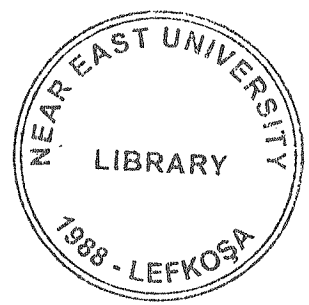NEAR EAST UNIVERSITY

GRADUATE SCHOOL OF SOCIAL SCIENCES

MASTER OF LAWS IN INTERNATIONAL LAW PROGRAMME (LL.M)

MASTER'S THESIS

THE CONCEPT OF TERRORISM IN THE INTERNATIONAL

LAW

Hariwan Nazi Abdullah

NICOSIA
2016

NEAR EAST UNIVERSITY

GRADUATE SCHOOL OF SOCIAL SCIENCES

MASTER OF LAWS IN INTERNATIONAL LAW PROGRAMME (LL.M)

MASTER'S THESIS

THE CONCEPT OF TERRORISM IN THE INTERNATIONAL LAW

Hariwan Nazi Abdullah

20144828

SUPERVISED BY:

Asst. Prof. Dr. Derya Aydin Okur

NICOSIA

2016

NEAR EAST UNIVERSITY
GRADUATE SCHOOL OF SOCIAL SCIENCES
MASTER OF LAWS IN INTERNATIONAL LAW PROGRAM (LL.M)

Thesis Defence

THE CONCEPT OF TERRORISM IN THE INTERNATIONAL LAW

We certify the thesis is satisfactory for the award of degree of Master of Laws in International Law

Prepared By

Hariwan Nazi Abdullah

Examining Committee in charge

Asst.Prof.Dr. Reşat Volkan Günel   Near East University
Faculty of Law

Asst.Prof.Dr. Derya Aydın Okur   Near East University
Faculty of Law

Dr. Tutku Tugyan   Near East University
Faculty of Law

Approval of the Acting Director of the Graduate School of Social Sciences

Assoc.Prof.Dr. Mustafa Sağsan

Acting Director

YAKIN DOĞU ÜNİVERSİTESİ
NEAR EAST UNIVERSITY
SOSYAL BİLİMLER ENSTİTÜSÜ
GRADUATE SCHOOL OF SOCIAL SCIENCES

NEAR EAST UNIVERSITY

Date: 26/.7./2016 Nicosia

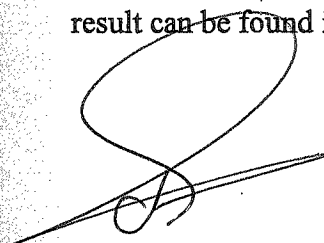20_15_/20_16_ Academic Year _Spring_ Semester

DECLARATION

Type of Thesis: Master ☑   Proficiency in Art ☐   PhD ☐

STUDENT NO : 20144828

PROGRAME : Master of Law In International Law Programme

I Herisllan Nazi Abdullah, hereby declare that this dissertation entitled "The Concept of Terrorism In The International Law

"

has been prepared myself under the guidance and supervison of "Assit.Prof. Dr. Derya Aydin" in partial fulfilment of The Near East University, Graduate School of Social Sciences regulations and does not to the best of my knowledge breach any Law of Copyrights and has been tested for plagarism and a copy of the result can be found in the Thesis.

Signature:

ABSTRACT

The subject of terrorism was evidently appeared after World War II after the world had tasted the horrors of the grinding war, which let countries to achieve their goals in other ways such as promoting terrorism, the fact that it achieves the desired goals at the lowest cost, where it is played by groups to undermine the social, economic and political infrastructure of other party by hidden ways and it is not need to declare a war that requires high financial expenses and major casualties. During this period the terrorism varied with different tactics; there is domestic terrorism which had criminalized by domestic and positivism laws, state terrorism which is exercised by countries and the terror of organized criminal groups. But the concept of terrorism with its new sense remained vague and undefined till the Pentagon World Trade Center was hit in 11 of September 2001, where emergence of this concept increased and highlighted by various studies, but from the angle of the major countries and dominant on the world, it is imbued with political tincture to achieve the set objectives of those countries, which led to the mixing of the concept of terrorism in accordance with the previous views of the legitimate concepts in countries of the world especially the vulnerable or defeated or occupied ones. So terrorism mixed with the right of legitimate defense against aggression of the state, as well as mixed with the legitimate armed resistance of states that occupied their territory such as Palestine, Lebanon, Iraq and elsewhere.

The purpose of this thesis is to understand the concept of (terrorism in international and internal law) because terrorism is an international and internal problem and victims of terrorism increases day by day. This thesis has been divided in three sections.

In the first section, we discussed how difficult it is to define terrorism and why it has not been defined terrorism and its problems of definition, within the first requirement we talked about the history of terrorism; its essence and development.

In the second section, we searched for international terrorism in accordance with international laws and domestic terrorism in accordance with the national liberation movements

In the third section, we searched for international armed conflicts and internal armed conflicts.

ÖZ

Terörizm meselesi İkinci Dünya Savaşından sonra, dünyanın başı çektiği yıkıcı savaşlardan sonra açıkça ortaya çıkmıştır, bu da ülkelerin, terörizm yoluna gitmek gibi başka yöntemlerle amaçlarını gerçekleştirmeye müsait olmuştur. Böylelikle, gruplar kullanılarak karşı tarafın sosyal, ekonomik ve politik altyapısını gizlice sabotaj edilerek amaçlanan hedeflerin en ucuz maliyetlerle gerçekleştirilebilir ve yüksek maddi maliyetler gerektiren ve büyük zayiata mal olan savaş ilan edilmesine gerek yoktur. Bu dönem esnasında terörizm muhtelif taktiklerle tanımlanmıştır; yerli terörizm var ki yerli ve pozitivizm yasaları ile suç olarak nitelendirilmiştir. Devlet terörizmi ise devletler tarafından ve organize suç grupları tarafından işlenen terörizm türüdür. Ne var ki terörizm kavramı, duygusuyla belirsiz ve tanımlanmamış kalmıştır, ancak 11 Eylül 2001 tarihinde meydana gelen Dünya Ticaret Merkezi vuruluş olayına kadar yeni Pentagon tarafından çeşitli araştırmalarla bu kavram ortaya koyulup altı çizilmeye başlamıştır. Fakat dünyaya hâkim olan büyük ülkeler bakımından, o ülkelerin hedeflerini gerçekleştirmek amacıyla siyasi tentür ile doyurulmuştur, bu ise, muhtelif dünya ülkelerinde ve özellikle fakir ve azgelişmiş veyahut işgal edilen ülkelerde önceki yargılama kavramlarına göre terörizmin kavramlarının karışmasına neden olmuştur.

Bunun neticesi olarak terörizm, ülkelerin saldırılara karşı savunma hakkını yasaları ile karıştı ve işgal edilen ülkelerin arazilerini silahla savunması ile ilgili hukuklarla karıştı. Örneğin Filistin, Lübnan, Irak, vesaire.

Bu araştırmanın amacı, (Ulusal ile uluslararası hukukta terörizm) kavramını anlamayı hedeflemektedir çünkü terörizm ulusal ve uluslararası bir sorundur ve terörizmin kurban sayısı günbegün artmaktadır. Bu tez üç bölüme ayrılmaktadır:

Birinci bölümde terörizme bir tanım koymanın ne kadar zor olduğunu ve neden tanımlanmadığını ile tanımlanmasının zorluklarını ele aldık, ilk öncelik olarak terörizm tarihi, menşei ile gelişmesini tartışmakta bulunuyoruz.

İkinci bölümde ise uluslararası hukuka göre uluslararası terörizmi, ulusal kurtuluş hareketlerine göre ulusal terörizmi araştırdık. Üçüncü bölümde ise uluslararası ile ulusal silahlı çatışmalar üzerine araştırma yaptık.

Anahtar kelimeler: Terörizm, Silahlı çatışma, uluslararası hukuk, Uluslararası terörizm.

DEDICATION

I dedicate this thesis to my mother and my wife Bareen for their permanent help and support to achieve my goals.

Also to my lovely daughter Baran who is the most precious person for me in this World.

Lastly I dedicate this thesis to every person who helped me achieve my goal of writing this thesis.

ACKNOWLEDGEMENT

First of all, I would like to thank my supervisor (Asst. Prof. Dr. Derya Aydin Okur) and all staff of International department, without their help this thesis could not have been finished. I thank them for support.

Many thanks to my brother Aryan, for the support he gives me when I need it.

Finally, thanks to my sister in law Ava, for her help and support when I need it.

TABLE OF CONTENTS

ABBREVIATIONS

IHL	International Humanitarian Law
ICRC	International Committee of the Red Cross
ISIS	Islamic state in Iraq and Syria
KKK	Ku Klux Klan
US	Unit States of America

INTRODUCTION

The global terrorism is escalating in the world after the number of victims of the terrorist attacks was less than 4,000 people dead in 2000, this number increased to 16 thousand in 2013. But terrorism is also concentrated in specific countries where in 2013, 80 per cent of the victims of terrorism occurred in five countries: Iraq, Afghanistan, Pakistan, Nigeria and Syria. It should be noted here that they are all Muslim countries, and there the major terrorist organizations stepped out, such as al-Qaeda, (ISIS) organization, the Taliban in Pakistan and Afghanistan, and Boko Haram. In addition to Somalia, Yemen, Egypt, Lebanon, Libya and Sudan, and other non-Arabs countries like India, the Philippines and Thailand. Among the regions of the world, the Middle East and North Africa are the highest regions of the world terror; there 53 per cent occurs suicide operations. In contrast, the lower regions of the world terror are those countries in which members of the organization of economic co-operation and development, all are located in North America, Europe combined, Israel, Iceland, Australia and New Zealand, where only 5 per cent of the terrorist operations took place there, during the measure period[1].

Taking all of the above information, it is clear that the restoration of the state, its institutions, prestige and cohesion has importance in fighting against terrorism which is hard to ignore, especially in regard to the separatist and cationic movements of the legitimacy of the state.

Terrorism has evolved broadly recently, it formed public gangs and occupied large areas in some countries particularly the region in which we live in. Terrorism in Iraq started its movement in 2005, it developed in (2014) and occupied some cities of

---

[1] Please see
http://www.visionofhumanity.org/sites/default/files/Global%20Terrorism%20Index%20Report%2020 14_0.pdf

1

Iraqi such as (Mosul, Anbar, Tikrit, Fallujah... etc.), so far (ISIS) has occupied third of Iraqi and Syrian cities and call themselves the state Islamic (ISIS), this is one mark the evolution of terrorism in recent time. This is the main reason for choosing this topic for my proposal, because it is important to explain the definition of terrorism also definition of internal and international terrorism, and write about the history of terrorism, while in another section of my proposal is confined to explain armed conflicts.

CHAPTER ONE: The Definition of Terrorism

1.1 The Concept of Terrorism

The most important thing to specify the concept of terrorism is a problem of definition, because of the difficulty that surround it, due to many reasons related to the nature of the terrorist act itself, and different points view of countries, where some see it as a form of terrorism others see it as a legitimate act which means resistance works, we will discuss them in detail in the third chapter[2]. The definition of terrorism still remains a major problem for specialized researchers of this phenomenon, and there are a number of points must be reviewed to summarize the inability of finding a definition that satisfies all international parties, including:

A. The Difficulty of Definition:

Finding a comprehensive definition of terrorism is very difficult because all the roads being made by researchers in various fields did not reach the decisive solution to find a suitable and comprehensive definition of terrorism, because terrorism is a complicated issue due to the difficulty of unifying views on one concept[3]. Despite the difficulties encountered in the definition of terrorism several attempts have been made, and all their attention have focused on political violence, whether it is held by individuals or organized or unorganized groups[4].

