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INVESTIGATING EDUCATIONAL DIMENSIONS OF THE FIGHT AGAINST THE FINANCING OF TERRORISM IN INTERNATIONAL CRIMINAL LAW IN LAW TEXTBOOKS

INVESTIGAR LAS DIMENSIONES EDUCATIVAS DE LA LUCHA CONTRA EL FINANCIAMIENTO DEL TERRORISMO EN DERECHO PENAL INTERNACIONAL EN LIBROS DE TEXTO DE DERECHO

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ABSTRACT

One way to combat educational dimensions of the phenomenon of terrorism is to finance it. To this end, countries have, either directly or through the United Nations, prepared documents and regulations to block the financing of terrorism. These international rules and regulations have a wide range; some such as UN Security Council resolutions and international conventions. There are mandatory rules, and some are optional requirements that have been coordinated by different groups of countries, such as the eight-member Financial Action Task Force's Special Recommendations on Combating the Financing of Terrorism. While there are common rules in these international norms, the scope and binding power of each is different.

Keywords: International criminal law, terrorism, self defense.

RESUMEN

Una forma de combatir las dimensiones educativas del fenómeno del terrorismo es financiarlo. Con este fin, los países han preparado, directamente o por medio de las Naciones Unidas, documentos y reglamentos para bloquear la financiación del terrorismo. Estas normas y reglamentos internacionales tienen una amplia gama; algunos como las resoluciones del Consejo de Seguridad de la ONU y las convenciones internacionales. Existen reglas obligatorias, y algunas son requisitos opcionales que han sido coordinados por diferentes grupos de países, como las recomendaciones especiales del Grupo de Acción Financiera de ocho miembros para combatir el financiamiento del terrorismo. Si bien existen normas comunes en estas normas internacionales, el alcance y el poder vinculante de cada uno es diferente.

Palabras clave: Derecho penal internacional, terrorismo, defensa propia.

INTRODUCTION

In order to combat the financing of terrorism, there are various international norms and requirements facing countries. These international rules and regulations have a wide range of requirements (such as UN Security Council resolutions as well as international conventions requiring arbitrary rules) and some are optional requirements that are coordinated by different groups of countries (e.g. special recommendations). Forty Task Force on Terrorist Financing). While there are common rules in these international norms, the scope and binding power of each is different. Implementation of some of them requires the approval of the legislator, but in other cases, such a requirement does not exist and can be implemented in other ways. Every country needs to address three primary goals in order to combat money laundering and terrorist financing. The first is to intimidate and deter terrorists' money launderers and financiers from using the country's financial system for illegal purposes, the second to detect money laundering and financing terrorism whenever and wherever it occurs, and the third to punish those who commit such acts (Chattin, et al., 2013).

Following several terrorist crises, the Security Council issued several resolutions, the most important of which are:

- (October 15, 1999) 1267 on Taliban Seizure and Other Financial Resources ;
- (December 19, 2000) 1333, regarding the blockage of funds and other resources by Osama bin Laden and the al-Qaeda organization;
- (July 30, 2001) 1363, Establishing a Strategy for Monitoring the Implementation of Measures Subject to Resolutions 1267 and 1333;
- (September 28, 2001) 1373, on the threats posed by terrorist operations to international peace and security and the establishment of a Counter-Terrorism Committee;
- (November 2001) 1377, Requests States to Fully Implement Resolution 1373;
- (January 19, 2002) 2011, the merger of measures subject to resolutions 1267 and 1333;
- (December 20, 2002) 1452, on Exemptions from the Blockage of Funds, Resolutions 1267 and 1333, to cover essential costs including food, rent, legal services, and current costs of maintaining property and extraordinary expenses after the adoption of the subject matter of Resolution 1267;
- (1455) -January 17, 2003), on the measures necessary to better implement the blocking of funds set forth in resolutions 1267, 1333, and 2011;

By examining the Security Council resolutions, in particular Resolution 1373, two aspects of the Security Council's perception of terrorism can be found:

First, the Security Council, in the third paragraph of Resolution 1373, describes any international terrorist act as a threat to international peace and security. The legal consequence of this description is that the Security Council may, if necessary, implement the collective measures (or guarantees of enforcement) provided for in Chapter 7 of the Charter. In other words, the decisions that the Security Council is taking in these circumstances are binding on all Articles of the United Nations under Articles 25 and 48 of the Charter.

