

# Arabian Agreement Used for Contesting Violence (Iraq as a model)

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## ABSTRACT

Protecting of Human rights and maintaining freedoms are one of the most important priorities of international law in its branches of international humanitarian law and international law for human rights, in times of peace and war. Security council comes to in the head of structure of international law in term of protecting human. Where this paper shows up in the time of the violations of human rights in the Middle East. Therefore, this paper clarifies the role of Security Council and international laws as all in the protection of human rights through reference to international conventions, committees, charters and declarations and the role played by the international judiciary in imposing the legal mechanisms that guarantee the maintenance and respect of human right.

**Keywords:** Arabian Agreement, Contesting Violence, Terrorism in Iraq.

## Introduction

Over the past years, a long debate has arisen about the concept of terrorism between two basic matters:

The first: The image of terrorism is embodied in every violent act directed for combating the resistance of the colonial project and the liberation of occupied societies, and every resistance to tyranny, whether it is a violent act practiced by organizations and individuals or countries outside the authority or an internal action practiced by political and social forces and individuals who criticize the society Or the authority itself and all this with the aim of inflicting destruction or harming the target society with violence or resist it.

The second: This opinion holds that it is necessary to differentiate between legitimate resistance and terrorism, whether it is individual for initial violence such as cases of self-defense for combating unlawful violence, or if it is resistance to violence and aggression practiced by countries or groups and this resistance is carried out by a group of individuals or individuals Or a group of countries or countries where the resistance here takes the form of violence but it is considered unlawful violence based on natural rights as well as on human rights that are stipulated in the basic document of the legitimacy of human rights.

As for the Arab countries, they took another opinion, as they claimed the distinction between the legitimate resistance to the occupation and international terrorism. They considered that the armed struggle that is being practiced by the resistance for combating the Zionist occupation is a legitimate work and cannot be included within international terrorism, but they maintained that the internal violence that is practiced by Individuals or organizations for combating society and power are terrorist acts.

This distinction has prompted the Arab countries to hold an international conference to lay down an international definition of terrorism before entering into the work of combating international terrorism, as this position coincided with the convening of the Sharm el-Sheikh conference to combat terrorism, which was held in 1996 with the presence of 30 Arab and Western countries, and preceded the American campaign On terrorism that witnessed the attack on Washington and New York in 2001 on September 11th, and this distinction about the definition of terrorism from other views contributed to the signing of the "Arab Convention for the Suppression of Terrorism and Ways of Cooperation between the Arab Countries" which was approved by the Ministers of Justice and Interior at the annual meeting held with Date 22/4/1998.

After ratification, this agreement became effective by the majority of Arab countries, despite the fact that the request for the international conference to define terrorism did not prevent some or all Arab countries from participating in the security, military, financial, and political campaign for combating terrorism.

## The First Topic Differentiate between Armed Struggle and Terrorism.

The Arab Convention on Combating Terrorism highlights its importance in that it laid down an Arab definition of terrorism for the first time and it also defined the means of cooperation among them to combat terrorism and this definition was codified through this agreement legally after it was a political circulation only in the context of disputes and conflicts between the Zionist movement and the American administration And with them some Arab countries on the one hand and between the Arab countries supported by Islamic and African countries on the other hand.

Terrorism is a language: the word terrorism is taken from fear, it is terrorized with fear, and it is in the sense of fear, with cautious and disturbance.

In the first article of the agreement of the Arab Convention for the Suppression of Terrorism, it is stated that terrorism is every act of violence or threatening it, whatever its motives or purposes, in implementation of an individual or collective criminal project, aims to create terror among people, intimidate them by harming them or endangering their lives, freedom, or security or, harming the environment, or a public, private property or property, occupying or seizing it, or putting a national resource at risk.