---

[2] Brain Whitaker, "The definition of Terrorism", (2001).
https://www.theguardian.com/world/2001/may/07/terrorism [11/6/2016]
[3] Imam H. Khalil, Terrorism between Criminality and Legality, First Edition (Cairo: The Modern Egyptian Library 2001). P. 28

[4] Heradstveit Daniel, The Role of International Terrorism in the Middle East Conflict and Into Implication for Conflict Resolution, in International Terrorism and World Security, (New York , Toronto Halsted press book, 1974) P. 93.

B. The Reasons of The Difficulty of Definition:

The countries could not agree on a specific definition for a terrorist act, every country or territory organization gave a definition commensurate with its status and interests, and the interests of those in charge of governance, where no definition was acceptable for everyone. Dictatorial regimes are obstacles to reach an accurate definition of terrorism because of what they believe that terrorism is a consequence of the political position in the country[5]. Due to deprivation of political rights the situation leads to emergence of terrorism case in political work.

There are several factors that have failed to reach a definition of international terrorism such as:

1. The difference between the views of states in determining the definition of terrorism as some believe that it is terrorism the others sees as the project work, it has been showed quite evident. During the discussions in committees set up by the United Nations to discuss international terrorism, the United States of America - supported by the Bloc West - tries to define the international terrorism as the armed struggle for national liberation movements within the exercise of their right to self-determination. While the countries of Eastern bloc led by the Soviet Union at the time, defined it that the real terrorism is state terrorism, or that kind of terrorism practiced by one State against another[6].

2. Lack of objectivity and bias in the political relations of the State at the expense of another state, to an extent that the national liberation movements accused with terrorism, despite the brutality and cruelty of colonialism and occupation. The views are divided among countries according to their interests, some of them support, and others did not support the legitimate resistance of occupation or colonialism. The problem is that hinders consensus on the definition of terrorism is related to the movements of

---

5 Ganor Boaz, 'Defining Terrorism - Is One Man's Terrorist another Man's Freedom Fighter", (2010). https://www.ict.org.il/Article/1123/Defining-Terrorism-Is-One-Mans-Terrorist-Another-Mans-Freedom-Fighter [11/6/2016]
6 Donna M. Schlagheck, International Terrorism in Introduction to Concepts and Actors, (Lexington Books, 1988) PP.4-8.

resistance by the occupied peoples against the foreign powers that colonized them[7].

C. The Consequences of The Difficulty of Definition

It was the main consequences of the difficulty of defining terrorism, whether at the international level or at the national level and where it was difficult to consider terrorism a crime in the absence of a definition in accordance with the principle of legality of offenses and penalties.

It is commonly said that the terrorist - in the eyes of some people – is a warrior for freedom, and in the eyes of some other is a criminal. Mixing images of terrorism with political violence, such as political crimes and wars of all kinds, whether they are conventional wars or wars of liberation or gangs, as well as mixed with the images of organized crimes, cross-border, disobedience and coups.

And more other results as support of some countries for terrorist groups under the pretext of liberation movements, and standing some countries in the face of liberal movements on the pretext of terrorism and terrorists[8].

---

[7] Noelle Higgins, Regulating the Use of Force in Wars of National Liberation in the Need for a New Regime: A Study of the South Moluccas and Aceh, (BRILL, 2009). P.83.
[8] Imam H. Khalil, Op.Cit, PP. 30-31.

1.2 History of Terrorism:

On November 24, 1917, a bomb believed to have been planted by rebels killed nine police officers in Milwaukee, Wisconsin[9] . On June 2, 1919, rebels were doubted of setting a series of bombs in eight cities, including Washington, D.C., where a bomb somewhat damaged the home of Attorney General A. Mitchell Palmer.[10] On September 16, 1920, an explosive-laden car exploded on Wall Street, opposite from the headquarters of J.P. Morgan & Company, wounding 300 and killing[11]. September 11, 2001, was not America's first contact with terrorist violence[12]. Attacks in 1886 at Haymarket Square in Chicago throughout the labor rally[13], also the Los Angeles Times Building in 1910 during the labor conflict[14], And in (1963) at Birmingham, Alabama's 16th Street Baptist Church are only a few earlier examples of chaotic violence[15]. Several subjects are more surrounded with myths and delusions than terrorism. Historical knowledge is necessary if we are to place the modern terrorism problems in proper perspective.

The word "terrorism" originates from the French Revolution and the "Reign of Terror," when terror was used as an instrument of state policy. Terror was used for eliminating counterrevolutionary components in the population, saving France from chaos and military defeat, and overcome profiteering. Unapologetic about the use of terror to remove political opponents, Robespierre, the radical leader, said that "Terror is nothing but justice, prompt, severe and inflexible." An approximated 40,000

---

[9] Bobby Tanzilo, 'Strang Delves into Legal Side of 1917 Milwaukee Bomb', (2013)
http://onmilwaukee.com/ent/articles/strang1917.html [11/6/2016].
[10] Kathy Weiser, "American History 1919 Anarchist Bombings". (2014).
http://www.legendsofamerica.com/ah-1919bombings.html [11/5/2016].
[11] A Byte Out of History Terror on Wall Street. (2007).
https://www.fbi.gov/news/stories/2007/september/wallstreet_091307 [11/5/2016].
[12] Thierry Tardy, Peace Operations after 11 September 2001, (Published by Frank Cass USA and Canada, 2004).
[13] Evan Andrews, 'Remembering the Haymarket Riot'. (2016)
http://www.history.com/news/remembering-the-haymarket-riot [11/5/2016].
[14] Lew Irwin, 'Bombing of the Times in 1910 Set Labor Back a Generation'. (2010).http://articles.latimes.com/2010/oct/03/opinion/la-oe-irwin-bombing-20101003 [11/5/2016].
[15] Jon Meacham, 'Fifty Years after Bombing, Birmingham is Resurrected', (2013).
http://content.time.com/time/magazine/article/0,9171,2151804,00.html [11/5/2016].

people were condemned to death during the Terror in France. Collectively, about 12,000 people were executed during the reign of terror[16].

Modern terrorism occurred in Tsarist Russia in the 1870s. Enemies of the Tsar's government had three main aims:

• To advertise grievances and establish support throughout the "propaganda of the deed".

• To make government destabilize and split the population.

• To make authorities to overreact and generate international sympathy for the perpetrators case[17].

Terrorist tactics were finally adopted by some dissident groups in the Ottoman and British Empires and by some rebels in Western Europe and the United States. Assassination attempts on heads of state and bomb attacks on public buildings were the typical form of terrorism in late nineteenth- and early-twentieth-century. Between 1880, two U.S. presidents, the president of France, an Austrian empress, a Spanish prime minister, an Italian king, were assassinated. Efforts were also made on the life of a German chancellor and emperor[18].

Another misunderstanding is that terrorism is primarily a Middle Eastern or liberal phenomenon. In fact, terrorism has been practiced by many groups in different parts of the world for various purposes. Current events underline the terrorism's complexity. Through the days surrounding the September 11th, 2001, attack, there were at least three other attacks that might be characterized as acts of terror: In Colombia, right-wing paramilitaries murdered fifteen villagers they accused of helping with Marxist guerrillas. In Londonderry, Northern Ireland, the "Real IRA" set a roadside bomb, aiming three police officers. During the late nineteenth and early twentieth century, terrorism was regularly ideologically motivated and found its

---

[16] J. M. Thompson, Robespierre and the French Revolution, Contributors, (Publisher English Universities Press, London, 1952).

[17] Graham Gamblin, Terrorism in Russian Populism and European Anarchism in the 1870s: A Comparative Analysis, Research Papers in Russian and East European Studies, (November 1998). PP. 5-6.

[18] Ismael Ghazal, Terrorism and International Law, The Third Edition (Beirut: the future of the Arab House, 1990) P. 23.

biggest support among anarchists longing to overthrow governments seen as corrupt or oppressive[19].

Terrorism appeared on the world stage with the (1972) murder of eleven Israeli athletes at the (1972) Munich Olympics, to end the Israeli occupation of their areas and establish a Palestinian homeland[20]. The Abu Nidal organization was the most feared group, which split from the Palestinian Liberation Organization in (1974), had nearly 500 hard-core members. Latterly, the Aum sect in Japan, which was held responsible for the nerve gas attack on the Tokyo subway[21], and the radical wing of the militia movement in the United States, increased public awareness of the threat of internal terrorism in world's most prosperous countries. In current years, there has been an outbreak of public warning about cyber-terrorists, eco-terrorists, and narco-terrorists.

Another misunderstanding is that terrorists are a direct answer to oppression. In fact, few actions of terrorism have been directed against particularly brutal regimes, such as Stalin's Soviet Union or Hitler's Germany.

Terrorism is aimed primarily against governments that allow a free press and that are receptive to public opinion. Neither there is not much evidence to imply that those who perpetrate acts of terror are poorly educated, impoverished, emotional youths[22]. Admittedly, many of the accused World Trade Center attackers were grown, usually well-trained and highly educated adults, with families, who had spent years in Western Europe or the United States. The historical record is diverse. In some cases, terrorism has indeed managed to accomplish political ends. Terrorism accompanied the struggles to obtain independence from colonial control in for Algeria, Israel, and Kenya. Terrorist violence also happened in the overthrow of the apartheid regime in South Africa. But it appears likely in each of these cases that independence would have been achieved even if the terrorist violence were absence. In other cases in the

---

[19] Mohamed Ab. Kader, Terrorism Defined its Inception Types of Treatment History (Amman: Arab House, 2006) P.15, 72.

[20] Jonas George. Vengeance the True Story of an Israeli Counter-Terrorist Team. (Canada, Lester&Orpen Dennys,1984) P.1.

[21] James J. F. Forest, Countering Terrorism and Insurgency in the 21st Century: International Perspectives. (British Library Cataoguing in Publication Data is Available, 2007) PP.549-569. Also See http://www.nytimes.com/1995/05/16/world/japanese-arrest-cult-leader-blamed-in-poison-gas-attacks.html

[22] Brooke Barnett & Amy Reynolds. Terrorism and the Press an Uneasy Relationship. (New York, Peter Lang, 2009) PP. 139-159.

Palestinian territories and in Chechnya in the Russian Republic, terrorism has been less successful. In these areas of the world, it seems that suicide bombings and other attacks strengthened the will of governments and may even have united divided populations[23].

