

The Jurisprudential Foundations of the Fight against Terrorism and Iran's Efforts in this Regard

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Abstract

Terrorism is an act whose nature and outcome is violence and fear. Regardless of the different forms of the realization of this act in the past, it has taken new forms in the contemporary era due to the advancement of sciences and technologies. To face this phenomenon, then, it is necessary to foresee and apply appropriate and favorable measures. As a victim of internal and external terrorism, the Islamic Republic of Iran has adopted special strategies based on the teachings of the Islamic Law, the Iranian Constitution, the national laws, and the international documents to fight against terrorism. This study set out to examine and explore the legal strategies – or more particularly, the legislative strategies – used by Iran to address terrorism manifestations. The results revealed that Iran's anti-terrorism measures are mainly taken from the rules and findings of the Islamic Law, though it partly relies on the findings of the international law. Changes in the terrorists' performance urge the Iranian government to use the international documents and obligations as a model in addressing the new forms of terrorism and their formation and enhancement grounds, bring about changes in its legislative system, and introduce more organization into its strategies in this regard.

Keywords: Terrorism, Anti-terrorist strategies, Order and security.

Introduction

Different forms of terrorism could be discerned in the past times. However, the new and changed concept of terrorism is represented more with the formation of national communities and establishment of governments. Today, terrorists guide their violence based on their special ideology. They even use the monotheistic religions to justify their violence. Although the divine religions are far from such convictions, but the reality is that the terrorists' acts have had a relative effect on and concerns over the religious statements that are used by the terrorists. Terrorist threat against different societies have made the governments to not only examine the ways to prevent and fight against this global phenomenon, but also to establish appropriate legal mechanisms to address terrorism at the national and international levels. The numerous enacted international conventions are a sign of the international reaction to terrorism. On the other hand, those governments that have had more citizens as the victims of terrorism have tried to apply more effective solutions in their internal laws through the localization of these conventions and the enactment of special rules. These are strategies that are displayed in the form of anti-terrorist legislation. At the same time, the Iranian

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government cannot distance itself from religious and divine options. Sometimes, an anti-terrorist action can violate the human rights and be disadvantageous to the sinless people, because it is possible that the ruling officials deprive their citizens from human rights under the disguise of the anti-terrorist precautionary measures. This concern necessitates the anti-terrorist performance of the government to be based on law. It is this point that reveals the importance of proportionate attention to all dimensions in facing this phenomenon. This article regards Iran's military-legal strategies in fighting against terrorism, mainly based on the jurisprudential resources. To this end, first the concept of terrorism has been examined. Then, Iran's legislative solutions in addressing this phenomenon have been addressed. Terrorism has been criminalized and debated in jurisprudential sources such as *Al-Mabsūt*, *Mukhtalif al-Shī'a*, *Tadhkira al-Fuqahā*, *Miftāḥ al-Kirāma*, *Jawāhir al-Kalām*, and *Takmila al-Minhāj*, under the titles of *Muḥāriba*, *Baghy* and the like. The article tries to explain this ominous phenomenon in an applied review based on jurisprudential sources and clarify the Iranian law's stance to it and find an answer to the question "What is the standpoint of Iranian law based on Islamic law against terrorism? And according to Islamic law, how should we act against it?"

The literal meaning

In his *Encyclopedia of Politics*, Dāryūsh Āshūrī has noted that "The literal meaning of the word terror in French is fear and frightening, and in politics, it is attributed to governments' violent and illegal actions to frighten and suppress their rivals. Moreover, it can regard the behavior of Para-militia groups who commit violent and frightening activities to attain their political goals. In addition, terror is also attributed to political slaughter." (Āshūrī, 1994, pp. 98-99). The *Dictionary of Political Sciences* provides the following definition, "Terror is great fear and dread. Moreover, it has been used as a party or movement that causes terror. Terminologically, it is attributed to great dread which comes about as a result of violence, murder, and blood-shedding by a group, party, or government, who seeks its political goals and wants to attain or preserve power" (Aghabakshi, 2000, p. 583). In the *Dictionary of Social Sciences*, Allen Biro considers terror as a mode or feeling of collective fear that is a result of unlimited violence and slaughter (Biro, 1996, p. 426). The common element of all these definitions and descriptions is fear and dread. In other words, fear, horror, and dread are indispensable parts of terror. So, all in all, terror can be defined as a behavior, individual, group, party, or government that wants to achieve its goal(s) through violence, murder, blood-shedding, and creation of fear and dread.