Second, the collective actions that the Security Council prescribes in response to terrorism (as a threat to international peace and security) require states to act against their individuals, groups, organizations, and assets. In such cases, the Security Council's instructions are usually to monitor the actions and policies of governments.

The Security Council Resolution 1373, in addition to these two aspects, also has a quasi-legislative character. Thus, although the resolution was issued in response to the September 11, 2001, terrorist attacks in the United States, the provisions of this resolution were in no way limited to the determination and punishment of the perpetrators of the attacks. The resolution seeks to prevent, prosecute and punish any financing of terrorism (Perrin 2012). For example, in the case of blocking the assets of terrorists, no list of natural or legal persons has been annexed to the resolution, but the resolution generally states that the assets of terrorists should be frozen.

DEVELOPMENT

The international conventions and protocols to combat money laundering and terrorist financing are analyzed below.

UN Convention against Transnational Organized Crime (December 2000)

Article 4 of the Convention states: "The purpose of this Convention is to promote cooperation in the prevention and combating of transnational organized crime more effectively (United Nations, 2000).

Paragraph (a) of Article 4 of the Convention states: "Organized criminal group means an organized group of three or more persons who have existed for a specified period of time, concurrently with the aim of committing one or more of the serious offenses or offenses set forth in This Convention shall operate for the direct or indirect

acquisition of financial or other material interest."The Convention has been ratified in 41 articles.

United Nations Convention against Corruption (October 31, 2003)

States Parties to the Convention, expressing their concern at the deterioration, problems and threats posed by corruption to the stability and security of societies that undermine the traditions and values of democracy, moral values and justice and endanger the sustainable development and the rule of law. نحن also expressing concern about the link between corruption and other forms of crime, especially organized crime and economic crime, including money laundering; and also expressing concern about corruption cases involving a large amount of financial reserves and a substantial share of countries' resources.

Forms and threatens the political stability and sustainable development of those countries; that corruption is no longer an internal issue but a transnational phenomenon that affects all societies and economies and makes international cooperation important to prevent and control it, also believing that a holistic and multidisciplinary approach is important. It is essential to prevent and combat corruption effectively; also believing that technical assistance can play an important role in enhancing countries' capabilities, including through strengthening their capacity and developing a common approach to preventing and combating corruption effectively.

Believing that unlawful acquisition of personal wealth in particular can affect democratic institutions, national economies and The rule of law strikes - with the intention of effectively preventing, discovering and preventing the international transfer of illegally obtained assets and strengthening international co-operation in the recovery of assets - by acknowledging the fundamental principles of due process of law. Criminal proceedings and civil and administrative proceedings to adjudicate property rights, bearing in mind that the prevention and eradication of corruption is the responsibility of all countries and that they must work together and with the support and involvement of individuals and groups outside the government sector.

Recalling the work done by other regional and international organizations in this field, including the activities of the African Union, the Council of Europe, the Co-operation Council Customs (also known as the World Customs Organization), EU, Alliance An Arab country, the Organization for Economic Co-operation and Development and the Organization of American States, welcoming the multilateral instruments to prevent and combat corruption, welcoming the entry into force of the United Nations Convention on Transnational Organized

Crime. The Convention of 9 September 1998 was ratified in eight chapters and 71 articles as follows.

- Chapter One: General Rules
- Chapter Two: Preventive Measures
- Chapter Three: Criminalization and Law Enforcement
- Chapter Four: International Cooperation
- Chapter Five: Return of Assets
- Chapter Six: Technical Assistance and Information Exchange
- Chapter Seven: Implementing Solutions
- Chapter Eight: Final Provisions

Convention on the Suppression of the Financing of Terrorism (October 7, 1999)

The States Parties to the Convention, with due regard to the purposes and principles of the United Nations Charter on the maintenance of international peace and security and the promotion of good neighborliness and friendly relations of cooperation between States, expressing deep concern at the increased use and resilience of all forms and manifestations. Throughout the world, with reference to the 50th Anniversary Declaration of the United Nations set forth in Resolution No. 50/50 of October 24, 1995, the General Assembly, as well as all relevant resolutions of the General Assembly on this subject, including Resolution No. 60/49 december 7, and its accompanying measures to eliminate the international terrorism that UN member states have been formally and re-affirmed. Condemns all acts, methods and activities of terrorism as punitive and unjustified, wherever and by whomever, including acts that endanger friendly relations between nations and nations and endanger the territorial integrity and security of nations (Cox, 2005).

