



MAKALE / ARTICLE:

THE DISCUSSION ON SEPTEMBER 11 TERRORIST ATTACKS UNDER THE CONCEPT OF CRIMES AGAINST HUMANITY

11 EYLÜL TERÖR SALDIRILARININ İNSANLIĞA KARŞI SUÇ KAPSAMINDA DEĞERLENDİRİLMESİ

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ABSTRACT

The United States immediately chose to label the September 11 terrorist attacks as an act of war rather than as a criminal act requiring remedy through legal remedies. However, this approach have potentially shattering consequence for international law and disrupting some crucial legal categories of international law Therefore, this article analyses the September 11 terrorist attack on the US through crime against humanity which is one of the legal categories of international law. The article draws upon terrorism issue under the Crime Against Humanity concept to rethink the legal categories and to emphasize the dilemma of how to legal respond when the attack targets civilian. The focus of this article will be on the question whether the September 11 attacks is a crime against humanity or not. From the point to forth, the article investigates the international laws to point out how the attacks are prosecuted as a crime against humanity. The article, therefore, will be structured as follows. The first part will discuss theoretical bases of crimes against humanity. The second part will examine the characteristic feature of the September 11 attacks as a terrorism. The third part will consider the elements of crime against humanity and the international jurisprudence on terrorism as a crime against humanity. The Third and final part will draw the conclusions.

Keywords: September 11, Crime Against Humanity, terrorist attack,

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ÖZET

Amerika Birleşik Devletleri, 11 Eylül 2001 terörist saldırılarını, olaylardan hemen sonra hukuk yollarıyla çözüm yolu gerektiren bir ceza davası olarak değil, bir savaş eylemi olarak etiketlemeyi seçti. Bununla birlikte, bu yaklaşım uluslararası hukuk için potansiyel olarak yıkıcı sonuçlar doğurmaktadır ve uluslararası hukukun bazı önemli yasal kategorilerini sekteye uğratmaktadır. Bu makalede, 11 Eylül 2001'de ABD'ye yönelik terror saldırıları uluslararası hukukun yasal kategorilerinden biri olan insanlığa karşı suçlar bağlamında analiz edilmiştir. Makale, yasal kategorileri yeniden düşünmek ve terör saldırı sivilleri hedef aldığında yasal olarak nasıl yanıt verileceği noktasında ki ikilemi vurgulamak için İnsanlığa Karşı Suç kavramı altında terörizm konusunu ele almaktadır. Bu yazının odak noktası, 11 Eylül saldırılarının insanlığa karşı bir suç olup olmadığı sorusu üzerinde olacaktır. Buradan hareketle, saldırıların insanlığa karşı bir suç olarak nasıl kovuşturulacağı incelenecektir. Bu nedenle, makale aşağıdaki gibi yapılandırılacaktır. İlk bölüm insanlığa karşı suçların teorik temellerini tartışacak ve 11 Eylül saldırılarının karakteristik özelliğiterörizmkavramıaltında incelenecek. İkinci bölüm, insanlığa karşı suç unsurlarını ve terörizme karşı uluslararası hukukun insanlığa karşı bir suç olarak değerlendirilmesi ele alınacaktır. Üçüncü ve son bölümde kısa bir değerlendirme yapılacaktır.

Anahtar Kelimeler: 11 Eylül, İnsanlığa Karşı Suç, terör saldırısı

INTRODUCTION

September 11, 2001 is the most destructive day in the long bloody history of suicide terrorism. The image of the collapsing the World Trade Centre in 11 September 2001 has left incredible mark in the century. There was a horrifying and helpless amazement at the sheer scale of attack. But there was also a recognition of profound vulnerability of states and humanity to the reckless result of terrorism. It is a consequence of the deplorable humanity of the world. The Al-Qaeda terrorism form focused on visions of apocalypse and mass casualties. Thus, people convince that Islam serves to “hijacking” Terrorism. However, Al- Qaeda attacks are as a part of the lunatic fringe, religious usurpers bent on misrepresenting to Islam for materialize to their brutal mission. This delusive characterization was echoed in the Muslim world with anger. Since, the western world was equated Islamic origin's people as a terrorist.

