



الارهاب الدولي و شرعية المقاومة.

International Terrorism and the legitimacy of Resistance.

بحث مقدم من قبل

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الخلاصة.

على الرغم من كل الجهود التي يبذلها القانون الدولي في التمييز بين عدم مشروعية الإرهاب وشرعية المقاومة ، فإن الخلط بين المقاومة وأعمال الإرهاب الأخرى لا يزال واسع الانتشار بين العديد من الدول ومجموعات الناس. وفقاً لذلك ، يهدف هذا البحث إلى معرفة الفرق بين الإرهاب والمقاومة كحق وحيد لكل ولاية ، من خلال استخدام منهجية وصفية ، حيث يميل الباحث إلى مراجعة الدراسات والأدبيات السابقة من أجل تحديد الخلفية التاريخية للإرهاب ، المفهوم العام للمقاومة والقضاء على الخلط بين المقاومة والإرهاب. وخلص إلى أن هناك اختلافات جوهرية بين المقاومة والإرهاب من حيث دور الناس في كل نشاط ، من حيث الدوافع النفسية والأخلاقية ومن حيث العنف الموجه. والأخطر من ذلك ، أنه لم يتم تحديد القانون الدولي بطريقة لا تترك مجالاً للارتباك بين ما هو شرعي وما تصاعدت به أعمال الإرهاب الأخرى بطريقة مرعبة في عصرنا ، الأمر الذي يتطلب عملاً جاداً من جانب الأمم المتحدة لإقامة قيود وأنظمة وقوانين متميزة بين الإرهاب والمقاومة المشروعة المطبقة على جميع الدول ومنع دول مثل الولايات المتحدة وإسرائيل من الجمع بين هذه الشروط واستخدامها وفقاً لمصالحها الشخصية.

الكلمات المفتاحية: الإرهاب ، الدولي ، شرعية ، المقاومة.

Abstract.

Despite all of the efforts made by the international law in differentiating between the illegality of terrorism and legitimacy of resistance, the confusion between resistance and other acts of terrorism is still widespread among many States and groups of people. Accordingly, this research intends to figure out the difference between the terrorism and the resistance as a sole right for each state, through the utilization of a descriptive methodology, in which the researcher tends to review previous studies and literature in order to identify the historical background of terrorism, the general concept of resistance and eliminating the confusion between resistance and terrorism. It was concluded that there are fundamental differences between resistance and terrorism in terms of the role of the people in each activity, in terms of psychological and moral motivation and in terms of targeted violence. More seriously, international law has yet to be determined in a way that leaves no room for confusion between what is legitimate and what other acts of terrorism have escalated in a frightening manner in our time, which requires serious action by the United Nations to establish restrictive and distinct regimes and laws between terrorism and the legitimate resistance applied to all States and to prevent States such as the United States and Israel from combining these conditions and using them in accordance with their personal interests.

Key words : International Terrorism, Legitimacy of Resistance.



Introduction.

The human expense of terrorism has been felt in practically every corner of the globe. The United Nations family has itself suffered tragic human loss as a result of terrorism. For instance, the events of 11 September 2001 have made it painfully obvious even to the uninformed spectator that we have entered a period of history where nations and even superpowers can be challenged in unconventional ways. Such challenges may come from within nations and are supported by a variety of terrorist parties (Männik, 2009). Terrorism clearly has an undeniable and direct effect on human rights, with destroying ramifications for the satisfaction of the right of life, freedom and physical respectability of victims. Notwithstanding these individual costs, terrorism can destabilize Governments, undermine common society, endanger security and peace, and threaten social and financial improvement. These additionally really affect the enjoyment of human rights (Carey, 2013). Terrorism today is a global phenomenon. As indicated by the FBI, 28 foreign terrorist associations are assigned as threats to the security of the United States (FBI, 2002). Iran, Sudan, Iraq, Syria, North Korea, Libya and Cuba are countries that help fear terrorist organizations, as indicated by the State Department report on worldwide psychological warfare (US State Department, 2002). Therefore, dealing with terrorism has become the centerpiece of U.S. foreign policy today. However, terrorism, its definition, causes, and methods of dealing with it, has rarely been dealt with in Arabic studies which leads to confusion between it and the legitimate resistance a lot (Garrison, 2003). On the other hand, resistance, which otherwise called as nonviolent action, civil disobedience, and individuals power, is obviously known as challenging unjust and severe systems through the vital utilization of peaceful techniques. The international community has counted this resistance movement and the attack on unjust regimes by armed or unarmed forces to be peaceful, legitimate, important and justified ways to restore stolen rights and enjoy original freedoms. Thus, when such acts are legally justified, these types of methods should not be considered as "terrorism" (Carpenter, 2017). However, the confusion between resistance and other acts of terrorism, which have been escalated in a frightening manner in our time, is still widespread among many States and groups of people. Moreover, worries on this aspect also account for reluctance in using the term 'terrorist' where it ought properly to be applied. Accordingly, this is why it is essential that even a theory of non-terrorist, non-state armed resistance takes seriously the possibility that



