

Islam and Terrorism

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Abstract

As one of the serious problems the global community is facing, terrorism is an important issue dealt with in the realm of both international law and international relations. There is no consensus of opinion on the definition of “terrorism,” even among western thinkers; nor have the attempts made by international organizations at providing a comprehensive and universal definition for this term yielded any results. All that has been done so far is the compilation of a list of some instances of terrorist actions. However, taking any position on this issue necessitates a clear definition of the concept of “terrorism.”

Like any other legal system, Islam allows for legal violence in the forms of punishment for crimes as well as legitimate defense against attacks. Illegal and arbitrary violence, however, is forbidden in Islam. In fact, Islam stands against such arbitrary illegitimate violence under such different titles as “Muharibah, Fatk, Ghadr, and Ightial.”

Islamic countries, apart from adherence to international treaties and conventions on fight against terrorism, have been trying to trace the roots of and fight against this crime. Islam respects and honors the life of mankind and does not allow anyone to take others' lives, unless as punishment for crimes like murder, which has its own conditions, rules, and formalities.

Key terms: Terror, terrorism, Islam, Organization of Islamic Conference, security, punishment, intimidation.

Introduction

In both national and international arenas, the nations are faced with an ambiguous concept when it comes to the term “terrorism,” and this, in itself,

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has made it even more difficult to tackle the problem in terms of providing perfect and practical solutions.

On the other hand, security is one of the basic necessities of man's social life, which has long been one of man's ideals. The nightmare of invasion, aggression, oppression, and intimidation has always caused despair, depression, and despondency in mankind's collective life. To end and get rid of such a nightmare, and to feel secure and safe from things which endanger the tranquility of man's life, violate the rights of individuals and society, and threaten the peace and freedom of mankind, is certainly a basic and undeniable duty to be carried out not only by all governments, whether religious or secular, but also by all nations collectively and even by each and every individual; for, security is not something to be achieved by mere individual one-sided activity. Rather, to provide security along national and international dimensions, a collective effort is absolutely inevitable.

Terror is among the things that threatens international security. Hence, fighting against all means of threatening security, in any shape and form including terrorism, is a public duty since all such means are examples of "evil," i.e. vileness, atrocity, and disvalue fighting against which would be a manifestation of "forbidding the evil" and realization of "good." In doing so, therefore, we shall begin with a conceptological discussion, and then go on to analyze terrorism from an Islamic perspective.

Thinkers have offered a variety of definitions for "terror" and "terrorism" which, despite differences, seem to have the following commonalities:

1. They are all coercive and violent acts such as inflicting grievous bodily harm on others; injuring or murdering others; taking others hostage; or damaging others' property;
2. They create an atmosphere of fear and threat and a feeling of insecurity in the general public but not merely in the terror victim;
3. They are illegal acts along personal, national, or international dimensions, in that they violate the existing norms and do not recognize the rules and conventions of war.¹
4. They are arbitrary, giving the terrorists the chance to choose the right time and place for their attack, and thus making it unpredictable.
5. There are usually political motives bound up with such acts, with the aim of rising to power, weakening or overthrow of the existing political

1. Wilkinson, *Terrorism and the Liberal State*; 2nd ed. (London, Macmillan, 1986), p. 55.

system. Nevertheless, in many cases, terrorist acts involve economic or criminal motives, among which are bank or shop robberies, criminal killing of people, or killing as an act of revenge.

The Concept of Terror in Islamic Fiq'h and Law

There is no such a term as “terror” in the terminology of Islamic fiq’h and law, and it is used, both literally and technically, as a borrowing.

Some Muslim thinkers, viewing the term “terrorism” as very close in meaning to “intimidation,” believe that “terror” is:

“Any act, involving inhuman intentions, that aims for corruption, endangers security, violates and restricts the legitimate rights of man, and disturbs man’s peace and tranquility.”¹

Some others, defining “terror” as causing extreme fear, hold that a “terrorist” is someone who engages in armed struggle to cause fear in the society. Hence, in Islamic fiq’h, the term “terrorism” is taken as equivalent for “Muharibah.”