The concept of terrorism in the UN's viewpoint

As an international player, the United Nations (UN) has had an affective role in the formation of the foreign policy of the member governments and the diplomacy of the regional international organizations (Buzurgmehrī, 2008, p 19). With the establishment of the UN, this organization – as a representative of the international body – has tried to fight against international terrorism. These activities are manifested in two general categories, namely, activities of the UN organizations and institutes, and the enactment of international conventions related to anti-terrorist measures. The performance of the United Nations International Law Commission regarding terrorism can be examined in its two important enacted drafts: the draft Code of Crimes against the Peace and Security of Mankind – whose provision started in the 1950s and was finally enacted in 1996 – and the Statute of the International Criminal Court which was enacted using the previous draft (‘Abdullāhī, 2009, p. 53). According to Article 24 of the 1991 draft, "Anyone who – as the representative or agent

of a government – commits one of the following illegal actions or order its committing, will be sentenced after his/her accusation is confirmed: Taking the responsibility, organizing, assisting, supplying, motivating, or neglecting actions against another country with the aim of destroying individuals or assets due to which, an atmosphere of dread is created among state officials, groups, or people" (the draft Code of Crimes against the Peace and Security of Mankind, 1991, p. 470). In December 1996 and based on its 52/210 resolution, the UN General Assembly established an ad hoc committee with the aim of defining terrorism. In 1997 and 2005, this committee successfully provided the draft codes of the conventions related to Suppressing Terrorist Bombings and Acts of Nuclear Terrorism, respectively (U.N. Doc. A/59/766, 4 Apr, 2005), and submitted them to the General Assembly. In the last step and after five years of negotiation and discussion over the definition of terrorism, the foregoing committee submitted the comprehensive draft code on international terrorism to the Assembly. Article 2 of this draft code has defined the international terrorism as following:

Anyone who illegally, deliberately, and by any means causes the occurrence of one of the following cases has committed a crime as defined by this convention:

- a. Death or severe physical injuries to any person,
- b. Heavy damages to public or private properties, including publicly used locations, governmental or state facilities, public transportation system, infrastructural facilities, or environment
- c. Damage to the properties, locations, and facilities mentioned in the previous clause of this Article that leads to major economic damages or has the potential for such damage, when the intent of that act, naturally or because of its content, is to terrify the people or to force a government or international organization to act or omit an act.

The second section of this article has considered a legal and severe threat against committing the foregoing actions- which are viewed as terrorist crimes. It should be noted that the development of a solid political-legal strategy to fight against international terrorism is in need of consensus among all governments and the consideration of the collective requirements of the nations (see: Nūrī Şafā, 2008). Therefore, the success of any global preventive and punitive strategy against terrorism relies on the theoretical and practical application of numerous prerequisites, including the priority of understanding the causes of terrorism over the efforts that address terrorism as an effect (Aqā'ī Khājipāshā, 2013, p. 237).

The position of Islam against terrorism

First of all, it is appropriate to pay attention to the literal meaning of the word Islam. the term Islam derives from the three-letter Arabic root, S -L - M, which can be used to generate words with interrelated meanings, including “surrender”, “submission”, “commitment” and “peace”. This religion has always sought to avoid violence and terrorism and carry out Islamic orders, and so, it provides a suitable platform for a society to emancipate from the pressure of terrorism. According to Islam, harsh behavior is allowed only in a certain range, and it is not easy to kill people and put their property at risk of destruction. Based on the holy Qur’ān in the verse "whoever slays a person, unless it is for a murder or for spreading mischief in the land, it would be as if he slew all humans; and whoever saves a life, it would be as though he saved the lives of all humans" (Qur’ān 5:32). Only killing of two groups of human has been allowed, namely a murderer and a corrupt on earth, and it is clear that the murder of someone who has committed these two acts is not murderous and it is the penalty for the murder of all people of the community. We read in a narration from the prophet of Islam (s) that “terrorism is prevented in Islam and a person who believes in Islam does not commit terror” (Rayshahrī, 1996, vol. 3, p. 2249). Therefore, in the examination of the Islamic approach to terrorism, we must pay attention to verses and narrations which express respect for the lives and property of

