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TERRORISM AND HUMAN RIGHTS - AN ISLAMIC PERSPECTIVE

Abstract:

Terrorism, according to the concept of traditional as an act of violence or threats or intimidation is an assault on a number of human rights of protected in the international conventions and decisions , and with the multiplicity of forms of terrorism and the development of its methods became -itself-represents the confiscation of all of these rights , this confiscation comes in two ways : the first is terrorist act , whether represented in the act of violence or intimidate, threaten by violence , as it represents an assault on the human right of life and physical integrity and safety, and secondly, by the power that is exposed to such acts , or even receive real threats or Lying false , and is so taken with this power of action that would eliminate or reduce the fundamental rights of many people .

This study will address the definition of terrorism from the point of view of Islamic law , and the combating its acts in Islamic law, which called (AL-HERABA) ,it means any one abstracts people in the street and attack them for such terrorizing ,or taking their money by force or assault on their physical or personal bodies or liberties .

The study will also address the concept of human rights in the positive law and in the Islamic Sharia , which preceded many international human rights conventions , and emphasized the protection of human rights in peacetime and wartime alike, but stressed the protection of animal rights.

Finally, the study will be presented the mutual influence between terrorism and human rights , by searching the extent of the restrictions imposed by authority fighting against terrorism on the rights and freedoms of individuals actions and the threat of terrorism - at the same time - from a blatant assault on the most important and prominent human rights such as: the right to life, physical integrity and the right of free expression , the right of moving from place to another, and live in peace . Also , some can justify terrorism acts by lacking in democracy and human rights.

Keywords:

Terrorism , human rights , islamic law ,

Introduction

Terrorism ,According to the traditional concept, is an act of violence or threats or intimidation, and therefore It violates a number of fundamental human rights in the international conventions and decisions, multiplicity forms of terrorism and its methods development make it , in itself, A confiscation of all of these rights, which appears in two ways: first way is a terrorist act in itself, which considers as an assault on the human right of life , physical integrity ,and safety. Second way, by the authority, which exposes to such acts, as it may adopt some severe procedures that eliminates or limits basic rights of human beings , such as the right of express , freedom of movement ,and freedom of belief etc .

eleventh of September 2001 Events has produced a number of variables that clearly affected the stable human rights, these acts of terrorism have led to action by the United States undermined human rights at the international and local levels, as it allowed for itself assaulting a number of countries without justification, claiming it is a haven for terrorism, has also imposed strict security measures at airports, ports and severe restrictions on freedom of movement within the United States on some communities wasted their basic rights.

Then terrorism appeared again at the form of some groups adopted Islam as a cover to justify its brutal actions that committed , and Islam is completely innocent, These groups committed terrorism acts in the name of Islam, and this seems as reality and a fact that we are living today , and NowTerrorism is living on some areas for the first time, in a number of Arab countries such as Iraq , Syria, Yemen and Mali etc . in addition Terrorism threatens seriously Western countries and some terrorist incidents were committed in France (Charles Ebdo incident) and other incidents in Belgium and Australia etc.

This study tries to Examine the Relationships between terrorism and human rights from the perspective of Islamic sharia, and how to use each other to justify, or to eliminate it, and this study will be divided as follows:

Section I: Concept of terrorism in Islamic Sharia and law.

Section II: Concept of human rights in Law and Islamic Sharia.

Conclusion :Mutual influence between Terrorism and Human rights.

Section I: Concept of Terrorism in Islamic Sharia and law

First: Linguistic meaning of Terrorism:

Ancient Arabic dictionaries did not know the word (Terrorism) (AL Masry , Ebn , 1995 , p1374 ; AL Khayat , Y . 1988 , p1237 Al Bostani , A . 1980 , p346 ; AL Razy , A , M . 1987 , 259) , but it knew the verb "rahab " which means fear, and the awe and Rhba means fear. "The dread is fear and panic, (terrorized) .

The word horror(TERREUR) appeared first in French language in 1355 by the monk (BERSUIRE) , which came from the Latin language TERROR, and its equivalent in all Indo-European languages which originally meant The fear or finite concern equals unfamiliar and unexpected threat broadly, there is a new meaning of this word by the end of the nineteenth century after the execution of Robespierre and charged with Terrorism ,This is means The terrorism which practices by the state, however, the increasing of terrorism against the state over the last thirty years, makes the word (Terrorism), in the common language, means only The activities against the state(Academies' de droit International de la Haye. 1989., pp.296-297) .

The term "Terrorism" appeared in the newly dictionaries as A source of "terrorizing" (AL Gar , Kh .1973 , p67 ;AL Basha , M . 1992 , p 67 ;Horiez , A . 1996 , p119 ;AbdelHady , M , A . 1986 , pp38,39 ;Abadeer , K , w . 1980 , p64) . it means the use of violence and threats, it is a Regime based on violence and terror. A terrorist commits violence to establish his authority. And the terrorist governance is a kind of Regime based on terrorism and violence, some governments and revolutionary groups use it to achieve political goals (AL Monged . 1994 . p 282 ; AL Wageez . 1998 . p 279) . Terrorism, then, is the use of illegal violence or threats to achieve political goals, whether from the government or individuals or revolutionary groups(AL Kayali , A ,&Others .1985 , p560) .

. In translated dictionaries into English& French languages , Word (Terrorism), means The spread of fear and intimidation using violent means to achieve political objectives(AL Karmy , S , H , 1987 , p1448 ; Edrees , S , 1994 , p1015 ; Fouk AL Aada , S . 1988, p1088 ;Lobada , H . 1993 , p506) , either by the government or individuals. Dictionaries joints between the history of the government's terrorism and the French Revolution government led by Robespierre in 1793.

TERRORIZE-TERRORISER means spread panic and terror, it gives the meaning of use of force and threat of subjugation, whether against people or things. In the political dictionary, Terrorism means trying to spread panic and fear for political purposes (Ateyat Allah , A . 1980 , p60) .

Italian language mentioned to word (ATTERIRE) as a meaning of scares or freak out or commonly severe panic.it comes from the Latin word TERROR, while the German language translated The French word TERRORISME into to(TERRORISMUS), because it did not know similar Word can be derived from (Al – Ghannam , A , M . 1996 ,p57 ; same author . 1993 , p5) . Terrorism is the systematic use of violence and intimidation to achieve a certain goal, and the (TERRORIST) who is doing these actions(The American heritage dictionary .1982, P.1255) .