For fear of confusion between this definition and the actions of the armed resistance to the occupation, which are legitimate acts of violence such as throwing terror into the ranks of the occupation, came in the second article of the agreement: The crime of cases armed struggle by various means, including armed struggle for combating foreign occupation and aggression for liberation, is not considered a crime in accordance with the principles of international law.

This exception was established on the basis of legitimate violence on self-defense, which stipulated in all statutory and divine laws on the right of self-defiance as the first article of the UN Charter stipulates: The principle of equality between peoples that each has the right to decide their own destiny. Article 1 of the International Covenant on Social, Economic and Cultural Rights states that: All peoples have the right to self-determination ...

The Arab Convention for combating Terrorism has removed separatist violent movements from the circle of exclusion as they are not included in the capacity of the legitimate struggle for self-determination, and therefore it considered that the second article, item A of the agreement, is not considered a case of armed struggle for liberation.

Despite the importance of the legal definition of the concept of terrorism and the distinction between international and domestic terrorism and the armed struggle of

liberation movements for combating colonialism and occupation, these texts did not break the debate on this issue as the controversy arose in two directions, namely:

The first trend: a general political trend related to the distinction between independence movements and separation movements and the definition of liberation movements, for example: France has continued for several years considering that Algeria is a French soil and therefore they considered that the Algerian liberation movements are separatist terrorist movements and their actions are disobedience by criminal armed gangs to achieve their own benefits .

The second trend: a legal trend that deals with criminal acts, as all acts of force are acts of violence, but there are some acts that must be prevented even if they are legitimate violence. Therefore, a distinction must be made between all means of violence that are used and accordingly, principles and rules have been established to characterize some war crimes such as Attacking civilians, killing prisoners, and committing crimes for combating the human race and other crimes stipulated in the four international humanitarian agreements and their annexes in 1949.

But the applications of these treaties often remained ink on paper and sometimes were used arbitrarily when their provisions were imposed on the weaker party in some wars, but it is certain that although more than 3 years have passed since the signing of the Arab Convention for combating Terrorism and its ratification, it has not been able to break the controversy on defining the concept of terrorism on the Arab and scientific levels, especially what is related to the issue of the Arab-Zionist conflict and the Arab resistance to the Zionist occupation, for specific reasons to the location of the parties, the nature of the conflict, and local and international powers.

As the strongest party in these conflicts was imposing its legal and political vision in light of the lack of "international legitimacy" established on the rules of justice and truth. International legitimacy was a reflection of the balance of power and its outcome, as it is the outcomes and balances that are infinitely unstable and not based on the principles of natural rights and justice An example of this is when the United States of America supported the decision to usurp a part of the Palestinian land in order to establish the State of Israel in 1948 AD without looking at moral legitimacy because of the agreement of the great Powers at that time on this position and in a later period the United Nations General Assembly issued a resolution In addition to condemning Zionism and considering them a racist movement similar to Nazism, many decisions were issued condemning the numerous Israeli attacks on the Palestinian people and Arab countries.

Here, we can refer to the advisory opinion of the International Court of Justice on the separation wall in the Palestinian territories to clarify some concepts related to the difference between terrorism and legal defense of the psyche and the related concept of the right to self-determination, as the court replied, by a majority of votes, to

Israel's claim that the issue should not be discussed in The court. One of the judges, who hold a minority opinion, reached the conclusion that the court does not have sufficient information to formulate its opinion on the case, and for this; the court does not have the authority to discuss the case, and the court explained before examining the matter, that its opinion is limited only to the special sections of The separation wall, which has been or will be erected behind the Green Line, which is related to the way in dealing with allegations, international terrorism based on general international law.

The first and central aspect with which the advisory opinion deals with is the consequences and effects of the separation wall for the right of the Palestinian people to self-determination. In this context (the court recorded) the promise made by Israel to use the separation wall as a temporary security means, however the court indicated that there are major concerns; that a path of the separation wall will create (facts on the ground) that lead to the actual annexation of areas and lands This leads to affecting the future borders between Israel and the Palestinian state, and the International Court of Justice considers that the effective annexation of parts of the West Bank to Israel constitutes a violation of the right to self-determination.