After all, it should be noted that while some concepts like Muharibah and Ifsad fil Ardh correspond more closely to the terms “terror” and “terrorism,” others are either more general, more specific, or more general in one aspect and more specific in another. In some cases, they correspond exactly to each other and in some others, they are different. It is, therefore, not possible to apply the rules under those titles to terror and terrorism. Thus, Muslim scholars have yet to be searching for a more comprehensive definition for terror; one that would encompass more of its common constituent elements, reflect a general consensus of opinion, and correspond more closely with it.

The organization of the Islamic Conference passed its historic convention on “International Fight against Terrorism” in 1999. With regard to its comprehensiveness in terms of Islam’s point of view of terrorism, it would be worthy of a look and attention. The provisions of this convention are as follows:

Convention of the Organization of the Islamic Conference on Combating International Terrorism

The Member States of the Organization of the Islamic Conference, Pursuant to the tenets of the tolerant Islamic Sharia which reject all forms of violence and terrorism, and in particular specially those based on extremism

1. Abbasali Amid Zanjani, *fiq’h-e- Siasi*, p 426.

and call for protection of human rights, which provisions are paralleled by the principles and rules of international law founded on cooperation between peoples for the establishment of peace;

A bidding by the lofty, moral and religious principles particularly the provisions of the Islamic Sharia as well as the human heritage of the Islamic Ummah.

Adhering to the Charter of the Organization of the Islamic Conference, its objectives and principles aimed at creating an appropriate atmosphere to strengthen cooperation and understanding among Islamic States as well as relevant OIC resolutions;

Adhering to the principles of International Law and the United Nations Charter as well as all relevant UN resolutions on procedures aimed at eliminating international terrorism, and all other conventions and international instruments to which states acceding to this Convention are parties and which call, inter alia, for the observance of the sovereignty, stability, territorial, integrity, political independence and security of states, and non-intervention in their international affairs;

Proceeding from the rules of the Code of Conduct of the Organization of Islamic Conference for Combating International Terrorism;

Desiring to promote cooperation among them for combating terrorist crimes that threaten the security and stability of the Islamic States and endanger their vital interests;

Being committed to combating all forms and manifestations of terrorism and eliminating its objectives and causes which target the lives and properties of people;

Confirming the legitimacy of the right of peoples to struggle against foreign occupation and colonialist and racist regimes by all means, including armed struggle to liberate their territories and attain their rights to self-determination and independence in compliance with the purposes and principles of the Charter and resolutions of the United Nations;

Believing that terrorism constitutes a gross violation of human rights, in particular the right to freedom and security, as well as an obstacle to the free functioning of institutions and socio-economic development, as it aims at destabilizing States;

Convinced that terrorism cannot be justified in any way, and that it should therefore be unambiguously condemned in all its forms and manifestations, and all its actions, means and practices, whatever its origin, causes or purposes, including direct or indirect actions of States;

Recognizing the growing links between terrorism and organized crime, including illicit trafficking in arms, narcotics, human beings and money laundering;

Have agreed to conclude this Convention, calling on all Member States of the Organization of the Islamic Conference to accede to it.

Definition and General Provisions

Article 1: For the purposes of this Convention

1. “Contracting State” or “Contracting Party” means every Member State in the Organization of the Islamic Conference that has ratified or adhered to this Convention and deposited its instruments of ratification or adherence with the General Secretariat of the Organization.
2. “Terrorism” means any act of violence or threat thereof notwithstanding its motives or intentions perpetrated to carry out an individual or collective criminal plan with the aim of terrorizing people or threatening to harm them or imperiling their lives, honor, freedoms, security or rights or exposing the environment or any facility or public or private property to hazards or occupying or seizing them, or endangering a national resource, or international facilities, or threatening the stability, territorial integrity, political unity or sovereignty of independent States.
3. Terrorist Crime” means any crime executed, started or participated in to realize a terrorist objective in any of the Contracting States or against its nationals, assets or interests or foreign facilities and nationals residing in its territory punishable by its internal law.
4. Crimes stipulated in the following conventions are also considered terrorist crimes with the exception of those excluded by the legislations of Contracting States or those who have not ratified them:
 - a) Convention on “Offences and Other Acts Committed on Board of Aircrafts” (Tokyo, 14.9.1963).
 - b) Convention on “Suppression of Unlawful Seizure of Aircraft” (The Hague, 16.12.1970).
 - c) Convention on “Suppression of Unlawful Acts against the Safety of Civil Aviation” signed at Montreal on 23.9.1971 and its Protocol (Montreal, 10.12.1984).
 - d) Convention on the “Prevention and Punishment of Crimes against Persons Enjoying International Immunity, Including Diplomatic Agents” (New York, 14.12.1973).