Terrorism has provided small groups to exercise an influence disproportion to their size. The Symbioses Liberation Army, in the (1973), attracted wide attention in the United States, had just fife members[24]. The Baader Meinhof Gant several dozen members[25]. In Colombia, the Tupamaros numbered about 3,000[26]. Each of these groups attracted extensive notoriety. In some other cases, notably in Northern Ireland and Quebec, terrorism became the preface to peaceful political transformations. In Canada, Quebec separatists robbed armories and set off bombs throughout the 1960s in an attempt to establish a separate French-speaking country. In (1970), they killed a Quebec, cabinet minister[27]. But separatists ultimately attained provincial power. In general, it seems that terrorism has been most successful when its aim has been to end colonial control, in part been wearing down a colonial power's will and partly by getting international recognition for the legality of the perpetrators' intentions. It has been less successful in overthrowing existing regimes. The most successful terrorists have been separatist or nationalist organizations because their religious and ethnic appeal has guaranteed them mass support, or because they have gained support from external powers[28].

In recent years, terrorism has shifted in its origins, goals, and methods. First of all, there has been a drift away from state-sponsored terror to terror executed by individuals or individual organizations.

According to the U.S. Department of State, there were 189 state-sponsored terrorism acts in (1987), contrasted to (1998) which had no more than 15 attacks. Four of the

[23] Andrew H. Kydd and Barbara F. Walter, The Strategies of Terrorism (Published by: the MIT Press,2012) PP. 49-80
[24] Chris Suellentrop, "What Is The Symbionese Liberation Army?" (2006). http://www.slate.com/articles/news_and_politics/explainer/2002/01/what_is_the_symbionese_liberation_army.html [11/5/2016].
[25] BBC News, 'Who Were the Baader-Meinhof gang?' (2007) http://news.bbc.co.uk/2/hi/europe/6314559.stm [11/5/2016].
[26] Christopher Minster, "The Tupamaros Uruguay's Marxist Revolutionaries. (2016) http://latinamericanhistory.about.com/od/20thcenturylatinamerica/a/tupamaro.htm [12/5/2016].
[27] Please see http://www.thecanadianencyclopedia.ca/en/article/front-de-liberation-du-quebec/
[28] Muhammad A. Shukri, International Terrorism and the Current Global Cystem, (Published by Alnashron Lebanon, 1999). PP.35-41.

countries that frequently appear on the State Department list of terrorist sponsors—Libya, Cuba, North Korea, and Syria—have not been involved in any association in international terrorist attacks in more than ten years. Furthermore, tightly organized terrorist groups have given way to more amorphous terrorist networks[29].

---

[29] Please see http://fas.org/irp/threat/terror_97/sponsored.html
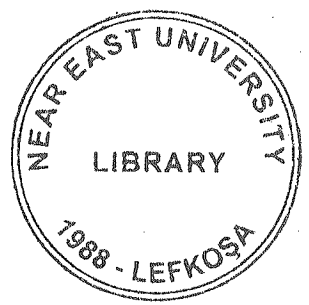
CHAPTER TWO: International Terrorism

2.1: Terrorism in International Law

International terrorism is that has international character in one of its elements and its components, when one of the parties is international whether they are persons or things or places, or the target is international such as the abuse of international relations. The terrorism is a legal concept of a political dimension, and the lack of desire to reach a common definition reflects the reality of the global political situation and the recent American crisis related to the events of 11, September 2001 shows the validity of this conclusion, the obvious desire of the United States is the only to establish an international coalition to lead the world to serve the interests of the world, and countries involved with terrorism's disease[30].

The pace of terrorist operations have raised heavily in recent decades in various regions of the world, both in terms of risks and forms or to what extent it takes place or to the number of organizations involved. If some countries have unanimously agreed on the seriousness of this scourge and stressed the need to confront, they differed in their approach as a result these operations are growing steadily. They hardly combine that the phenomenon "international terrorism" has become a major challenge to the entire international community in view of security, political and economic challenges that have become posed in front of various countries from north to south. The operations which affected a number of countries in recent times, have confirmed that the risks exceed the risk of regular wars for their gravity, targeting strategic installations, vital interests and the tragic human losses. After the operations of "terrorist" were carried out in accordance with traditional methods and leaving

---

[30] Amal Yazji, International terrorism, the Current World Order, First Edition (Damascus: Contemporary Thought House, 2002) P.129.

behind victims and limited losses in groups and targeted enterprises, it is done now with very critical and developed ways taking advantage of modern technology. In spite of the various local efforts and conventions that have been made in order to reduce this phenomenon, they were not effective as required where it showed that the phenomenon is on increasing, growing gravity and wide spread. We can say that the international community's inability to formulate an accurate and agreed concept on this phenomenon, is because of variation backgrounds of self-interest, ideological and religious for researchers, intellectuals and politicians who took this phenomenon, they contributed significantly in deficiency of measures and procedures various that tried to approach this trans boundary phenomenon[31].

Accusing the Nazis of the French fighters during the German occupation of France during World War II, as terrorists, did not change ever that they were and still in the eyes of everyone are the freedom fighters[32], a question here is "Do you think the people we see as terrorists today such as Palestine, Lebanon, Iraq, Somalia and other countries, will be seen as freedom fighters by the world in the future??" Also accusing British of Jews a day as terrorists, they did not hesitate to provide them militarily and humanly with thousands of Jews who were allowed to immigrate to Palestine, despite their committing to all forms of terrorism[33].

The term terrorism became anti-Americanism among the successive administrations in the United States, as it is defined by the US executive authority alone, however, the makers of American policy chanting echo of this thinking strongly when they reject the notion "it is considered a terrorist from the viewpoint of one of them, is a hero or a fighter for freedom from another point of view"[34].

Finally, we have to say that the difficulty of the international agreement on the definition of terrorism leads us to the conclusion that the Anti-terrorist operation stems necessarily from inspired definition of terrorism, therefore the international struggle against terrorism and in the absence of a serious concept that satisfy people of the world, remains a relative, but useless. Therefore, we had to identify first the

---

[31] David Carlton & Carlo Schaerf, International Terrorism and World Security, Volume 3 of Routledge Library Editions: Terrorism and Insurgency, (Routledge, 2015). P.28.
[32] Sukhvinder Jutla, Peace Through Personal Growth, (Xlibris Corporation, 2013). P.3.
[33] Please see http://www.tandfonline.com/doi/full/10.1080/03086534.2015.1083220 .
[34] Abdel N. Hariz, Political Terrorism, In Analytical Study, (Madbouly Library, 2008). P.198. Also, Jack WHITELEY, "One Person's Terrorist Is Another Person's Freedom Fighter", (2010). http://www.e-ir.info/2010/02/02/%E2%80%98one-person%E2%80%99s-terrorist-is-another-person%E2%80%99s-freedom-fighter%E2%80%99/ [11/6/2016].

causes that lead to terrorism and then the international favorable environment for terrorism as follows:

First: The Reasons That Lead To Terrorism

The reasons of the existence of the terrorism phenomenon and increasing are multiple and distributed to different fields of political - economic - social - psychological and others, the study of these reasons is important and very difficult, since this study should precede the other study of the most complex problems facing the people and the international and local community. However, it remains an important, desirable and necessary, it cannot eliminate the phenomenon if its causes are not treated, so the main issue that facing to determine the causes of the phenomenon is the difference of views in analyzing the same phenomenon and the reason for these differences are due to differing in interpretations of the political, economic, social and cultural problems that result from this phenomenon[35].

Due to the particularity of terrorism as a behavior criminal, it cannot deny the role of race in terrorism, but also in the emergence of certain types of it, such as racial terrorism practiced by sects against members of a minority, or ethnic terrorism that arises between ethnic groups. Terrorism maybe racial separatist when one element demands to secede from the state with a part of the region such as number of minorities in the world requiring to secede from the central state[36], for example the Tamil community in Sri Lanka[37].

The international community considered that the crimes of racial discrimination and differentiation on the basis of race or sex, are crimes against humanity[38], that threaten international peace and security, but still some countries exercise racial terrorism up to now, whether through official authority or some specialized groups, for example,

---

[35] Rex A. Hudson, Who Becomes a Terrorist and Why: the 1999 Government Report on Profiling Terrorists, (Lyons Press, 2002). P.224.

[36] Rene A. Larche, Global Terrorism Issues and Developments, (New York, Nova Publishers, 2008). PP.30-33.

[37] Asanga Abeygoonasekera and Rohan Gunaratna, "Reconciliation after Terrorism: The Sri Lankan Experience", (2012). http://dbsjeyaraj.com/dbsj/archives/10144 [11/6/2016].

[38] Declaration on Race and Racial Prejudice, Adopted and Proclaimed by the General Conference Of The United Nations Educational, Scientific and Cultural Organization at its Twentieth Session, on 27 November 1978.

US (KKK) group which practice their operations against blacks[39]. This kind of terrorism is the racist terrorism, which are several in the contemporary international community, such as the Tamil groups in Sri Lanka, which suffered brutal campaigns of the majority Sinhalese, that pushed them to make the campaigns anti-violence against the Sinhalese, as well as the Sikhs group in India[40], and other ethnic groups in various countries such as Italy, Cameroon, Malaysia, Sudan and Burundi (between the Hutu and Tutsi tribes)[41], these tribal or ethnic or racial conflicts essentially due to try eliminating the strain or particular sex behind many of the terrorist acts committed by organizations and groups with high degree of organization and financing, also authorities nations that claim for democracy such as Israel, while other countries remain silent on the genocide campaigns against some peoples, like the massacres of Bosnia and Herzegovina, which had been for few years without moving the democratic western countries against the brutal tactics of Serbian to eliminate the Muslim entity in this land[42].

Second: The International Favorable Environment for Terrorism

The international environment with their dominant values and ideas, what it is governed by the rules and regulations, and what undergoes from succession of changes, no doubt, it affects the behavior of individuals and nations alike that may lead to the emergence of some new phenomenon on the international community. We must say that terrorism phenomenon is not new to the international community, but what we want to get to it, is that this phenomenon may have been affected throughout the ages due to the circumstances experienced by the international community. International political, economic and social conditions effect on terrorism negatively or positively, due in particular to the acquisition of terrorism recently a visible international dimension, after the traditional methods of armed

---

[39] Jon Levine, "7 Facts About How The KKK Is Operating In The United States Today". (2015). https://mic.com/articles/121628/7-facts-about-the-kkk-operating-in-america-today#.npGBYAnDl [11/6/2016].

[40] Divya Goyal, Punjab 'Ghar Wapsi' in Hindu Groups Woo Sehajdhari Sikhs, (2016). http://indianexpress.com/article/india/india-news-india/punjab-ghar-wapsi-hindu-groups-woo-sehajdhari-sikhs/ [11/6/2016].

[41] BBC News, "Rwanda: How the Genocide Happened". (2011). http://www.bbc.com/news/world-africa-13431486 [11/6/2016].

[42] Steven L. Burg & Paul S. Shoup, Ethnic Conflict and International Intervention in Crisis in Bosnia-Herzegovina, 1990-93, (New York, Routledge, 2015). P.38.

conflict elapsed, the Cold War period ended, and communist regimes collapsed which is accused by Western countries of supporting terrorism and practicing it, there is no longer a single power dominates the world which has many effects on various aspects of political, economic, social and cultural life at the level of the whole world[43].

Here we have to focus on the most important conditions experienced by the international community, which create the environment to commit terrorist crimes at the state level or the international level, these conditions include political, economic, cultural and international as follows:

A. International Political Motives Of Terrorism:

The situation that led to the international situation at the political level no doubt it provides a favorable environment to exercise terrorism, we can revenue some of these politically motivated as follows:

• The fall of the communist as a military alliance and freed the United States with the authority of order and prevention in the international community, during the communism it was seen as the source and support of terrorism, the collapse of the old ideologies and the search for new ideologies led to the growing terrorist movements[44].