In the case of threats, he explicitly condemn. Recalling that the Declaration of Action for the Elimination of International Terrorism also encouraged States to re-examine the dimensions of the provisions of international law existing in relation to the prevention, suppression and eradication of terrorism in all its forms and manifestations, Find that there is a comprehensive legal framework that covers all aspects of the subject. Whereas the financing of terrorism in general is a matter of grave concern to the international community, Noting that the number and severity of acts of international terrorism depend on the amount of financial assistance that terrorists receive, as well as showing that existing multilateral legal documents do not explicitly provide such funding, believing that the need It is urgent that increased international co-operation between States

to formulate and take effective measures to prevent the financing of terrorism and to avoid such actions through prosecution and punishment of perpetrators have been mutually agreed.

Financial Action Task Force Recommendations

Following the consensus that financial institutions were a major means of money laundering, it was decided at the 1989 meeting of the Heads of State in Paris in 1989 that the Financial Action Task Force would be set up and the ways of abusing financial institutions be blocked. As of April 30, 2003, 31 countries and international organizations have joined the group. The first set of recommendations from the Financial Action Task Force (the Eightfold Recommendations) was issued in 1990 on combating money laundering and was amended in 1996 and 2003. Accordingly, the recommendations were upgraded to forty.

The group also issued commentary notes explaining some of the recommendations.

The members of the group have agreed to submit reports on the status of their compliance with the above recommendations and to submit their findings to a group of experts selected by the group member countries. Members who fail to comply with the recommendations of the group are gradually given performance guarantees, starting with the task of responding to other members at the plenary session and continuing until the membership is suspended (Dunn & Mauer, 2006).

- The Financial Action Task Force was established as a result of an agreement between the industrialized countries to control any movement of funds by coordinating and arranging contractual arrangements between members, ensuring that only funds were transferred to or out of the Member States, Their origin and destination are countries that implement the group's recommendations and adapt their legal system. Thus, if a country does not comply with the group's recommendations or does not respond to the group's questionnaires, it is considered to be a suspected and suspected site for money laundering or terrorist financing, whether or not it is a member of the group (after membership suspension).

Otherwise, other members of the group may terminate their financial and banking relationships with that country. In other words, although these recommendations do not seem to have the backing and guarantee of strong implementation similar to Security Council resolutions, given the membership of industrialized countries in the group and the types of currencies, one can guess the economic and legal dimensions of severing financial and brokerage

banks. How much and how important the group is. The Financial Action Task Force's response to the terrorist attacks of September 11, 2001, was so rapid that on October 29 and October 30, 2001, an extraordinary group meeting was held in Washington and it was decided that the group's powers would go beyond the fight against money laundering. And that includes financing terrorism. It was during these hearings that the text of the Eighth Special Recommendations on Combating the Financing of Terrorism was adopted. The group asked its members to submit their first report on the implementation of the Eighth Special Recommendations by May 1, 2002. Then the same request was made from other non-member countries (Alhui Nazari & Amir Family, 2016).

In September 2002, the Financial Action Task Force announced that more than 120 countries had responded to the Group's request for reporting. In light of recent developments, the Forty Recommendations have been revised to include the financing of terrorism, in addition to money laundering, and by integrating the Forty Recommendations and the Eighth Special Recommendations, comprehensive rules on combating the financing of terrorism have been established. In summary, the Eighth Special Recommendations can be said to contain the first five recommendations that are similar to the Convention and the Security Council Resolution 1373, but the last three make three new issues (Shams Natri & Davood, 2015).

CONCLUSIONS

In recent years, the international community, in contrast to other counter-terrorism measures that have all responded to specific operations, has taken precautionary measures to combat terrorist groups by reducing and restricting the funding of terrorist groups. This first international community action was reflected in the International Convention for the Suppression of the Financing of Terrorism. The text of this Convention was ratified by the General Assembly on December 9, 1999 and entered into force on April 10, 2002, and to date 173 countries have joined it. The Convention sets out three major obligations for States Parties:

1. 1. Criminalization of the financing of terrorist acts in criminal law in law textbooks,
2. 2. Extensive cooperation with other Member States and judicial assistance in matters relating to the Convention,
3. 3. Establish regulations and requirements for the role of financial institutions in detecting and reporting terrorist financing cases.

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