

REPERCUSSIONS OF COUNTER-TERRORISM MEASURES ON CIVILIANS AND INDIVIDUALS NOT PARTICIPATING IN TERRORIST ACTS IN THE MIDDLE EAST



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Introduction

On August 21 of each year, the world celebrates the International Day of Remembrance and Tribute to the Victims of Terrorism, in order to honor and support the victims and survivors of terrorism and to promote and protect their full enjoyment of their human rights and fundamental freedoms. The preservation and commemoration of the memory of the victims of terrorism on an international day can also play an important role in countering terrorists' rhetoric by shedding light on the humanitarian aspect of the victims of their heinous acts and encouraging the search for peaceful alternatives. In this regard, the Secretary-General of the United Nations, Antonio Guterres, stresses the importance of United Nations General Assembly resolution 72/165 of December 2017, under which, 21 August was considered as the International Day of Commemoration and Commemoration of the Victims of Terrorism, to promote respect for the human rights of victims of terrorist operations and provide them with the necessary support and information, and to mitigate the permanent harm inflicted by terrorists on individuals, groups and communities.¹

Terrorism is one of the most serious challenges that face the whole world and obstructs all endeavors to maintain international peace and security, the achievement of the SDGs and universal human rights, which threaten the hard-won gains made by many of the world's nations, and put other States into turmoil and forced displacement. Perhaps, the loss of life and sustained injury caused by terrorism among individuals targeted by terrorist crimes and operations is the most serious challenge to the realization of fundamental human rights, in particular the right to life as well as physical and mental integrity resulting from the phenomenon of international terrorism. Civilians continue to be killed and injured in attacks by terrorist groups within States' national territory and across borders women and girls continue to be particularly targeted by terrorist groups and subjected to gender-based violence, including through trafficking, rape, forced prostitution and marriage or pregnancy.

¹ اليوم الدولي لإحياء ذكرى ضحايا الإرهاب وإجلالهم، الأمم المتحدة، الرابط: <https://bit.ly/3zyhk6Z>

Thus, victims of terrorism are the most serious consequences and negative effects of this phenomenon. Despite the suffering of the victims affected by terrorism and their families, most of them have not received the necessary appreciation and tribute. Their basic human needs and rights had not been taken into account, and the victims of terrorism in many States were still struggling to make their voices heard. They find those who meet their needs, uphold their rights, and those victims often feel forgotten and neglected once the immediate impact of terrorist attacks fades, which has dire consequences for them, and the neglect of victims of terrorism is attributed to the number of Member States have the resources or capabilities to meet the medium- and long-term needs of victims of terrorism to fully recover. and until their rehabilitation and reintegration into society is completed, as the recovery process for victims of terrorism requires multidimensional and long-term support, including physical, psychological, social and financial support, which enables them to heal and live in dignity.

Despite the gravity of terrorist group operations such as ISIS and Al-Qaeda against civilians and targeted individuals, there is no doubt that acts of international terrorism leave thousands of victims and a wide range of serious human rights violations against the civilians targeted, including violations of the right to life, liberty and security of person, However, in this study we seek to highlight the impact of measures taken by States and Governments in the context of combating the phenomenon of international terrorism within their territories, across borders or in other countries on civilians residing in areas covered by the control measures, and in this regard, Maat for Peace, Development and Human Rights noted that counter-terrorism measures taken by many Governments have often resulted in casualties among civilians and private individuals not involved in any of the hostilities or terrorism mandated to combat, This is often due to these Governments' indifference to the fundamental human rights of civilians within the scope of counter-terrorism actions and their failure to observe many of the principles of the use of force enshrined in international humanitarian and human rights law, including the criteria of necessity,

discrimination, proportionality and progressive use of force. In the light of the foregoing, the present study seeks to answer the following main research question: What negative impacts and repercussions are international counter-terrorism measures having on the situation of civilians and private individuals not involved in terrorist acts and residing in areas covered by counter-terrorism acts being carried out in the Middle East region?

In the light of these previous considerations, we will address this paper in three key areas, The first focuses on the international legal framework for the protection of individuals not involved in terrorist acts in the context of counter-terrorism, while the second was devoted to highlighting the implications of counter-international terrorism measures for individuals within the areas covered by the fight. Finally, the third theme sought to highlight the rights of victims of international terrorism, which I will address in some detail as follows:

First: international legal framework for the protection of individuals not involved in terrorist acts in the context of counter-terrorism acts

According to international law, States and Governments are responsible for taking the necessary measures and actions to protect individuals from terrorist acts, but such measures must be in conformity with international human rights law and international humanitarian law so as not to result in victims among civilians and private individuals not involved in terrorist acts.

