trauma of Exile: The Humanitarian Role of Red Cross and Red Crescent, London, Martinus Nijhoff Publishers p. 57.
2. Ibid. p. 578.
23. Ibid. p. 57.
- 24(a). Ibid. p. 42.
- 24(b) Ibid. p. 44.
25. Ibid. p. 41.
26. Ibid. p. 42.
27. Ibid. p. 139.
28. Ibid.
29. Ibid. p. 140.
30. Colin Anthony, 'Terror: The Aftermath', South African Smart Investor [Magazine], November 2001, p. 19.
31. Ibid.
32. Anver Versi, 'Terror in the U.S. Counting the Cost', African Business [Magazine], op. cit. p. 10.
33. South African Smart Investor [Magazine], op. cit. p. 20.
34. African Business [Magazine], op. cit. p. 11.

35. Ibid. p. 10.
36. Ibid.
37. Ibid. p. 10.
38. Ibid. p. 14.
39. Ibid. p. 13.
40. Ibid.
41. Ibid.
42. South African Smart Investor [Magazine] op. cit. p. 22.
43. Ibid. p. 21.
44. Ibid. p. 13.
45. Ibid.
46. Ibid. p. 12.
47. Ibid. p. 13.
48. African Business [Magazine] op. cit. p. 11.
49. Ibid. p. 12.
50. Ibid.
51. Ibid.
52. Mining Mirror Newspaper, edition 06, November 2001, p. 1.
53. Ibid.
54. Ibid.
55. Ibid. p. 4.
56. Ibid.
57. Ibid. p. 2.

58. The United Nations General Assembly Resolution 40/61 on Measures to prevent terrorism (adopted on 9th December, 1985).

CHAPTER FIVE

5.0 TOOLS AGAINST TERRORISM

5.1 Introduction

The primary aim of this chapter is to examine ways by which the international community has, in effect responded to terrorist attacks. In other words, it tries to identify common means of combating or eradicating international terrorism. This chapter will single out two main traditional weapons against terrorism, namely, **peaceful means** and **violent mean**.

5.2 Peaceful and Violent Means of Fighting Against Terrorism.

A) Peaceful Means

Within the ambit of peaceful means of trying to combat international terrorism are bilateral and multilateral treaties drawn up to concert the anti-terrorist efforts of states. These treaties are usually aimed at specific forms of terrorism, such as taking of hostages and the hijacking of aircraft, *inter alia*, and they provide for close international co-operation as to the capture and imprisonment of the terrorists, in addition to laying down rules for their trial or extradition.¹

It should be noted that although the peaceful means is based on bilateral and multilateral treaties, it has to date not been possible to draft a universal convention on terrorism, as for instance, the **1937 Convention** approved by the

League of Nations, was a total failure since it was only signed by twenty-four (24) states and ratified by one; India.²

Most of multilateral treaties just deal with a single aspect of terrorism. The Convention for the Suppression of Unlawful Seizure of Aircraft (the **1970 Hague convention**), for example, just deals with the hijacking of air craft, and the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (the **Montreal Convention of 1971**), tries to deal with cases pertaining to the sabotage of aircraft.³ There is also the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons including Diplomatic Agents of (4th December 1973, which only protects internationally protectable people like heads of states and diplomats on the other hand, the **International Convention Against the Taking of Hostages** (the **1979 New York convention**), just aims at eradicating hostage taking as an aspect of international terrorism.⁴

Besides, the four **1949 Geneva Conventions** and the two additional **Geneva Protocols of 1977** aim at banning the use of terrorism during wars of National Liberation Movements and civil wars, among other things. The latest legal instrument on this matter is the **1988 Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation**, which basically emanated from the illegal hijacking of the **Achille Lauro**, an Italian ship.⁵

It should be noted further that apart from the above multilateral treaties, states have often times used bilateral treaties to enhance co-operation on the extradition of terrorists through, national coercive and judicial measures.

Although it is not possible to enumerate all bilateral and multilateral treaties or conventions on terrorism for purposes of this chapter, it must be stressed that the law of treaty generally portrays these weaknesses which only become pronounced under a critical analysis:

Shortcomings of treaties as a tool against terrorism

- i) Although the provisions for a peaceful response are part of treaty law which is clearer and more precise within some limits, these have one basic flaw and this is the fact that they are binding only on those states that have ratified or acceded to such relevant treaties.⁶ In other words, not many states agree to be bound by such conventions and this weakness is typical of not only conventions on terrorism but also those on human rights. For instance, the **International Covenant on Economic, Social and Cultural Rights** had as of January 2002 only been ratified by hundred and forty-three (143) states, and at the same time, only hundred and forty-seven (147) states had ratified the **International Covenant on Civil and Political Rights**.⁷

