

Terrorism and Human Rights: A Critical Analysis of the United Nations Security Council's Counter-Terrorism Policies in the Light of International Humanitarian Law

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Abstract: Terrorism, as one of the most serious contemporary threats to international peace and security, has had a wide-ranging impact on fundamental human rights and the global legal order. This phenomenon not only directly violates rights such as the right to life, liberty, and personal security, but also the response of governments and international institutions in the form of counter-terrorism policies sometimes leads to restrictions on freedoms and violations of human rights. The United Nations Security Council, especially after the September 11 attacks, has played an active role in legislating and coordinating global measures against terrorism by adopting resolutions such as 1373 and establishing monitoring mechanisms. However, there are serious criticisms of the transparency, selective nature of decisions, and the lack of sufficient guarantees for fair trial in the Council's actions. This study, using a descriptive-analytical method and utilizing international documents, resolutions, and procedures of the Security Council, examines the relationship between security and freedom in counterterrorism policies. Emphasizing the principles of international humanitarian law, it explains the necessity of creating a balance between effectively confronting terrorism and respecting human rights obligations. The findings show that the success of counterterrorism strategies requires adherence to the rule of law, avoidance of discriminatory practices, and strengthening human rights monitoring at the national and international levels.

Keywords: Terrorism, Human Rights, International Humanitarian Law, United Nations Security Council, Counterterrorism Policies

INTRODUCTION

Terrorism, as one of the fundamental challenges to human rights at the global level, violates three fundamental and fundamental human rights, namely the right to life, the right to liberty and the right to personal security; rights that have been recognized in international human rights documents such as the Universal Declaration of Human Rights, international covenants and other similar documents. According to the view of some jurists, these rights are absolute, non-suspicious and inviolable rights that cannot be ignored under any circumstances, even in times of emergency.

However, it is worth considering that the violation of these rights is not only committed by terrorist groups, but in many cases, countries and forces that claim to fight terrorism and defend human rights also commit violations of these rights. This means that anti-terrorist measures, if they lack commitment to human rights standards, can themselves become a new source of human rights violations. In other words, the formation of the phenomenon of terrorism has led to the emergence of a parallel phenomenon called "counterterrorism", which in many cases has also been accompanied by instances of violence and human rights violations. Today, almost all major world powers and many other countries have formed specialized counterterrorism units; such as special units in Israel,

Germany, England and other countries. From this perspective, human rights violations are inherent in both the nature of terrorist acts and the methods of dealing with terrorism. In addition, from the perspective of some theorists, terrorism itself is a result of widespread and structural violations of human rights in certain societies. In this view, authoritarian regimes and dictatorial governments create the conditions for the emergence of extremism and organized violence that ultimately manifests in the form of terrorism. Therefore, to understand the roots of terrorism, one cannot only pay attention to its consequences, but also to the social, political and legal contexts that provide the conditions for its emergence. In this regard, the Statute of the International Criminal Court has included crimes resulting from terrorist acts. Accordingly, the United Nations Security Council can, by citing the articles contained in this Statute, demand the prosecution of countries or individuals who have participated in or assisted in these crimes.

Terrorism is a complex, multidimensional and highly controversial concept that, despite its widespread use in political and legal discourse, still does not have a unified and consensus-based definition at the international level. The United Nations has adopted various anti-terrorism conventions, but none of them have been able to provide a comprehensive definition of this phenomenon. In general, terrorism is defined as acts of violence that are intended to create fear among civilians or to pressure governments to achieve political, ideological, or religious goals. However, the line between terrorism and legitimate resistance is sometimes so blurred that it is not easy to distinguish between them.

From this perspective, many governments, depending on their interests, label groups that are considered freedom fighters in the literature of others as terrorists. On the other hand, it should be emphasized that terrorism is not limited to non-state actors, but can also be examined in the form of “state terrorism,” where governments use the tools of terror, violence, and terror to suppress opponents or ethnic, religious, or political groups.

One of the most prominent examples of contemporary terrorist groups is the organization known by the acronym “ISIS.” The group, which initially operated under the name “Islamic State of Iraq and the Levant” and later as “Islamic State” or “Islamic Caliphate”, has established itself in large parts of Iraq and Syria and has attempted to establish structures resembling a central government in the areas under its control. The initial core of the group dates back to 2006, when some armed groups in Iraq came together and formed an organization called “Islamic State in Iraq”. At this meeting, Abu Bakr al-Baghdadi was introduced as the leader of the group.