In this regard, it should be noted that the rules of international human rights law are applied at all times, including in situations of armed conflict. These rules have obligated States and Governments engaged in counter-terrorism actions to protect individuals not participating in hostilities or terrorism from all human rights violations that may occur. They are obligated to protect their lives, freedoms and physical integrity from any violation that might occur to them while undertaking any measures that might involve the use of lethal force, including counter-terrorism measures.

The right to life is, unequivocally, the most sublime, fundamental, and unparalleled human right. It is basic or fundamental because the enjoyment of the right

to life is a necessary condition of the enjoyment of all other human rights. Various declarations, including the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, have stipulated the importance of respect for the right to life for all without discrimination and the prohibition of arbitrary deprivation of one's life². Although international human rights law has authorized the restriction or suspension of certain humanitarian rights in certain exceptional circumstances that may entail an explicit threat to security, order and public interest, such as in the case of counter-terrorism conditions; however, international human rights law has excluded the right to life and physical integrity from rights that may be restricted in the event of an exceptional circumstance threatening national security and public order, as in the case of terrorist attacks. In this regard, the International Covenant on Civil and Political Rights does not allow States to derogate from their commitment to human rights when it comes to arbitrary deprivation of life, torture and inhuman and degrading treatment. States are therefore under an obligation to respect the right to life and physical integrity of individuals not involved in terrorist acts and may not invoke the exceptional circumstance of combating international terrorism in order to justify their targeting of individuals not involved in terrorist acts because the right to life and physical integrity are not subject to suspension or restriction in all circumstances and situations.³

Many international documents have set limits and controls on the use of force and firearms by law enforcement officials and made the use of lethal force restricted under certain conditions and controls. In this regard, the United Nations Code of Conduct for Law Enforcement Officials considered the deliberate use of lethal force by law enforcement officials to be unlawful unless the targeted person poses an imminent threat to another person's life and where it is completely impossible to avoid the use of lethal force to protect lives. In addition, the Code considered the use of lethal force to be lawful only when other less lethal measures, including restraint and

^{2 2} المادة رقم 1-6 من العهد الدولي الخاص بالحقوق المدنية والسياسية، للاطلاع على كامل ومواد العهد أنظر الرابط التالي: <https://bit.ly/3AjUVrC>

³ تقرير المقررة الخاصة المعنية بتعزيز وحماية حقوق الإنسان والحريات الأساسية في سياق مكافحة الإرهاب عن التحديات المتعلقة بحقوق الإنسان في حالات الطوارئ <https://bit.ly/3SsUC84> في سياق مكافحة الإرهاب، مجلس حقوق الإنسان الدورة السابعة والثلاثون، مارس 2018، ص 15، الرابط:

families, could not be used. Thus, international human rights law has imposed on law enforcement officials, in the context of counter-terrorism and other circumstances that require the use of force, a duty to abide by a set of standards and principles in order to avoid arbitrary deprivation of life and arbitrary execution. They are the principles of the utmost necessity necessary to avoid the occurrence of crimes and the principle of proportionality, which requires proportionality between the use of force and the objective to be achieved, and the principle of progressiveness that force should be used only in cases where other means are unable to perform the task. These standards are crucial and must be adhered to by law enforcement officials in the context of combating international terrorism in order to avoid innocent victims among civilians and individuals not involved in terrorist acts.⁴

In view of the possibility of applying the rules of international humanitarian law in the context of counter-terrorism, especially in cases that takes place in the midst of an international or regional armed conflict or where terrorist groups possess an appropriate level of organization and a common leadership structure, and adequate means of communication, which makes them governed by non-State armed groups⁵. The rules of international humanitarian law being applied in such cases have obliged all warring parties not to target civilian objects and civilians not involved in hostilities and to follow the principle of proportionality, discrimination and prudence in the use of force. Thus, States and Governments engaged in acts of combating international terrorism in the context of international and non-international armed conflicts are under an obligation not to expose civilians and private individuals not involved in terrorist and hostile acts by terrorist groups, and have a duty to provide them with due protection against the risks of arbitrary execution and arbitrary deprivation of life.⁶