The September 11 terrorist attacks constitute a focusing event that has been said to have “changed everything” in world. The catastrophic attacks confirmed weakness of the

international law jurisdiction on terrorist attack. In a climate of intellectual discussion, the September 11 attacks spin around on litigious formation of terrorism in the context of crimes against humanity. This polemical discussion is focused on whether the September 11 attacks on the US were crimes against humanity or not?

The paper examines the characteristic feature of September 11 attacks under the normative framework of the International Jurisdiction. This paper has been set out to analyse the September 11, 2001 attacks as a subject matter of crimes against humanity which are based upon subjective element of crimes. In order to properly analyse these matters this article begins by looking at theoretical bases of the issue of crime for criminalizing the terrorism under the international law. The characteristic feature of the September 11 attacks, will first be handled. It will then go on to examine the objective and subjective elements of crime against humanity in the case of the September 11. This is followed by the two Subset of elements of crime against humanity; objective and Subjective elements. These Subsets of element of crime have been organized in the following way; in the first place the objective element will be examined. Then, the Subjective elements will be divided into four parts. The first part deals with *mens rea* and knowledge, the second part by laying out the nexus between armed conflict and directed against a civilian population, the third part will reviewed a state or group policy, the last one will investigated the systematic or widespread character of September 11 attacks. Finally, in the conclusion chapter the September 11 Attacks will be assessed in terms of crimes against humanity.

1. THE CRIME AGAINST HUMANITY

1.1. Theoretical Bases of Crimes Against Humanity

The idea of crime against humanity is peculiar to the 20th Century. After the Second World War, the notion of the crime against humanity was brought forward as a concept by the Nuremberg Tribunals and Tokyo Military Tribunals (Ratner, Abrams and Bischoff, 2009). For an act to be so barbarous to be identified as crime against humanity, that crime should be directed not merely against individuals but against social groups and, in sense, the whole of humanity. In 1990's, these crimes were perpetrated to the innocent people by the ethnic cleaning campaign in former Yugoslavia. Those murderers have been charged with were committed crimes against humanity. The International Criminal

Tribunal for the former Yugoslavia (ICTY) is one of the first courts to prosecute individuals who committed the specific murders in which crimes against humanity were affected.

The notion of crimes against humanity has evolved under international customary law and through the jurisdictions of international courts such as the International Criminal Court, the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda. However, the crimes against humanity notion has not yet been codified in treaties of international law, unlike genocide and war crimes, until the 1998 Rome Statute establishing the International Criminal Court (Robertson 2007, pp.372-419). The prohibition of crimes against humanity has been considered a peremptory norm of international law, from which no derogation is permitted and which is applicable to all States. The Rome Statute provides the most extensive list of specific acts that may constitute the crimes against humanity. According to the Article 7 of Rome Statute, the crime is defined as follow;

“ 1-)For the purpose of this Statute, ‘crime against humanity’ means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

- a. Murder;*
- b. Extermination;*
- c. Enslavement;*
- d. Deportation or forcible transfer of population;*
- e. Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;*
- f. Torture;*
- g. Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;*
- h. Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;*
- i. Enforced disappearance of persons;*
- j. The crime of apartheid;*

k. *Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.*

2. *For the purpose of paragraph 1:*

a. *'Attack directed against any civilian population' means a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack;'' (Rome Statute 1998)*

As indicated by Article 7 (1) of the Rome Statute, crimes against humanity do not need to be linked to an armed conflict. The crime can also take place in peacetime. The contextual element identifies that crimes against humanity involve either large-scale violence in relation to the number of victims or its extension over a broad geographic area, or a methodical type of violence. This excludes random, accidental or isolated acts of violence. In addition, Article 7(2)(a) of the Rome Statute determines that crimes against humanity must be committed in assistance of a State or organizational policy to commit an assault. The plan or policy does not need to be explicitly stipulated or formally adopted and can, therefore, be inferred from the totality of the circumstances (May 2005, pp.115-156). The crimes against humanity do not need to target a specific group. Instead, the victim of the attack can be any civilian population, regardless of its identity (Zahar and Sluiter, 2007, pp. 80-91). Another important distinction is that in the case of crimes against humanity, it is not necessary to prove that there is an overall specific intent. It suffices for there to be a simple intent to commit any of the acts listed. The perpetrator must also act with knowledge of the attack against the civilian population and that his/her is part of that attack.