The foreign dictionaries includes the same meaning and indicates the government's terrorism by the French Revolution in the period from 2 June 1793 to 27 July 1794, through the committee of

public security, until the fall of Robespierre Regime. Terrorism is political violence of individuals or minority take multiple Forms like Assassination pumps , with the significant aim and particular purpose, such as changing the political system or resistance certain aspects of the state policy, The Terrorist who uses terrorism or participate in it (The new dictionary, Webster's dictionary of the English Language, 1984, p.1021 ; library of congress, subject headings,1993, p.4802; Grand dictionnaire-encyclopédique,1994 , p.233)

It is clear to us that, Translated Arabic dictionaries , and The Latin ones ,adopted (Terror) as original meaning of terrorism, the origin of word terrorism is terrifying, but dictionaries acknowledged the word "Terrorism" which means" Dread" (opposite , see , Shokry , A , M . 1994 ,p46) , but dictionaries equated between the Two words , in spite of their meanings are contrary in the Arabic language, as the word (Dread) means fear which is accompanied by respect and reverence, while word (Terror)means fear and panic only (Ezz El Din , G , A . 1986 , pp.21,22) .

The importance of linguistic definition of terrorism encouraged some scholars to take it as a base for the definition of terminological terrorism , and clarifies its elements and characteristics that distinguishes it from other phenomena's that may be mixed with (Abo Bakr , Y , A . 1995 , p. 63) .

There were many linguistic definitions of terrorism which went mostly to the link between terrorism and the use of violence to achieve political goals, despite the mismatch meaning of linguistic terrorism with political violence, and the development of the Terrorism did not make it limited to the political aspects only, but it fires when using of violence by an individual or group for political or personal purposes or other purposes (Helmy , A , N . 1988 , p.29) , then the terrorism has emerged within the scope of the common law as a crime punishable by criminal legislation (Abo Khatwah . 1992 , p.41) .

Second: Definition of terrorism in the law

1- Definition in the Egyptian legislation:

With the growing of terrorist operations in Egypt with the beginning of the nineties of the last century, The criminal legislator issued the Law No. 97 in July 1992, which added in its Article II The Article No 86, to The Penal code , which provided , for the first time, a definition of Terrorism as It is " every use of force or violence, threats or intimidation, turn to the offender in implementation of an individual or collective criminal project to disrupt public order or endangering safety and security of society at risk, if it would hurt people or throwing horror between them or put their lives, freedoms, security at risk, or damage the environment, or communications or transportation or money or buildings or public or private Proprietary or occupying or seizing it, or to prevent or obstruct The public authorities or houses of worship or institutes of science to work, or disable the application of the Constitution or laws or regulations ".....

The Egyptian legislator, chose to put The anti-terrorism law texts within the Penal Code, not to issue a special law for combating it , on the base that the Penal Code is a general law includes general rules that apply to all crimes, and it responses to the needs of the community, and it follows the French legislature. Also to ensure consistency between the texts of all the law, so that it looks like a set of consistent elements of integrated architecture rules, it also confirms co the legislator commitment of public order and maintenance of all the essential guarantees That existing in penal code and utilize it (Hosny , M , & AL- Qalubi , S .1993 , p.203).

some believe that the question of definition is beyond the requirements of the legislative text, as the legislative definitions are abnormal and unacceptable, because it restricts the judiciary authority in the application of the texts and close the door in front of it and in front of Jurisprudences to Explain , in addition to the criticism directed to the definition offered by Article 86, which can be listed as follows:

1. The definition of terrorism is very wide (loose) , as the "force" includes many things, then it may include any peaceful movement or strike or picket.
2. Raising doubts about the legitimacy of Article 86, as it was replaced by a bad article that stated penalty of death on all wrongs with self-ownership, which was canceled in 1957.
3. The use of political terms such as" national unity" and" social peace", which do not have definite meanings .
4. Elastic terms in the field of criminality, and that might be included in the criminalization, what legislator does not mean.
5. The legislation was considered as an occasions legislation that comes in inflamed nerves, some says that the legislature was polarized towards the emerging reality on the Egyptian scene represented in the prevalence of violent crime and terrorism, and he wanted to deal with this reality through the law without giving any importance for identifying the concept of terrorism (Abdel-AAI , A ,M . 1994 , p56) .

6. Unconstitutionality of some law articles especially which include loose phrases may lead to restrict certain freedoms.....

7. The legislator did not identify the crime of terrorism or distinguish it from the others so, each crime according to this definition can be considered a terrorist crime in certain conditions, except for crimes that did not use force, violence, threats or intimidation, it is a qualitative survey not quantitate one ,and the definition did not include economic and technological Terrorism forms.

8. Expansion in Terrorism definition without requirement a certain amount of violence, force, threat or intimidation, such as the French legislation, which requires a serious disruption of public order.

9. Equality between individual and collective criminal project , some see that criminal enterprise consists of several consecutive criminal acts, each act has its own identity, links each other by the same criminal purpose , in spite of Terrorism is not only several or one act only, because the description of the individual or collective project depends on who Organized it, not who Executed The Crime (AL –Ghannam , A , M . 1993 , p.5)

10. The definition did not require an armed or an illegal violence.

Despite of these criticisms, some said That The Egyptian legislature made an important step in the definition of terrorism, which still a problem needs further doctrinal discussion (Ezz EIDin , G , A . 1992 , p.13) . They responded to previous arguments by saying that : if visible text suggests non-defining terrorist offences strictly, but by more search we can exclude The crimes do not include violence, force, threat or intimidation, as well as determining the acts consequences already (AL – GHAnnam , 1996 , p.30) ,which make definition more specific. Others felt that the definition of terrorism was comprehensive and inclusive and prevents any terrorist from escaping criminal punishment (Mohamed , E , S . 1993 ,p.156) . In order to resolve the dispute over defining terrorism, and about the lack of the definition coverage of economic and technological terrorism ,some said That definition in the criminal code must be limited to the criminal law, does not include definitions are outside the scope of the criminal law (AL-ADLy , S ,M .1993 ,p.40) .

Others give less important for Terrorism definition , because They considered terrorist crime is A kind of ordinary crimes if it committed in certain circumstances under a specific motive, and The motive is not an element of terrorism, then they considered it a procedural act which does not alter the nature of the crimes and does not add new elements (NAYEL , E , E . 1995 , p.33 ; ABdl-AAI , A , M. op cit , p.54) .