And only India ratified the **1937 Convention** on terrorism. It must be noted, however that Zambia, ratified on 3rd March 1987 both the **Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, 1971** (which has 176 parties), and the **Convention for the Suppression of Unlawful Seizure of Air Craft, signed at Hague on 16 December 1970** (which has 175 parties).⁸

Besides, Zambia also ratified on 14 September 1971, the **International Convention on Offences and Certain other Acts Committed on Board Aircraft**, signed in Tokyo on 14 September 1963 (which has 173 parties). But Zambia is not a party to the **International Convention for the Suppression of Financing of Terrorism**, of 9th December 1999 and neither is it a party to the **International Convention for the Suppression of Terrorist Bombings**, adopted in New York on 15th December 1997.⁹

It ought to be noted that the stage at which a certain country becomes bound by a treaty or convention depends partially on whether it is **Monist** or **Dualist**. Monist countries assume obligations under a treaty immediately after signing but for dualist states like Zambia, signing should be followed by ratification, adoption down to the passage of local legislation which sanctions obligations and rights under a convention or treaty in question.

- ii) Apart from the above weakness, these conventions on terrorism are severely hampered by the fact that they rarely make provision for effective enforcement mechanism in case of violations. Only sanctions are imposed on the violating party and these notoriously fail to yield satisfactory results.¹⁰

iii) The third weakness of international conventions as a tool against terrorism is the fact that, except for the 1977 European Convention on Terrorism, these treaties do not usually specify that terrorist crimes cannot be regarded as political offences and as such exempt from extradition. This lacuna or ambiguity leads to misunderstandings and misapplications of the treaties.¹¹

Despite the above weaknesses, it can still be acknowledged that massive efforts to combat international terrorism, in form of conventions have been made and the notable conventions to that effect do not only include the above, but also the European Conventions on the Suppression of Terrorism (27 January 1977), the organisation of American states' **Convention to Prevent and Punish the Acts of Terrorism Taking the Form of Crime Against Persons and Related Extortion that are of International Significance** (2 February 1971 and other United Nations General Assembly Resolutions such as the **Resolutions on Measures to Prevent International Terrorism (A/RES/40/61)** adopted on 9th December 1985, inter alia.¹²

However, due to the same flaws explained above, victims of terrorism attacks usually resort to violent means of response which should be explained below:

B) Violent Means: As a Tool Against International Terrorism

This only refers to armed response to terrorism and simply entails the use of force by a state in the territory of another state or in areas not subject to

territorial sovereignty such as the high seas or international air space. And the only justification for individual states resorting to force is the inherent **right of individual or collective self-defence** if an armed attack occurs, in compliance with **article 51 of the United Nations Charter**.¹³ Thus, it will be an essential condition for a forcible response to terrorism that the state itself, was the victim of terrorist activity amounting to an **armed attack** (individual self-defence) or that the state had been requested or previously authorised to assist another state which was the victim of such terrorist activity (collective self-defence).¹⁴

From the above, it can be submitted that the international community seriously insists that a choice should be made between the two possible responses [and] only after every effort has been made to solve the problem by peaceful means are states allowed to turn to military options as **extrema ratio**. In practice, however, due to the deficiencies of international enforcement mechanisms, states are reluctant to conform to the international community's demand because they feel constrained to use unconventional means against terrorism.

In **Nicaragua v. United States**¹⁵ (World Court), in which the Nicaraguan government had initiated a legal complaint against the United States before the World court for United States' aid to the 'contra' rebel forces against the Nicaraguan government, it was held, *inter alia* that although the provision to rebels of logistical support, financial aid and weapons violates International Law, especially the fundamental principle of non-interference in the domestic affairs of another state, such assistance is not normally sufficient to involve the assisting

state in an **armed attack**. Accordingly, it cannot justify resort to force in self-defence, whether individual or collective.

It should be noted however, that judges **Jennings** and **Schwebel** in the same case offered brilliant dissenting views that the provision to insurgents of logistical support or at least logistical support coupled with weapons will generally be sufficient to render the assisting state responsible for an armed attack carried out by insurgents.

Noteworthy, nevertheless, about the use of armed force as a weapon against the international terrorism, is that it is not a good solution to the same because of indiscriminate (unselective) effect it has even on innocent people, resulting in massive human rights violations as in the United States - Afghanistan case in relation to the whereabouts of Osama Bin Laden. Even where self-defence is rightfully sanctioned under article 51 of the United Nations Charter, our submission is that it is not, from a human right point of view a desirable step because it causes massive loss of lives, triggers serious refugee crisis and consequently compound the plight of innocent women and children as evidenced from the United States - Afghanistan case already cited.

Besides, response to terrorist attacks by use of armed force may simply aggravate the situation. The **Palestine-Israel case**, for instance, in which each of the two parties involved responds to terrorism by force of some kind, the problem has been compounded rather than lessened.