Conceptualization of Humanitarian Law

International humanitarian law is a branch of public international law that seeks to regulate the behavior of states and armed groups during armed conflicts, with the aim of reducing human suffering caused by war and protecting vulnerable individuals during military conflicts (Shariati, 2020; Karimpour, 2018). The term “humanitarian law” has a relatively recent origin and, until the second half of the twentieth century, was mostly known by titles such as “laws of war” or “Hague and Geneva rules”. Although the term humanitarian law is not used directly in the four Geneva Conventions of 1949, related terms such as “humanitarian activities” and “humanitarian organizations” are seen. The first theoretical and relatively formal use of the term humanitarian law is attributed to Jean Pictet, a prominent member of the International Committee of the Red Cross.

In his analyses, Jean Piquet considered humanitarian law as a general concept that includes two basic branches: first, the law of war, which is related to the regulation of the means and methods of warfare, and second, human rights, which include the protection of the inherent dignity of man in all situations (Alavi, 1401; Ambus, 2024). In the division of the law of war, he also distinguishes two areas: “Hague law” and “Geneva law”. Hague law mainly regulates the regulations related to the means and tactics of war; including the prohibition of the use of specific weapons, the principle of proportionality and the principle of distinction. In contrast, Geneva law is more focused on the protection of the victims of war, namely the wounded, the sick, prisoners of war, and civilians. The four Geneva Conventions (1949) and their Additional Protocols constitute the main pillars of contemporary humanitarian law.

However, Piquet’s attempt to conceptually integrate “human rights” and “laws of war” under the general title of “humanitarian law” did not meet with a unified reception in the scientific community. The main reason for this is the structural, functional, and philosophical distinction between these two areas (Kashani, 2011; Shariati, 2019). Human rights, as the rights of the individual against the state, are mainly applied in peacetime and have characteristics such as universality, non-discrimination, and sustainability. In contrast, humanitarian law is

specifically designed for times of armed conflict and, by accepting the reality of war, seeks to minimize human suffering rather than stop war itself.

One of the turning points in the development of this concept was the Tehran International Conference on Human Rights in 1968. At this conference, a new term entitled “human rights in armed conflicts” was proposed, which attempted to overcome the traditional distinction between human rights and humanitarian law and pursue the protection of human dignity in all situations, whether peace or war, in an integrated manner (International Law in Armed Conflicts, 2024; Karimi, 2022). This concept, which initially met with different and sometimes critical reactions, later gained a more important position in international literature. Today, it can be seen in many international documents, including the reports of the Human Rights Committee, that states are obliged to comply with their human rights obligations even in times of war. Among the important challenges in the field of humanitarian law is the implementation of its rules in asymmetric wars and non-state conflicts (Mahmoudi, 2022; Rahimi, 1401). Where one of the parties to the war is a rebel or informal armed group that is not subject to classical state-based legal orders. The Geneva Conventions have attempted to fill this gap to some extent by extending their scope to “non-international armed conflicts.” However, the lack of practical enforcement of humanitarian law by non-state actors remains a major problem in this area.

Today, in new analyses, humanitarian law is examined in interaction with new concepts such as the responsibility to protect, transitional justice, and international criminal law (Mansour, 1403; Karim, 2023). The International Criminal Court, under the Rome Statute, has jurisdiction to prosecute serious violations of humanitarian law, including war crimes, crimes against humanity, and genocide. This shows that humanitarian law plays a key role not only in the prevention and regulation of the rules of war, but also in the post-war process and the accountability of perpetrators.

Finally, international humanitarian law represents the international community’s efforts to humanize war; An effort that, although aware of legal realism and political limitations, is based on ethical principles, human dignity, and shared human responsibility (Dawlatkhah, 2023; International Human Rights in War, 2023). Any shortcomings in the development, interpretation, or implementation of these rules will not only lead to the spread of lawlessness in wars, but will also undermine international trust in legal mechanisms and global institutions.

TERRORISM AND HUMAN RIGHTS

Terrorism is a complex phenomenon and a multi-layered threat to human society that has become one of the main challenges for the international community and international legal systems in recent decades. This phenomenon not only endangers the internal security of states, but also directly targets the foundations of human rights, especially fundamental rights such as the right to life, freedom, and personal security (Alavi, 1401). Therefore, any theoretical or practical discussion about terrorism is inevitably tied to human rights concepts and norms (Shariati, 1399).