As for the other aspect that the advisory opinion dealt with, the legal status of the separation wall based on international humanitarian law, at the beginning the International Court of Justice rejected Israel's claim that the Fourth Geneva Document does not apply to the Palestinian territories, as the West Bank and Gaza Strip was not once a part of a Sovereign state, and in this context the court determined that: Given that the Palestinian territories fell into the hands of Israel as a result of a war with two states signatories to the document, Israel's control of the Palestinian territories must be consistent with the Geneva Act.

The court found that the construction of the separation wall aims to serve settlement projects, which constitute a breach of Article 49 of the document. The court also indicated that restrictions on the population that remained between the separation wall and the Green Line, may lead to their departure, this is also contrary to the same provision of the document. Moreover, as the consultative opinion decided, that controlling private lands associated with the construction of the separation wall constituted a violation of personal property, which is in violation of articles 46 and 52 of the (Hague) Regulations of 1907 AD and item 53 of the Fourth Geneva Document.

As for the third aspect of the advisory opinion, it relates to the legality of the separation wall, based on international human rights law, in this context, the court determined resolutely, "contrary to the opinion of Israel", that this law applies entirely to the occupied territories, the International Court of Justice considers that The separator wall effects on the various legal rights codified in the agreements and covenants that Israel has signed, namely: the right to freedom of movement, the right not to interfere in the privacy of the home and the family, and codified in Articles 12

and 17 of the International Charter regarding civil and political rights, as for work rights, and the right At an adequate standard of living, the right to health and education, which is codified in items 6, 11, 12th, and 13 of the International Covenant on Economic Rights, social and cultural.

But with the cruel blow directed at many countries, and the collapse of eastern bloc, and a large part of countries contained the habits of the international organization in order to become a tool of American hegemony to a large extent, but international legitimacy has become strongly from American administrations and resulted the General Assembly's decision, which is that Zionism is a racist movement As for the term international legality, there are two things that need to be examined:

The first: The collision that occurred between the International Court of Justice and the International Security Council in the Lockerbie case, as the International Security Council insisted that the sanctions imposed on the Libyan public should not be lifted due to their refusal to hand over the citizens to trial in the Lockerbie case despite the decision of the Court of Justice. The International Court affirms that the competent court in the dispute over this issue is the International Court of Justice, not the Security Council.

The second: The great difference that occurred between the decisions issued by agencies and non-governmental organizations and the decisions issued by the official summit under the threat and pressure of the United States of America. This happened at the Durban Summit to combat racial discrimination in South Africa. This difference appeared in the position regarding linking racism. Zionism, as popular organizations have issued a decision denouncing Zionism and considering it a racist movement, by a large majority. As for the official statement, it was devoid of any reference to the condemnation of Zionism or Israel, and this is a strong indication that the United States of America resolutions did not express any The international community.

The analysis of the reality of international institutions makes the resort to UN Security Council resolutions such as the expression of international legitimacy without basis because this allows a different definitions of basic issues such as the legitimacy of self and its determination and armed struggle that happens if the natural principles of justice and truth are not referred to.

Some countries don't recognize the legitimacy of resolutions issued by the Security Council or that are issued in the future will lead to a defect in defining the rules derived from the definitions that were put forward in the Arab Convention for the Suppression of Terrorism, as assuming the legitimacy of the United Nations resolutions has necessitated accepting the legitimacy of the entity Zionists on the land of Palestine, thus any acts of violence practiced on the basis of the conflict are considered terrorist acts, this explains the condemnation of some countries to the

resistance operations that are practiced within the Zionist entity and considering it a form of international terrorism.