people. This verse of the Quran could be such an example which shows us the opinion of Islam in this regard, “And do not kill the soul which Allah has forbidden, except by right. And whoever is killed unjustly - We have given his heir authority, but let him not exceed limits in [the matter of] taking life. Indeed, he has been supported [by the law]” (Qur’ān 17:33). Also for someone who endangers people's lives and property, a heavy punishment is foreseen. For Muḥārība – which is a type of terrorisms – Heavy punishment is intended. The verse below is an example for this stance, “Indeed, the penalty for those who wage war against Allah and His Messenger and strive upon earth [to cause] corruption is none but that they be killed or crucified or that their hands and feet be cut off from opposite sides or that they be exiled from the land. That is for them a disgrace in this world; and for them in the Hereafter is a great punishment” (Qur’ān 5:33). The Prophet Muḥammad (s) sent Mu‘ādh b. Jabal to Yemen in order to call the people to Islam and teach them the practices of Islam, including this practice: “Indeed, the law is founded upon wisdom and welfare for the servants in this life and the afterlife. In its entirety it is justice, mercy, benefit, and wisdom. Every matter which abandons justice for tyranny, mercy for cruelty, benefit for corruption, and wisdom for foolishness is not a part of the law even if it was introduced therein by an interpretation.” (Ibn al-Qayyūm, 1991, vol. 3, p. 14). Another practice can be: “Allah the Exalted has made clear in his law that the objective is the establishment of justice between His servants and fairness among the people, so whichever path leads to justice and fairness is part of the religion and can never oppose it.” (Ibn al-Qayyūm, 1421, vol. 1, p. 13). So from these religious texts and many others, the anti-terrorist and peaceful views of Islam are revealed.

The national and international legal approaches to tackle terrorism

Blocking terrorists' financial resources

Globalization¹ of the anti-terrorism administration is a main criterion for the success of the international anti-terrorism strategy. The fact that terrorism is an international phenomenon makes it necessary to globalize the efforts to fight against it (Nājīrād, 2006, p. 53). Therefore, the action-reaction system against terrorism cannot be transferred to only a set of few international players. A mere reliance on a political thinking or the preference of the interests of one or some international player(s) cannot lead to a global process of terror elimination (Ziyā’ī Bīgdilī, 2008, pp. 10-11). An example of preventive measures against terrorism can be found in the national and international measures to obstruct the financial support of the terrorists. The important point here is blocking the channels that are used to feed the terrorists with financial and arms support. At a national level, such a measure can be manifested in the prevention of opening bank accounts as well as the confiscation of properties and assets. At an international level, it can be done through imposing sanctions and obliging the governments to block terrorists' properties.

Penal fight against terrorism

In the absence of an international criminal court competent in addressing acts of terrorism, the international criminal law conventions at the global and regional levels try to create cognizance in the member states to fight against the international terrorist acts. Except for the few cases where they try to establish a direct administrative system for addressing the international crimes, almost all of the international criminal law conventions emphasize the indirect administrative systems (Bassiouni, 1983, p. 58). In this indirect administrative

1. To study more on the effects of globalization on the expansion of terrorism, see: Maḥmūdī (2005).

system, the regulations of the international criminal law conventions are executed through the national criminal laws of the member countries, and the countries that have signed the convention have to cooperate in prosecuting and punishing the criminals (see also: Sharīfī, 2004; Ālīpūr, 2009; Ghumāmī & Moḥsinī, 2003). The indirect administrative system has been founded on the principle of "rendition or punishment". According to this principle, "If rendition is avoided, the customary or conventional regulations related to the international crimes will be executed through the national criminal laws of the countries" (Bassiouni, 1983, p. 61). From among the main changes related to the governments' responsibilities about criminalization, trial, and punishment of the committers of the terrorist actions, we can refer to the duties that follow the UN Security Council Resolutions. For instance, the 1373rd resolution of the Security Council, enacted in 2001, includes a set of binding responsibilities for the governments (Sarwarī, 2003, p. 348). According to this resolution, in addition to a host of responsibilities, governments must prevent conducts that facilitate acts of terrorism, and do not permit the terrorists to use their territory for acts of terrorism against other countries.

The solutions of Iranian legislator to fight against terrorism

The general initiative of the Islamic Republic of Iran's legislative order in fighting against terrorism in the light of the Anti-Terrorism Bill.