• The shameful situation, what is called for new world system, and the inability of the UN Security Council from taking legal or serious moral position about what's going on violations of certain groups in the world and in different areas, which justifies the use of violence by these groups to defend their presence at the extermination campaigns that they exposed[45].

• Ethnic conflicts in different regions, which takes the armed character, it uses terrorist tactics at the international level against the interests of some ethnic groups[46].

---

[43] Chris E. Stout, the Psychology of Terrorism: Theoretical Understandings and Perspectives, Volume 3, (Greenwood Publishing Group, 2002). PP.10-14.
[44] Daniel E. Price, Sacred Terror: How Faith Becomes Lethal, (California-Santa Barbara, 2012). P.27.
[45] David P. Forsythe and Patrice C. McMahon, Human Rights and Diversity: Area Studies Revisited Volume 7 of Human Rights in International Perspective, (U of Nebraska Press, 2003). P.297.
[46] Judy Carter and others, Regional and Ethnic Conflicts: Perspectives from the Front Lines, (London & New York, Routledge, 2015). P.174.

• Some peoples unable so far to get its independence and its right to self-determination, despite international decisions, which combine the right to enjoy complete independence and freedom on its territory, this leads to pushing the national liberation movements to do some operations outside the borders of their state against the interests of colonial powers or those states that support, to weaken these systems and its supporters, also to draw the attention of the international community to its cause through the use of the same language used by the colonial powers[47].

• The success of some of the revolutionary movements, which were used terrorist tactics to access the power, at that time and present such as (Mao Zedong - the Iranian Revolution), which has encouraged many terrorist movements on covert action to gain the power[48].

• The use of terrorism as an alternative to traditional warfare, with a faster recipe impact, and less expensive to obtain political gains and privileges at the international level, to continue instability and tension in some areas, groups are also used to influence the situations of some countries politically to stand by their side[49].

• The existence of tension in most countries of the world, whether in the Middle East or Latin America or Europe, as well as the colonial sediment, which contributes to terrorist activities[50].

• The success of some resistance movements in following the methods of terrorism in repelling the attacks of some major countries, the Vietnam War had provided revolutionaries the intellectual intake and model which emulated in the resistance through the use of non-traditional means of violence[51].

• Imperialist expansion, which carries the aggressiveness because it does not respect non-nationalist, religious and political boundaries, which lead to the destruction of

---

[47] Taylor & Francis Group, the Middle East and North Africa 2004, 50th Edition, (London & New York, 2004). P.162.
[48] Janet Afary & Kevin B. Anderson, Foucault and the Iranian Revolution in Gender and the Seductions of Islamism, (University of Chicago Press, 2010). P.123.
[49] Shmuel Shapira and others, Essentials of Terror Medicine, (Springer Science & Business Media, 2008). P.15.
[50] Christopher Blake and others, Policing Terrorism in Policing Matters Series, (New Delhi, Sage, 2012). P.5.
[51]Dominic Tweedie, "Political and Military Forces in Revolutionary War", (1980).
https://www.marxists.org/reference/archive/le-duan/works/1967/x01.htm [11/6/2016].

civilizations and entities or emergence of conflicts that encourage violence and terrorism movements[52].

• Some attribute the roots of terrorism to the freedom enjoyed by opened western society, where the east exploits it in the practice of terrorism within western state, so western nations become the oppressed victim of its virtues[53].

B. Economic motives for terrorism:

The economic conditions at the international level, no doubt affect one way or another on the direction of groups and countries on terrorism[54], and proof of that is the emergence of left-wing communist organizations intent to eliminate the capitalist systems, as representing the monopoly, the lack of justice and inequality, besides currents appeared to resist these organizations and worked on maintaining the existing conditions in the community, which lead to breed violence and counter-violence. The process of socialist transformation at the end of the sixties of the last century sparked a sense of the individual and social dispersion, also the emergence of new roles and social models created by the industrial society, which did not work with others to repel them such as Iraq, as well as such models did not reduce the growing complexity of living so the economic crises appeared which produced conditions that may help to grow or emergence of movements that practice violence and terrorism[55].

In addition, the terrorist operations in many countries, designed to affect the national economy's ability by hitting its sources, the economic factor at the international level becomes the motivation for terrorism too as economic effects arising from the September 11 attacks56, where most groups and countries involved in acts of terrorism are groups and poor countries as a result of the deteriorating economy.

---

[52] Richard Bulliet and others, The Earth and its Peoples: A Global History, No. 6, (Cengage Learning, 2014). P.859.
[53] Cas Mudde, "The Brussels Attacks and the New Normal of Terrorism in Western Europe", (2016). http://www.huffingtonpost.com/cas-mudde/the-brussels-attacks-and_b_9521360.html [11/6/2016]
[54] Walter Enders, Todd Sandler, the Political Economy of Terrorism, No 2, (New York, Cambridge University Press, 2011) P.288.

[55] Anatole Anton and Richard Schmitt, Toward a New Socialism, (UK, Lexington Books, 2007). P.446.
[56] Kimberly Amadeo, "How the 9/11 Attacks Still Affect the Economy Today", (2016) http://useconomy.about.com/od/Financial-Crisis/f/911-Attacks-Economic-Impact.htm [11/6/2016]

There are even the economies of some countries based on criminal activities, and then these countries create an environment for terrorism, in order to get the role desired by the international level after they realized their inability to affect the weakness of their economic resources like Somalia[57]. Terrorism can be practiced at the state level to get rid of foreign exploitation of the capabilities of people and resources, or to damage the economics of a particular state by destroying their industrial and commercial facility, which is a mean to put pressure on it to change their political and economic situations. The economic aid may also be used for some countries as a pretext to interfere in their internal affairs or maintaining international stability and protecting minorities, which were caused rejection by some countries and stand against them through acts of violence, like what happened with Tutsi in Rwanda in 1994 after UN left it[58].

C. International cultural motivations for terrorism:

The cultural factors that affect the human thoughts may sometimes push him to commit a crime, and this saying applies to the national and international levels. Multiple and contradictory cultures deployed in different periods of the world, which influenced in resorting individual to terrorism, and the most important of these cultures are religious and ethnic cultures and the culture of violence. We can say explicitly that western culture model is responsible for most of the terrorist movements generated in developing countries, because states take culture to various countries, it also provides it with armed force to protect this cultural model and defend it, and then they do not find it difficult to publish this culture, which owns the published elements. But this culture despite to contradicting it in many ways with the cultures of countries that are received, they may not limit the acclaim from the majority, if the state do not move to stop them or purify from inclusions to eliminate it exposure with the original national culture, there are groups will take it upon themselves to fight this culture in all various forms, methods and means, and that

---

[57] Brian J. Hesse, Somalia: State Collapse, Terrorism and Piracy, (New York, Routledge, 2013). P.34.
[58] Athan Tashobya, "Genocide Against Tutsi Remains 'Painful Lesson' to UN – Manneh" (2016) http://www.newtimes.co.rw/section/article/2016-04-16/199004/ [11/6/2016]

these groups will not fail in recruiting many young people due to the culture, which often go with their identities and make them feel alienated[59].

The role of culture also showed in the religious side, and the apparent of religious intolerance movements in some areas as a result of raising the spirit of extremism in religion, there are many examples in various countries around the world including: Sikhs in India, Jewish extremists in Israel, and groups of political Islam in a number of countries Arab, thus the conflicts of the sectarian, ethnic, religious or racial divisions replaced the international conflict[60].

Many groups of violence and extremism in various countries around the world grew up on that impact. Briefly, the fear of cultural invasion leads to violence, all human beings are sensitive for threatening the values that govern them; such as language, belonging and the earth, so the probability of losing any of these items could spark a reaction the religion is more cultural values influence. Directed threat at an individual's religion, not only put present in danger, but the cultural past of the individual and also the future, so religions are confident as they are right[61].

The state as a political and independent entity has a role in supporting international terrorism through the silence and condoning terrorist acts or terrorist groups which are residing on its territory, through the aid they provide to those groups in multiple formats, till the state itself practice terrorism against another state, as it is done by the United States of organized terrorism against a number of countries in the world in Iraq, Afghanistan, Lebanon, Somalia and other foreign countries, in addition to the role of the intelligence of some countries in creating some terrorist organizations and finance them to work for them, in order to promote and trigger seditions in some countries, to serve their purposes[62].

International terrorism cannot separate the measures that should be taken to combat all causes, figuring reasons is a prerequisite for measures, there are general conditions created the opportunity for this terrorism, for example:

---

[59] Assaf Moghadam, William L. Eubank, the Roots of Terrorism, (New York, Infobase Publishing, 2006).P.91.

[60] Dawn Perlmutter, Investigating Religious Terrorism and Ritualistic Crimes, (Washington D.C, CRC Press, 2003) P.8.

[61] David Canter, the Faces of Terrorism: Multidisciplinary Perspectives, (John Wiley & Sons, 2009). P.47.

[62] Steve Coll, Ghost Wars: The Secret History of the CIA, Afghanistan, and Bin Laden, from the Soviet Invasion to September 10, 2001, (New York, Penguin, 2004) PP.3-17.

- Success in gaining short-term goals, encourages to compete and survive[63].

- Flow of information and spread them around technology and armed tactics through the media and the culture of terrorism[64].

- Avoid entering into international wars that their consequences are unsafe[65].

- Encouraging states to terrorism and provided training facilities for terrorist movements[66].

- The tremendous developments in the media, and increasing in international news which cover the events, increased the chances of terrorists and their appetites[67].

Overall, we can say that terrorism as a contemporary global phenomenon reflects a crisis of conscience and crisis of ethics that dominates the global political system and the economy of international political system to beam in response to the irregularities and violations that posed to covenants, with punitive and comprehensive international sanctions against the tampering appearances and international idleness, as well as submitting of many countries and governments or their conniving with international terrorism organizations that put under the hands of these organizations the broad possibilities to help them implement terrorist plots, also integration, coordination and exchange between the terror organizations, and technological progress. In addition to the negative attitudes of the countries in the face of terrorism and lack of seriousness participation in combat, this had an important impact in expanding the phenomenon of terrorism.

[63] Bruno S. Frey, Dealing with Terrorism: Stick or Carrot? (UK, Edward Elgar Publishing, 2004). P.21
[64] U.S. Army Intelligence Center, "Military Intelligence", Vo 11, Issue 4 (1985) P.34
[65] Giuseppe Nesi, International Cooperation in Counter-terrorism: the United Nations and Regional Organizations in the Fight Against Terrorism, (New York, Routledge, 2016) P.30
[66] Christopher W. Ross, Patterns of Global Terrorism 1997, (Diane Publishing, 1998). P. 29
[67] Jeffrey D. Simon, the Terrorist Trap: America's Experience with Terrorism, Second Edition (Bloomington Indiana University Press, 2001). P. 10.