legitimate movements might have to turn to terrorist methods in certain extreme cases. But the aim of doing so is not principally to mandate such instances, if they arise, so much as to quell the anxiety about condemning these methods in cases that are not exceptional in the relevant ways (Tri, 2016; Erlenbusch, 2015; Kearney, 2010). Therefore, and since human beings are finding themselves in a world where there is an ongoing confusion between terrorism and legitimate resistance as stated by Tri (2016); it would be of essential significance to review the historical background of terrorism, the general concept of resistance as well as the confusion issue between resistance and terrorism that will expand the conceptual base of readers and help them in distinguishing between actions that classified as terrorism and those classified as legitimate resistance. The study begins by discussing the notions of terrorism and reviewing terrorism and its forms through different temporal periods as well as defining the tactics of it and the meaning of international terrorism. It is then followed by a characterization of the general concept of resistance; the legitimacy of it in the International Law, the aspects of the exercise of the right of armed resistance as well as the right of armed resistance and legitimate defence. The study ends with assessment of US attempts as well as Israeli attempts to confuse terrorism with legitimate resistance and with the clarification of the effects of mixing between resistance and terrorism.

Research Objectives.

The main objective of this study is to: explore and make a theoretical review of the international terrorism and the legitimacy of resistance. This main objective will be achieved through the following subdivided objective:

- 1) To identify terrorism, its tactics and forms through different temporal periods.
- 2) To characterize the general concept of resistance and the legitimacy of it in the International Law.
- 3) To identify the cases when the resistance is legitimate and when the terrorism is prohibited and to explain the right of armed resistance and legitimate defence.
- 4) To clarify the US and Israeli attempts to confuse terrorism with legitimate resistance.
- 5) To explain the consequences of mixing between resistance and terrorism.

Research Methodology.

Research methodology can be defined as a subject that deals with how research or study is carried out in a scientific way. The importance of research



methodologies lies in its ability to highlight and give essential training in the arrangement and collection of material in a way that can be recognized in an easy way (Saunders, 2011). This research is based on a descriptive methodology, in which the researcher tends to review previous studies and academic literature such as books and articles from different kinds of academic journals in addition to newspaper articles to get information on interesting cases and the opinions of states and governments on terrorism and resistance. Moreover, reviewing theories and convictions was conducted in order to analyze the different views on terrorism and resistance in the field of the international law and to build a conceptual theoretical base that would help the following researchers in eliminating the occurred confusion between resistance and terrorism.

I. The Historical Background of Terrorism

Terrorism represents a complicated man-made phenomenon with repercussions for each part of society. Over time it has developed into a danger that knows no geographic or geopolitical limits. In spite of the fact that endeavours to build up a universally restricting meaning of terrorism have been ineffective, it very well may be concurred that terrorism represent a global phenomenon and actions that seek to cause human torment and widespread fear (Gregory & Pred, 2013).

The Notions of Terrorism.

The task of characterizing terrorism is complicated, yet completely vital so as to build up an adequate comprehension of this phenomenon and to deal with it successfully. The intricacy of defining terrorism has several aspects. It emerges from the variety of parties who have utilized brutality to instil fear. There have likewise been a wide range of justifications given for the utilization of this violence (terrorism), and there have been a wide range of parties characterizing terrorism, each having their own perspectives and in many cases vested interests in a particular way of characterizing 'terrorism'. Accordingly, it is not that surprising that there are well more than 200 different definitions of terrorism in presence (Abrahms, 2006). The term terrorism, in itself, was placed during the reign of terrorism in the French Revolution (1793-1794). While the era of terrorism was the result of the French Government, in the present circumstances, it refers to the killing of persons by political non-governmental representatives for various reasons, often serve as a political declaration. This understanding originated from Russian extremists in the 1870s. Throughout the world, many legislatures are incredibly opposed to describing terrorism because they are