Some also refer to aspects of restriction contained in the Law such as :requesting use of violence and force, threat and intimidation within the framework of the criminal enterprise, which implies intent is put into practice, or orchestrated plan is translated through coordinated efforts with a view of achieving the desired objective, and thus excludes any improvisation act (AL-GHAnnam , A , M .1993 , p.12) .

The long definition of terrorism was justified by the idea of "precautionary criminality , so The legislator criminalizes terrorist organizations that established before committing terrorism acts, according to another view, the definition is jurisprudential ijthad of the legislature, or a procedural

definition focuses on forms of terrorism not its substance, and it is not strange for the Egyptian legislator who provided a definition of the theft, forgery, premeditation and other crimes, and the words "force" "threats" "violence", "national unity" and "social peace" are founded in Other Egyptian legislations. It can be said that terrorism according to Egyptian legislation includes two components: one physical and one mental:

physical element:

The physical element means the work of terrorist behavior and consequence and causation between them, like the physical element of any offence, it is a conduct of violence, force, threat and intimidation, which (and this reflects the relationship causal) which causes a specific result such as: harm people or frighten them, or put their lives or freedom, security endanger, or harms the environment or communications or transportation or money or buildings or public or private property, or Occupation or seizure or prevent or impede the public powers exercises or worship houses or institutes of science to their work or to disable the application of the Constitution or laws or regulations. The results of the terrorist act may be the same as the consequences of criminal act, and therefore it is difficult to make deference between them.

Moral element:

It is the offenders' will to a particular goal which is disrupt public order or endanger the safety and security of society at risk, we can notice how the legislator expanded the definition of terrorism, so that each crime- whatever terroristic or non-terroristic crime - is a breach of public order, and the concept of public order is vague and does not express a specific idea, it is just relative idea differs from time to time and from place to place. the legislature requires merely endangering the safety and security of society, and this is a form of criminality on basis of risk (NAYEL, E, E, op cit p.21), that means it is not essential to create a public danger, but enough to put it at a risk, and does not require achievement of material or physical damage. the legislature here follows international treaties of combating terrorism, which does not require certain outcome or physical harm as a result of actions. Egyptian legislature also does not require a certain degree of prejudice on Public order, as French law did, it requires a serious public disorder (serious), so it seems that the Egyptian legislature is expanding in the elements of terrorism.

Egyptian legislature was influenced by Spanish law in its definition of Terrorism, which considered terrorism an aggravating circumstance for all offences, with the exception that the Egyptian legislature limited this aggravation on certain crimes, it also established a new terrorist crimes that terrorism is one of its elements, thus we can distinguish between the crime of terrorism and other crimes (AL-GHannam, 1996, p.317). The Egyptian legislature has gathered the teleological trend and structural trend in defining terrorism acts, but its tendency was clearly towards teleological direction, it is the same trend of the national legislation are adopted wherever, International conventions adopted structural trend to criminalize certain acts as terrorist offences at international level (Abdelaal, A, M, . op cit, p.42).

2. the definition of terrorism in the UAE legislation.

The UAE legislature issued The federal law No. 7 of 2014 to combat terrorist crimes which defined terrorist crime in article 1 as (each criminal act or omission under this Act, and every act

or omission constitutes a misdemeanor or felony mentioned in any other law if committed for terrorist purposes)

The terrorist purpose is (The will of the offender to commit an act or omission, if this Commission or omission is criminalized by the law, with The intent to cause a Terrorist result, directly or indirectly, or the offender knows that This Act or Omission may lead to a terrorist Result)

The Terrorist Result means (spread terror among people, kill or cause serious bodily injury or substantial damage to property or the environment, or breach of the security of internal or international, community, or State anti-Semitism, or influencing on the public authorities of the State or another State or an international organization in the performance its work , Or get any kind of benefit or advantage from the State or another State or an international organization).

Third: concept of terrorism in Islamic Sharia:

Islamic Sharia is known for more than fourteen centuries of that type of crime which results in horror or committed for political purposes, and has the most penalties by the crimes of HIRABH and prostitute.

HIRABAH (highway robbery), is scaring people in the road by force and violence, as a prostitute is the ruling class out of the interpretation, both are crimes in Islamic Sharia . Researchers have differed about what is considered from both form of terrorism, according to the distinctive element of his point of view. Some of them considered political objective is featured only of the terrorist act and therefore, The prostitute crime in Islamic law is a synonym for modern terrorism, and one of its forms (Ezz – EIDin ,G ,A ,1986 ,P. 100) .another aspect of the doctrine considered that the distinctive element of a terrorist act is the result of fear, panic and lack of confidence, as evidenced by linguistic sense, and this represented The most of scholars, and consequently it considered highway robbery (HIRABAH) is one of the forms of terrorism (Moheb Aldin , M ,M . 1983 , P. 149). Another view collected between The Two directions considering the two crimes are forms of Terrorism in Islamic law, and two sources of it (Sedki , A .1994 ,PP. 32,33) .

We believe that a prostitute (AL-Baghie) is a type of intolerance to a certain opinion, due to the difference in understanding of terms , some of the fuqaha ' difference between right prostitutes and wrong prostitute which is punishable as a crime, and we have to fight against it, if people whom committed gathered in a particular place and began fighting , in spite of this , it does not mean that their thought is a crime – even if their understanding of religion is not acceptable-punishable, because the war against them is not a sanction of criminal act or disciplinary punishment, but to return them to the correct understanding Of religion ,if they were not right, and exit onto front of unjust to a God, not a prostitute, and for that you should not fight unless they started fighting, they also have special provisions in the war against them, and their captives, and compensation as a result of the destruction of money and property.