⁴ <https://bit.ly/3H87ECs> المادة رقم 3 من مدونة الأمم المتحدة لقواعد سلوك الموظفين المكلفين بإنفاذ القوانين، للإطلاع على كامل مواد المدونة انظر الرابط التالي: ⁵ موجز حلقة النقاش التفاعلية للخبراء التي عقدها مجلس حقوق الإنسان بشأن استخدام الطائرات الموجهة عن بعد أو الطائرات المسلحة بلا طيار استخداماً متفقاً مع القانون الدولي، تقرير مفوضية الأمم المتحدة السامية لحقوق الإنسان، مجلس حقوق الإنسان الدورة الثامنة والعشرون، ديسمبر 2014، الرابط: <https://bit.ly/3zZzP4B> ⁶ المادة الثالثة المشتركة بين اتفاقيات جنيف الأربع لعام 1949، اتفاقية جنيف الرابعة، 1949، اللجنة الدولية للصليب الأحمر، للإطلاع على كامل مواد الاتفاقية انظر الرابط التالي: <https://bit.ly/3oemUFY>

Second: Impact of counter-terrorism measures on individuals not involved in terrorist acts in the Middle East region

States and governments are responsible for taking the necessary measures and actions to protect individuals from terrorist acts. Although the measures taken by States and governments to combat international terrorism are primarily aimed at protecting citizens and individuals from the risk of deadly terrorist attacks by armed terrorist groups and organizations. However, counter-terrorism measures undertaken by states and governments have often resulted in casualties among civilians and individuals not participating in terrorist or hostile counter-acts, which is often due to their lack of concern for the basic human rights of civilians within the scope of counter-terrorism action, and their failure to observe many of the principles of the use of force enshrined in international humanitarian and human rights law, including the principle of necessity, discrimination, proportionality and progressive use of force.

As a result of the terrorist attacks that targeted the World Trade Center and the headquarters of the US Department of Defense in the US on September 11, 2001, the US attached great importance to combating terrorism in its international agenda. The military operations carried out by the US since then in many countries in the Middle East in the midst of its international war on terrorism have resulted in thousands of casualties among civilians and ordinary individuals not participating in terrorist or hostile acts. However, the number of casualties has increased widely since the Obama administration followed the tactics of air strikes via drones in its war on terrorism instead of sending soldiers to the battlefield, as the air strikes carried out by the US using drones in the context of its war on terrorism in Iraq, Syria and Afghanistan resulted in thousands of casualties. In this regard, Maat for Peace, Development and Human Rights has recently been briefed on reliable reports Based on 1,300 reports of the US Department of Defense stating that the US has been involved in the killing of more than 1,417 civilians in air strikes since 2014. In the context of the campaign targeting ISIS in Iraq and Syria, as well as its involvement in the killing of at least 188

civilians in the context of air strikes that have targeted al-Qaeda and ISIS in Afghanistan since 2018.⁷

In fact, the numbers of civilian casualties acknowledged by the Pentagon "are clearly less than the truth". Credible reports indicate that the United States has carried out more than 50,000 airstrikes since 2014, with at least one in five U.S. airstrikes resulting in civilian casualties. Thus, the number of civilian casualties is more than officially reported in the US Department of Defense's reports. This is because the U.S air war on terrorism has involved serious intelligence errors and hasty and inaccurate targeting, as well as non-observance of many of the principles of the use of force enshrined in international law, including necessity, proportionality and discrimination.⁸

In the same context, on August 29, 2021, the U.S carried out, an air strike using a drone targeting a car carrying an aid worker and nine members of his family in the Afghan capital, Kabul, days before the US military withdrawal from Afghanistan, which resulted in the killing of 10 innocent people from one family, including 7 children, and the US admitted responsibility for the incident and considered it a tragic mistake due to inaccurate intelligence information. The American intelligence tracked the aid worker's car for eight hours and directed an air strike on it, believing that it was linked to ISIS militants.⁹

On March 18, 2019, the United States of America, using a military drone, carried out two consecutive air strikes near the village of Baghuz in Deir Ezzor Governorate during the last days of the battle against the Islamic State in Syria, killing up to 64 women and children. Despite The US Central Command acknowledged the two strikes, but claimed that the two air strikes were justified and were a legitimate self-defense, which the permanent Syrian mission to the United Nations considered contrary to reality. As the mission confirmed in May 2022 that the United States was responsible

⁷ <https://nyti.ms/3p0L9Ye>، 25 أبريل 2022، الرابط: The New York Times وثائق سرية للبيتاغون تكشف عن إخفاقات متكررة في شنّ غارات جوية مُمبّنة،

⁸ The 'Civilian Casualty Files': How US precision airstrikes caused thousands of civilian deaths, Utrecht university, 3 February, 2022, link: <https://bit.ly/3zDZSgo>