concerned about how their official meaning will be revealed about the fact of self-declared battles of national freedom (Schwenkenbecher, 2012). It would be more adequate to begin by defining the word terror, which is part of the term terrorism. Terror represents a word that lies in the term terrorism and arises from the Latin word *terrere*, which refers to "frightening" or "trembling". When this word is connected with Latin word *isme* (referring to "practice"), it is similar to "causing fear" or "practicing the trembling". The word terrorism has an age of more than 2100 years old (Laqueur, 1987). Cimbricus terrorism was a state of emergency and panic in ancient Rome, due to the occurrence of the Cimbri clan executioner in 105 before the Common Era. The portrayal of terrorism as originating from terror is a case of etymology. Etymology represents a science that investigates the origin of the word; its root and evolution (Rababa'a, 2012). Several studies and investigations have endeavored to define terrorism, but, the term is so complicated in a way that a completely specific definition of it still does not exist. However, all of the different definitions have agreed upon three regular main components that exist in the terrorism notion which are: (1) the point of spreading fear and panic in an objective populace, (2) the utilization of violence and (3) political objectives (Sloan, 2006). One of the oldest definitions of terrorism is what was stated by Rapoport (1977), in which he defined it as the utilization of violence to incite consciousness and to bring out specific feelings of revulsion and sensitivity. In the same manner, Laqueur (2007, P.20-23) defined it as: "the use or the threat of the use of violence, a method of combat, or a strategy to achieve certain target. It aims to induce a state of fear in the victim that is ruthless and does not conform to humanitarian rules. Publicity is an essential factor in the terrorist strategy." Moreover, Schmid and Jongman (1988, P.3) defined terrorism as: "an anxiety-inspiring method of repeated violent action, employed by (semi)clandestine individual, group, or state actors, for idiosyncratic, criminal, or political reasons, whereby -in contrast to assassination- the direct targets of violence are not the main targets. The immediate human victims of violence are generally chosen randomly (targets of opportunity) or selectively (representative or symbolic targets) from a target population, and serve as message generators". Also Hoffman (2006, P.43) defined it as an unambiguous political term in intentions and objectives threatens violence or other similar necessity with violence intended to have far-reaching mental implications beyond the target or direct victim, led by a link with a specific hierarchy of command or conspiracy cell structure (not wearing a



distinctive uniform) and executed by a subnational gathering or non-state substance. Moreover, the United State (U.S.) Department of Defense defined terrorism as: "The calculated use of unlawful violence or the threat of violence to inculcate fear; intended to coerce or to intimidate governments or societies in the pursuit of goals that are generally political, religious, or ideological" (United States Army Combined Arms Center, 2008). NATO also defines terrorism in the AAP-06 NATO Glossary of Terms and Definitions, Edition 2014 as "The unlawful use or threatened use of force or violence against individuals or property in an attempt to coerce or intimidate governments or societies to achieve political, religious or ideological objectives" (NATO, 2014). Among the Arab countries, Saudi Arabia has issued the Saudi terrorism Act, which came into force on 1 February 2014, and where terrorism was defined in a way that Amnesty International and Human Rights Watch criticized it for being too broad. Terrorism was defined in this act as any act committed by the offender in an individual or collective project, directly or indirectly to undermine the public order of the State, or to undermine the security of the community or the stability of the State, or to endanger its national unity, or to suspend the Basic Law or some of its articles, or to damage its public facilities or natural resources, or to prevent governmental authority from carrying out an act or threaten it to carry out acts leading to specific purposes or incitement (Saudi Arabia New Terrorism Regulations Assault Rights, 2014). Furthermore, on August 21, 2014, the UAE issued its anti-terrorism law, Terrorism Act No. 7. The law defines terrorism broadly and contains an ambiguous definition of the concept of terrorism that can criminalize anyone who opposes government practices in a peaceful framework on the grounds of committing a terrorist crime (United Arab Emirates: Anti-Terrorism Law, 2014). At all, it can be concluded that describing terrorism as a strategy to instill anxiety and fear by different actors leaves the reader with many similar issues with other definitions. This definition, however, is not sufficient from the point of view of assessing the applicability of terrorism to progress in achieving one's goals and drawing attention to grievances. It would therefore be better to review the history of terrorism and its various possibilities in order to obtain a clear conception of its nature and meaning (Mannik, 2009).

Terrorism before the Modern Era 1092-1918.

Terrorism is an old phenomenon of human relations. The history of the terrorist act refers to the culture of man in the love of domination and the denial and