As a result, the crime of prostitute (AL-Baghie) is a major political crime requiring mitigation of punishment (Ahmed ,N ,S .1982 ,P. 412), as followed by most States legislations after the French Revolution, so that Allaah ordered by reconciliation between the two groups, and to fight the group which has rejected reconciliation and assaulted other group . now most of the violent movements in the world are seeking to achieve personal goals, and are committing acts for , selfishness or ethnic, separatist, and at the same time it demonstrates their commitment in some

aspects of religion and claim the political goals , in addition, Terrorism today has a new international dimension and extends across the States, in many forms as : hijacking of aircraft , maritime piracy, hostage-taking for ransom, store robbery, drug trafficking, looting of museums and the theft and sale of Antiquities as (ISIS) (Islamic State) did in Iraq and Syria, in order to finance its operations anywhere in the world, This type of terrorism, cannot be described as a crime of prostitute , so it could not be faced by negotiations or Dialog , no understanding or interpretation could be discussed or talk, in light of the growing cooperation between terrorist groups and organized crime groups from one hand, and Terrorist groups between each other on the other hand . This requires increasing the punishment for those who spread corruption in the land, looting the money, intimidate and terrorize civilians and children as a key goal in what they tell him of the great propaganda for their actions by news agencies, and television screens around the world . increasing the punishment for their actions comes from considering their actions as (HIRABAH) in Islam .but if terrorism in the local and international form can be included in crime of HIRABAH in Islam, The prostitute crime applies only to Acts that fall within the State borders itself and does not extend to external borders and not involves the use of violence or threats. in addition to the above, the war against prostitute crime is considered as legitimate defense, so their actions should be crimes (AL-Awa , M ,S . 1978 ,P.123), so if the Imam can stop them without fighting he should not fight them, This is unlike the acts committed by terrorists ,which are crimes in itself in approximately of legislations ,these legislations consider it as a terrorist crime regarding to certain circumstances or with specific methods of committing it, or the resulting outcomes, as outlined previously. So we can say that a prostitute crime in Islam is synonymous with political crime in modern states (AL-gamily , KH ,B .1977,PP . 58,59), while similar offence of HIRABAH considered The modern form of Terrorism at the international and national levels, and it describes the meaning of terrorism in Islamic jurisprudence, we'll examine the crime of hirabah and as similar or vary it with Terrorism.

1. Meaning of HIRABAH in language:

Forestry language of war is sin, and the bayonet. Bayonet fight if you take his money, leaving none, Al-Mohareb any plundered the disenfranchised, The Warrior participle, is derived from the war and fought the antithesis of peace, in the sense of robbing money (Hasan ,M ,A , op, cit ,P62), and the meaning of murder and rape in the general sense (Husseini ,A ,M .1987 ,P32). Thus, the linguistic meaning of Hiraba is assault and robbery, security clearance, it is not synonymous with murder and fighter, but the main element of it is attacking, robbery, security clearance, which might be with killing or without fighting (Al-Maghrabi , A,A, op cit , P. 11), and this is consistent with the meaning of terrorism and its impact of spreading horrors and insecurity, and as an attacking of innocents .

2. Meaning of HIRABAH in naming convention of Jurists:

Doctrine of Islam has different definitions of HIRABAH , but all agreed about The main elements of HIRABAH offence, they agreed that the Warriors are bandits to scare away bystanders, killing souls and take money, and one of these is enough to deal with those as fighters as long as they had come out to achieve one of it , but the fuqaha differed on conditions necessary for highway robbery.

It is clear HIRABAH crime requires Two essential elements (Qaaed , M ,A .1978 ,P 49): first , the publicity of highwayman, depending on the server of the group , it does not need the disappearance of the Warriors-themselves-from the Governor or his representative, and commit their acts openly against the authorities and the ruling authority are aware of, and this is what distinguishes it from theft (Hasan , M ,A , op cit , p 50). Second, is the terror and intimidation, and disturb people either with taking money or kill or not get something out of it, thus HIRABAH achieved by scaring way as the most of doctrine said ,even though it does not include taking money, or killing the people (Hussein ,A ,M, op cit ,p58). If the highway robbery (HIRABAH) to get money, without scaring the way, or taking the money, or killing people, it is not a highwayman, and who committed it is not A combatant.

We emerged from the above how keen Islam to ensure the security and stability of society. And the additional provisions by the Islamic jurisprudence to The HIRABAH Crime made it as similar as terrorism nowadays, these provisions are: distance from residential areas, The use of force and domination as the most prevalent international terrorism operations, old & new, which is maritime piracy and aircraft hijacking, because the majority of Islamic jurisprudence does not differentiate between highway robbery in Dar al-Islam or out of it , and waging war against non-Muslims as HIRABAH against Muslims as long as they had entered it safely .

This shows the compatibility of the provisions of Islamic Sharia with the international law of war and the rules that govern the acts of international terrorism, and whether the acts of hijacking is usually for political purposes on the other hand, it might fall for selfish or personal motives or for ransom, and the target of acts of terrorism as we advance to spread terror and dread in the hearts of the victims and send a message to potential victims of violence to induce individuals or Government to change their positions, then to horror Or dread the result from acts of terrorism and is the same intention and result in an interim goal of waging war-is to achieve the goals of the terrorists, whether political or otherwise.

And then shows how the convergence of modern forestry acts of terrorism in Islamic jurisprudence according to its plain meaning of linguistic and terminological.

3. Highway robbery (HIRABAH) in law:

Most Arab legislations do not regulate HIRABAH as grave , separate and distinct from other crimes. Some suggested the crime of robbery with violence and threats in the street, as a form of HIRABAH (Hasan M ,M ,A , op cit , p56). While other scholars believed that crimes of Hirabah in positive law within the scope of a prostitute (Al-Shal ,A , Y .1976 , p 102) which are named "felonies and misdemeanors harmful to the Government from the inside", such as the article No 98 of the Egyptian Penal Code, punishing who forms a gang to attack a range of populations or use arms to resist men of the public authority, and the leader of the gang, led by including, the Warriors are a gang formed to annoy people and exposure to them and robbed their money or killed (op cit , p 48),this means that the crimes of HIRABAH were described In article 89 of the Egyptian Penal Code.

The crime of HIRABAH is kind of HODOOD crimes in Islamic Sharia, and the states which adopted SHARIAH in Islamic offences applies Islamic rules to this crime, in its both faces , substantive and procedural rules , like Federal Penal State of U.A.E.

Section II: Concept of Human rights in Law and Islamic Sharia

The real respect for human rights in the world is the basic foundation upon which social justice and economic prosperity and development of the real values of humanity, and it is necessary to consolidate the friendly relations and support cooperation between the governments and embrace peace. human Dignity requires respecting the individual freedom in acting and exercising any activity that will benefit him in the field of cultural, social and economic development, without any obstacles or restrictions .

we will address defining the concept of human rights in law and Islamic Sharia as follows:

First: Concept of human rights in law

Attention to human rights in modern history began through advertising an international and regional conventions, which formed a kind of "universal ethical magazine" which determine The human of individuals and groups affairs with some limits and controls the large scope of absolute sovereignty, which was practiced by governors (AL FELALY ,M .1997. p 83).