5.3 CONCLUSION

It is submitted further in conclusion that the above two means of trying to combat international terrorism are not permanent in effect and hence, the real solution to terrorism lies in the clear identification of causes of terrorism as attempted in chapter three and then to work on the eradication of those roots. Thus, the following chapter makes recommendations about how best to possibly eradicate terrorism. It then makes an overall conclusion of the paper in which a review of the salient submissions in the note is made.

END NOTES FOR CHAPTER FIVE

1. Antonio Cassese, Terrorism, Politics and Law, Cambridge, Polity Press (1989), p. 8.
2. Ibid. p. 9.
3. Ibid.
4. Ibid.
5. Ibid.
6. Ibid.
7. www.un.org/treaties
8. At this website: untreaty.un.org/English/Terrorism
9. Ibid.
10. Antonio Cassese, op. cit. p. 11.
11. Ibid.
12. Edward McWhinney, Aerial Piracy and International Terrorism, the Illegal Diversion of Air Craft and International Law, Dordrecht, Martenus Nijhoff Publishers (1987), p. 189.
13. Antonio Cassese, op. cit. p. 12.
14. Ibid.
15. Nicaragua V. United States IC (1986), 14.

CHAPTER SIX

6.0 RECOMMENDATIONS AND CONCLUSION

6.1 Introduction

This chapter, which marks the end of the paper aims at making recommendations on various possible ways of eradicating international terrorism, bearing in mind some of the main causes. A conclusion will thereafter be drawn in which this writer will air his overall analytical opinion over the problem.

6.2 Recommendations

The first recommendation towards a successful fight against terrorism is to ensure an eradication of all forms of discriminatory colonial tendencies like foreign exploitation and racism which, as demonstrated earlier in chapter three, lead to vehement discontent to the exploited groups and thus trigger catastrophic unconventional ideas to effect change for the better.

Besides, there should be a complete overhaul of the world economic arena to make it less opportunistic and thus more participatory to all countries including the third world states. In other words, those countries whose foreign economic policies have received general criticism like the United States of America should seriously take time to review such policies, assessing the viability of those criticisms. There is a lingering danger in mistaking all such criticisms for a mere academic exercise because there could surely be an element of truth in them. Nevertheless, it could be a worrisome academic scandal for one to submit that the American foreign policy is totally exploitative because the

United States has amply portrayed its neutral affection for Africa through the **African Growth Opportunities Act**¹, under which African primary products, *inter alia*, enter the American market duty free with a view to revamp the African economic development.

Even then, the urgent need to look at all alleged causes of international terrorism should not be dispelled, as a clear identification of causes constitutes a firm foundation for the formulation of eradicated measures.

The third recommendation, which was also alluded to by the seven industrial democracies (currently called the 'G8') at the **Tokyo Summit Meeting**² on May 2, 1986 in their statement on international terrorism, is that there should be the closest possible bilateral and multilateral co-operation between police and security organisations and other relevant authorities in the fight against terrorism. Such bilateral and multilateral co-operation of various countries should be buttressed with bilateral and multilateral treaties or conventions which should have a much more efficacious enforcement mechanism, than previous treaties.

In simpler terms, terrorism must be fought through effectively determined, tenacious, discreet and patient actions combining national measures with international co-operation.³

The other recommendation is that there should be improved international extradition laws and procedures in relation to the due process of domestic law to hasten the bringing to trial of those who have perpetrated or are alleged to have perpetrated acts of terrorism. Effective international extradition laws

would save a lot of lives which are normally lost when one country is believed to be harbouring a terrorist. The United States-Afghanistan case, for instance, could not have been so bloody if Afghanistan in which a notorious terrorist, **Bin Laden** is believed to be hiding, could extradite him for trial in the relevant court [supposing that he is actually in Afghanistan). Therefore a universal extradition code is desirable.

Further, as proposed at the Tokyo summit, there should be denial of entry to all persons, including diplomatic personnel who have been expelled or excluded from one state on suspicion of involvement in international terrorism or who have once been convicted of such acts of terrorism. Accommodating them could constitute an act of giving logistical support for a further perpetration of the scourge by a terrorist.

Besides, stricter immigration and visa requirement and procedures in respect of nationals of states which sponsor or support terrorism is desirable. This implies also stricter security measures as a precondition for the elimination of the continued spread of this pernicious phenomenon. More security in airports and other strategic places appears desirable to minimise the illegal diversion of air crafts (aerial piracy) which pose a danger to society.

In summary of the above recommendations on how terrorism could possibly be eradicated, the president of Tunisia, **Ben Ali's** equation is adopted as a cornerstone of the every effort to fight against international terrorism. His equation is that:

'Unless the breeding grounds of extremism were dealt with, terrorism could never be wiped away. To defeat terrorism, the whole social,

political and economic structures would have to be changed. The war on terrorism would also be a war on poverty and need, a war on ignorance, a war on despondency and marginalisation, a war on inequality and a war on oppression.’⁴

The above, in simple terms, entails that to emerge victoriously in a war against terrorism, the international community should work on the causes and not on effects of terrorism.