intimidation of people in order to obtain his desires contrary to the established social concepts. The roots of terrorism extend throughout human history, although they are defined and widely known in the modern times (Mannik, 2009). The first roots of terrorism striking in the depth of history were in the form of individual acts by secluded individuals as a way of working to achieve personal interests. Between 66 and 73 BC, a group of fanatics of religion known as the "Zealots" formed in Palestine from the Sicarii groups are hired killers who carried out several terrorist attacks motivated by religion, and were attacking their enemies in broad daylight, and prefer to do this on holidays when there is a great gatherings of civilians in the city of Jerusalem in order to terrorize as many people as they can, their favourite weapon was a short sword (dagger) called Sica so that they were named by Sicarii groups (Rapin, 2011). The "Assassins" were the following gathering of terrorism. Those groups were formed in the period between the 12th and 13th centuries in Iran and Syria, and their members were belonging to the "Ismaili" sect in Western Asia. They embraced terrorism and their members used to take cannabis before they committed murder and terrorized people in brutal ways. They named themselves "hashashins" which means "hashish eaters". They continued until they were eliminated in 1256 by the Mongols (Chaliand & Blin, 2016). Another terrorism gathering was "Narodnya Volya". They were working against the Russian Revolution by assassinating leaders and Tsar in exchange for cash benefits from the White Army. They were fruitful in fear campaign of death and in the end slaughtered Tsar Alexander in 1881. However, from the thirteenth to the nineteenth century, the Thugs of India were among the numerous admirers of the Hindu Goddess Kali, the destroyer. They strangled sacralised casualties with a phansi for the sake of Kali and after that robbed, ceremonially ravaged, and buried them (Alshdaifat, 2017). These few illustrations show that terrorism is undoubtedly an ancient scourge that is recorded just prior to the time of Christ, and all this goes on during the Middle Ages, and in modernity, but at somewhat lower level, the Thirty Years War (1618 - 1648) (1914-1918), the World Wars (1914-1918), and (1939-1945) clashes with huge amounts of soldiers and civilians who were killed, however, no one expected those who were directly affected gave careful attention to the small terrorist acts that were occur intermittently and on a much smaller scale than large-scale collisions (Martin, 2010; Alshdaifat, 2017).

Accordingly, we can conclude that human beings have known terrorism since ancient times, as long as the accounts of terrorism existed before the invention



of the word itself; however, it was a local phenomenon. It has just passed in the recent century run all over the world along with various types of human intercourse including innovation, political and commercial aspects (Andrew, 2003).

Terrorism in Modern Times 1914-2000.

Confidently, terrorism appeared repeatedly after the First World War in many countries, for example Serbia and Yugoslavia in Europe, as well as communists and fascists who saw their convictions as a collective mass threat was more effective than an individual threat; After the death of Italian Socialist leader Giacomo Mattiotti (Alshdaifat, 2017). Terrorism began to emerge as something that really deserved to be published again in the 1970s and achieved its highest level in the mid-1980s. The period between 1975 and 1984 was the culmination of the first wave of terrorism, with the average number of reported terrorist attacks being increased from 10 per week to nearly 10 per day. This period was called the "Golden Age of Assassinations." During that period, a president or a key European minister of state was killed every 18 months. The first period of international terrorism has also been the main endeavour of nations to deal with terrorism everywhere after the assassination of US President William McKinley in 1901 (Mannik, 2009). The second wave of terrorism got broad support from different Diasporas abroad and turns considerably less to assassinations. The method of the second wave of terrorism was more complex: the essential objective of terrorists was the removal the police force and substituting it by involving military powers that were required to be clumsy in managing terrorists, however sufficiently enough to cause grievance among the populace through their disproportionate reactions to the activities of terrorists (Rapoport, 1977). The target of the third wave of terrorists was as astonishing as the one targeted by the first wave of terrorism: the basic goals were turned into extraordinary popularity once again. The new left-wing wave of terrorism created a series of 700 kidnappings. There were 409 global kidnappings, including 951 hostages from 1968 to 1982, killing high-ranking authorities including the prime ministers of Jordan, Spain and the former prime minister of Italy, Aldo Moro and others. However, while anarchists killed authorities with the point of inciting lopsided reaction, the 'new left' terrorists rather 'punished' their objectives for different reasons. It is critical that 34% of all targets (victims) of the third terrorist wave were US targets. It is important that 34% of all targets (victims) of the third terrorist wave were US targets (Mannik, 2009).



Accordingly, it can be concluded that what distinguishes "new terrorism" from "old terrorism" is its organization, its planning and the intense of reinforcement, the equipment and weapons at its disposal, as well as the number of innocent targets, internationally and locally, and of many races, colours and creeds (Alshdaifat, 2017).

Tactics of Terrorism.

In order to achieve their goals and motives, terrorists follow some terrorist tactics and strategies that are largely in line with the nature of the targets pursued, with the perpetrators of terrorism and the theatre of terrorist operations. The following tactics can be used at the international or local level (Alshdaifat, 2017):

a) Bombings.

Bombings are a preferred tactics of terrorists carried out by explosives that are now widely used, due to several reasons (Hedges & Karasik, 2010):

- 1) Easy to use as well as easy access.
- 2) Efficiency of use, which is evident in terms of the effects of the volume of material and human losses and in terms of its high degree of accuracy.
- 3) The degree of security enjoyed by the terrorist through the use of this tactic, as long as it can be used remotely by the remote control.