Human rights have become a universal idea, and the proof of this is the universal acceptance of these conventions, declarations by various systems of different political and economic directions. It also became the theory and attractive interface is to various political parties (Fatouh , A .1992 ,p19).

The Charter of the United Nations is the first international document recorded development that has occurred in the field of human rights, as it mentioned in the first article to the goal of the United Nations in promoting respect for human rights and human freedoms for all people and to encourage it, without discrimination because of sex, language or religion, and after that The Universal Declaration of Human Rights in 1948 issued , as A result of forgotten human rights and barbarous acts which hurt the global human conscience (Sorour , F, A .1993 ,p294), and as a reaction to the severe events in the first half of the twentieth century, and then the International Convention on Economic, Social and Cultural Rights, the International Convention on Civil and Political Rights in 1966, as well as the Geneva Conventions in 1949 and its protocols thereto in 1977.

At the regional level, there are a number of agreements on human rights in general , such as the European Convention on Human Rights signed in Rome in 1950 and entered into force in 1953 ,which consists of 16 articles and eight protocols, The American Convention on Human Rights in 1969, which came in two and eighty articles ,which gives the right to the individual enjoying all fundamental rights within it ,not as he belongs to a particular state, but as a human being first ,and The African Charter on human Rights, which was approved by the African Summit Conference in Nairobi in 1981 and entered into force on 21.10.1986.

Committees on human rights in various international organizations has been established ,such as the United Nations, Inter-Parliamentary Union (Committee of Parliamentarians for Human Rights), and these committees are meant careful attention to human rights without discrimination because of sex, language, color or religion , and the most recent decision taken by the Special Rights Committee at the United Nations which concerned with the private rights of the child in April 1997, as well as the United Nations document about the Child Rights ,Signed in 1990 from 191 countries is the most common human rights documents, as IPU published printed bearing its name is "World Encyclopedia of parliamentary bodies working in the field of human rights" to facilitate communication, exchange and cooperation among them".

1-Content of human rights in international and regional conventions International and regional conventions included a group of human rights that composed a blog of its human rights and freedoms. As it Stipulates a set of rights related to the human right of life , personal liberty, freedom of thought , opinion expression, belief and change of religion, worship , and the right to create or participate in peaceful assembly and association, the right to vote by secret ballot on an equal footing with everyone Under procedures to ensure freedom vote. These conventions have become a "thermometer", that measured the extent of states respecting for human rights principles.

These conventions have formed what has been called “ The international law of human rights” or "international human rights law," which includes the fundamental rights contained in what we called “International human rights Sharia.” It reflects the content of human rights in the international conventions, that is a part of the international public law, which guarantees the protection of individual rights, and the protection of human rights for human groups during the peace periods(SAAD – ALLAH ,O.1995 ,p 172) .

human rights law does not include human rights only but also includes restrictions on these rights, which means the right of the state authorities to impose restrictions on human rights. Others called the rights contained in the group on human rights convention , "The Global Code of human rights"(Basheer .M ,A .1992 ,p30) .

The protection of human rights not only in peacetime, but The conventions extended it to include the protection of human rights in time of war and armed conflict, so a new branch grew up in international law as we have said so-called "international humanitarian law", the International Committee of the Red Cross (ICRC) is used this term in the documents presented to the "Conference of Governmental Experts to work on the development of international humanitarian law applicable to armed conflicts", held in Geneva in 1971, which includes the Conventional and customary rules, which put restrictions on the conduct of military operations or the use of weapons, and other rules that are decided down Considerations on the principle of humanity (Ameer , S . 1993 ,p304) .

This law is the four Geneva Conventions issued in 1949, The first one organized state of the sick and wounded of the armed forces in the field, The second one dealt with the case of the sick and wounded and shipwrecked at sea, The third one set the rules of the treatment of prisoners of war, and the fourth included the provisions of the protection of civilians war time of , then Two Protocols Added to previous agreements In 1977 , the first protocol provides Protection for

Victims of International Armed Conflicts, and the second regulates The state of victims of non-international armed conflicts. As well as The Hague Conventions in Years 1899-1907, in addition agreements and resolutions of the United Nations which are relevant .

There are, Also, a number of violations of international humanitarian law ,such as : ethnic cleaning operations, mass murder, brutal acts of war, destruction of homes and property, and systematic sexual violence against women and children. However, because This law does not have a universal acceptance ,as one-third of the world States has not formally approved The Two Additional Protocols of Geneva Conventions in 1977, and there are only 36 countries had approved The Convention on Prohibition of the use of certain traditional weapons or reduce using it , which signed in 1981 .

2-Clasifications of Human Rights

Human rights are mentioned in different international and regional conventions can be divided into several divisions, according to The base of the division, as follows:-

A-Division according to the state obligations of human rights:
It can be divided into positive, negative and mixed human rights . The negative human rights requires A certain actions by the state or individuals for the possibility of enjoying and maintaining these rights. The State can not reject or put obstacles for Enjoying These rights , and it does not give the individual the right to ask the state to put at his disposal The necessary material and means to use it, as The result of man is born free, and The State does not give him This Freedom (Jacques , R .1971 ,pp38,50),The examples of these rights included in The French Revolution declaration, and the declaration of the World Human Rights . The positive human rights, requires some work to enjoy it .It is not enough to come as provision in a document. It includes economic and social rights. The mixed human rights are a mixture of refraining from work and do the work at the same time, as the respecting of one right is a positive situation ,which requires , at the same time , forbidden from doing certain acts (Salem , A .1993 , p109) .

B- Division according to groups of people:

Human rights can be divided into: human rights in general, that all people enjoy it. and human rights relating to certain vulnerable groups, such as women and children's rights and minorities. Governments are committed to maintain and promote human rights and protect it for all without discrimination based on race, class, color, sex, language, religion, political opinion, and there are international conventions concerned with the protection of children and women's rights. There are a special protection of minorities and ethnic groups in the states by a number of International charters. International Conventions of Political and civil liberties affirmed that Minorities, civil, linguistic and ethnic groups must have their own culture and to have the freedom to profess and practice their faith and use their own language (No 27). Because the advancement of these people and protect them contribute to the achievement of economic and socio-political stability.