This is fully reflected in the other situation which says that the basis of the legitimacy of the international resolution is the acceptance of the parties, and its non-conflict with the natural rights on the other hand, and therefore they see that the resolutions of the United Nations General Assembly or the UN Security Council cannot impose legitimacy on the rapes that are reflected With natural rights, this results in the consideration that all types of resistance that occur within the Palestinian territories are a form of legitimate armed struggle.

But this issue overshadows many of the other provisions of the agreement, as the second article of the agreement says: It is not considered a political crime , and hence becomes a terrorist - infringement on persons enjoying international protection, including ambassadors and diplomats in the contracting states or accredited to them, "as this paragraph contains Members and ambassadors of the Israeli missions accredited in some Arab countries, although some Arab countries do not recognize the legal personality of the Zionist entity, at least from an official point of view, but in practical terms, the effects of this difference and contrast appear in the practical applications of the convention. There are many examples such as:

When carrying out acts of violence for combating elements of the Israeli diplomatic missions in countries such as Jordan, Egypt, Qatar and others, it must be considered a terrorist operations, the perpetrators of these crimes must be extradited to trial as terrorists.

This disparity also appears around interpretations related to the application of international covenants, including the four international humanitarian agreements also for the year 1949 AD. One of the most prominent issues of disparity is the interpretation of the nature of Israeli society regarding the application of the rule not to target civilians, as there are those who believe that the Israeli society is a military and existing society On collective participation and rape, this is incompatible with the character of the civilian from its members who are treated in the event of war as military and also there are those who differentiate between Israeli society and the Israeli military, as a result of this difference a difference in the situation of the martyrdom that targeting Israeli gatherings in non-military. Those who support the idea of militarization of Israeli society operations, but they do not see that this is contrary to the four humanitarian agreements The advocates differentiating between civil society and the Israeli military establishment differentiate between them on the grounds that this is incompatible with international humanitarian agreements.

## The Second Topic

### Local terrorism and political crime in the provisions of the Arab Convention for the Suppression of Terrorism

External pressures were not the only motive for concluding an agreement to combat terrorism between Arab countries, especially after the Sharm el-Sheikh International Summit to Combat Terrorism, as many Arab countries witnessed acts of violence that are subject to the specific description of terrorism that was mentioned in the agreement during the last two decades of the twentieth century. These included Countries on Lebanon, Iraq, Syria, Jordan, Bahrain, Yemen, Sudan, Egypt, Libya, Morocco and Algeria. Violent organizations have extended their activities across regional borders and cooperation has taken place between them.

These actions were the background of the policy most of the time. Tens of thousands of people were killed and some countries are still suffering from the effects of these actions, such as Sudan, Iraq and Morocco. They witness acts of violence with separatist motives and Algeria where conflict is taking place between the military and the fundamentalist Islamic movement, these conditions have pushed to conclude the Arab Convention on Combating Terrorism, the agreement is a practical development for cooperation in combating terrorism between Arab countries and technically for uninterrupted cooperation, as the only form of Arab cooperation that has not been interrupted in all circumstances is the meetings of Arab Interior Ministers. Z fingerprints of these events affecting the internal Convention.

Removing the political character of most crimes, especially the attack on high-ranking officials such as presidents, kings, rulers, their wives, crown prince, etc. Infringement on persons who have an international protection, and ambassadors, in addition to the crimes of theft and willful killing that have been have been described against the means of transportation. It came for combating the background of the attempt to assassinate President Hosni Mubarak in the Ethiopian capital, Addis Ababa. It was noted that the agreement lacked the definition of political crime and its distinction from terrorism, and setting specific controls, and this is what allows the inclusion of many political crimes.

The Arab agreement included periodic information exchange and emphasis on preventing cross-border movement, preventive arrest, preventing incitement, and extraditing criminals and those accused of terrorist acts. Indeed, many countries have extradited criminals who have been accused of committing terrorist acts to Egypt and the Libyan Jamahiriya, and among the countries that have handed over terrorists to countries Their indigenous Yemen, Jordan, Emirates, Syria, Saudi Arabia, etc.