Terrorists who use bombs against non-military targets ostensibly aim to achieve ideological, political, religious or financial goals by focusing on the assembly or country in a state of extreme panic, panic and mental pressure. In view of the worldwide bombings, terrorists appeared to have largely focused on symbolic places, including temples, churches, and mosques, political or economic structures such as the Twin Towers in New York in 2001 (Green & Tripathi, 1995).

b) Kidnapping.

Kidnapping is a traditional terrorist tactic which was utilized several years ago by terrorists in order to achieve their goals and aims, either political, ideological, religious or personal ones. Kidnapping has become a favourite terrorist strategy resorted to by most terrorists organizations and individuals since the beginning of the wave of global terrorism by the outbreak of youth movement in France. The beginning of the utilization of this tactic was in the 12th century and then it became a popular tactic in the modern age which is meant to: The detention and threat of person or group of persons for the purpose of exerting pressure on a



third party, which is carried out either for political, ideological, religious and personal purposes or for ransom (Diamond, 1985).

c) Hijacking of Aircrafts.

The tactic of hijacking was practiced extensively on air and sea transport in particular, where terrorists hijack planes and ships. The hijacking of aircraft in the last decades of the 19th and the beginning of the 20th century was seen as a more severe and effective alternative to the hijacking of ships until the air hijackings were called "air piracy" (Dempsey, 1986).

The objectives and motives of kidnappings vary from case to case; the most common motives and objectives are listed as follows (Lele & Mishra, 2009):

- 1) Political objectives: terrorism may be committed to achieve political goals such as the release of some members of the revolutionary movement or change of political regime.
- 2) Economic objectives: Committed to the purpose of asking for ransom and money to be used in the conduct of terrorist acts.
- 3) Personal goal: It may be motivated by personal interests such as getting money, and a criminal who escaped justice after committing a crime.

The notion of the international Terrorism.

Attempting to reach a specific definition of international terrorism is one of the most difficult issues, given the vacuum in their legal and private content. The term terrorism and change has evolved since its inception, and political interventions have influenced its definition. This led the United Nations in 1972 to add the term "international" to the term "terrorism" by establishing a specialized commission to study the motives and causes of international terrorist operations (Badey, 1998).

It would be interested to take note of that inferable from the 11 September 2001 attacks, the United Nations Security Council has endeavoured to characterize international terrorism in theoretical terms in its endeavour to combat terrorism in resolutions 1368, 1373 and 1566. However, resolutions 1368 and 1373 don't particularly characterize international terrorism. The absence of definition was deliberate, since accord on Resolution 1373 relied upon keeping away from definition. The United Nations Counter-Terrorism Committee built up by the Security Council has likewise decided not to characterize international terrorism since it would not like to interfere in the competence of other United Nations bodies by doing so (Maja, 2014). Resolutions 1368 and 1373 do not particularly characterize international



terrorism. The absence of definition was deliberate, since accord on Resolution 1373 relied upon keeping away from definition. The United Nations Counter-Terrorism Committee built up by the Security Council has likewise decided not to characterize international terrorism since it would not like to interfere in the competence of other United Nations bodies by doing so (Saul, 2005). An act of violence or dangerous against a property or person that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State:

- a) Intention or rationale to threaten a populace;
- b) It must make a condition of fear among the populace;
- c) It must threaten the international security;
- d) Affect the conduct of a government by mass kidnapping ,assassination, or destruction ; and
- e) Influence the policy of a government by intimidation or coercion (Young, 2006).

Despite the multiplicity of reasons for the emergence and growth of the international terrorism in many countries and regions of the world, these reasons are divided into two; the first linked to the developed countries and the second is related to developing countries. For developed countries, such marginal terrorist groups can be said to be the result of some of the negative effects of technological advancement and industrial progress, especially on the creation of a spiritual vacuum, cultural penetration, family and social disintegration. This has led some young people to engage in groups and organizations that adopt nationalist, rightist or extreme leftist ideas. As for the developing countries, the severe economic and social problems experienced by many of these countries represent an environment conducive to the growth of extremist groups and religious violence, especially as the policies adopted by these countries, including Arab countries, failed to varying degrees to put an end to these problems. Thus, if the extremist and violent groups in the developed countries are a negative result of the problems of progress, the rise of such extremist groups in some Arab and Islamic countries is a result of the problems of underdevelopment, the failure of development and the loss of democracy (Foot, 2007).



II. The General Concept of Resistance.

This part is a review of the concept and idea of resistance, followed by the legitimacy of resistance from the international community point of view as well as the right of armed resistance and legitimate defence.

The Notion of Resistance.