The injustice and oppression of minorities are the most Two common causes behind the refugees and wars and armed conflicts flow, especially in the case of deprivation of these

minorities from the whole or a part of their rights of developing their cultures and customs . as All Forms of Racial Discrimination leads to intolerance and prejudice of human rights and fundamental freedoms, including in the rights and freedoms of minorities, so these rights and freedoms should be respect, The most important human right is the right of expression, which gives minorities the right to keep their opinions and their right to publish and deliver various information in their own language (IPU Decision , op cit ,p290).

C- Division according to human rights contents .

It can be divided into: first, Human rights by birth, such as right of life , right of movement freedom , expression, work, property and personal freedom. Second , human rights according his membership as an individual in a State or in a family or in any kind of community or an institution (AL Adawy , H , A . 1964 , p344).

D-Division according to human rights powers .

It can be divided into :first, Religious and political individuals rights , It gives persons the right to apply a special conduct towards their states , if these rights were guaranteed by law it would be public freedoms .second, economic, social and cultural rights , which give persons right to get fundamental services from their States. Third, solidarity rights which include four types : The right of peace, right of development, right of healthy environment, right of human wealth protection ,These rights give all individuals the right to claim against other individuals to respect certain universal values of solidarity, however, this latter type of rights was not crystallized yet in a binding international or constitutional documents (Soror , F ,A , op cit , pp44 ,45).

E- Division according to human rights protection .

It can be divided into Traditional rights which are civil and political rights, and economic and social rights, the traditional rights protected by the judiciary, and does not require State intervention to achieve but realized just how the State interfering in individual activities areas . The economic and social rights are mere promises of State protection, it has only moral and political value, and State intervention is necessary to achieve them, like aid and employment (Raslan , A ,A .1993 ,p108).

3. mandatory of human rights rules :

There is a debate about the extent of human rights rules mandatory, which contained in the Conventions and declarations, and questions about the Existence of what we can call “ Human Rights Act”, as the most important characteristic of the law is establishing binding rules for all and ensure its implementation through sanctions signed on who violates it .The question here, is there sanctions apply for human rights violations ,committed by states or individuals ? .

Some see these rules contain certain international obligations, and therefore it is binding rules for all, this opinion based on the confirmed by the International Court of Justice in” Barcelona Traction” case, as well as the international community's condemnation of the States conduct violates human rights (Saad Allah ,op cit , p17).

According to same point of view ,agrees with Human rights Act Existence , The penalty in this law is seen as human rights violations considered an international crime, affecting the entire humanitarian community, and no political asylum may be granted to The offender . Also some human rights violations , including murder, as an attack on the human right of life, considered as A death penalty crime. as well as, revolutions ,rebellions , uprisings and assassinations, that founded in old and new Nations history, as a sanction for of fundamental freedoms and human dignity violations ,committed by some Governments (Basheer , M ,A ,op cit , pp22,23).

The opposite point of view ,denies the obligatory of human rights rules , as The Universal Declaration of human rights is not an implementation of the United Nations Charter in its articles 55, 56, and has moral and political value only (Ameer , S ,op cit , p296). Others assert that the Universal Declaration of human rights, does not contain a mechanism for its implementation, and an International Convention was not ratified by all Member States, it is a moral and philosophical impact only. despite the International Court of Justice admitted its value as it is a basic principles of international law, The rules and principles it contains are very general and vague, and does not include specific provisions for implementation (Sorour , F ,A ,op cit , p141).

Human rights rules must be improved and embodied in criminal texts to ensure its enforcement, this may happen if it has an international component (Basiony , Sh .1998 , p455). Others see that it is not enough to prepare charters and conventions, as it is unable to end violence, injustice and tyranny in many areas such as Palestine, Afghanistan because abstract ratifying's human rights charters is not enough to secure it from state violations(Nakrah , A .1985 ,p103) .

4-Forms of human rights violations .

Report of the United Nations General Assembly on human rights said that: Despite of the large number of international conventions and declarations on human rights, There is- still- a large gap between the internationally recognized norms and their implementation. The reason for this is un approval of it by many States, and the need of those admitted to the staff or expertise to integrate the provisions of the international conventions and instruments relating to human rights in national legal systems. And demonstrated that existence in racial discrimination, which was a source of tensions and disagreements and conflicts, because all human beings always demand respecting their inherent dignity ,this discrimination poses a serious threat to the universal enjoyment of human rights and the United Nations goals of promoting human rights and promote economic and social development and international peace and security (Human rights protection Report .1997 , pp258,261).However, it is not only the State practices interfere with or violate human rights, the State may also issues a set of special laws or put in its legislation some provisions that reduce or eliminate human rights , regarding to the authorities broad powers which affect the human rights of expression, security, freedom, like a martial emergency laws and some laws issue on special occasions and continues after the circumstances end which called Notorious laws (Salem , A , op cit , p108).

Some Lists the reasons of human rights abuse by the States as: (Ebrahim , M ,M .1995 ,pp128,129)

– Lack of serious about states obligations towards an international commitments.

- lack in a control on Governments respecting of human rights and the lack of applicable penalties when it abuses these rights and freedoms.
- An ineffectiveness of some sanctions applied by the United Nations in some occasions on certain States that violate human rights.
- There are several States still under individual control ,It does not respect human rights.
- Lack of political awareness among the people to defend their rights and fundamental freedoms.

We believe that the continuing of human rights violations in the States so far was due to the nature of the new world order-unilateral-and the double standards on international actions. Thus, The weak of United Nations will give a justification for these violations , despite warning cries and condemnation declarations of its ads. But it still, for political reasons, has no implementation mechanisms , except great states wanted that. . Also media controlling by great states reduces caring of human rights violations in several States, for example, does anyone have more information on human rights violations against blacks in America, either by public authorities or by the Americans, and if you found this information they are often wrong and contrary to fact . No one hears details about the violations of the human rights of Muslims in France, in India , in Palestine and in many other States, and if we heard it we cannot do anything for them , except if the major force in the international system has an intent to do something . so the unilateral international system is responsible for those violations ,which appears many forms ,such as : policy of genocide against the people , the policy of ethnic cleansing, murder, sabotage, expulsion, starvation made against entire peoples aiming to destroying them, as well as, the amounts of money spent on weapons to export it to Tension and conflict regions in countries around the world.