No matter how detestable is an individual's action or omission and how harmful it is for the social system, it cannot be punished until there is a decision over it or a rule foreseen for it (Ardibīlī, 2013, p. 180). Therefore, any legal prohibition is in need of a factor that justifies the legality of prosecution. This is called the legal factor. The legality of crime-punishment relationship asserts that no one can be prosecuted for an action unless it is punishable or criminalized by a then-valid law (Faḍā'ilī, 2008, p. 269). According to the second article of the foregoing bill, if the conditions mentioned in the first article are fulfilled, the following crimes are considered as the instances of the acts of terrorism intended by that article,

- Murder, death threat, murder attempt or violent action leading to the murder or severe physical injuries against civilians, abduction or illegal detention and kidnapping.
- Any deliberate, violent action against individuals who legally enjoy international immunity, in a way that the life or the freedom of suchlike people is endangered, or any action that inherently entails such a danger.¹
- Sabotaging the public, governmental and non-governmental properties and facilities that leads to their destruction, brings about severe damage to them, or interferes with their effective and normal functioning.
- Affliction of severe damages to the environment, such as water poisoning and forest ignition
- Illegal production, possession, acquisition, transfer, theft, fraudulent adoption, smuggling, transportation, retention, development, or accumulation of poisons as well as chemical or microbial, or biologic elements and materials, in an amount unjustifiable for medical, scientific, or other peaceful goals.
- Illegal production, supply, smuggling, trading, and use of explosives, weapons, and ammunitions.

In the Anti-Terrorism Bill, the six foregoing clauses of Article 2 have been categorized as special criminal titles under the main category of the acts of terrorism. Those individuals who commit violent conducts to terrify people in order to affect the policymaking, decisions, and

1. It seems that this rule has been taken from the enforceable international conventions that the Islamic Republic of Iran has acceded to, notably, the convention related to the immunity of the UN staff and its affiliates, which entails regulations about prosecution and punishment of the committers of crimes against the UN staff and its affiliates.

actions of the Islamic Republic of Iran, other countries, and the international organizations are considered by the Anti-Terrorism Bill as committers of terrorist acts. In Article 3 of this bill, any of the following acts, regardless of its results and the intentions of the perpetrator is considered as a terrorist act:

- Actions dangerous for airplane or aviation safety
- Illegal occupation and control of a flying airplane¹
- Committing violence against flight passenger(s) and crew or dangerous action against the properties of a flying airplane in a way that is dangerous for the airplane safety²
- Illegal production, possession, acquisition, transfer, theft, fraudulent adoption, smuggling, transportation, retention, development, accumulation, enrichment or explosion of nuclear elements or materials, in an amount unjustifiable for medical, scientific, or other peaceful goals
- Production, possession, acquisition, transfer, theft, fraudulent adoption, smuggling, transportation, retention, development, or accumulation of nuclear, chemical, microbial, and biologic weapons
- Using or threatening to use the nuclear, chemical, microbial, and biological weapons
- Unlawful occupation of a ship, imposition of unlawful control over its cargo, destruction or affliction of severe damages to the ship, its cargo, or its passengers in a way that the safety of the navigation is endangered, or deliberate provision of false information in order to endanger the navigation safety or to commit acts of piracy
- Unlawful occupation or control of the fixed oil production platforms or facilities located at the continental shelf, committing violent acts against individuals present there, or committing any action to destroy or damage these platforms or facilities in a way that is dangerous for their safety³
- Bombing public places, governmental facilities, public transportation systems, or infrastructural systems
- Any deliberate action to financially support the terrorist actions, including direct or indirect opening of a bank account or fund, provision and collection of charities, financial and monetary facilities, currency trafficking, money transfer, financial and credit securities, and other economic activities.

Finally, according to Article 4 of the aforementioned bill, all crimes that are considered as acts of terrorism due to the special regulations or international conventions that the Islamic Republic of Iran has acceded to will be addressed by this bill. The annexed clause which has been foreseen in this article is in fact a reference to the specific nationally enforceable regulations and other international documents which the Iranian government has been bound to enforce as part of the international conventions law.