What has been observed in the fight for combating acts and forces of terrorism attributed to fundamentalist and political opposition is that it was not matched by an

obligation to cooperate for combating separatist forces practiced with terrorist violence in accordance with the provisions of the agreement as Algeria continued to support the Polisario movement that was calling for the separation of the Valley of Gold and Western Sahara from Morocco and fighting for To achieve this goal, many Arab countries have provided financial, political, and military support in southern Sudan to separatist movements and opposition forces that have carried out violence that has reached military installations and killed civilians and military personnel in their struggle for combating the government. President Omar al-Bashir in addition to the Iraqi Kurdish separatist movements leaders welcome and support finding it in many Arab countries.

This difference and variation is not due to disputes over the interpretation of the agreement between the Arab countries except the Polisario because many countries consider it a liberation movement and are seen as internal separatist movements and these two descriptions fall under the definition of terrorism and the difference between it and legitimate political crimes in accordance with the provisions of the agreement.

The most important thing in the agreement is that it lacked any reference to eliminating the motives of terrorism and acts of violence and how to eliminate its causes and foundations as it addressed the phenomenon without treating its generators, but this reflected on the absence of looking at the motives of the terrorist act, because the agreement viewed the terrorist act, as a unified act, where said: Terrorism is every act of violence or threat thereof, whatever its causes and purposes are in the first article, and then all the resources of the agreement came to talk about the terrorism of groups and individuals without referring to terrorism that is practiced in a state for combating other countries or for combating its citizens.

However, this traditional absence is the result of the agreement being the outcome of the Arab states, and not the expression of the will of the people, and therefore it addresses issues related to the safety of the ruling authorities and governments.

### **The Third Topic Iraq as A Model**

Experts argue that terrorism in Iraq is that the phenomenon of terrorism that is different in the Iraqi context from terrorism in other Arab countries in terms of nature, origins, conditions, and means that it adopts in some aspects.

These circumstances made Iraq terrorism characterized by the following:

1- Terrorism has arisen in a society characterized by numerous sects, sectarianism, and the dominance of ethnic and tribal tendency.

2- Terrorism in Iraq is distinguished in that it is based on the ideological dimension in declaring its goals and crimes and justifying its actions, as terrorism in Iraq falls under the ideology of terrorism, an ideological belief based on the individual's belief in carrying out terrorist operations.

3- The terrorist groups in Iraq have included foreign fighters from different countries of the world.

4- There are many forms, means, and methods practiced in Iraq, such as the method of assassination by means of IEDs and the style of car bombs that are carried out by suicide bombers or remotely, in addition to the phenomenon of suicide, which constitutes the most dangerous manifestations of terrorism, which distinguishes Iraqi terrorism from the terrorism of the whole world.

In this regard, an application of the Arab Convention to Combat Terrorism in Iraq has emerged on three axes, the first axis within the framework of the League of Arab States. The efforts of the Arab countries have reached to conclude the Arab Convention on Combating Terrorism in the Council of Ministers of Interior and Justice held in 1998 at the headquarters of the Secretariat of the League of Arab States in Cairo.

The second figure, it relates to participating in the combined alliances of a number of Arab countries alongside international and regional powers to fight terrorism, such as the participation of many Arab countries in the international coalition to fight ISIS in Syria and Iraq led by the United States of America.

And finally the third form, which is represented in bilateral agreements between a number of Arab countries and Iraq, as these agreements include many cooperation between the field of exchanging experiences and intelligence and providing assistance to Iraq to fight ISIS.

Under the cover of the Arab Convention for the Suppression of Terrorism, the Iraqi experience was distinguished by the following:

1- The importance of the effective use of the security means to increase and spread terrorist operations in most cities of Iraq.

2 - The importance of developing a legal framework for combating terrorism, because the existence of a legislative framework criminalizing all terrorist operations is one of the basics of the anti-terrorism process.