5-The legality of human rights restrictions :

All civilized States agreed that the deprivation of the natural rights of citizens must not be imposed as a punishment for any crime (Kan , A . 1961 ,p51). However, the individual does not usually enjoy absolute rights but there are many limits on it , and the first limit is the duty, every right has opposite duty, even if it is a natural right by birth, all rights requires Taking public interest into account (Al Adawy , H , A . op cit , p327).International instruments provided a set of restrictions on human rights, article 29\2 of the Universal Declaration of human rights States that the individual in the exercise of his rights and freedoms must follow and take into his account the law restrictions to ensure the recognition of the rights and freedoms of others, and have to respect for the requirements of public order, general welfare and morals in a democratic society. As stated in the third paragraph text not to exercise these rights is contrary to the purposes and principles of the United Nations. However, the Declaration stressed in its Article (No 30) that "nothing in this declaration may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the demolition of the rights and freedoms contained therein", this to find a balance between the rights and limitations on it ,so they do not cancel each other. Then, the rights and freedoms in international human rights conventions and charters can be restricted , if there are justifications such as : Necessity,

enhancing public order, national security, health, morality and morals. so It will be justified to restrict freedom of movement, expression and religion, right of peaceful assembly and Association, and the right of ownership (Saad Allah , O . op cit , pp22,23), However, the previous concepts which constitute grounds for restrictions on human rights must be defined by law and within the limits of necessity, and the law determined it must be based on democratic concept (Basheer ,M ,A .op cit , pp190,191).

Second: Concept of human rights in Islamic Sharia:

1. Human rights Forms in Islamic Sharia:

Islamic law and Islamic jurisprudence Established the pillars and basis of human rights in peace and war times alike. Sharia has honored human beings over the other creatures, and established the principle of equality among human beings on a solid and objective basis ,as all people were equal as the teeth of the comb, no thanks of Arabic on bright or white on black except by the piety and good deeds. Equality also was before the courts, both in terms of recourse to it first, or the proceedings before it .

Islam guarantees religious freedom” no compulsion in religion ” , Islam also emphasizes the freedom of thought and using mind and constant meditation that leads to guidance and true path (Ameer , S . op cit ,p291). If international treaties have included many human rights, Islamic law had been preceded by a report over such rights and wider for each right, for instance , the human right of life in Islamic Sharia is not only protected against abuse of others, but this protection includes also killing man his own self , while most legislations don't criminalized suicide , but it is considered as a permissible Act. In addition Islamic sharia extends right of life protection to animals as well as humans (Ebrahim , M , M . op cit , p65).

2. Human rights specificity in Islamic sharia:

Human rights in Islam are characterized by certain features , that have earned it privacy in the area of human right included in international conventions , this specificity appears as follows (Othman , F , M . 1982 , pp172,186):

- A. The source of human rights, it is directly from ALLAAH (God) who is the best guarantee of it.
- B. Implementation guarantees, it is a duty of every Muslim to protect and Striving to strengthen human rights. As The erosion of human rights is not only harm Muslim but also is a violation of God's command.
- C-in terms of comprehensiveness, it includes personal , intellectual, political, legal, social and economic rights, and it includes men, women and children, Muslims and non-Muslims in Islamic State or beyond, and these rights are not established by jurisprudence scholars and scientists, because dignity of human being as a creature of God's chosen was established clearly many texts in the holy Qur'an and Sunnah, it served as an Islamic legislation must be implemented. The right holder have to claim his right and keep it, through the promotion of virtue and prevention of Vice, which means the right to resist oppression, it is an obligation under Islamic sharia on the individual , community and State, and legitimate duty based on creed.

On the other side the Universal Declaration of human rights did not include guarantees and means to prevent or limit any attack on human rights, and did not impose sanctions for its violations, Then we could call on human rights in Islam "Islamic human rights legislation" while we hesitate to release the legislation describes the rules of international and regional human rights situation, since Islamic law puts rights and ensures, at the same time, ways and means guaranteeing the proper implementation. However, some refer to some topics in Islamic law which could constitute a derogation or violation of human rights such as: (AL-HODOOD) applying and (AL-QASAS) retribution in some crimes, equality between men and women, especially in the inheritance, and the right to freedom of thought and religion. This opinion is saying right word with intent to void ,because the borders (HODOOD) and sanctions on Islamic law imposed on offences represent flagrant violations of human rights, such as murder, adultery, theft, and Islam has granted the freedom of worship "everyone has the right to choose his religion" and preventing (REDAA) apostasy from Islam might be considered as justifying limitations recognized by the charters and international human rights declarations . As for equality between men and women, Islam was first to recognize women's rights before recognizing it by international documents, Islam recognized her independent financial disclosure, the right to vote, and marriage herself, but because of the different nature between men and women Islam was keen to protect women and safeguard her dignity and freedom , it doesn't mean adornments and pornography .

The result is that if there is a difference between Islamic sharia and international human rights concept, this difference is in the interest of the Islamic Sharia and does not count but figured, it reaffirms its superiority over all man-made laws, which are incomplete ,the evidence of incompleteness is the large number of its amendments and its failure to meet the requirements of modern life.

Conclusion

(Mutual influence between Terrorism and Human rights)

From previous study we can conclude some main Aspects which determine The relationship between Terrorism and Human Rights, whether from Islamic Sharia or Law perspective , as follows:

First: Terrorism justify by a lack of human rights:

Some believe that the use of violence to recover the rights contained in article 36 of the man and citizen rights Declaration issued during the French revolution in 1793, that resistance of oppression is a natural result of human right in, security ,and decent life ,which cannot be compromised, even by the law itself , because it becomes torturous and a law out the law of the mind (Al Ekrah , A . op cit , p 154).

This view is consistent with the earlier mentioned of the possibility of imposing certain restrictions on the exercise of human rights for reasons of public interest, but the laws that determine these restrictions on human rights must be democratic laws, and these laws should restrict the right only and never cancel it , Then we cannot describe the law that is confiscating the right as a democratic Act, The fully right robbed considers as a violation which gives the ability to defend it ,

even by using the force and violence on the basis of the self-defense right , but force here should represent as Occasional and exceptional case , not as an established policy (Paul , W .1982 , p313).The fully refusing of others enforces the use of terrorism as a mean to prove their existence and identities .