Ironically, the content of the crime against humanity opened a discussion after the September 11, 2001. When four distinct attacks were perpetrated against citizens of the United States in September 11 by Al -Qaeda Network, the results were devastating, and over 3,000 people were killed. Albeit, international community was not able to prosecute to the terrorists by charging them with crime against humanity. Since, international Statutes have not got any definition to hold the trial as the terrorism is a crime against humanity. At this juncture, one *jus cogens* norm, *nullum crimen sine lege*, is crucial to the legitimacy of international criminal law. This principle connotes that a person should not be prosecuted for something that either was not a crime or could not be known to be a crime at time the defendant acted (Hart 1994, pp.214-231). Therefore,

the content of the crime against humanity becomes disputable on prosecution to the international terrorist.

At this point, Cassese emphasized (2001, pp.993-995) that the terrorist attack of September 11 had atrocious effects not only at the psychological and political level, but also it demolished to construction of international law. It overthrew some essential legal categories, thereby imposed us to reconsider this concept. On the one hand, it lay emphasis on general principles, on the other had brutal action demonstrated all the characteristic of crimes against humanity. The extent and datum points indicated that the attacks were targeting civilians are an insult to all humanity, and part of a widespread or systematic assault.

The prohibition of the terrorism is a crime against humanity, beyond doubt, one of the fundamental norms of international criminal law. Bassiouni (1996, p.69) has pointed that the only way to make sense of *jus cogens* norms is to recognize that certain crimes affect the interests of the world's community as a whole. The terrorism is widely considered as a part of *jus cogens* norms, since the terrorist acts threaten the peace and security of humankind. In addition, the terrorism conducts to moral outrage that so shock the conscience of humanity as a whole (May 2005, p.83). The crimes against humanity's repression become matter for concern to the international community. Since, the core values of humanity are so tenuous, it should be protected by whole of the world (Akvahan 2008, p.23).

Prima facie, the various crimes, for instance murder and hijacking, that fit to the terrorism concept under the heading of crime against humanity. Albeit, the terrorism is not recognized as crime by the criminal statutes, some authors defend the inclusion of terrorism under International Criminal Court (ICC) jurisdiction. Since, they claimed that International terrorist acts are considered under the *crimainiuris gentium* and under the ICC jurisdiction (Di Filippo 2008, p.543). Particularly, some evidences will be useful to uphold and conduct an analysis to determine the September 11 attacks are crimes against humanity.

1.2. The Characteristic Feature of the September 11 Attacks as a Terrorism

In September 11, four coordinated attacks were committed within the same day against citizens of the United States by Al -Qaeda Network. Two hijacked airplanes which were full of civilians crashed into the Twin Towers of the World Trade Center (WTC) in New York. Another one hijacked airplane which was full of civilians and crashed into the Pentagon in Washington, D.C.. The last attack was aborted before never reaching its destination in Washington, D.C.. The results were devastated; over 3,000 confirmed deaths associated with the WTC explosions, confirmed deaths of all crew and passengers onboard of four hijacked planes. In addition, the number of deaths increased by the collapse of first attack on twin towers which involved on field personnel (Proulx 136).