2.2 National Liberation Movements:

There is correlation interaction and integration between social phenomena, legal, and jurisprudential attitudes. Since ancient times, without people resistance to the aggressors the resistance thought world not to be able to determine the relationship between the occupation authorities and the population of the occupied territories with the continuation of the relationship of loyalty and subordination to the state of origin and the absence of any obligation of obedience to the state of the occupation. But the cruel resistance of practiced by the people under the flak of occupation in order to defend their presence and dignity prominent impact and active role in developing the provisions of the low of belligerent occupation in the area of prohibition of injustice and seizure, maintaining the state sovereignty, authorizing, self-defense requesting freedom and protecting independence. If we read the provisions of the contemporary public international law, we will not find any rule without commanding the population of the occupied territories to do the acts of the national resistance either armed or non-armed. The modern international jurisprudence didn't miss the opportunity in this field and considered that these people have the right to revolt against the occupation authorities and that their national-duty requires them to restore to resistance[68].

The people have right of resistance against occupation and their struggle in order to be liberated from subordination, exploitation and colonialism is a legislated right notarized and voted by all provisions and principles of the contemporary public international law.

The United Nations charter in first article state that one of the United Nations aims is to develop the international relationships between nations on the base of respecting the standard of rights, equivalents, self-determination of nations, and to take other measures to support world peace[69]. Also, the declaration that the state on granting independence to colonial countries and regions declared by the general assembly of the United Nations on (1960), refers to that the subjection of nations to alien's subjugation, control, and exploitation constitutes a denial of fundamental human

---

[68] Shafik Masri, To Combat Terrorism in International Law, East Affairs Issue. (Cairo, House Legal Books, 1998) P.15.
[69] Charter of the United Nations 1945, Article 1 paragraph 2.

rights. And is contrary to the charter of the United Nations and hinders the international peace and cooperation case, it also ensures that all nations have the right of self-determination and according to this right they can freely seek their economic, social, and cultural affiliation[70].

In addition to that, the United Nations General Assembly in its resolution (No 2621/5) has confirmed that :the rights of people of colonies are beyond dispute to fight in various methods available to them against the colonial countries that suppress their aspirations for freedom and independence[71]. The principle of nation's rights of self-determination is one of the major aims of the United Nations, it's also considered one of the important foundations for international peace keeping and security. And on the base of people right to self-determination, each nation has the right to use all methods to gain its rights including the armed struggle.

In 10/24/1970, the General Assembly of the United Nations issued under the number (2625) (the Declaration on Principles of Private International Law concerning Friendly Relations and Cooperation among States, in accordance with the Charter of the United Nations), in which it says: (if every State to refrain from the asylum to any coercive measure would deprive peoples of their right to self-determination and freedom and independence. And when this Nations shiver and resist through practicing its right in determining its fate, forced arrangements like this, it has the right to contact and ask for getting the support that suits goals of the treaty and its principles. If we revision most of the decisions issued by -Public associations of United State- we will find a term repeats yearly since middle of seventeenth of the last century including reconfirmation of the association on the legality of the struggle of the Nations in order to gain independence, region peace, National unity, liberty from domination of foreign colonization, and from foreign control, by using all the ways including armed struggle. we confirm that in this field international general law admit the rights of all nations in resisting enemy, not the legality nation struggle or the legality of the liberation war, to get rid of the occupation of the international law,

---

[70] Declaration on the Granting of Independence to Colonial Countries and Peoples, General Assembly Resolution 1514 (XV) of 14 December 1960.
[71] Programme of Action for the Full Implementation of the Declaration on the Granting of Independence to Colonial Countries Peoples, General Assembly Resolution 2621 (XXV) 12 October 1970.

but it is a matte that have been found and subtracted in the second half of the nineteenth century when first try of codification war rules[72].

We can see clearly in the beginning of documents and agreements in all around the world that devote and support the principles related to the right of struggle and its legality, The Hague congress agreement, second article of The Hague agreement 1907 nation: (Either are upright or tremble against the enemy) that a citizen has not been occupied areas those who are holding weapon and fighting the enemy, it was either an order from their government or defending their nationality and duty[73].

There are a lot of examples that can be mentioned for this matter, when the governor regimes collapsed against Nazi, people raised up or part of them and replaced governments in practicing the right of defending of land and independency, and the nation defiance was the controller at that time. Great countries admitted the legality of this defiance and deal with it as a legal example for is nations, and provided it with money and weapon, allowed to open official offices and training centers in its areas, that all the kinds of struggling in Europa had the sympathy of the United States and its support. In August 1943, United States, former Soviet Union, and British that approved French resistance[74]. In January, 1942, the foreign minister of United State of America issued a statement supporting the Albany resistance against Italian occupation, and the peace treaty with Italy in (1947) approved the Albany resistance[75]. Different legal philosophies were devoting the people right to stand against the government. Here the American resistance must be mentioned against British occupation, and former Soviet Union resistance against the Nazi occupation during second would war, the nation resistance and command of army were fighting behind enemy lines. This resistance had a great chance in destroying Germany force

---

[72] General Assembly Resolution 2625 (XXV) of 24 October 1970. Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the United Nations.
[73] The Hague Convention 1907, Article 2.
[74] Ernest R. May, Angeliki E. Laiou, The Dumbarton Oaks Conversations and the United Nations, 1944-1994, (Washington D.C, Dumbarton Oaks, 1998). P. 57.
[75] Please see TREATY OF PEACE WITH ITALY, in the link, https://www.loc.gov/law/help/us-treaties/bevans/m-ust000004-0311.pdf . Also, United States. Congress, Congressional Record: Proceedings and Debates of the Congress, Volume 106, Part 12, (U.S. Government Printing Office, 1960) P.15360.

and now it is the same case with liberated Syrian army against the regime of Bashar Al Assad, also Libyan revolution against the president Mummer Gadhafi[76].

---

[76] Ibrahim Mchorb, National Resistance and International Law, parliamentary life, Vol. (21) Beirut, 1996, P.57,58.a

Chapter Three: Armed Conflicts

3.1 International Armed Conflicts:

There is no doubt that the international armed conflicts are the most popular form of dispute subjected to the rules in accordance with the international humanitarian law. Where all The Hague rules of 1899, 1907 and the Geneva conventions (except the third mutual article between the conventions) apply on armed conflict and occupation and it's also true on the First Additional Protocol[77].

Almost all the states have validated on the Fourth Geneva conventions of (1949) and its provisions relating to the protection of people who fall into the enemy's hands reflects the customary international law[78]. This is also particularly true in the section related to the occupation in the Fourth Geneva Convention, which highlights basic standards of managing the occupied lands and protecting the population caught up under the foreign occupation. Despite that the First Additional Protocol hasn't gain the world approval (161 states were members up to its date), there is no dispute that the bulk of its standards about the conduct of hostilities reflects customary international law. It was not easy to identify any legal issues, among many issues related to the international armed conflicts which needs to be studied in the framework of this research so I summarized them as follows:

A. Direct Participation in Hostility Acts:

According to the humanitarian law applied on the international armed disputes, civilians have immunity from attacks, unless they take a direct role in hostilities and

---

[77] The Hague Convention of (1899 & 1907). Also, Additional Protocol 1 in 1977 for Geneva Convention in 1949, Article 1/4.
[78] The Geneva Conventions of 1949 and Their Additional Protocols, https://www.icrc.org/eng/war-and-law/treaties-customary-law/geneva-conventions/overview-geneva-conventions.htm .

over time as they take this role, and what is beyond dispute that regardless of the loses of immunity against attack during the period of direct participation, civilians may be prosecuted criminally under national law simply because of their participation in hostilities. In other words, civilians do not enjoy ' the feature ' of the fighters or warriors has, where they are not subjected to the prosecution in case of carrying weapon, that's why sometimes they are referred to as fighters[79]. One of the cases which was the warriors' status "illegal" or "those who don't enjoy privileges" or the civilians' treatment who participated directly in the hostilities has risen a considerable controverts. This case is also related to the matter of what is the direct participation in hostilities, and this is what the International commission has begun to study it with the aid of legal experts[80].

There are currently a number of government and academic stands on the issue of status and treatment of civilians who were involved in the direct participation in hostilities and have fallen into the enemy's hands. A minority says that these people fall outside of any protection under international humanitarian law, while others say that the fighters (without privileges) are not covered, except by the common article 3 of Geneva Conventions[81] and article 75 from the First Additional Protocol [82], whether as law treaties or customary law. Based on this interpretation which is supported by the International Committee and others, the civilians who directly participate in the hostilities but meet the nationality criteria set while those who do not meet the standards in Fourth Geneva Conventions, remain protected persons under the Nationality agreement at least they are protected by the provisions of the mutual Article 3 of the Geneva Conventions and Article 75 of the First Additional Protocol whether as law treaties or customary law.

The International Committee does not consider the existence of a class of persons caused by international armed conflict or engaged in it outside the protection of international humanitarian law, or the presence of a gap presented by the law between the third and fourth conventions, any medium case that occurs to civilians

---

[79] Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977.Protection of the Civilian Population, Article 51/3.

[80]Nicolette Boehland, the People's Perspectives: Civilian Involvement in Armed Conflict, (Printed in the United States of America., 2015) P.45.

[81] Geneva Conventions 1949,Convention (3) Relative to the Treatment of Prisoners of War, Article 3

[82] Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977.

(fighters who do not have privileges) who meet the nationality criteria. As international humanitarian law stipulates that the fighters may not be subjected to the consequences of criminal because of their direct participation in hostilities and they have the status of prisoner of war in case of capture. The international humanitarian law doesn't prevent civilians from fighting for their countries[83], but avoid granting the status of war prisoners means that these people are not protected from prosecution under the applicable national laws when imprisoned. Here it should be noticed that the direct participation of civilian in hostilities is not considered a war crime.

Lack of immunity according to national sanctions, civilians who participate directly in hostilities lose their immunity from becoming the target of an attack during the period in which they are engaged in such acts. The civilians can also be detained by the enemy if their detention is absolutely necessary to the security of the state which detained them, and it can be considered that civilians lose certain rights and privileges during detention which stipulated in the Fourth Geneva Convention provided in article 5 and the customary international law[84]. It's difficult from the viewpoint of the International Committee to know what are other measures that should be applied to those people which may lead to unacceptable violations of people's lives and their dignity and physical integrity which are violations prohibited by the international humanitarian law and the human rights law.

Although the International Committee does not believe that there is the category of ' medium ' between combatants and insurgents in the international armed conflicts, but it is still questioning that what does a "direct" participation form in hostilities and how determine the time of participation "Over time as they do this role". The International Committee believes that, due to the consequences of the direct participation of the above mentioned and the importance of finding an applicable definition that would strengthen the principle of distinction, the idea of direct participation is a legal matter worthy of further study and meditation, and efforts should be done to get to the proposals to clarify this concept. Its importance is clear

---

[83]Geneva Convention 12 August 1949, Definition of Protected Persons, Convention (4) Relative to the Protection of Civilian Persons in Time of War.
[84] The Fourth Geneva Convention in 1949, Article 79 to141.

from the fact that civilians take part in hostilities in international and non-international armed conflicts are alike[85].

B. Related Cases to Ongoing Hostile Actions:

The set of principles of humanitarian international law about the progress of hostilities was one of the greatest achievement for diplomatic operation that made the First Additional Protocol in 1977 depend on Geneva conventions. Although most of the parts of this principle had the acceptance in wide scope and became a formal law in those years, as it's known that there is some ambiguity in forming which led to appearing different explanations, then in scientific applying. The changeable face of the war also that results from some factors, such as the permanent developments in military techniques, helped in appearing variant readings of related provisions, including identifying military goals, the principle of proportionality and specific legislations of precautionary measures.