The majority of the writers are familiar to deal with special specific cases when they intend to study the right of resistance, or focus their studies on members of the resistance movements in terms of the legal adaptation of the disputes to which it is a party, or legal protection granted to them without focusing their attention on a definition of the right of armed resistance. The armed resistance defined as: "National organizations with two wings political and military, established in colonial countries and leading an armed struggle for self-determination." It is also defined as: "A behavior that carries a degree of violence against the colonizer in order to achieve independence and freedom from imperialism" (Saadallah, 1984, P. 62). Resistance has also been defined as: "A behavior that carries a degree of violence against the colonizer in order to achieve independence and freedom from imperialism" (Karini, 2002, P.43). Through these definitions, the researcher would define resistance as: a set of protest acts carried out by groups that see themselves under a situation that does not satisfy them; it is an organized effort by a part of the civilian population of a country to resist the government established by law or the occupying power and to disrupt civil order and stability. Normally, the people resist the occupation of their territories. The methods differ from the use of nonviolent resistance (sometimes called civil resistance) such as civil disobedience to the use of violence and armed violence with their different levels. Accordingly, the main elements of armed resistance can be clarified as in the following:

1. Popular Activity: Popular activity is any act exercised by the people as civilians and not members of a regular army, whether as individuals or under a particular organization using regular armed force, or providing assistance and material or moral support to personnel engaged in military action (Qumsiyeh, 2015).
2. Use of armed force: This is one of the elements that characterize the armed resistance from others. It is the popular activity that uses force by means of arms against the enemy forces, which aim at occupying the country and colonizing it (Amer, 1970).



3. The Force undertaken against which armed resistance is committed: The use of force is within the scope of the right of resistance against a foreign enemy who invades the country, or waging war against the country or against those who help or support them within the regions. This element differentiates between terrorism and armed resistance, as members of the armed resistance resort the use of weapons out of patriotism and in order to rid the land of parents and grandparents of occupation, in contrast to terrorist groups who are usually motivated by aggression, arrogance or illegal gain or by the purpose of looting and intimidation and without any connection to patriotism, public interest or national objectives recognized in society (Al Hamwi, 2003).

4. The motive of armed resistance: The motivation is characterized by armed resistance operations as the main engine for the exercise of this right to national duty. The members of the resistance resort to use of armed force in defense of their homeland against external aggression or for the liberation of the homeland or any part of it from colonial domination. It is a motive suited to the supreme national interests, and this component works to remove some operations and even directed against a foreign enemy when the motive behind them is contrary to the motive and the national duty, such as the motive of looting (Jumaili, 2004).

The legitimacy of Resistance in the International Law.

There are many common research areas that focus on political resistance ideas, the historical investigation of their manifestations or official records, as well as on violent business issues, civil disobedience, illegal occupation, international humanitarian interventions and assistance. However, the legitimate nature, content and right of resistance are still not fully understood and cause several discussions up to uncertainty in the legal idea of this right. It has been emphasized through various international agreements and conventions on the legitimacy of the resistance and the right to self-determination. Those conventions include special agreements focusing on the organization of armed resistance movements, general conventions dealing with various civil rights and the right to resist injustice and tyranny and aggression as well as conventions distinguishing resistance act from terrorism. With regard to the legitimacy of the right of resistance in the resolutions and actions of the United Nations, the United Nations General Assembly has recognized the legitimate right of armed resistance movements against foreign invasion and occupation, or through condemnation of all forms of aggression and occupation (Al-Rashdan, 1970).



The resolutions of the General Assembly also affirmed the legitimacy of the armed resistance by asking, encouraging and appreciating the role played by countries in supporting the armed resistance movements and supporting the colonized peoples, as well as the legitimacy of the armed resistance by giving legal protection to members of the resistance movements. The most important of these decisions are (Turner, 2013):

1) General Assembly resolution 1514 (XV) of 14 December 1960; "Declaration on the Granting of Independence to Colonial Countries and Peoples"

2) General Assembly resolution 2189 (XXI) of 13 December 1966; "Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples"

3) General Assembly resolution 3314 (XXIX) of 14 December 1974; Definition of Aggression.

4) General Assembly Resolutions Related to Terrorism which is divided into:

4.1) General Assembly Resolution 31/102 of 15 December 1976; Measures to prevent international terrorism which endangers or takes innocent human lives ... in an attempt to effect radical changes.

4.2) General Assembly Resolution 49/148 of 23 December 1994; Universal realization of the right of peoples to self-determination.

4.3) General Assembly Resolution 43/108 of 8 December 1988; Elimination of all forms of religious intolerance.

