Legal Committee

TOPIC AREA A: The Legality of Counter-Terrorism in International Law

TOPIC AREA B: Torture and Inhumane Treatment

Introduction

Welcome to Sixth Legal Committee! The sixth Committee of the United Nations’ General Assembly is the platform for legal questions in the General Assembly. All UN Member States enjoy the right to represent their governments on the Sixth Committee as one of the main bodies of the GA. The Legal Committee’s mandate is derived from Article 13 of the UN Charter, which that states: “The General Assembly shall initiate studies and make recommendations for the purpose of encouraging the progressive development of international law and its codification.”¹ The Sixth Committee focuses its efforts on crafting treaties and provides the legal framework for negotiations. The Sixth Committee has been responsible for key decisions: the Vienna Convention on Diplomatic Relations and the Convention on the Law of Treaties were accomplished in the Legal Committee. For this model United Nations, the Legal Committee has decided to review two serious questions of international legality: the legality of counter-terrorism in international law and torture and inhumane treatment.

Topic Area A:

Terrorism has become a common global phenomenon, affecting every region of the world. The countering of terrorism has become an equally important topic of the twenty-first century, especially after 9/11 and the global war on terror. Successfully fighting terrorism requires understanding the conditions, causes and end results of extreme political groups. In the aftermath of the September 11th, 2001 terrorist attacks at New York City and Washington DC, the United Nations Security Council addressed the topic of terrorism by passing UNSC Resolution 1373 that dealt with the issue of global terrorist financing networks. UNSC Resolution 1373 also created the United Nations Counter-Terrorism Committee, which is tasked to assess the progress and implementation of the resolution. Later UN efforts at counter-terrorism included the 2005 World Summit in which all member states agreed to the condemnation of terrorist acts. The UN Secretary-General charged the General Assembly to create counter-terrorism policy. In 2006, the UN Global Counter-Terrorism Strategy was agreed to in September 2006. The Strategy addressed four policy areas, like tackling the factors that lead to the spread of terrorism, terrorism prevention, strengthening national capacities to combat terrorism and guarantee that human rights are included in counter-terrorism efforts.

Despite considerable progress in policy, terrorism remains one of the biggest threats to international peace, development and security. Every week terrorist attacks or an attempted attacks take place throughout the world. Terrorism does not pose a threat only for states, but particularly for individuals. Still, one of the main challenges is how to include the respect of human rights legislations in countering the negative effects of global terrorism.

Certain terrorist groups also rely heavily on donations from political and religious sympathizers. For example, Saudi Arabia is considered one of the largest sponsors of Salafist jihadism, including Al Qaeda and the Islamic State. However, the country does not fund these groups directly. Saudi Arabia gives money to certain religious institutions, which sometimes funnel the money to terrorist groups. Also, wealthy
individuals in countries like Saudi Arabia often donate money to terrorist groups. To avoid detection, the money is often moved to other countries, like Kuwait and Qatar, before being distributed to the organizations. Over the years, Kuwait has become an increasingly important hub for distributing terrorist funding.

In an effort to eliminate international terrorism, delegates should be open to cooperation with the whole of the General Assembly. Hence, negotiations should be focused on eliminating threats through communication, social media and technology, as well as border security, while at the same maintaining a human rights-based standard.

**Questions a Resolution Should Answer**

1. What are alternative ways of countering the actions terrorist suspects and groups?
2. Would stationing American troops overseas in an anti-terror capacity be considered as an act of protection? Or an act of aggression?
3. Which steps could the General Assembly can towards eliminating the potential abuse of power in countering terrorist groups?

**Topic Area B: Torture and Inhumane Treatment**

There are few aspects of humanity that evoke sentiments of horror, pain and disgust in the international community, like torture. Throughout human history, torture has been a part of society, law, conflict and war. However, as international law has advanced over the past century, torture and inhuman treatment have come to be condemned by virtually all states. The 1948 Universal Declaration on Human Rights was one such effort to curb the practice of torture and inhuman treatment. Still, the lack of an operationalizable definition poses problems to policy makers. International law and global legal bodies are still struggling with coming up with a definition. As a result, states have inconsistent policies in upholding their obligations and flexibilities in interpreting those definitions in law, leading to
unequal treatment and difficulties at the international level in coming to agreements. The purpose of this committee is to clarify definitions of torture by looking at what is allowable in terms of how states punishable crimes. For example, some member states support the death penalty, while others consider it a form on inhumane punishment.

The United Nations 1984 Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (hereafter, the Convention) became one mechanism to condemn such practices. It defined torture as “pain or suffering,” which is used against a person as punishment or coercion for information.\(^2\) Article 2 of the Convention goes on to state the following on torture:

1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.
2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.
3. An order from a superior officer or a public authority may not be invoked as a justification of torture.\(^3\)

---


\(^3\) Ibid.
The International Criminal Court (ICC) defines torture constituting a crime against humanity or, in times and areas of conflict, a war crime. To be considered a crime against humanity by the ICC, it must be committed as part of a wider, systematic regime against a civilian population.

Recently, international cases of inhumane treatment have received media attention. Countries like Iran and its treatment of political prisoners or the United States’ use of death penalty continue to receive attention. In 2015, one particularly interesting case arose from Saudi Arabia, which was criticized for its treatment of a famous Saudi blogger, Raif Baddawi. He was accused of blasphemy and subject to public flogging, which is part of Saudi law. The UN condemned the decision of Saudi Arabia, but it continues to justify its use of torture and harsh punishments as a part of its cultural tradition and the Islamic faith. This poses a major hindrance in attempts to create more robust global policy. Member states that directly or indirectly support torture may block any strong resolution. With weaker treaties, it becomes even more difficult to impose sanctions.

Proposed Solutions

One path toward better global policy on torture would be to revisit the definition as per the United Nations Convention. A change in definition would provide for more guidance to states without offending their national laws or limiting their capacity for action. A better definition of torture and inhumane treatment would also eliminate much of the confusion and create a foundation to better monitor violations of international law. Another proposed solution for the Sixth Committee would be convince states that have questionable records on torture and inhumane treatment
to recognize their obligation as UN member states to uphold the Convention.

**Bloc Positions**

There are over 150 states that are party to the UN Convention on Torture and Inhumane Treatment, leaving out nearly 40 other countries who have yet to sign on to the convention. Hence, there are some clear bloc positions that can be created. Countries that have clear definitions and laws on torture should form a bloc to work for a resolution. One group would be the European Union. Middle Eastern states and the Arab League, which has its own declaration for human rights, could be another bloc. Of the 22 members of the Arab League, a vast majority of them still actively use the death penalty, as well as other forms of public torture. Another regional body, the African Union, is another potential bloc that can offer its experience from a developing region of the world.

**Questions a Resolution Should Answer**

1. What does the definition of “pain and suffering” mean for your delegation?
2. Should we take into account cultural or religious sensitivities, when it comes to creating a resolution on the use of torture and inhumane treatment?
3. What types of action constitute torture and inhumane treatment in your country? Your region of the world?
4. What efforts has your country undertaken in limiting torture?