



## Terrorism from the perspective of Islamic and international legal system

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**Abstract:** Terrorism is a global threat. Terrorist acts such as murder, hostage taking, hijacking and destruction of property and places, violated the human rights and fundamental freedoms and affected international relations.

In the Islamic criminal policy, resorting to terror, intimidation and general discomfort are crime and is associated with severe criminal response. At the same time, in the case of politically motivated violence to deal with the government or the ruling, the responses are regulative, defensive and in line with restoring social order. Global efforts to cope with terrorism began with the establishment of the League of Nations and with establishment of the United Nations and the spread of terrorism, especially in the second half of the twentieth century it was accelerated. This is a theoretical study and comparatively studies the accurate and reliable sources of relevant laws and rights in Iran. At first, using the library studies such as library research, study of various sources, including books, paper, student thesis, all the information and resources available in this field are collected and reviewed, and then they are reviewed and compared to the rules and regulations in Iran and Islam and the international rules regarding the subject of research. Then, comparing the comments, reviewing and criticizing a logical conclusion is obtained.

**Key words:** terror, terrorism, international system, Islam

### Introduction

The phenomenon of terrorism expanding in the world. Particularly this phenomenon has been dramatic since the beginning of the last quarter of the twentieth century. "According to statistics from the Ministry of Foreign Affairs, in the United States between 1968 and 1982, 8000 terrorist acts were done. Annual rate of terrorist acts fluctuated between 600 and 580, but was approximately two acts per day. It's mainly been concentrated in the United States and Western Europe "(Borine, 2003). Other research indicates that" since the attacks on the United States Embassy in Beirut in April 1983, almost 188 terrorist attacks have happened around the world in Lebanon, Israel, Sri Lanka, India, Pakistan, Afghanistan, Yemen, Turkey, Russia and the US" (Donnelly,2004). In addition, the use of new deadly weapons such as nuclear weapons, chemical and biological weapon, scared and human (Kenneth, 2004). The spread of terrorism is because terrorist acts bring desired results terrorists. As a result of terrorist acts, they achieve major concessions including territorial concessions from the other side who are mainly governments, American and French forces as a result of pressure of terrorists left Lebanon in 1983. Sri Lankan government under pressure granted autonomy to Tamil terrorists to form an independent state by Tamils (Donnelly, 2004). People, nations, governments, and national and international organizations and even civilizations in today's world face the phenomenon. The problem is that these people, countries, governments and other political units have to define this phenomenon to deal with the phenomenon. Therefore, they have suffer it. In the meantime, what was paid little attention is to establish a terrorist discourse called "discourse of terrorism", in which, "type of semiotic activity of world... violent powers and rebel clash each other"(Dardariyan, 2005). That is why the political phenomena such as revolutions, wars, coups etc. have been discussed and analyzed academically and have been theorized. Despite disagreements about any of these phenomena, discussions have been conducted in order to identify and define the phenomena. Therefore, departments, and professionals working in this field have been recognized and discussion on the phenomena is accepted in some scientific and general

circles. While this has not happened about terrorism. Today, wide efforts are made in the world to distort the word "terrorism" and synonymize it with Islam, especially (Shia), While the history testify that Islam, especially (Shia) was the biggest victim of terrorism and Imams were martyred in this way (Shiroodi, 2003).

Some of the efforts include:

1. Assignment of many terrorist movements in the world to Muslims
2. The introduction of some Islamic countries as terrorist centers
3. Terrorists in many films are Muslim fighters

What seems to be happening is that although many of these are due to hatred of Islam and Muslims, but the legal vacuum and the lack of expression of the relation between Islam and terrorism has helped to influence it. Therefore, the writer aims to review the position of Islam and the international system in this regard (Hosseininejad, 1994).

### **Concepts of terrorism and international rules**

Among the concepts such as globalization / localization, convergence / divergence and centralization / decentralization that are now together in the international system, terror is an expression of localization versus globalization. In other words, the actors who define the rules of the international system raised some facts and phenomenon that are contrary to their policy as a symbol of "terror" and then called it as (others) (Shiroodi, 2003).