Special legislation and special criminal titles in the Iranian anti-terrorist legislative order

The legislative order of the Islamic Republic of Iran, which originates from the enlightening teachings of the Islamic law, has criminalized the conducts that are considered as terrorist acts. Although the Iranian legislator has categorized such titles as special titles originating

1. An airplane is considered as flying from the time its doors are closed in the original airport until its doors are opened in the destination airport, and this consideration is not related to actual take-off. See also, Beigzadeh, Ibrahim. (2010). Notes from the public international law course. Bachelor's degree, the University of Shahid Beheshti.

2. The 1963 Convention of Tokyo about the crimes and some other conducts in the airplane foresees the crimes against the international aviation safety.

3. The protocol on March 10, 1998 about prevention of committing unlawful acts against fixed platforms located at the continental shell has considered such actions as international crimes. See also: Ziyā'ī Bīgdilī (2011).

from the Islamic Law, the effects of this action is not different from similar actions of the other governments. The initial and end goals are the maximum suppression of the manifestations of the terrorist acts. In the Islamic Republic of Iran's law, this has been represented as Muḥāriba (banditry), attempt against national security, and other criminal titles.

Muḥāriba (banditry)

The word ḥarb is the opposite of the word silm (Farāhīdī, 1410 AD, p. 213; Ibn Manẓūr, 1414 AH, p. 302) and means fight; Miḥrāb (prayer niche) in mosque is called so because it is a place of fighting against Devil, whims of soul, and vain deeds (Rāghib Iṣfahānī, 1412 AH, p. 225). However, the word muḥāribīn (bandits) in jurisprudence terminology is attributed to those who use weapons to terrify people, regardless of conditions and their social status (Fazil Megdad, *ibid*, p. 351). This does not involve any kind of terror, though. It means death threat to take by force another person's property, either overt or covert, in a way that if the individual is not frightened from the muḥārib and does not let go of his property, the muḥārib kills him and takes his property (Kāẓimīn, 1986, p. 209). In Shī'a jurisprudence, muḥārib is a person who takes weapon and causes insecurity, either within or outside the city (Qarashī, 1992, p. 114; 'Arūsī Huwayzī, 1415 AH, p. 425; Ṭabrisī, 1993, p. 291). The qur'ānic document used for the criminalization of muḥāriba as well as corruption on earth is the 36th verse of the Table Spread chapter, "The punishment of those who wage war against God and His Apostle, and strive with might and main for mischief through the land is: execution, or crucifixion, or the cutting off of hands and feet from opposite sides, or exile from the land: that is their disgrace in this world, and a heavy punishment is theirs in the Hereafter" (Qur'ān 5:36). As it was noted above, the basic and main factor for an action to be terroristic is committing violent actions with the intention to spread fear and dread among people. Such a feature can be vividly seen in the muḥāriba definition. With the consideration of the jurisprudential opinions and the examination of the past scholars' opinions, one can define muḥāriba as following: "Muḥāriba is an individual who has adopted and made ready his weapon to frighten people and commit corruption on earth through usurping people's properties forcibly and against their will" (Guldūziyān & Aḥmadīzāda, 2009, p. 208). The coincidence of muḥāriba and intention to commit corruption on earth in the foregoing manner can be traced in the jurists' and other lawyers' words. In his *Taḥrīr al-wasīla*, Imām Khumaynī has asserted that muḥārib is an individual who adopts or shows weapons to frighten people and has the intention to commit corruption on earth, and there is no difference if this happens on land or sea, within city or out, during the day or night (Mūsawī Khumaynī, n.d., p. 239). According to this opinion, in order for muḥāriba to be realized, two conditions should be met: using weapon with the intention for frightening, and the intention to commit corruption on earth (Guldūziyān & Aḥmadīzāda, *ibid*, p. 260). From the viewpoint of the present-day lawyers, too, the perpetrator's intention for threatening the public security on the one hand and his use of weapon on the other hand are the two main conditions for the realization of the muḥāriba crime (Guldūziyān & Aḥmadīzāda, *ibid*, p. 260). Therefore, in addition to the presence of the general evil intent – i.e. the deliberate use of weapon – the specific evil intent – i.e. the intention to commit violence against people's life, properties, or female family members – is necessary for the realization of this crime (Mīr Muḥammad Ṣadiqī, 2014, p. 48). As a result, the common point among all these statements is committing a conduct with the intention of spreading fear and terror among people. This is one of the features of terrorism, and so, regarding its nature, muḥāriba crime can be considered a terrorist act, which the legislator in the Islamic Republic of Iran has set out to tackle. According to Article 279 of the Islamic Penal Law, "Muḥāriba is using weapon to commit

violence against people's life, properties, or female family members or to threaten them, in a way that causes insecurity in a place. When an individual with a personal motivation uses a weapon against one or some certain people and his act doesn't cause public fear of crime and also when a person uses weapon against people but cannot cause insecurity due to his inability, he will not be considered as a muḥārib."