Alex Schmid (2004, p.376) defines the terrorism is that an anxiety-inspiring method applied for political, criminal or idiosyncratic reasons. Dimitrijevic (2003, p.603) mentioned that the reason of the terrorism are that, the target of population represents symbolic pattern for whole population which attacks conveyed messages to the society is the target of terror. These terrorist acts' messages generally are political and theirs expected results are political. Moreover, the terrorism is based on the expectation of media attention, which often promotes greater public visibility of such groups and contributes to collective social fear (Bassiouni 1996, p.86). Therefore, the attacks of September 11 which is an example of mentioned above. A deep collective feeling of paranoia and anxiety marked the months following the attacks which deeply-rooted ideological and philosophical motives that drove Al Qaeda to orchestrate the attacks (Proulx 2003, p.1039).

Another criterion of terrorism which must be examined is the *modus operandi*. While the ordinary criminal groups normally use violent methods only against those who directly obstruct to their activities, the terrorist groups utilize tactics are aimed to create terror among the civilians and the public authorities. Thereby, this result is often sought by striking at single targets with a symbolic value at publicly frequented places, and possibly involving innocent victims. Thus, September 11 ipso facto amount to the terrorism (Proulx 2003, p.1035).

2. THE ELEMENTS OF THE 11 SEPTEMBER ATTACKS AS A CRIME AGAINST HUMANITY

The Statute of the ICC does not contain any separate provision for the specific crime of terrorism. Prior to the terrorist attacks in the United States of America on 11 September 2001, the international community as such had no common definition of the crime of terrorism (Greve 2003, p.104). Acts of September 11 may amount to crimes against humanity when they meet the special requirements of crime (Badar 2004, p.122). Having examined and evaluated the general requirement of the September 11 attacks are the crime against humanity, the following chapters will examine the case of September 11 within the objective and subjective elements of terrorism as a crime against humanity. There has been some significant attempts to define crime against humanity

2.1 The Objective Element or The *Actus Reus* of The Terrorism

Under the Rome Statute (1998), the *actus reus* requirement of any crime against humanity is fairly straightforward. These principal ingredients make up the general *actus reus* required for ICC jurisdiction. It may be summarized as amounting to;

"...an attack that is inhumane in nature and character, causing great suffering, or serious injury to body or mental or physical health. Furthermore, the "inhumane act must be committed as part of a widespread or systematic attack against members of a civilian population..." (The Rome Statute, Article 7.)

A Preliminary question confronting the *actus reus* of the crime of terrorism is not provided by any statute. However, the crime of terrorism should be criminalized only in connection with another crime within the jurisdiction of ICC statutes. Cohen (2012, pp.242-246) points out that murder is an element of the Article 7 of the Rome statute. Thus, the terrorist acts could be prosecuted in parallel with crime of murder in the case of the September 11 attacks. It was mentioned in above, the 3000 people were killed in these attacks which provide nexus of the crime murder and terrorism.

2.2. The Subjective Elements of The Terrorism As A Crime Against Humanity

2.2.1. The First Element: Mens Rea and Knowledge

The act could be assumed as a crime, if the act is required the factor of *mens rea*. From this point forth, in order to transform a crime into a crime against humanity, the perpetrator could know all of the elements of the crime and they should be acted with *mens rea*. Akvahan (2008, p.41) stated that the concept of *mens rea* was pointed in the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) statutes. Also, in Article 7 of the ICC statute requires that the accused have "*knowledge of attack*". He or she should be ordered to do the act with knowledge in crime against humanity (May 2005, p.128). As indicated by the *Kupreskic Case* (IT-95-16, paras.56-57), such knowledge constitutes the act of crime against humanity;

"...The requires mens rea for crimes against humanity appears to be comprised by the intent to commit the underlying ordinary crime of murder, rape, and etc. combined with knowledge of the broader context in which that offence occurs..." (Kupreskic Case 2000)

In addition, in *Tadic case*, it was analyzed that it must be proved that the crimes were related to the attack on a civilian population, and that the accused had to know that his crimes were so related (Tadic 1999, para.237). Moreover, the alleged attack should be perpetrated on such a basis and pursuant to such a policy or plan is sufficient to knowingly take the risk of participating in the causing damage or harm (Proulx 2003, p.1061). If we consider the September 11 attacks, the Al Qaeda is known all results of their terrorist acts.