4.4) General Assembly Resolution 49/151 of 23 December 1994; Importance of the universal realization of the right of peoples to self-determination and of the speedy granting of independence to colonial countries and peoples for the effective guarantee and observance of human right. Moreover, on the legitimacy of the right of armed resistance in international conventions, many international conventions have addressed the right of peoples to use force within the framework of the right to self-determination, whether they are general conventions dealing with the right to use armed force for independence or special agreements dealing with the right to use force, including the right to use armed force by armed resistance movements. Among these agreements are the following (Turner, 2013; Saul, 2014):

1) The United Nations Charter.

2) The Hague Conventions of 1899 and 1907, the Geneva Conventions of 1949 and the Protocols Additional to the Geneva Conventions of 1949.

3) International Convention against the Taking of Hostages, 1979.



- 4) The Arab Convention for the Suppression of Terrorism of 1998
- 5) The African Charter on Human and Peoples' Rights of 191.
- 6) International Convention for the Suppression and Punishment of the Crime of Apartheid

The Exercise of Armed Resistance through the Right of Legitimate Defence and the Right to Self-Determination.

Armed resistance movements in the exercise of their right to use force against foreign invasion and occupation and against colonial domination are based on a number of established foundations of relations between armed resistance movements and their right to use armed force. Therefore, whenever the resistance movement exercises armed force, it is legitimate (Razmetaeva, 2014). With regard to the right of legitimate defense, it is recognized that the right of legitimate defense is a natural right derived from the existence of the State, and international law has regulated its use, through the Charter of the United Nations which is one of the world's most important treaties that explained the legal use of force in the international law. Such an example of the articles included in this Charter and ensured the right of legitimate defense is Article 15 (Razmetaeva, 2014). To what extent international law precluded one-sided utilization of power in the pre-Charter time of the twentieth century involves debate. Whatever the position may have been before the issuing of the UN Charter, the standards on force utilization since the adoption of the Charter have been genuinely clear. The Charter set out to prevent war between states. To accomplish this point it embraced a policy of collective security to be ensured by the Security Council, which is in charge of keeping up and reestablishing international security and peace and responsible for explaining the cases where utilization of force is legitimate. Under Article 2(4) of the Charter states are precluded from "the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations". The main concession made in the Charter for the one-sided legitimate utilization of power by states is what was recognized in Article 51 of their inherent right of individual or collective self-defense when an armed assault happens, and, even then only 'until the Security Council has taken measures important to keep up worldwide security and peace' (Kretzmer, 2013). In accordance with the Charter of the United Nations, the right of legitimate defense is not absolutely unrestricted; it is restricted on the one hand to the vulnerability of the aggressor State to armed aggression; on the other hand it is



restricted to be exercised on a temporary basis and until the Security Council assumes its responsibility to take effective measures against the aggressor; and moreover it is subjected to the control of the Security Council, and therefore the State exercising it is obliged to inform the Security Council immediately of the measures it has taken (Franck, 2001). Moreover, the right to self-determination is "the right to be enjoyed by peoples under foreign domination politically or economically, with a view to freeing themselves from such domination." Thus, the right to self-determination is linked to a certain stage preceding the political or economic independence of States. The right to self-determination cannot be upheld in the face of an independent state, headed by a government representing all segments of the population. The right to self-determination is divided into two parts: The provisions of international law, the second the right of internal self-determination and subject to the provisions of the domestic law of the State (Qasem, 2003). Some of the important consequences that have resulted through the subjection of liberation wars to the rules of international humanitarian law in the first protocol in Article 1, paragraph 4 are (Gasser, 1998):

1. Recognize the wars of national liberation as a legitimate war subjected to the rules of international law, which constitutes an enhancement of the right of peoples to struggle for the right to self-determination.

2. The application of all rules related to the recognition of the fighters as combatants for national liberation, and thus they enjoy all the rights enjoyed by soldiers in regular war. The most prominent right among these rights is to recognize them as prisoners of war in the case of arrestment, and dealing with them in accordance to the prisoners' rules in the International humanitarian law, and that the violation of these rules constitutes a violation of the rules of public international law, and violations of these provisions constitute a war crime.

Therefore, this development in the legitimacy of the wars of national liberation and armed resistance, is of paramount importance in international public law, as liberation movements have resorted to armed force as a method to achieve their objectives as an independent state and accordingly, the right of peoples to self-determination in its practical and legal framework has been globally recognized, so that it is no longer a principle of international law but also a right to be exercised through national liberation movements (Olalia, 2005).

III. Confusion between Resistance and Terrorism.

This section examines one of the most important problems faced by the international community, the question of the confusion between terrorism and



resistance, in which it attempted to identify the evolution of the problem of confusion between armed resistance and international terrorism by highlighting the causes of confusion between them.