Breach of the public peace

Temptation and incitement

When temptation and incitement is to be considered by the penal law of a government as a criminal act or to be assigned some certain legal consequences, it can be manifested in different ways; sometimes as aiding the committer (see: Ardibīlī, 2013), sometimes as a cause for the commutation of the sentence, and sometimes as a cause for liability and responsibility for the conduct. However, when temptation and incitement is considered as a crime that breaches public order and peace, we indeed note its special meaning as a distinct crime. According to Article 735 of the Islamic Penal Law, "Anyone who effectively tempt the armed forces or individuals who in a way serve the armed forces to disobey, flee, surrender, or avoid performing their military duties, and has the intention to subvert the government or to afflict a defeat to the friend forces, is considered a muḥārib". This article is similar to Article 23 of the Armed Forces' Crime Act. Article 743 also criminalizes inciting people to fight and kill each other.

The Bill on Public Security

The Bill on Public Security entails regulations that together can be considered as a legal strategy to fight against terrorism in the present-day legislative order of the Islamic Republic of Iran. According to Article 1 of the Bill on Public Security, "Anyone who incites the laborers and office workers of the factories and workshops included in the Labor Law as well as enterprises to go on a strike, rebellion, disobedience, insubordination or to violate the public peace and order, will be detained, exiled from 3 months to 1 year, and obliged to forced residence in a certain location. He/she will be deprived of receiving wage or payment during exile and forced residence". Article 2 of this legal bill asserts, "Anyone who compels the office workers in the governmental offices and public institutes to go on a strike or incites them to violate the public peace and order or to disobey and insubordinate and also anyone who behaves against the peace, order and internal procedures of the public offices and institutes, courts of law, and prosecutor's offices or cry and bring about tumult, or to go on a strike or protest to insult, intimidate, or affect the administrative and judicial authorities, will be detained and convicted to the punishment stipulated in the previous article. Moreover, the punishment for conspiracy and collusion will be assigned for committing the conducts mentioned in this article and the previous article. If the committee is a government employee, he/she will be deprived of receiving wage and payment during the punishment and forced residence time."

Acts of terrorism against public properties, locations, and facilities

Sabotaging the publicly used apparatuses and equipment

Regarding the crimes against individual's personal properties and assets, the legislator's policy and the legislation process are manifested in a criminalization process similar to theft

cases. However, with regard to the importance of national and public properties, facilities, and assets, a more appropriate and serious policy is needed. It has been stipulated in Article 12 of the Discretionary Punishments Law, "Anyone, deliberately or with an ill-will or betrayal intent, burns or destroys the ammunition and weapon depots, ships, airplanes, etc. or the important military or governmental locations and centers or centers hosting governmental documents or records, and commits the foregoing acts with an intention for corruption or subversion of government, is considered as a muḥārib. Otherwise, he will be sentenced to imprisonment from 3 to 15 years. In case he burns or destroys a governmental property other than the ones mentioned above, he will be sentenced to imprisonment from 3 to 10 years."¹ According to Article 901 of the Islamic Penal Law, deliberate burning of another person's construction, building, ship, or airplane, factory or warehouse can be an instance of muḥāriba, and in case it is done to oppose the Islamic government, it will be considered as an act of terrorism and will be sentenced to muḥāriba punishment. Moreover, according to Article 913 of the Islamic Penal Law, "Anyone who brings about destruction, ignition, breaking down, or any other kind of sabotage against the publicly used equipment and facilities ... without the intent to interrupt public peace and security, will be sentenced to imprisonment from 3 to 10 years." Of course, if such acts are committed with an intention to interrupt public peace and security and to oppose the Islamic government, it will be considered an act of terrorism and will be sentenced to muḥāriba punishment.