On the other hand, the charters and international conferences and symposiums considered terrorism as a violation of human rights . the report of the United Nations Commission on human rights in 1992, and the document of the World Conference on human rights held in Vienna in June 1993 , both ,considered terrorism and its methods and practices in all its forms and manifestations, leads to the destruction of human rights and fundamental freedoms, threatened the territorial integrity of the State and destabilize Governments, in addition , Cairo document on population, Copenhagen document of the Social Summit, the ninth Congress on the prevention of crime Held in Cairo in 1995, and committees of the United Nations, each of these documents considered terrorism as a direct violation of human rights, and cannot be justified under any circumstances, except in the performance of the right of self-determination.(Gabr , N . 1997 , pp63,64)

States policies that respect human rights and fundamental freedoms would eliminate the genocide of the human race that constitute a crime against humanity and a grave threat to international peace and security, which reflects in annexation of lands and expelling its population and the policy of racial discrimination and ethnic and religious conflicts (IPU Decision . 1991 , p97).

Second : Terrorism gravity on human rights:

There is no doubt that terrorism raises fear and terror and spreads an atmosphere of dread and anticipation, and hence it Incompatibles with the human right to live in peace and security, as he has pushed the State to divert some resources to combat terrorism , which may disrupts the development efforts , affects various aspects of the social, economic and cultural life, and threats human rights concerning these aspects.

Terrorism is incompatible with the human rights in terms of objectives, methods and forms, it destructives , and cancels those rights immediately ,for example : Kidnapping and Hostage-taking is an assault on the human right of secure , personal freedom and movement freedom . Assassination is an attack on the human right of life, which is a natural right and the source of all other rights, and Bombings are an attack on the human right security and body integrity, which may redeemable the right of life which is the gift of God , so Governments cannot act without basing on Legitimacy reasons .

It appears that a single terrorist Act includes-mostly-confiscation of a number of human rights or a fundamental right which is the source of all other rights, therefore this terrorism Act cannot justify terrorism, under any circumstances, unless the rights will be forfeited are equal, in terms of value, with those rights being defended or transcend it .

If the right of self-determination may justify committing violence, at home and abroad, to get it, but it does not justify, as noted earlier, the use of terrorism against innocent civilian targets, which is eventually protected in situations of armed conflict inflamed and in war time .

Terrorism does not respect certain rules in the conflict, does not adhere specific modalities in its Acts , but innocent people are not a part of this conflict, in spite of they are the immediate objective of the terrorists with the intent to terrorize those in power and reaches a message that they will replace floor inevitably what lead them to change their policies to conform purposes of terrorists.

The United Nations General Assembly strongly condemned increasing number of innocent persons killed, massacred and maimed by terrorist and random acts of violence and terror, which cannot be justified under any circumstances, because these activities aimed at destruction of human rights and undermine the civil society movement .it decided to look at terrorism in the 52nd session under the item entitled "human rights affairs ", to go with the fact of the grave threat of terrorism on human rights (United Nations General Assembly Decision . 1995 , p15).

In summary, human rights violations may constitute a motivation for terrorism emergence and practice by some minorities, which State does not recognize their social, economic, cultural and political rights, and therefore ethnic or separatist terrorism may appear . in addition , Terrorism is a directly assault on human rights, and may constitute an indirectly attack of human rights , through actions that may be taken by the State to respond to terrorism and includes specific and restrictive actions for some of these rights or disable it temporarily. But terrorism acts cannot justify cancellation of human rights, because this cancellation would be an acceptable justification of terrorism to retrieve it . On the other hand, it could not justify terrorism against innocent civilians under any circumstances, even if motivated by getting the right of self-determination, which is the highest internationally recognized rights, but it's not greater than the right of innocent life, safety of their bodies ,and their personal freedom , as an evident of mutual influence between terrorism and human rights.

Third : Combating Terrorism and undermine human rights:

Usually many of states justify their acts against fundamental human rights such as: right of movement ,thinking and believing ,by the seriousness of terrorist acts , the individual is compelled to undergo such procedures under the pretext of fighting terrorism, however, Human Rights European Committee and European court of human rights , established under the European Convention on human rights , are putting some borders and controls on State powers in the fight against terrorism to maintain the basic human rights far from injustice.

European Convention on human rights in article 3 prohibits torture, inhuman exercises and outrageous, this is absolute prohibition and there is no exception, article (5) stated that, in case of the threat of the nation or the State party of the Convention, the State should take other measures are not provided in the Convention , at a narrow extent and circumstances required, and not be inconsistent with other obligations under international law (Academia de droit international de La Haye. op .cit., Pp.332-333).

European Court and European Committee Control legislation issued in some European States or actions taken by law enforcement authorities to combat terrorism on the basis of article 5 of the Convention (Gerard, S . 1987,pp.668-669) . European Committee has more than report in this area , in the MCVEIGH,s Case (op cit , p670), on 18/3/1981, said that organized terrorism is a feature of modern life puts democratic States in front of problem of serious and organized crime

which must be stop, to protect the basic rights of their citizens, but the measures should be taken by The State must not undermine democracy ,in terms of defending it , these measures should be balance between the requirements of defending on a democratic society and individual rights. "

In its report on the case of TERENCE BROYAN and others on 14/5/1987 indicated that " the fight against terrorism sometimes requires sacrifices from every citizen to protect society as a whole and , then it accepted to Extend the period of pre-trial detention in terrorism for five days although its original period is four days. "

Furthermore, the Convention on extradition between the States of the European Union on 27/9/1996 does not make extradition if the requested State has a serious grounds to believe that the request for extradition is submitted for the purpose of prosecuting or punishing a person for reasons refer to: race, religion, nationality or political opinions, or person legal status will be worse as a result of one of these reasons (Mayaud, Y . 1997, p.116.).

At the local level, anti-terrorism laws raise angry reactions, where some accused it violating of human rights, this happened when Act No. 97 of 1992 in Egypt had issued to combat terrorism, as well as in law which was issued in America in the 19 April 1996 on combating terrorism, which has taken the concept of secret evidence to deport immigrants, and give the State a large power to describe any group of terrorism and adopt the concept of guilt by participation, which it means punishment with terrorist organizations . even if the cooperation is without the knowing Its purposes or this cooperation was for legitimate purposes, these criticisms raised by opponents of the law, they said that law eliminates the personal freedoms in the name of national security (Col, D . 1996, p 5).

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