However, a very important issue here is remarkable. On the one hand, the actors who agree on major rules of play in the international system are practically unable to agree on the definition of "others" and reach a common agreement on the other hand (others) even if they are local, act global and consequently are able to lead to make agreement. Disagreement makes international instruments against terrorism in the long term an effective global rule (Farzin Nia, 1997).

In most academic studies, usually international rules are used to define the concept of violence. In those documents the terror crisis management that has political goals and include diplomatic, economic actions and even the law itself are not within the ability and the authority of any country. However, this document mainly introduce elements of terrorism. It seems to achieve consensus on the definition of terrorism at the international level would probably not be a problem, but a problem arises when after definition of "terrorism", they want to introduce "terrorists". Because terrorism is an "act" but "terrorists" is subject to the law. (Ali Abadi, 1994).

### **Statement of the problem**

Terrorism is a crime against humanity and the biggest obstacle in terms of its definition is that the obvious purpose or motivation is a key element in the definition (Kargari, 2011). After the events of September 2001, the world was ion a new course in the fight against terrorism. Despite all the literatures about the events, and without regard to political zoom that has been made in the media. September incident was one of the biggest attacks to the basic norms of human rights. Some people consider terrorism a crime against humanity; because this crime creates a universal jurisdiction and perpetrators of such crimes should be brought to justice anywhere in the world (Kargari, 2011).

Terrorism and its impact on human rights is not new. Even before the Second World War attempts were made to illustrate the problem of terrorism in the field of international law. The League of Nations adopted the Convention on the Prevention and Punishment of Terrorism on November 16, 1937. This is the first international effort to define the (terrorist act), and since then the definition of terrorism continues to be the most difficult issue for all those involved in anti-terrorist conventions. In addition, the issue of terrorism has always been on the agenda of the United Nations since 1972 Olympic Games, which eleven Israeli athletes were kidnapped and murdered. Since the advent of terrorism, it had been condemned because terrorist acts attack the basic human rights (Kargari, 2011).

## **Research method**

This is a theoretical study, and comparatively studies accurate and reliable sources of relevant laws and rights in Iran.

At first, using the library studies such as library research, study of various sources, including books, paper, student thesis, all the information and resources available in this field are collected and reviewed, and then they are reviewed and compared to the rules and regulations in Iran and Islam and the international rules regarding the subject of research. Then, comparing the comments, reviewing and criticizing a logical conclusion is obtained.

In this study, using reasoning and logical analysis we outline the basic concepts and existing comments and classify ideas and arguments to explain them. Then, by comparing comments and reviewing and criticizing them we aim to reach to a logical conclusion.

## **Result**

There is no Clear and accepted definition of "terror" and "terrorism", although there are some agreement on some examples of words and elements. If a terrorist act is defined as "illegal use of violence for political purposes, unfair and mainly intended to shock and panic people in surprising and arbitrary manner", then it is illegitimate and condemned both in international law and jurisprudence and Islamic law. However, the root of many conflicts is the political positions. In any case, legal violence, punish offenders or legitimate-defense for the right to self-determination or defense against offenders of prophets and religious values is outside the concept of terror (Alipour, 2008). This phenomenon is spreading in the world and has influenced politics. This phenomenon, acts as a substitute phenomenon in the political, social, economic events and challenges political life. Of course, terrorism had happened in various forms since ancient times according to traditional political systems (Empire, landlordism, etc.) to modern world (the absolute modern state, totalitarian, democratic systems, etc.).

But today, due to political, social, economic, cultural and specific technological condition of the world especially non-use political units in terms of full-scale wars and conflicts, due to the fear from spreading to the nuclear conflict, a dangerous situation has been created (Abdullahi, 2009). In the attempt to understand the phenomenon, already four religious, socio-psychological, philosophical and logical-rational approaches were presented in recognition of this phenomenon. Three former approaches failed to deal with this phenomenon and logical-rational approach has been partly able to explain part of the unknown angles of this phenomenon.

Unfortunately, no impartial investigation has been done in order to understand this politically devastating phenomenon, of course, problems and obstacles in the research space were effective due to the political sensitivity of the issue. It is hoped authorities and experts with peace of mind seek to identify and propose solutions to deal with this terrible phenomenon (Yazdani and Mohammadi, 2014).