At the theoretical level, the human rights discourse is responsible for explaining fundamental concepts such as human dignity, individual entitlement, the universality of rights, and their relationship with political power and national security. This discourse, emphasizing that “human rights are rights that humans have simply because they are human,” attempts to explain the moral and legal foundations of the obligation of states to respect and protect these rights (Karimpour, 2018). However, terrorism in practice poses a serious test for these obligations. On the one hand, terrorist acts clearly violate human rights, and on the other hand, the counterterrorism measures of states can themselves violate the very rights that should be protected (Rahimi, 2014).

Terrorism keeps societies in a constant atmosphere of fear and insecurity by resorting to aimless or blind violence against civilians. These actions are mainly carried out with the aim of destabilizing political systems, assassinating social or political figures, and pressuring states to achieve ideological, religious, or ethnic goals (International Human Rights in War, 2023). Meanwhile, the main victims are ordinary citizens whose lives, property, and reputation are threatened without participating in any conflict (Kashani, 2001).

But the issue is not limited to terrorist acts. What has raised the concern of many human rights defenders in recent years is the approach of some governments in combating terrorism. In the name of “national security” and justifying a state of emergency, many governments have taken steps to restrict fundamental freedoms, conduct extensive security surveillance, conduct illegal detentions, torture suspects, and even conduct targeted

killings without trial (Mahmoudi, 2022). For example, the Guantanamo prison and the so-called “enhanced interrogation” programs in the aftermath of the September 11 attacks faced widespread criticism from international institutions (Rahimi, 2001).

According to Article 4 of the International Covenant on Civil and Political Rights, some human rights, such as the right to life, the prohibition of torture, the prohibition of slavery, the principle of innocence and non-discrimination, are among the non-derogable rights; meaning that even in times of war or a state of emergency, states cannot violate them (International Human Rights in War, 2023). Therefore, security responses to terrorism must be conducted within the framework of fundamental human rights principles and should not become a factor in wider violations of these rights (Karimpour, 2018). From another perspective, many analysts believe that structural violations of human rights themselves provide the basis for the formation of terrorism (Kashani, 2019). In societies where citizens do not enjoy political participation, social justice, freedom of expression and equal opportunities, a suitable environment is created for the growth of violence, extremism and recruitment into terrorist groups. Especially in areas where there is historical injustice, land occupation, racial or ethnic discrimination, and suppression of beliefs, individual and collective motivations to resort to violence increase (Mansour, 1403).

Meanwhile, the instrumental use of the concept of “terrorism” should not be ignored. Instead of addressing the real roots of violence, some governments label political opponents, ethnic or religious minorities, and civil society organizations as terrorists, thereby providing legitimacy for widespread repression (Mahmoudi, 2022). This type of political use of the term terrorism not only weakens the human rights discourse, but also causes global distrust of the anti-terrorism claims of some governments (Karimi, 1401).

Therefore, the relationship between terrorism and human rights is a dual and complex one: on the one hand, human rights are the victims of terrorism; and on the other hand, extreme security measures can themselves violate human rights (Shariati, 1399). The fundamental solution is not to eliminate one in favor of the other, but to create a balance between security and freedom, relying on the principles of the rule of law, state accountability, and the supervision of independent human rights institutions (Mansour, 1403).

Finally, it can be said that any policy to combat terrorism will only be legitimate and effective when it is also defensible from a human rights perspective. This requires the practical commitment of states to international obligations, avoiding discriminatory policies, and creating equal opportunities for peaceful participation in political and social processes (Karimi, 1401).

THE CONCEPT OF INTERNATIONAL CRIMES AND ITS EXAMPLES

In contemporary international law, the distinction between “international offense” and “international crime” is of great theoretical and practical importance. Any violation of an international obligation does not necessarily mean the commission of an international crime; rather, an act can only be considered a crime when it meets certain criteria. The most important of these criteria is adherence to the principle of legality of crime and punishment (*nullum crimen sine lege*). According to this fundamental principle, a behavior is considered a crime only if it has previously been recognized as a crime in valid documents of customary or contractual international law (Khazaei, 2016). This principle not only forms the cornerstone of international criminal justice, but also prevents arbitrary or political interference in the international prosecution of individuals. In this regard, the four Geneva Conventions of 1949 and their Additional Protocols provide a list of acts that, if committed, are considered international crimes. These acts include “wilful murder, torture, inhuman treatment, causing severe physical or mental pain and suffering, hostage-taking, unlawful deprivation of liberty, and wanton destruction of property” (Hosseini, 2018). Because these acts clearly violate the peremptory rules of humanitarian law and the recognized principles of war, their commission leads not only to state responsibility, but also to individual criminal responsibility (Mehrpour, 2011).