Sabotaging the industries in general and sabotaging the oil industries

As national properties as well as the financial and economic support of the government and people, industries are protected by all legal systems. Since these properties are part of the public properties, any encroaching of them with an intention to subvert the legal government of a country can be considered an act of terrorism. According to Article 1 of the Law of Punishments for the Interrupters of Iran Oil Industries, "Anyone, deliberately and with an ill-will, ignite or by any means destroy a main unit of the oil industry, such as oil wells, centers for the separation of oil from gas, centers for the storage of oil, centers for refinement, oil tanks, delivery centers, major piers, pumps, oil-carrier ships, energy-production sites, offices, or oil industry warehouses, will be sentenced to death". According to Article 2 of the same law, "Anyone who deliberately or with an ill-will commits an action that leads to burning or destruction of all or part of any machines or equipment related to the exploration, production, refinement, delivery, or distribution of crude oil and oil products, or buildings, vehicles, port equipment, and communication means that belong to the oil industry, will be sentenced to temporary imprisonment with hard labor from 3 to 15 years". According to Article 1 of the Law of Punishments for the Interrupters of Industries², "Anyone who deliberately and with an ill-will ignites or by any means destroys or implants explosives in any part of the buildings, passages, machines, or facilities of any major unit of Isfahan Steel Company, Arak Machine Making Company, Tabriz Machine Making Company, Iranian Aluminum Company, Sarcheshmeh Copper Mines Joint Stock Company, National Iranian Steel Company, Iran Aircraft Manufacturing Industrial Company, or Iran Helicopter Manufacturing Company or their affiliate companies or units, including factories, forges, mines, machines, energy-production sites, pipe lines, buildings, offices, warehouses, or airports, air stations, or technical facilities of the national aviation industry, will be sentenced to the degree one felonious imprisonment from 5 to 15 years. If any of the foregoing crimes leads to murder of an individual, the perpetrator will be sentenced to death." The fear from the occurrence of such criminal conducts and attacks against publicly used properties and facilities has

1. The Discretionary Punishments Law, enacted on August 9, 1983, quoted in No. 11278 – November 14, 1983.

2. This law was enacted on April 22, 1974.

manifested in legislator's foreseeing of the severest punishments for committers of such conducts. The concern over the covert intention to subvert or oppose the government can also be considered. Therefore, it can be said that the aforementioned crimes are in a way acts of terrorism and explain the policies adopted by the legislative order of Iran to fight them.

Conclusion

Terrorism is a phenomenon that results from different causes and at the same time, leads to the formation of different conditions. In the relationship between terrorism and human rights, this phenomenon is caused by the violation of human rights and the lack of stable peace conditions. On the other hand, when an act of terrorism is committed, many basic individual and public human rights are violated. The first right that is threatened is the right for public peace and security. As a result, all efforts of the international body are manifested in the two categories of the prevention and fighting against terrorism. As examined in the present study, the international documents and conventions emphasize preventing the occurrence of terrorist acts through discussion among religions and civilizations, the enhancement of discussion and interaction between the North and the South, the improvement of the economic and financial infrastructures of the less developed countries, blocking the delivery of financial and economic support to terrorists, and the criminalization of acts of terrorism at both national and international levels. Regarding the affirmative fighting against terrorism – which is out of the scope of the present article – only short references to the process of one-dimensional and multi-dimensional use of force have been made.

The present study examined the legislative mechanisms and solutions of the Islamic Republic of Iran in fighting against terrorism. As the biggest victim of terrorism, the Iranian government not only holds itself responsible for prosecuting the committers of such acts, but also – based on the aforementioned statements – has the right and commitment to try to prevent the occurrence of the terrorist acts and to fight against them. Consequently, as the title of the article shows, the present study merely scrutinized and examined the legal approaches of the Iranian government in this regard. Thus, the military solutions of Iran in fighting against terrorism and its judicial approaches have been manifested in the form of issuing enforceable punishment verdicts against terrorists. Iran's legal approaches in this regard are manifested in the form of general and specific legislations to support national order and security, territorial integrity, the establishment and stability of the armed forces and the survival of the resident government, which have all been examined. In this vein, some initiatives like the Bill on Fighting against Financial Support of Terrorism and the Bill on Defining Terrorism have been referred to. However, these have remained ineffective due to the lack of solidarity on the side of the legislative authorities of the Islamic Republic of Iran. It is necessary that such documents and policies be addressed again more carefully through an examination of the novel necessities of the International body.

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