3- Achieving the national interest because there must be harmony between the various national and sectarian currents in order to truly represent all nationalities and sects in government.

4 - The principle of quotas, because failure to apply the idea of quotas leads to the loosening and weakening of the leadership, administration, and military and security institutions, and this negatively affects the military control that affects maintaining security and combating terrorism.

5- The importance of disarmament, as it is considered an important step for combating terrorism, due to the proliferation of weapons as a result of the frequent wars in Iraq.

6- Paying attention to the effective management of prisons because caring for them after their release and providing them with services after their release and their intellectual and social rehabilitation makes prisons an academic way to learn the methods and forms of terrorism.

7- Draining the sources of terrorist financing because financing is an essential necessity for these organizations and groups to carry out the terrorist act.

8- The Awakening Forces model, which is considered one of the ways to combat terrorism in Iraq, with difficulty implementing it in other Arab countries.

9- Legalization of the style of the secret laboratory, as its mission is focused on monitoring crime, gathering information about criminals and terrorists, and news on the possibility of terrorist acts and the pursuit of wanted persons.

10. Careful selection of explosive detection devices, as they greatly help to reduce the incidence of terrorist operations.

11- Continuous development of a border control plan to prevent the infiltration of criminal and terrorist elements and prevent the arrival of any human or logistical supply of these organizations.

## Conclusion and results

1- The official definition of terrorism is what separated the armed struggle to liberate the land from occupation because it is an important distinction as it is linked to the legitimate resistance operations of the Zionist occupation as it pulls the rug in front of the attempts of Western and Zionist forces by linking the operations of armed resistance to international terrorism.

2- For the sake of self-determination, the separatist movements were excluded due to political and national considerations affecting the territorial integrity of Arab lands from legitimate armed struggle.

3- Any call for an international conference in light of the American hegemony over the international institutions is the American-Zionist definition prevailing away from the real will of states and peoples and what happened in the Durban conference to combat racism is a general indication that could result in international conferences.

4- The basic and main flaw in the descriptions is an attempt to link them with international legitimacy, with a decisions of the General Assembly and the International Security Council, and these decisions are not taken on a legal basis, but rather are taken on changing political considerations according to the changing balance of power within international institutions.

5- There are variations in the light of the difference in the policies of the Arab countries in the interpretation of the agreement, especially the policies related to the Arab-Zionist conflict, because the recognition by some Arab countries of the legitimacy and sovereignty of the Palestinian entity over the Palestinian territories occupied in 1967 has led to the consideration that any violent act that affects the Zionist entity is one of the forms Terrorist violence, and this is what led to the continued condemnation of these countries to the martyrdom operations carried out inside the Zionist entity that reached the civilians.

6- The recognition of the legitimacy of the Zionist entity has led to ambiguous situations regarding the armed struggle that some of the original inhabitants of Palestine do before 967, because these acts of violence are directed for combating legitimate authorities and not occupation forces, but those who do not recognize the legitimacy of the Zionist entity believe that the resistance actions include all The actions of Palestinians in occupied Palestine.

7- No conflict was observed between the application of the provisions of the Arab Convention for the Suppression of Terrorism and the implementation of the provisions of the treaties that were signed between Israel and the Arab countries, which stipulate the priority of its provisions over all subsequent and previous agreements.

8- The Arab application of the agreement took a discretionary form, as the terms of the agreement were implemented in relation to combating violent fundamentalist organizations. As for their neglect, it was carried out in relation to supporting separatist movements.

9- The agreement ignored any reference to the roots and causes of terrorism, and it devoid of any text that talks about state terrorism for combating its citizens or for combating another country.

10- The agreement created new restrictions on personal freedoms, as the agreement allowed the arrest of the wanted person to be extradited to another country for terrorism charges as a precaution for a period of two months without attaching this request to any evidence.

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