1. Military Objectives:

During military operations, direct attacks should only be done to military objectives, generally identifying military objectives which stipulated in the First Additional Protocol is considered a reflection of the common international law the military objectives are limited to objects that have an effective contribution to military action either by their nature or positions or purpose or use, which achieve total or partial destruction, or occupy it or break it down, in the circumstances ruling at the time, offers a definite military advantage[86].

Since the First Additional Protocol includes general identification and not a limited list of military objectives, the armed parties involved in the struggle must act according to the strict condition stipulated in Article (52), that attack should target on objects that have an effective

---

[85] Nils Melzer, Legal Adviser, ICRC, Direct Participation in Hostilities under International Humanitarian Law, (ICRC, May 2009) P.38.

[86] Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977. General Protection of Civilian Objects, Article 52.

contribution to military action of the enemy, and they have the right to destroy it and occupy it or break it down, it is a certain military feature to the other party in suitable conditions at the time. In this way, those who involved to form the Protocol project except the contribution indirectly and cases that feature is generated which is uncertain, and without these two conditions it would be easy to undermine legal attacks on the objectives (military) then invalidate the principle of distinction.

Identifying military objectives from each distinction principle, forbidding undistinguished attacks, commitment duty of civil damage and proportionality principle, it can put the explanation which were presented in doctrines "Comprehensive war" which was including military objectives stating any target that can contribute effectively in destroying enemy's ways of defending and weakening his eagerness of fighting.

If the selected factor became the political or economic or social or psychological for objectives as some military books suggest, the evaluation of whether the objective is military or not, becomes under the control of estimations wildly and full of explanation such as the explanations that accept the attack on the moral condition of the population as a mean to effect on the enemy's ability of fighting that can lead to limitless war, the international committee can't support it. The step between being the cause to trouble the civilians population and being the reason behind destroying the essential understructure of civilian infrastructure, is a very small step actually and may cause the warriors turn an eye behind gradually at any form of restrictions when they choose objectives. A problem rises in what is related to double target use, are those objectives that serve citizen purposes and military purposes in the same time like airports and bridges. It should be confirmed that the expression (double use) is not a legal term, and the international committee sees that the nature of any target must be evaluated according to identifying military objectives in the First Additional Protocol, even the secondary military use may change such target into a military target. Attacking on such target can be done, even if it is illegal, if the effects on using civilian target is to desecrate the principle of proportionality, that's

mean if it is expected to produce a damage or wide citizen losses, or if the way of attacking has not being selected to avoid losses and wide damages between the citizen or at least to lessen such them[87].

2. The principle of proportionality during hostilities:

In order to save citizen and citizen witnesses from war scars as much as possible, the humanitarian international law forbids non-proportionate attacks, and disproportion attack is determined as the attack that can be expected to make losses of citizen lives or damaging them or damaging the civilian witnesses or can make a mix of losses and damages, it omits in exceeding to make that attack a touchable and direct military advantage[88].

The matter of disproportion disputes between the civilian losses and the expected military advantage, is a strict problem; in some cases there is place for some doubts, but some other times there is hesitation. In such complicated cases the victory must be for citizen people, and also it must be kept in mind that the humanitarian international law demands to give a constant care to save citizen and witnesses, it should not be neglected that even legal attacks, it may cause terrible sufferance for the citizen. Since the matter is related to the explanation of proportionality principle the phrase "Direct and touchable military advantage" becomes essential. It can't be ensured enough that the expected advantage should be a military advantage, and it usually earns land or destroys or weakens the military forces of the enemy. Also the expression "Direct and touchable" is to

---

[87] Article 52 of the First Additional Protocol of 1977 states:
1. Civilian objects shall not be the object of attack or of reprisals. Civilian objects are all objects which are not military objectives as defined in paragraph
2. Attacks shall be limited strictly to military objectives. In so far as objects are concerned, military objectives are limited to those objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage.
3. In case of doubt whether an object which is normally dedicated to civilian purposes, such as a place of worship, a house or other dwelling or a school, is being used to make an effective contribution to military action, it shall be presumed not to be so used.
[88] Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977. Article 51(b).

clarify that the supposed advantage must be large and proportion directly and removing the advantage that is hard to realize[89].

The civilian damages related to determine whether a certain attack is meant to sacrilege proportionate principle or not and the question appears about what damage related to selecting imagining balance in the First Additional Protocol. The attacks against the artificial industrial facilities or electricity networks or infrastructure specialized to communication for example which could be military objectives in certain cases, maybe causes a transverse damage to the life of civilian population and their peace. There are some possibilities to occur direct and indirect affects in a very high level, such as having death cases in medical facilities, breaking down electricity supplements for large periods of time, the environmental damage caused by targeting industrial chemical foundation by bombs, the lack of wide sectors of population caused by destruction of industrial foundations which offer the income of ten thousands of families. Also there are huge amounts of remnants of war potentially explosive that result from the attack, such as unexploded artillery shells or mortars or grenades, or small cluster munitions, which can have severe and far-reaching effects on the civilian population[90].

If the term of a military advantage had been enlarged it would make sense also to take repercussions into consideration, or those effects that are not directly and immediately caused by the attack, but it resulted from it. The ICRC believes that it should apply the same measurement related to both military advantage and civilian losses, which means that expected military advantage from a particular military operation must be measured against the loss or civil damages that expected from this process, including the repercussions. Since the modern societies distinguishes in interlock and increasing inter-dependence among themselves in many

[89] Ian Henderson, The Contemporary Law of Targeting, Volume 25 of International humanitarian law series, (Leiden-Boston, Martinus Nijhoff Publishers, 2009) P.197.
[90] U C Jha, Armed Conflict and Environmental Damage, (New Delhi, Vij Books India Pvt Ltd, 2014) P.69

fields such as infrastructure, communications and information systems, the subject of the repercussions become increasingly important[91].

3. Precautionary measures:

In order to implement the restriction and the ban on targeting and to reduce losses and civil damages. The certain rules about the precaution while the attack must be taken into consideration, and these rules are mentioned in article (57) in the First Additional Protocol, it applies on the planning operation of the attack and also on the attack itself. It reflects the common international law and it aims to ensure constant careful to avoid civilians and civilian witnesses during the hostilities. A lot of the stipulated commitments are not repudiated commitments, but it stands as "possible" at that time. Thus valuate authority is given to those who plan for the attack or decide about it, according to different explanations that had been presented while signing or approving on the First Additional Protocol and identification that related to mining "In its original modified form" And also in the Protocol related to the arms of the Holocaust to the Convention of 1980 on certain conventional weapons, the feasible precautions are "those negotiable or practicable with regard to all the circumstances at the time, including humanitarian and military considerations". One of the things that is subject to debate in this context is a matter of "objective assessment" (what must be assessed from the value of the target) the concept of ensuring the safety of the armed forces for the attack side when attacking. It seems impossible to defend it as an excuse for not taking up measures at all, and thus endangering the civilian population or civilian property at greater risk. Although under the national laws is the responsibility of the military commanders to protect their forces, it is the right of the fighters participating in the hostilities under the international humanitarian law, which is inherent due to legal attack from the enemy. Civilians, as long as they are not directly participating in the hostilities, they must not be the object of attack, as well as civilian

---

[91] Please see the link https://www.icrc.org/customary-ihl/eng/docs/v2_rul_rule14

property. Thus, the provisions of international humanitarian law clearly focused on the protection of civilians and civilian property[92].

In the conduct of hostilities, obligations are not imposed to ensure the protection of civilians and the civilian population only striker party, but there are also obligations on the side of the defender. Generally, the defender party has to take the necessary precautions to protect the civilian population and civilian personnel, as well as civilian property under the control of risks result from military operations, such as transfer them to military objectives zone or avoid locating military objectives within or near densely populated areas as much as possible. Civilians shall not be used as shields in any way for military targets against attack or as covers for hostilities[93].

3.2 National Armed Conflicts:

Perhaps the most important contained in the Geneva Conventions of 1949, is officially subjecting armed national conflicts of international law according to Third Common Article of those conventions, the Diplomatic Conference of 1949 has taken the first step of the countries to deal with the problem of non-international armed conflicts, by placing international legislation applicable to these disputes, but this article did not indicate explicitly the meaning of non-international armed conflict in order to apply its provisions. It is noted that this article did not apply the terms used in traditional international law, to express internal armed conflicts, as civil war, revolution, rebellion, but it brought new term to applied upon its provisions, which is "non-international armed conflicts", without having a clear and specific definition, but it mentioned only its non-international term, and the conflict in the territory of a high contracting parties as the above mentioned article states that in case of armed conflict of non-international character, in the territory of one of the high contracting

---

[92] Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977. Article 57 Precautions in Attack. Also, Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects. Geneva, 10 October 1980.
[93] Fausto Pocar and other, War Crimes and the Conduct of Hostilities: Challenges to Adjudication and Investigation, (UK, Edward Elgar Publishing, 2013) P.105.

parties, each party to the conflict shall be bound to apply, as a minimum, the following provisions.....)[94]. A problem when the conferees in Geneva went to adopt the term of non-international armed conflicts, they technically in strict sense meant civil war, which insurgency maximum peaked and its limit in the side that the fragmentation of national unity within the state where the rebellion erupted, which means that international regulation under three common Article, to the civil war without other images of non-international armed conflicts.

The International Committee suggested to the Red Cross, some objective standards in an attempt to find a specific definition of non-international armed conflict, it could refer to it the Fourth Geneva Conventions of 1949 and these standards summarized the following:

A. The rebellious party should have an organized military force, an authority responsible for their actions, working on the part of the territory and has the ability to respect the Fourth Geneva Conventions provisions.

B. The legitimate government should be compelled to call their organized army to fight with the rebels.

C. It should admitted to the rebels as a warriors, and claims to be in a state of war.

D. If the dispute has been included in the Security Council agenda or in the General Assembly of the United Nations, as it is a threat to peace and security of nations, or it constitutes a case of aggression.

E. The rebels should have a regime that has state properties but the Diplomatic Conference was not able to put an acceptable definition of non-international armed conflict[95].

In the absence of the definition of non-international armed conflicts according to Third Common Article, because the members of Diplomatic Conference didn't agree on that in 1949, this has become a matter of concern to the committees and international conferences, So it was reconsidering in the issue of non-international

---

[94] The four Geneva Conventions of 1949, Article 3
[95] Convention (3) Relative to the Treatment of Prisoners of War. Geneva, 12 August 1949. Commentary of 1960.

34

armed conflicts again in the meeting of the Diplomatic Conference in 1974-1977, which ended with setting the First and Second Additional Protocols of 1977.

The diplomatic conference of 1974-1977 tried to deal with the lack contained in Third Common Article and exemplified by the absence of the of non-international armed conflicts definition, so the Second Additional Protocol has brought which completes and supplements Third Common Article as a result of the pursuit of serious introduction of this kind of armed conflict, and it explicitly stipulates on the definition of non-international armed conflicts as disputes that take place on the territory of one High Contracting Party between armed forces and dissident armed forces or other organized armed groups, it practiced under the leadership in charge of the part of the territory, enabling them to fulfillment military operations with sustain and coordinate, and it can perform this Protocol [96].