Israeli Attempts to confuse Terrorism with Legitimate Resistance.

Israel has intentionally conceptualized the practical confusion between terrorism and resistance, between what is legitimate and what is not legitimate, which was preceded by the actual confusion between what is civil and what is not, and between what is justified and what is not justified in a long list of events documented through dozens or hundreds of works that meant to monitor and which cannot mention now. The researcher does not say this to recognize that there are legitimate or just acts of occupation or colonialism, but to demonstrate the depth of the dimensions on which the Israelis based their theory on deliberate confusion between concepts that served their strategic vision in diluting these concepts and making them without any controls (Jahf, 2004). The researcher asserts that the Israelis at a very early stage confused the conceptual between terrorism and resistance at the official level. "The Jewish community in this country during the second world war contributed fully to the struggle for the freedom and peace of the nations that love freedom and peace and against the forces of evil, falsehood and Nazism. The blood of its soldiers and its efforts in war in mind within the ranks of peoples that the United Nations". Thus, the Israeli official discourse considered that the contribution to the destruction of peoples and the occupation of their territories is a struggle for freedom and the spread of peace (Abu Afifah, 1998). Israeli efforts have emerged exceptionally after the September 11 attacks, to focus international attention and incitement against the legitimate Palestinian struggle through active media tools, where they attacked all those who stood in the face of Israeli confusion between terrorism and resistance. One of the most striking examples of this is the vicious and organized attack against Terje Rød-Larsen, UN envoy to the Middle East, following his remarks about the Israeli massacre in Jenin camp in 2002, in which he said that the Israeli army used morally repugnant means to describe its record of documentary cameras in detail and documented. This statement prompted the Israeli cabinet to announce its intention to cut off contacts with him after describing his remarks as distorted, harmful and biased. This is clear and real evidence that cannot be ignored because we stand on the Israeli methodology that has been used to confuse terrorism and resistance, as well as to attack and accuse those who stand in the face of this bias and distortion of the



facts. If not directly accused of anti-Semitism, and denial of the right of Jews to exist (Khanfar, 2005).

The Effects of mixing between Resistance and Terrorism.

Confusion between terrorism and armed resistance are deliberate Process, stemming from a political position in which some countries want to cover up their terrorist and illegal acts. In contrast, the charge of terrorism is linked to the resistance movements that are engaged in legitimate struggle against the occupation. This has negatively affected the image of the Palestinian resistance. Israel exploited this, to put its movements in the category of terrorism, in order to get rid of the Palestinian military action (Amna, 2015). It is difficult to identify the point of separation between the legitimate right to resist occupation and terrorist action; international terrorism and armed resistance may be similar to each other's reliance on violence as a means to reach its goals and objectives, as they may be similar in the political nature that encapsulates the activities of each, as well as characterized by effective means and surprise, and work in secret and aim to eliminate the opponent by all means of force; But the armed resistance has its own entity and its own character that distinguishes it from terrorism (Bozina, 2012; Amna, 2015). Nevertheless, some differences between resistance and terrorism can be given in table (1) as follows:

Table 1: Differences between the Right to Resist and Terrorism (Reda, 2010)

The differences	Acts carried out by resistance	Acts carried out by terrorism
In terms of the role of the people	There is a very desire to join the resistance.	Terrorist acts do not receive any acceptance from the people, but are condemned and out of legitimacy.
In terms of psychological and moral motivation	The national motivation is always the engine for the resistance and its continuation, it work for the people that emanate from it.	Its great dimension about the national motivation, But often as a tool for the colonizer or enemies of the nation, or for material and subjective interests.



In terms of targeted violence	Violence is directed against the forces of colonialism and tyranny and their agents, which have a role in supporting the occupation or racism, and the goal is to achieve independence.	Victims of terrorism are mostly innocent people who have nothing to do with the conflict, and the aim of these acts is to propagate it, regardless of the victims and the intended targets
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Conclusion.

Through the review of several definitions of terrorism as well as resistance, it has become clear that there are fundamental differences between resistance and terrorism in terms of the role of the people in each activity, in terms of psychological and moral motivation and in terms of targeted violence. Despite the great effort of the international community as a whole, in particular the United Nations Organization for the maintenance of international peace and security, by prohibiting the use or threat of use of force, except in a very narrow framework defined by the Charter of the United Nations, but that did not prevent the emergence of many armed conflicts, at the international and internal levels. More seriously, international law has so far not been able to determine in a manner that leaves no room for confusion between what is legitimate and other armed acts that have escalated in a frightening manner in our time, which requires serious action by the United Nations to create restrictive and distinct regimes and laws between terrorism and legitimate resistance applied to all nations and prevent States as a US and Israel from combining these terms and using them in accordance with their personal interests.

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