⁹ Afghanistan: US admits Kabul drone strike killed civilians, BBC, 18 September 2021, link: <https://bbc.in/3QoRet3>

for innocent civilian casualties. It is not participating in terrorist acts and demanded that it withdraw its forces immediately and pay the price for its actions.¹⁰

On a related level, Russian forces have killed thousands of civilians and ordinary persons not involved in terrorist or hostile acts since intervening in Syria in 2015 under the pretext of combating international terrorism rampant in Syria at the invitation of the Syrian Government. In this regard, Maat for Peace, Development and Human Rights shared credible reports that Russian forces were involved in the killing of more than 225 civilians in 2021 alone while participating in armed fighting against ISIS and other terrorist groups deployed in Syrian territory. This is despite the fact that the dead were civilians and private individuals who were unincorporated or involved in any of Syria's terrorist or hostile acts.¹¹

Third: Rights of victims of acts countering international terrorism

Public international law guarantees innocent victims who are not participating in terrorist or hostile acts and who are targeted by governments and states in the context of counter-terrorism acts, a number of rights, the most important of which can be highlighted as follows¹²:

1. Reparation

The right to reparation is one of the fundamental principles of general international law. According to this principle, any violation of the norms of international humanitarian law or international human rights law that gives rise to a duty to make reparation for the damage caused by such violation, has been entrenched in the United Nations Convention against Torture and Other Cruel Treatment, and is clearly reflected in the Universal Declaration of Human Rights. Thus, States and Governments have a duty to make reparation for the harm inflicted on civilians and private individuals who are not acceded to or involved in any terrorist or hostile act in the event that they are targeted and injured in the context of counter-terrorism actions.

¹⁰ U.S. military hid airstrikes that killed dozens of civilians in Syria –NYT, Reuters, November 14, 2021, link: <https://reut.rs/3Sw0ZaD>

¹¹ Russian, regime forces killed at least 225 civilians in Syria in 2021, DAILY SABAH, JAN 03, 2022, link: <https://bit.ly/3A1KSdA>

¹² <https://bit.ly/3qdnmUO> حقوق الإنسان ومجابهة الجماعات الإرهابية المسلحة، الهيئة العامة للاستعلامات، تاريخ غير معلوم، الرابط:

2. Compensation

The right to compensation is one of the most important principles enshrined in international law, including international human rights law. This right is clearly articulated in the Universal Declaration of Human Rights, article 8 of which establishes everyone's right to redress and compensation from competent national courts for violations of his fundamental rights under the Constitution or the law. Thus, in accordance with international law, States and Governments have the duty to compensate victims of acts against international terrorism who are targeted and injured in the context of acts against terrorism without being involved or involved in terrorist acts.

Conclusion & Recommendations

In conclusion, the norms of international human rights law and international humanitarian law, have imposed obligations on states and governments engaged in counter-terrorism actions to protect civilians and individuals not participating in hostilities or terrorism from all grave human rights violations. They are obligated to protect their lives, freedoms and physical integrity from any violation that may occur to them while undertaking any measures that may involve the use of lethal force, including counter-terrorism measures. However, Maat for Peace, Development and Human Rights noted that counter-terrorism measures undertaken by states and governments in many States of the Middle East region, particularly in Syria, Afghanistan and Iraq, have often resulted in victims among civilians and private individuals not involved in the terrorist or hostile acts. This is often due to these governments' indifference to the fundamental human rights of civilians within the scope of counter-terrorism actions and their failure to observe many of the principles of the use of force enshrined in international humanitarian and human rights law, including the principle of necessity, discrimination, proportionality and progressive use of force. In the light of the foregoing, Maat for Peace, Development and Human Rights presents its recommendations to states and governments engaged in counter-terrorism actions in the Middle East region as follows:

- Adherence to the principles of the use of force enshrined in international humanitarian and human rights law while engaged in action against international terrorism, including the principle of necessity, discrimination, proportionality and progressive use of force;
- Avoid targeting civilians and private individuals not involved in hostilities or terrorism in the context of counter-terrorism;
- Reducing the excessive use of air strikes and drones in counter-terrorism actions due to their disproportionate effects on civilians and their widespread destruction;
- Obligation to provide reparation and compensation for the loss of innocent victims who are not involved in hostilities or terrorism during counter-terrorism acts;
- Training law enforcement agencies on international principles and standards for the use of force in order to reduce the number of victims resulting from counter-terrorism acts.