It is noted that the mentioned Protocol had defined non-international armed conflicts from a positive side, as they are not an international conflict or inter-State conflicts, they are armed conflicts taking place in the territory of one of the contracting parties.

In fact, the Second Additional Protocol has restricted the concept of the non-international armed conflict compare with the concept contained in the Third Common Article, especially when it required regional control element, along with that the state is a part of that conflict, it is the same classic conditions that taken by traditional international law, which means that confine on one organize form of non-international armed conflicts, which is the civil war in its technical strict sense. Consequently, the conflicts between two or more groups of the rebel groups, are not considered non-international armed conflict according to this protocol, even if it fulfilled the elements that mentioned above[97].

Despite the importance of this definition, it didn't solve all the problems raised by the Third Common Article for the reasons mentioned, which are (controlling part of the province, and the current government being a part of this conflict). So this definition was not placed for an agreement between many countries that have contributed to put this Protocol, it also was the reason for the reluctance of many

---

[96] Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977. Material Field of Application, Article 1.
[97] International Committee of Red Cross, How is the Term "Armed conflict", Defined in International Humanitarian law , Opinion Paper , March , 2008. P.5.

countries to accept to be a part of this protocol, and it committed only to the provisions of the Third Common Article of the Fourth Geneva agreements of 1949.

CONCLUSION

It is clear from the above that terrorism raises many problematic in its relation with Freedoms system in general and a number of basic freedoms in particular, such as the right of peoples to self-determination and the democratic aspects of different peoples and based on this we mention a number of points, namely:

1. That terrorism is a phenomenon which strikes with its roots the depths of history where it was witnessed in ancient times whether in individual or collective form.

2. It is a must to address the west's ongoing attempts which work on sticking terrorism historically to Islamic movements, since Islam is innocent of these fabrications.

3. That terrorism didn't take an international form but after World War II through the support of some countries of terrorist movements and groups.

4. That it could not be said that there is one reason for terrorism but a combination of factors which may push the individual or group to slide into the abyss of terrorism.

5. That many counties are still playing a direct and indirect role in supporting terrorism, the country may practice terrorism by itself on individuals belonging to it through arbitrary practices and the lack of access to peaceful means to express their opinions, or it takes intimidation methods and armed attacks on other countries or apartheid as its fixed policy, as for the indirect role, it may appear in the country adopting some economic, social, political, and cultural policies which provide the environment suitable for violence and terrorism operations.

6. Using terrorism as an alternative of the conventional war by some countries given to what direct wars require of material and human fortunes and what it raises of exception in the global public opinion, this made terrorism a

preferable method for many countries, but some even encouraged the emergence of hot spots around the world, and the continuation of colonial policies so far in light of the inability of the new world order with its various mechanisms to stand in the face of the colonial and racist regimes, though it acknowledges the right of armed struggle of peoples in order to reach self-determination, terrorism as a contemporary global phenomenon reflects an acute and persisted crisis of conscience and ethics experienced by the global political system for his lack to respond to irregularities and violations of the international conventions with a comprehensive and deterrent international sanctions implemented on each violation without any hesitation.

7. That the problem of defining terrorism is the first problem which encounters its methods of combat, which requires to agree on one definition, so that confusion and uncertainty about a phenomenon which any country or individual is no longer untouched by it, as well as the definition will push countries to adopt fixed and unified strategies in order to prevent and treat this phenomenon, the standard of measuring will be the extent of the obligation of countries to international conventions signed in this concern.

RECOMMENDATIONS

Means of confronting terrorism lacks the international framework which repel the phenomenon of terrorism where there is an exaggerated emphasis on controlling procedures but without serious quest to eliminate the underlying causes at the same time, as well as the shortage of effectiveness as a result of the lack of the integrated international institutional framework to deal with this phenomenon. Hence it is necessary to ask for the importance of the studying the roots of the criminal phenomenon including poverty, economic and social backwardness, armed conflicts, the pursuit of providing appropriate circumstances to deal with it, the adoption of policies to deal with the causes of terrorism to improve the environmental, economic and social conditions of poor areas, to combat poverty, increase educational opportunities, and confront intellectual and ideological extremism.

The analysis and the extrapolation of international conventions that repelled the phenomenon of international terrorism, which added to the terroristic operations the character of an international crime it shows that they are all converging around a group of the following points.

- Giving the status of international crime to some terrorist acts which are committed by violent means, aimed at creating a state of fear, terror and panic to a certain class of people, or deploy a state of anxiety, chaos and disorder within a particular society.

- The parties states to these conventions are committed to establish their jurisdiction to consider these terrorist crimes regardless of the nationality of the perpetrator or the victim, or in the State where the crime has been committed.

- The parties states to these conventions are committed to suppress these terrorist crimes, by handing over the perpetrators to the States which call for their extradition, or bring them to trial in front of their internal judicial powers if they refused to extradite for any reason.

- The parties states to these conventions are committed to remove the legal obstacles against the extradition of the perpetrators of terroristic crimes, such as removing the political character of such crimes, and considering them as the common law offenses.

- Inserting terrorist crimes within the extradition treaties between parties states, or treaties that will hold in the future if it has not already been included, in order to enable the extradition of the perpetrators of these crimes.

- These conventions stipulate on obliging parties states to international cooperation in the fight against terrorist crimes, through legislative, administrative and technical measures, as they achieve the principle of international mutual assistance between the judicial and police organs, as well as to their works in achieving the compliance of the exchange of information relating terrorist attacks and their perpetrators.

In order to achieve the objective of strengthening cooperation among countries and between the international organizations involved in criminal matters, simplify and activate the procedures of that cooperation among them and between the competent organs and other organs of the counterpart countries for combating crimes in a firm and rigorous way, and prosecuting offenders in every homeland, the most important foundations and necessary rules in this area are:

- Inviting every country to welcome to sing bilateral agreements and enter into multilateral agreements, to cooperate as best they can do with each other to combat crimes in general and serious crimes in particular, such as organized terrorist crimes. The efforts of every nations alone - no matter how much they were – are not enough to request for help from other countries, which is favored to take the integrated approach in international cooperation as much as possible.

- Each state is to envisage and investigate the optimal and full implementation of international obligations prescribed for cooperation in criminal matters,

within the framework of the principle of sincerity and belief of determination in preventing crime and prosecute criminal elements in the various stages.

- Inviting each state to enact legislation to regulate international cooperation in criminal matters including taking all the methods of this cooperation, and foretells much possible sincerity and strength of determination to implement it.
- Inviting each state to make the necessary resources to develop the experience of their competent organs with the international collaboration, and train officials in order to achieve good performance in implementing this cooperation.

In this respect it should warn in following double standards in fighting against organized terrorism, and the need to avoid associating terrorism with any religion or any ethnic trends, as it has serious risks and harm damage committed by some in the name of religion while the religion is innocent from them.

The United Nations activities should be part of a tripartite strategy supporting global efforts to:

- Persuade disaffected groups with dissuade from embracing terrorism and ineffective.
- Prevent groups or individuals from the means to carry out terrorist acts.
- Provide support for international cooperation which has a broad-based in fighting against terrorism.

As for persuading disaffected groups with dissuade from embracing terrorism and ineffective, the United Nations must ensure the protection of human rights as one of the main concerns. Terrorism often thrives in places where human rights are violated where there is need more focus to promoting procedures to combat the violations of human rights. Terrorism should also be understood as an attack on fundamental rights, in any cases, in fighting against terrorism the respect of international obligations related to human rights must be taken into account.

There is no doubt that the role of the United Nations, in terms of peacekeeping and international security in the framework of law and justice, has an important effect in the compatibility of counter-terrorism measures with principles of international

human rights, and without provoking tension, hatred of governments and duality standards.

The lack of hope for justice is a good atmosphere for terrorism where the United Nations efforts succeed in alleviating deviation on law and despair in the world. Terrorism will not find anything for its growth, the United Nations through its conventions, decisions and procedures can help in persuading disaffected groups from avoiding choosing terrorism ways, and convince those who help or incite or find excuses for terrorist acts to avoid retaining on cooperation relations or sympathizing with them. The global feature of the United Nations, its global reach and international legitimacy constitute important assets that can be depended in this effort.

A clear and strong message should be reached to those groups, emphasizing on unacceptability of terrorism and that there is no legitimate reason to use it, the preventive procedures can help in strengthening the capability of countries in the face of organized terrorism in creating inappropriate and rejected environment for terrorism. As for preventing terrorists from accessing to the means to carry out terroristic operations, the Counter-Terrorism Committee, established by the Security Council - applied the decision in (1373) (2001) - which is consist of all members of the Council, is a unique in terms its mandate expansion, and in terms of innovation in its work where it monitors the sates in implementing the Council's decisions. The nature of the Commission and the scope of its functions represent an important innovation, and open new horizons for cooperation between the countries where its mission is to verify the compatibility of the legislation of states member in the international organization with the content of decision 1373, and to provide the necessary advice to member states of the international community to achieve this goal.

Although preventing terrorists from obtaining immediate weapons or possession of necessary efficiency for the manufacture and use of explosions, or the use of small arms and light weapons in various terrorist acts, has a greater impact on avoiding exacerbation of organized terrorism. However, preventing terrorist elements from getting ways to carry out violent attacks or depriving them from their gadgets (funding, weapons and sanctuary) is not an easy task, it requires a constant and specific cooperation from the various national, regional and international bodies.

The counter-terrorism measures sometimes require capabilities and resources that outweigh the potentials of the states which need for necessary support, especially in the field of technical assistance, training and required experience so that the efforts done in combating terrorism can be effective. The cooperation between the United Nations and other international actors should be more systematic, so as to ensure the division of labor in an appropriate manner, to achieve the best practices in fighting against organized terrorism, to promote the adoption of these practices for the sake of restricting the space in which terrorists operate in its framework, and to work according to the international conventions which held to combat terrorism.

RERENCES

Books:

1. Abdel N. Hariz, Political Terrorism, In Analytical Study, (Madbouly Library, 2008).

2. Amal Yazji, International terrorism, the Current World Order, First Edition (Damascus: Contemporary Thought House, 2002).

3. Anatole Anton and Richard Schmitt, Toward a New Socialism, (UK, Lexington Books, 2007).

4. Andrew H. Kydd and Barbara F. Walter, The Strategies of Terrorism (Published by: the MIT Press, 2012).

5. Assaf Moghadam, William L. Eubank, the Roots of Terrorism, (New York, Infobase Publishing, 2006).

6. Brian J. Hesse, Somalia: State Collapse, Terrorism and Piracy, (New York, Routledge, 2013).

7. Brooke Barnett & Amy Reynolds. Terrorism and the Press an Uneasy Relationship. (New York, Peter Lang, 2009).

8. Bruno S. Frey, Dealing with Terrorism: Stick or Carrot? (UK, Edward Elgar Publishing, 2004).

9. Chris E. Stout, the Psychology of Terrorism: Theoretical Understandings and Perspectives, Volume 3, (Greenwood Publishing Group, 2002).

10. Christopher Blake and others, Policing Terrorism in Policing Matters Series, (New Delhi, Sage, 2012).

11. Christopher W. Ross, Patterns of Global Terrorism 1997, (Diane Publishing, 1998).

12. Daniel E. Price, Sacred Terror: How Faith Becomes Lethal, (California-Santa Barbara, 2012).

13. David Canter, the Faces of Terrorism: Multidisciplinary Perspectives, (John Wiley & Sons, 2009).

14. David Carlton & Carlo Schaerf, International Terrorism and World Security, Volume 3 of Routledge Library Editions: Terrorism and Insurgency, (Routledge, 2015).