For instance, before the Al Qaeda network took the responsibility for hijacking four planes and crashing three of them into the WTC and the Pentagon, the "attack" element of Article 7 was easily met. We can consider that the events of September 11 did not form part of an isolated account or episode. After the United States invasion in Somalia, United States Embassy were bombed (Proulx 2003, p.1067). In his video, Bin Laden answered question of "*What can the U.S. expect from you now*", that he answered it with following statement:

"... The American forces to expect anything from me. Muslims are angry. The Americans should expect reactions from the Muslim world that are proportionate to the injustice they inflict." (Times 1999)

Furthermore, the Al Qaeda's leader, Osama bin Laden, orchestrated these attacks. Also he took responsibility for myriad terrorist activities which were intended to provoke of terror. Bin Laden calculated in advance the casualties which related September 11 attack. In his video tape, he declared that;

"...we calculated in advance the number of casualties from the enemy, who would be killed based on the position of the tower. We calculated that the floors that would be hit would be three or four floors..." (CNN 2001)

2.2.2. The Second Element: Nexus Between Armed Conflict And Directed Against A Civilian Population

The Nuremberg Tribunal defined crimes against humanity was effectively a sub-set of war crimes. The ICTY's definition of crimes against humanity which was differed from all of its predecessors. In spite of the fact that the ICTY statute define crime against humanity is as follows:

"The International Tribunal shall have the power to prosecute persons responsible for the following crimes when committed in armed conflict, whether international or internal in character, and directed against any civilian population" (ICTY 1993, Article 5.)

If we uphold the crime against humanity, it could be committed only armed conflict and could be directed only military personnel. We should consider that some authors underlined that only terrorist act as the crashing of civilian aircraft into the Pentagon could amount to a crime against humanity, which act was a part of widespread and systematic attacks. Since, some other authors consider acts should acted in armed conflict for defining crime against humanity (Cassese 2003, pp.179-184).

However, the ICTY trial chamber said that the requirement of a connection to war has now been replaced by the requirement that the act be "directed against any civilian population". In *Tadic case*, the trial chamber was guiding this idea behind the population element and they stated that crimes against humanity do not require a connection to

international armed conflict and may not require a connection to any conflict at all (Mettraux 2002, pp.245-249). Neither the statute of ICTY nor the ICC statute's contains any requirement for establish to connection between the crime against humanity and an armed conflict. Von Schorlemer (2003, p.273) pointed out in fact crime against humanity can be committed outside of armed conflict is relevant the prosecution of this sort of attack.

Crime against humanity is defined by under the Rome Statute; Article 7 of the Rome Statute requires that a physical attack should be perpetrated. In addition, Article 7(2)(a) defines the term "attack directed against any civilian population" as "*a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of state or organizational policy to commit such attack*" (Drumbl 2007, p.1167).

Al Qaeda did not consider who were civilian or not, when they attacked to the World Trade Center. Bin Laden declared in his interview in May 1998 with John Miller, he acknowledged that

"...we do not differentiate between those dressed in military uniforms and civilians; they are all targets in this fatwa." (Fry 2002, p.191)

These attacks were against a civilian population. The World Trade Centre was a hub of economic activity for the United States and the entire world, which housed no active military personnel. The fact that one of the attacks occurred on the Pentagon, the military headquarters for the United States, does not hinder satisfaction of this element, because a civilian population includes any member of the armed forces who lays down her weapon (Fry 2002, p.191). In Bin Laden's fatwa dated February 23, 1998, he ordered all Muslims to;

"kill the Americans and their allies-civilians and military wherever and whenever they find." (Fry 2002, p.191)

2.2.3. The Third Element: State or Group Policy

The ICTY, as well as the Rome Statute, said that a state or other group policy is another main element of a crime against humanity. This element is said to be implied by the ICTY statute's stipulation that crimes against humanity must be "directed at" a civilian population. For the attack to be directed at this population there must be some group

policy or plan to that effect. The ICTY's Trial Chamber Illustrated this point that the act must not be merely a random one "*that here must be some form of policy to commit these acts*".