6.3 Overall Conclusion

Drawing a conclusion over a problem still at its apex and which is likely to continue for the next decade or so may be considered elusive and somewhat unprofessional by some critical scholars. Hence, it must be confessed that it is with the highest possible sense of reluctance and hesitation that this conclusion is painfully drawn. Its main aim is simply to refresh memories of what the paper has generally attempted to address.

Thus, the first point to be emphasised is that there is no universally accepted definition of terrorism at the moment. As demonstrated in chapter two, the shape of terrorism changes with the spectacles one is wearing when looking at it.

Analytically, on the basis of various tentative definitions of terrorism that have been forwarded in Chapter two, particularly the definition under the **1937 Convention**, which is the working definition of this paper for the reason already explained, it is submitted, without prejudice to the calibre and integrity of the current author, that Zambia has faced acts which rightfully fall within the scope of such definitions, but which acts were either nicknamed treason or other

criminal offence under the penal code and other relevant pieces of legislation because Zambia has no terrorism Act which would otherwise define those acts as terrorist acts. The **Black Mamba**⁵ scourge, for instance, which was characterised by occasional bomb plantings in various places within Zambia, including the Lusaka International airport in the 1990s is not different from bomb planting in Israel and Palestine. The only difference is that the Black Mamba constituted terrorist acts at national level and not international level.

The notorious '**Adamson Mushala's**⁶ conduct in Zambia too, may be likened to Bin Laden's terrorist behaviour, only that the expression 'terrorism' had not yet been introduced into the Zambian vocabulary then. The '**Lenshina uprising**'⁷ also may be equated to Islamic fundamentalism and would in other jurisdictions be called acts of terrorism.

That apart, the paper noted in chapter three some of the notorious causes of terrorism and although it cannot be claimed that the list is exhaustive, political, socio-economic and ideological factors such as apartheid, colonialism or neo-colonialism, Islamic fundamentalism and exploitative foreign economic policies, inter alia, have been identified as causes.

Further, the note demonstrated in chapter four that terrorism has multiple pernicious and nefarious effects not only from a legal point of view but also from economic and socio-psychological trajectories. Legal effects discussed include human rights violations like loss of lives, torture, refugee crisis and also international law implications such as the subversion of legally acceptable modes of conflict resolution like arbitration, adjudication, among others. Socio-

psychological implications of terrorism on children through their traumatic experience of violence has been articulated in addition to the economic repercussions of terrorism on commercial air line industries, tourism, copper production and securities markets have been explained. Chapter four, therefore clearly spelt out the main theme or thrust of this note which is that **“terrorism should not be seen as a distant phenomenon which affects only those countries physically involved in terrorist wrangles because it has innumerable spill over or contagious effects on the entire world economic and legal arena.”**

In Chapter five it has been attempted to assess how the international community has been trying to combat international terrorism through bilateral and multilateral treaties, and also through violent means under article 51 of the United Nations Charter. Weaknesses of such tools against terrorism have been amplified with consequential recommendations in this chapter on how to possibly eradicate terrorism. My last words therefore are that **‘everyone should deeply be concerned about the world-wide escalation of acts of terrorism in all its forms because the same endanger or take innocent human lives, jeopardise fundamental freedoms and seriously impair the dignity of human beings through its promotion of the refugee exodus, starvation, oppression and hunger.’** And hence, a terrorist is an enemy to the human race!

END NOTES FOR CHAPTER SIX

1. Business in Africa (Magazine), October 2001, at page 6, benefits of the African Growth opportunities Act, like increased exports of primary produce in Sub-Sahara Africa interalia are emunerated.
2. McWhinney, op cit p. 163 - talks about the Tokyo Summit which addressed international terrorism. Countries in attendance thereof, included Great Britain, France, West Germany, Italy, Canada, U.s. and Japan.
3. Yonah Alexander (ed) International Terrorism: Political and legal documents, London, Martinus Nishoff publishers (1992), p. 439.
4. African Business [Magazine] No. 270 of November 2001, at page 27.
5. The Black Mamba case is one under which some members of the former rulling party; the United National Independent Party (UNIP) were charged, under a Zambian Penal Code, for allegedly being involved in bomb plantings in Zambia, shortly after change of government in 1990.
6. Adamson Mushala - was one of Zambia's rebels who wanted to effect some political change through unconventional means. Mushala terribly used some traditional charms and it took time to catch him until the formula of looking for him naked was revealed by some lady.
7. Alice Lenshina - led a religious cult which she wanted to be legally recognised in Zambia. She wanted to achieve the recognition of her cult through unconventional means when government showed reluctance.

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