From a legal classification perspective, international crimes can be divided into three main groups:

1. Genocide: which includes acts such as murder, serious harm, and creating conditions that are unlivable for members of an ethnic, racial, religious, or national group with the intent to destroy that group in whole or in part;

.2Crimes Against Humanity**: which includes acts such as mass murder, torture, enslavement, systematic persecution, or racial discrimination, provided that these acts are committed as part of a widespread or organized attack against a civilian population (Rahmati, 2014);

.3War Crimes**: which refers to serious violations of the laws and customs of war, such as intentionally attacking civilians, using prohibited weapons, attacking humanitarian targets, and unlawfully treating prisoners of war.

This classification has not only been accepted in international documents such as the Rome Statute (1998) and the International Criminal Court (ICC), but has also been the basis for prosecuting defendants in specific international criminal courts such as the International Criminal Tribunal for the Former Yugoslavia (ICTY) and Rwanda (ICTR) (Safri, 2013).

In the context of this discussion, a fundamental question arises as to where terrorism stands among international crimes and how it can be analyzed in relation to the concepts of “human rights” and “international criminal justice”? Unlike war crimes or genocide, whose definition, elements, and prosecution mechanisms are formulated in specific documents, terrorism still lacks a single and universal definition at the level of international law (Khalili, 2017). However, many terrorist acts are in practice considered clear examples of crimes against humanity or even genocide; Especially when they are carried out systematically against specific ethnic, religious or national groups, or are designed with the aim of widespread intimidation and their physical elimination.

It is worth considering that terrorism, in many of its instances, also entails gross and systematic violations of human rights. By committing mass murders, kidnappings, torture, rape, religious or ethnic discrimination, and creating terror among civilians, terrorist groups practically violate the fundamental provisions of international human rights instruments, including the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), and the Conventions against Torture and the Rights of the Child (Sharif, 2019).

Therefore, at the stage we are now entering, it is necessary to analyze terrorism not only as a security threat, but also as a phenomenon that is in clear conflict with fundamental human rights. Examining the relationship between terrorism and human rights will help us better understand the human dimensions of this global threat and develop more effective solutions that are more consistent with international standards to combat it.

The Security Council and the Fight against International Terrorism: From Emergency Response to Global Legal Order

In the contemporary world, security threats are no longer limited to geographical borders, and classical concepts such as military aggression or territorial occupation alone do not have the capacity to explain the real dangers to international peace. One of the most obvious examples of this development is the spread of the phenomenon of transnational terrorism, which has become a serious and structural threat to global security since the 1990s, especially after the terrorist attacks of September 11, 2001. In this context, the United Nations Security Council, as the supreme authority in maintaining international peace and security, has played a key role and has set legal frameworks to combat terrorism by adopting resolutions, forming committees, and approving executive regulations (Mansour, 2014; Sedghi, 2019).

The turning point in the change in the Security Council's attitude towards terrorism was the issuance of Resolution 1368 on September 12, 2001. Immediately after the September 11 attacks, this resolution, while condemning the actions of Al-Qaeda, explicitly declared that terrorist acts could be considered a threat to international peace and security. This change in approach paved the way for the use of Article 51 of the United Nations Charter, which allows states to defend themselves against armed attack (Ambus, 2024; Shariati, 2020).

For the first time in history, the Security Council equated the concept of “terrorist attack” with that of “military aggression,” thus providing for the legal use of force in self-defense. This effectively elevated terrorism from a criminal phenomenon or domestic threat to an international legal issue (Lawat, 2024).

Subsequently, Resolution 1373, adopted just weeks after the September 11 attacks, further enhanced the role of the Security Council as a global legislator. This resolution requires governments to adopt broad measures to combat the financing of terrorism, prevent the movement of terrorists, freeze bank accounts linked to extremist groups, criminalize financing and even terrorist propaganda. This was an unprecedented move, as the Security Council directly and bindingly defined specific tasks for governments without going through the classic UN

legislative procedure (through the General Assembly and the consent of governments) (Hashemi, 1401; Cohen and Shani, 2024).

One of the key consequences of Resolution 1373 was the establishment of monitoring committees under the Security Council, which were tasked with monitoring the performance of countries and imposing sanctions on individuals or entities linked to terrorism. The most famous of these institutions is the 1267 Committee, which was initially established to monitor the actions of the Taliban and Al-Qaeda and later expanded its scope to include ISIS (Yousef, 2024; Mahmoudi, 1401).