Turning now to the other point on policy element, the ICTY contended that the policy necessary to raise an individual crime to the level of a crime against humanity "*need not be the policy of a state*". Organized criminal groups and people with de facto may also perpetrate the kind of systematic or mass violation of human rights covered by the article (May 2005, p.122).

Al-Qaeda determined a policy that is based on the notion of the Jihad. Cook (2015, p.10) stated that the Jihad meaning could be defined conquer and dominate to non-Muslims, it is identified in Holy Quran;

"Fight those among the People of the Book [Jews and Christians] who do not believe in God and the Last day, do not forbid what God and His Apostle have forbidden, and do not profess the true religion[Islam]until they pay the poll-tax out of hand and submissively." (The Qu'ran, Sura, 9:29)

Many other factors would tend to corroborate the fact that these actions fit the description of crimes against humanity. For example, *the Blaskic Case (2000, IT-95-14-T, para 204.)* indicated that courts should consider media propaganda as evidence of the "systematic" character of an attack. In this sense, Osama bin Laden and Al Qaeda released several videotapes to the media in which he claimed responsibility for the attacks and acknowledged their acts.

Al Qaeda performed their acts as a Jihad to the non-Muslim community for Islam reign over them;

"We declared jihad against the US government, because the US government is unjust, criminal and tyrannical. It has committed acts that are extremely unjust, hideous and criminal whether directly or through its support of the Israeli occupation on Holy land-Palestine" (CNN-Peter Arnett 1997)

Bin Laden not only admitted that he knew about the attacks. Also, he admitted that they opted terrorism for a group policy;

"...Terrorism we practice is of the commendable kind for it is directed at the tyrants and the aggressors and the enemies of Allah who commit acts of treason against their own countries and their own faith and their own prophet and their own nation. Terrorizing those and punishing them are necessary measures to straighten things and to make them right..." (ABC-John Weiner 1998)

These declarations are evidences which supported aforementioned acts are a group policy. Since, these acts require the high level hierarchical structure and level of organization. The terrorist attacks possessed by Al Qaeda would seem to fulfil the policy or plan element almost effortlessly.

In fact, we would like to lay emphasize on the other additional element of policy "*discriminatory intent element*" which is essential in that it was integrally transposed into the Rome Statute, along with the policy or plan element. In fact, under Article 7(1)(h) of the Rome Statute it was remarked, a crime against humanity should be directed to "*any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender*" (Proulx 2003, p.1058).

Therefore, Al-Qaeda has perpetrated their acts of terrorism with the discrimination intent. Al Qaeda carried out these acts of terrorism apparently related with obviously a strong religious element to these actions. It is also widely known that Al-Qaeda waged war, or jihad, against the "infidels" Western World, especially against "infidels Americans (Proulx 2003, p.1039). These facts presented that the events of September 11 did not form part of an isolated account or episode. These acts are largely part of the extent systematic attacks (Proulx 2003, pp. 1037-1067).

2.2.4. The Fourth Element: Systematicness or Widespreadness

A fourth uncontroversial element of crimes against humanity is that they are carried out in a systematic way or by means of mass or widespread action. The requirement of a "widespread or systematic" attack is solely an objective element of crimes against humanity. Rather, this factor of scale and gravity is an essential aspect of its subjective element (Akvahan 2008, p.32)

The expression "widespread or systematic" may be understood as excluding "random or isolated acts". There must be a background of other acts that this act fits into for idea of systematic or widespread to make sense. The individual act cannot be systematic or

widespread; at least not in the way that crimes against humanity are characterized (May 2005, p.123).