From the perspective of Islamic criminal policy, public security and safety of citizens is a very important issue that violation of it is considered as a war against Allah and His Prophet (PBUH), which is punishable. Security of life, property, dignity and honor of a Muslim man must be guaranteed by an Islamic state. Violence and terror to create fear and discomfort for the general public is punished by the extreme punishment and is considered as corruption on earth. At the same time, enemy of God and corruption on earth historically lead to the suppression of political opposition and social reformers. A broad interpretation of certain texts about the enemy of God and spreading it to new instances always has a risk of limiting freedoms and security.

Reviewing the views of commentators of the Quran and Islamic jurists, it turns out that enmity against God and corruption on earth, is punishment of the bandits and others who resorted to violence and terror of innocent people pursuing their own goals. On the other hand, political violence and force to change policies or change the ruler is crime and specific mechanisms had been anticipated to engage them. Dealing with those

who resort to violence to engage with ruler or Islamic government is bound to certain criteria in Islamic penal policy under rebellion and insurrection against the Islamic state. According to the evidence and documentation that are discussed in this study, it should not be confused with war (Gol Mohammadi 2013). Using human rights approach to analyzing international terrorism made an opportunity for pundits and politicians to study and examine the issue fundamentally and instead reducing the terrorism to the level of an imaginary conspiracy by the government or group of governments or assign it is Islamic fundamentalism and international communism (the Cold War) cooperate fairly and with a pragmatic point of view to identify the underlying cause or predisposing factors of terrorism to solve it. (Yazdani and Mohammadi, 2014).

It seems that the international community has no choice but to pay attention to aspects of the formation and spread of terrorism which include expanded form of political repression, poverty and the gap, discrimination, frustration and failure, occupation and foreign domination over nations. Only in this way it is hoped to stop the vicious circle of human rights violations, violence, rebellion (Ali Pour, 2008).

The plan and review of aspects of terrorism, human rights is one of the expressions of the tendency of international law to promote the rights of the individual and further consolidate their position in international law. Recognition of terrorist organizations (NGOs) as human rights and fundamental freedoms violators, paves the way for the criminal prosecution and punishment of perpetrators of international terrorism and its sponsors (governmental and non-governmental) in international courts (Kargari, 2011).

The international community aware of the risks of terrorism has done a number of steps in the fight against terrorism. As a result, resolution and anti-terrorism treaties have been measures of international terrorism regarding various aspects of terrorism. Although the international community has not succeeded in achieving a definition of terrorism, but anti-terrorism conventions adopted by international organizations refer to the definition of terrorist acts as international crimes.

Anti-terrorism conventions want member states to take action regarding the prosecution and punishment of the accused people with regard to the mechanisms foreseen in the convention and behave in a way that there is no safe haven for terrorists. However, executive systems anticipated in the conventions against terrorism were not successful in the fight against terrorism that this failure can have many factors:

1. Anti-terrorism conventions already are limited to some terrorist acts. It seems international treaties on terrorism should be expanded to cover terrorist acts that have not been considered yet. In addition, the number of convention members shows that yet many governments are unwilling to accede to those treaties. Adoption and implementation of the Convention by the vast majority of states have increased the impact of these treaties provided and better ground to fight against terrorism.
2. The provisions of the existing treaties are easily violated by member states in dealing with terrorism due political considerations. Due to political and economic interests, there are major obstacles in the effective control and deal with terrorism. Therefore, member states regardless of their political interests should fulfill their obligations under anti-terrorism treaties and play their role in the fight against this global problem. However, where member states ignore their obligations, there is no effective mechanism in dealing with rogue states.
3. Lack of proper judicial cooperation in criminal issues among the state is one of the reasons for the failure of international regulations on terrorism. Fighting terrorism requires political will of all States and closer cooperation through the exchange of information, arresting, extradition and punishment. Terrorist is a global threat and dealing with it needs a global will.
4. Now that the Statute of the International Criminal Court is adopted by the international community, it is necessary to pave the ground for better justice for victims of terrorism by granting jurisdiction to terrorist crimes to this court. It seems, although the implementation of international law can be taken through national courts, but terrorism as an international crime requires judicial action by an international court.

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