15. David P. Forsythe and Patrice C. McMahon, Human Rights and Diversity: Area Studies Revisited, Volume 7 of Human Rights in International Perspective, (U of Nebraska Press, 2003).

16. Dawn Perlmutter, Investigating Religious Terrorism and Ritualistic Crimes, (Washington D.C, CRC Press, 2003).

17. Donna M. Schlagheck, International Terrorism in Introduction to Concepts and Actors, (Lexington Books, 1988).

18. Ernest R. May, Angeliki E. Laiou, The Dumbarton Oaks Conversations and the United Nations, 1944-1994, (Washington D.C, Dumbarton Oaks, 1998).

19. Fausto Pocar and other, War Crimes and the Conduct of Hostilities: Challenges to Adjudication and Investigation, (UK, Edward Elgar Publishing, 2013).

20. Giuseppe Nesi, International Cooperation in Counter-terrorism: the United Nations and Regional Organizations in the Fight against Terrorism, (New York, Routledge, 2016).

21. Graham Gamblin, Terrorism in Russian Populism and European Anarchism in the 1870s: A Comparative Analysis, Research Papers in Russian and East European Studies, (November 1998).

22. Heradstveit Daniel, The Role of International Terrorism in the Middle East Conflict and Into Implication for Conflict Resolution, in International Terrorism and World Security, (New York -Toronto Halsted press book, 1974).

23. Ian Henderson, The Contemporary Law of Targeting, Volume 25 of International humanitarian law series, (Leiden-Boston, Martinus Nijhoff Publishers, 2009).

24. Ibrahim Mchorb, National Resistance and International Law, parliamentary life, Vol. (21) Beirut, 1996).

25. Imam H. Khalil, Terrorism between Criminality and Legality, First Edition (Cairo: The Modern Egyptian Library 2001).

26. Ismael Ghazal, Terrorism and International Law, The Third Edition (Beirut: the future of the Arab House, 1990).

27. J. M. Thompson, Robespierre and the French Revolution, Contributors, (Publisher English Universities Press, London, 1952).

28. James J. F. Forest, Countering Terrorism and Insurgency in the 21st Century: International Perspectives. (British Library Cataoguing in Publication Data is Available, 2007).

29. Janet Afary & Kevin B. Anderson, Foucault and the Iranian Revolution in Gender and the Seductions of Islamism, (University of Chicago Press, 2010).

30. Jeffrey D. Simon, the Terrorist Trap: America's Experience with Terrorism, Second Edition (Bloomington Indiana University Press, 2001).

31. Jonas George. Vengeance the True Story of an Israeli Counter-Terrorist Team. (Canada, Lester&Orpen Dennys, 1984).

32. Judy Carter and others, Regional and Ethnic Conflicts: Perspectives from the Front Lines, (London & New York, Routledge, 2015).

33. Mohamed Ab. Kader, Terrorism Defined its Inception Types of Treatment History (Amman: Arab House, 2006).

34. Muhammad A. Shukri, International Terrorism and the Current Global System, (Published by Alnashron Lebanon, 1999).

35. Nicolette Boehland, the People's Perspectives: Civilian Involvement in Armed Conflict, (Printed in the United States of America., 2015).

36. Nils Melzer, Legal Adviser, ICRC, Direct Participation in Hostilities under International Humanitarian Law, (ICRC, May 2009).

37. Noelle Higgins, Regulating the Use of Force in Wars of National Liberation in the Need for a New Regime: A Study of the South Moluccas and Aceh, (BRILL, 2009).

38. Rene A. Larche, Global Terrorism Issues and Developments, (New York, Nova Publishers, 2008).

39. Rex A. Hudson, Who Becomes a Terrorist and Why: the 1999 Government Report on Profiling Terrorists, (Lyons Press, 2002).

40. Richard Bulliet and others, The Earth and its Peoples: A Global History, No. 6, (Cengage Learning, 2014).

41. Shafik Masri, To Combat Terrorism in International Law, East Affairs Issue. (Cairo, House Legal Books, 1998).

42. Shmuel Shapira and others, Essentials of Terror Medicine, (Springer Science & Business Media, 2008).

43. Steve Coll, Ghost Wars: The Secret History of the CIA, Afghanistan, and Bin Laden, from the Soviet Invasion to September 10, 2001, (New York, Penguin, 2004).

44. Steven L. Burg & Paul S. Shoup, Ethnic Conflict and International Intervention in Crisis in Bosnia-Herzegovina, 1990-93, (New York, Routledge, 2015).

45. Sukhvinder Jutla, Peace through Personal Growth, (Xlibris Corporation, 2013).

46. Taylor & Francis Group, the Middle East and North Africa 2004, 50th Edition, (London & New York, 2004).

47. Thierry Tardy, Peace Operations after 11 September 2001, (Published by Frank Cass USA and Canada, 2004).

48. U C Jha, Armed Conflict and Environmental Damage, (New Delhi, Vij Books India Pvt Ltd, 2014).

49. U.S. Army Intelligence Center, "Military Intelligence", Vo 11, Issue 4 (1985).

50. United States. Congress, Congressional Record: Proceedings and Debates of the Congress, Volume 106, Part 12, (U.S. Government Printing Office, 1960).

51. Walter Enders, Todd Sandler, the Political Economy of Terrorism, No 2, (New York, Cambridge University Press, 2011).

Articles and Links:

1. A Byte Out of History Terror on Wall Street. (2007).

2. Asanga Abeygoonasekera and Rohan Gunaratna, "Reconciliation after Terrorism: The Sri Lankan Experience", (2012).

3. Athan Tashobya, "Genocide Against Tutsi Remains 'Painful Lesson' to UN – Manneh" (2016)

4. BBC News, 'Who Were the Baader-Meinhof gang?' (2007).

5. BBC News, "Rwanda: How the Genocide Happened". (2011).

6. Bobby Tanzilo, 'Strang Delves into Legal Side of 1917 Milwaukee Bomb', (2013).

7. Brain Whitaker, "The definition of Terrorism", (2001).

8. Cas Mudde, "The Brussels Attacks and the New Normal of Terrorism in Western Europe", (2016).

9. Chris Suellentrop, "What Is The Symbionese Liberation Army?" (2006).

10. Christopher Minster, "The Tupamaros Uruguay's Marxist Revolutionaries. (2016).

11. Divya Goyal, Punjab 'Ghar Wapsi' in Hindu Groups Woo Sehajdhari Sikhs, (2016).

12. Dominic Tweedie, "Political and Military Forces in Revolutionary War", (1980).

13. Evan Andrews, 'Remembering the Haymarket Riot'. (2016).

14. Ganor Boaz, 'Defining Terrorism - Is One Man's Terrorist another Man's Freedom Fighter", (2010).

15. Jack WHITELEY, "One Person's Terrorist is another Person's Freedom Fighter", (2010).

16. Jon Levine, "7 Facts About How The KKK Is Operating In The United States Today". (2015).

17. Jon Meacham, 'Fifty Years after Bombing, Birmingham is Resurrected', (2013).

18. Kathy Weiser, "American History 1919 Anarchist Bombings". (2014).

19. Kimberly Amadeo, "How the 9/11 Attacks Still Affect the Economy Today", (2016).

20. Lew Irwin, 'Bombing of the Times in 1910 Set Labor Back a Generation'. (2010)

21. http://fas.org/irp/threat/terror_97/sponsored.html

22. http://www.nytimes.com/1995/05/16/world/japanese-arrest-cult-leader-blamed-in-poison-gas-attacks.html

23. http://www.tandfonline.com/doi/full/10.1080/03086534.2015.1083220

24. http://www.thecanadianencyclopedia.ca/en/article/front-de-liberation-du-quebec/

25. http://www.visionofhumanity.org/sites/default/files/Global%20Terrorism%20Index%20Report%202014_0.pdf

26. https://www.icrc.org/customary-ihl/eng/docs/v2_rul_rule14

27. https://www.icrc.org/eng/war-and-law/treaties-customary-law/geneva-conventions/overview-geneva-conventions.htm .

28. https://www.loc.gov/law/help/us-treaties/bevans/m-ust000004-0311.pdf

Conventions and Declaration:

1. The first Geneva Convention of 1949 Protects Wounded and Sick soldiers on Land during War.

2. The second Geneva Convention of 1949 Protects Wounded, Sick and Shipwrecked Military Personnel at Sea during War.

3. The third Geneva Convention of 1949 Applies to Prisoners of War.

4. The fourth Geneva Convention of 1949 Affords Protection to Civilians, Including in Occupied Territory.

5. Protocol 1 Additional to the Geneva Conventions of 12 August 1949 in 1977.

6. Protocol 2 Additional to the Geneva Conventions of 12 August 1949 in 1977.

7. Declaration on Race and Racial Prejudice, Adopted and Proclaimed by the General Conference of the United Nations Educational, Scientific and Cultural Organization at its Twentieth Session, on 27 November 1978.

8. Charter of the United Nations 1945.

9. Declaration on the Granting of Independence to Colonial Countries and Peoples, General Assembly Resolution 1514 (XV) of 14 December 1960.

10. Declaration on the Granting of Independence to Colonial Countries Peoples, General Assembly Resolution 2621 (XXV) 12 October 1970.

11. Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the United Nations. General Assembly Resolution 2625 (XXV) of 24 October 1970.

12. The Hague Conventions in 1899, 1907.

13. Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects. Geneva, 10 October 1980.

14. International Committee of Red Cross, How is the Term "Armed conflict", Defined in International Humanitarian law, Opinion Paper , March , 2008.

THE CONCEPT OF TERRORISM IN THE
INTERNATIONAL LAW by Hariwan Nazi
Abdullah

From MASTERS OF Int Law
(INTERNATIONAL LAW MASTER)

Processed on 26-Jul-2016 12:43 EEST
ID: 691895868
Word Count: 16437

	Similarity by Source	
Similarity Index **20%**	Internet Sources:	18%
	Publications:	10%
	Student Papers:	16%

sources:

1 2% match (paper)
paper

2 2% match (Internet from 27-Jan-2007)
http://www.therandirhodesshow.com/live/node/3839

3 1% match (Internet from 18-Apr-2014)
http://www.icrc.org/eng/assets/files/publications/icrc-0739-part-ii-vol-i.pdf

4 1% match (Internet from 01-Apr-2012)
http://www.digitalhistory2.uh.edu/topic_display.cfm?tcid=94

5 1% match (Internet from 24-Mar-2012)
http://www.city.ac.uk/__data/assets/pdf_file/0005/106466/IHL.pdf

6 1% match (student papers from 31-Oct-2011)
Submitted to Golden Gate University on 2011-10-31

7 1% match (student papers from 26-Jul-2016)
Class: INTERNATIONAL LAW MASTER
Assignment:
Paper ID: 691895696

8 < 1% match (Internet from 28-May-2016)

9 < 1% match (Internet from 05-Feb-2016)
http://doras.dcu.ie/20240/1/Francoise_Joly_PhD_thesis_(DCU)_September_2014.pdf

10 < 1% match ()
http://www.un.dk/doc/A.57.0273_S.2002.875.pdf