The term “widespread” has been interpreted as referring to a multiplicity of victims whereas systematic has been interpreted as referring to a methodical plan or policy. The multiplicity of victims may include both “the cumulative effect of a series of inhumane acts or the singular effect of an inhumane act of extraordinary magnitude”. The ICC statute has also stipulated the related requirement that crimes against humanity consists of “a course of conduct involving the multiple commission” of the enumerated acts “*pursuant to or in furtherance of a state or organizational policy to commit such attack*”. Actually, it is evocative of the *sine qua non* of the crimes against humanity (Akvaan 2008, p.32)

In fact, the September 11 events are not only part of an unique attack, they are part of the same battle that Bin Laden is waging against the United States as well. BinLaden has been clear in his intentions to attack the United States on all fronts. His own words put the attacks into context. In the May 1998 interview, Bin Laden answered a question from some of his followers by commanding them and all Muslims to focus their hatred and attacks on Americans, and went so far as to say that;

“it is far better for anyone to kill a single American soldier than to squander his efforts on other activities.” (Fry 2002, p.190)

As it is seen that the September 11 acts are a part of the broader activities. In the previous years, Bin Laden and his Al-Qaeda network of terrorists have allegedly been involved in numerous attacks against the United States, ranging from a civilian target with the first World Trade Center bombings in 1993, to diplomatic targets with the two U.S. Embassies, Tanzania and Kenya, bombings in 1998, to military targets with the attack on the U.S.S. Cole in Yemen. The latest one is that September 11 attacks (Fry 2002, p.190). Thereby, these will be sufficient examples to establish a correlation between 9/11 attacks and previous acts are part of the element of systematic or widespread. Therefore, it is now plausible and acceptable that a terrorist organization like Al Qaeda, through targeted killing of civilians, can be held responsible for crimes against humanity (Proulx 2003, p.1079). Also, in September 11 attacks, there were “multiple commissions” of inhumane acts, pursuant to Article 7 in that the four hijackings and approximately 3000 individual acts of murder were all part of the same single, systematic attack.

3. CONCLUSION

The attacks of 11 September struck at human rights of every person. The individual victims were deprived of most fundamental of all human rights- the rights of life. In addition, the right of liberty and the right of security were among the other human rights directly affected by the attacks of September 11. Terrorism on such a scale creates climate of fear by using violence of and fear as a tool. As Cassese (2001, p.994) observed:

“That atrocious action exhibits all the hallmarks of crime against humanity: The magnitude and extreme gravity of the attack as well as the fact that it has targeted civilians, is an affront to all humanity, and part of a widespread or systematic practice.”

When the United Nation Security Council required to criminalise terrorism, it did not provide a definition of terrorism because no such definition exists in international law. Throughout days, the speed with which international bodies moved was extraordinary. Following days after the attacks, Resolutions condemning terrorism were passed by the UN General Assembly. The US pressed for a strong response from the United Nations. The Security Council was obliged to pass a series of radical resolutions, beginning with one condemning the attacks on September 12. In its preamble, Resolution 1368 set the terms of the Security Council's engagement with terrorism. It took only slightly more than two weeks for the Security Council to enact perhaps the boldest resolution it had ever passed, Resolution 1373.

At the outset, it would realize the degree of proximity and compatibility between notions of terrorist attacks of September 11 and crimes against humanity. The events of September 11 cannot be considered in isolation. Taken together with other events such as embassy attacks and the attack of USS Cole, for which Al-Qaeda took responsibility they posed a clear threat ahead a part of the systematic attack. The hijacking and the subsequent killings are under international criminal law that has jurisdiction to prosecution of criminals. The World Trade Centre and Pentagon included civilian population. Even claimed Pentagon is military base, it should not be overlooked, it also included civil personnel. The terrorist attacks of September 11 satisfy all of the elements enumerated for a crime against humanity. Afghanistan-based terrorist cells claimed responsibility for the attacks of September 11. The attacks were part of a

widespread and systematic war against the United States by Al-Qaeda. These attacks were not random or isolated attacks, but were part of a coordinated assault against the United States that has continued for almost a decade. (Fry 2002, p.190). Thus, the September 11 atrocities could have been tried by the ICC under the heading of the crimes against humanity.

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