The committee, in collaboration with expert groups, prepares a list of suspicious individuals and entities and subjects them to restrictions such as travel bans, asset freezes, and arms embargoes. Although such measures are seen as a positive step in the fight against terrorism, in practice they have raised numerous legal concerns. The most important criticisms concern the lack of a proper mechanism for fair trial and the possibility of effective objections to being included in the sanctions list (Karimi, 2011). In response to these criticisms, the Security Council established an independent body called the “Ombudsman for the Rights of Persons” to address objections from sanctioned individuals, but this body still lacks sufficient authority to issue binding and transparent rulings (Norouzi, 2012). In pursuing its counter-terrorism policies, the Security Council has repeatedly called on governments to refrain from providing any support – whether financial, logistical, political, or propaganda – to terrorist groups. Accordingly, the concept of “state responsibility” against terrorism has been elevated from the level of moral obligation to the level of legal responsibility (Dawlatkhah, 1402).

But this process raises serious questions about the boundaries of national sovereignty. Can the Security Council intervene in the internal affairs of countries simply because a terrorist group is operating within that country’s borders or because terrorism is financed from there? This issue has become a major challenge, especially for developing countries that sometimes lack sufficient capacity to control their borders and financial systems (Hashemi, 2012).

Another criticism of the Security Council’s performance is the selective nature of its decision-making. Some terrorist acts are ignored by member states of the Council or their allies, while similar acts are met with a swift and decisive response by other countries or groups (Seddiqi, 2019). Also, the instrumental use of the label “terrorism” to suppress political opponents or liberation movements carries the risk of weakening the legal concept of terrorism (Yousef, 2013).

In the last two decades, the United Nations Security Council has taken steps towards transforming itself from a merely reactive institution into a global legislative and regulatory actor. Although its performance in the field of terrorism has brought about relative coherence in international politics and played an important role in institutionalizing “collective security,” it has also raised serious questions about democratic legitimacy, the principle of sovereignty, and conflicts with human rights (Mansour, 2014; Hashemi, 2015). The real success of the Security Council in combating terrorism will not be limited to issuing binding resolutions, but rather to creating a smart balance between security and freedom, between confronting threats and respecting the fundamental principles of public international law (Ambus, 2024).

ANALYTICAL CONCLUSION

Terrorism in today’s world is no longer simply a security threat, but a multidimensional challenge in the legal, political, moral, and humanitarian spheres (Mansour, 2014; Shariati, 2020). This phenomenon has not only put the lives of thousands of people at risk, but has also shaken the foundations of the international legal order, national sovereignty, and fundamental principles of human rights. Examining the various dimensions of this issue shows that without a precise understanding of the structural causes, social contexts, and political factors that form terrorism, it is impossible to deal with it effectively. Fundamental concepts such as human dignity, the right to life, and civil liberties must be at the center of counterterrorism strategies, because ignoring them can itself lead to the reproduction of the cycle of extremism (Kashani, 2011). On the other hand, the role and performance of the United Nations Security Council in combating terrorism has brought about fundamental changes in international law (Hashemi, 2012; Sedghi, 2019). The Security Council, using its powers under Chapter VII of the United Nations Charter, has succeeded in providing a platform for global cooperation against terrorism by adopting binding resolutions. However, the expansion of the Council’s powers and its status as a

global law-making body have led to criticisms regarding the transparency and selectivity of decisions (Rahimi, 2014).

In this regard, the fight against terrorism cannot be limited solely to security measures and military repression. To achieve a sustainable solution, the international community needs to strike a careful balance between ensuring security and respecting human rights (Shariati, 2020; Karimi, 2014). This balance requires that governments, even in emergency situations, refrain from violating fundamental principles such as the prohibition of torture, the right to a fair trial, and freedom of expression. Adherence to such principles is not only morally necessary, but also strategically prevents the indirect legitimization of extremist discourses (Kashani, 2019).

1. In addition to these, establishing broad coordination between international, regional, and national institutions, and formulating policies based on social justice, human development, reducing discrimination, and political participation of marginalized groups should be prioritized (Karimpour, 2018; Mahmoudi, 2022), and strengthening civil institutions, human rights education, and combating corruption and inequality can play an important role in drying up the conditions for the growth of extremism (Sedghi, 2019). Finally, it should be said that confronting terrorism is a measure of the international system's commitment to principles such as justice, human dignity, and legal order (Mansour, 2023; Ambus, 2024). In the post-September 11 world, the real test of international institutions will not only be their ability to respond to threats, but also in maintaining the balance between power and law, between security and freedom, and between order and justice. Only then can the fight against terrorism remain legitimate, sustainable, and humane (Rahimi, 2022).

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