- e) International Convention against the Taking of Hostages (New York, 1979).
- f) The United Nations Law of the Sea Convention of 1982 and its related provisions on piracy at sea.
- g) Convention on the “Physical Protection of Nuclear Material” (Vienna, 1979).
- h) Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation-Supplementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (Montreal, 1988).
- i) Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms on the Continental Shelf (Rome, 1988).
- j) Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (Rome, 1988).
- k) International Convention for the Suppression of Terrorist Bombings (New York, 1997).
- l) Convention on the Marking of Plastic Explosives for the purposes of Detection (Montreal, 1991).

Article 2:

a) Peoples struggle including armed struggle against foreign occupation, aggression, colonialism, and hegemony, aimed at liberation and self-determination in accordance with the principles of international law shall not be considered a terrorist crime.

b) None of the terrorist crimes mentioned in the previous article shall be considered political crimes.

c) In the implementation of the provisions of this Convention the following crimes shall not be considered political crimes even when politically motivated:

- 1) Aggression against kings and heads of state of Contracting States or against their spouses, their ascendants or descendants.
- 2) Aggression against crown princes or vice-presidents or deputy heads of government or ministers in any of the Contracting States.
- 3) Aggression against persons enjoying international immunity including Ambassadors and diplomats in Contracting States or in countries of accreditation.
- 4) Murder or robbery by force against individuals or authorities or means of transport and communications.

- 5) Acts of sabotage and destruction of public properties and properties geared for public services, even if belonging to another Contracting State.
 - 6) Crimes of manufacturing, smuggling or possessing arms and ammunition or explosives or other materials prepared for committing terrorist crimes.
- d) All forms of international crimes, including illegal trafficking in narcotics and human beings money laundering aimed at financing terrorist objectives shall be considered terrorist crimes.

Section II: Foundations of Islamic Cooperation for Combating Terrorism

Chapter I: In the Field of Security

Division I: MEASURES TO PREVENT AND COMBAT TERRORIST CRIMES.

Article 3: I. The Contracting States are committed not to execute, initiate or participate in any form in organizing or financing or committing or instigating or supporting terrorist acts whether directly or indirectly.

II. Omitted to prevent and combat terrorist crimes in conformity with the provisions of this Convention and their respective domestic rules and regulations the contracting States shall see to:

A) Preventive Measures:

1. Barring their territories from being used as an arena for planning, organizing, executing terrorist crimes or initiating or participating in these crimes in any form; including preventing the infiltration of terrorist elements or their gaining refuge or residence therein individually or collectively, or receiving hosting, training, arming, financing or extending any facilities to them.
2. Cooperating and coordinating with the rest of the Contracting States, particularly neighboring countries which suffer from similar or common terrorist crimes.
3. Developing and strengthening systems relating to detecting transportation, importing, exporting stockpiling, and using of weapons, ammunition and explosives as well as other means of aggression, killing and destruction in addition to strengthening trans-border and custom controls in order to intercept their transfer from one Contracting State to another or to other States unless they are intended for specific legitimate purposes.
4. Developing and strengthening systems related to surveillance

procedures, securing borders, and land, sea and air passages in order to prevent infiltration through them.

5. Strengthening systems for ensuring the safety and protection of personalities, vital installations and means of public transport.
 6. Re-enforcing protection, security and safety of diplomatic and consular persons and missions; and regional and international organizations accredited in the Contracting State in accordance with the conventions and rules of international law which govern this subject.
 7. Promoting security intelligence activities and coordinating them with the intelligence activities of each Contracting State pursuant to their respective intelligence policies, aimed at exposing the objectives of terrorist groups and organizations, thwarting their designs and revealing the extent of their danger to security and stability.
 8. Establishing a data base by each Contracting State to collect and analyze data on terrorist elements, groups, movements and organizations and monitor developments of the phenomenon of terrorism and successful experiences in combating it. Moreover, the Contracting State shall update this information and exchange them with competent authorities in other Contracting States within the limits of the laws and regulations in every State.
 9. To take all necessary measures to eliminate and prevent the establishment of webs supporting all kinds of terrorist crimes.
- B) Combating Measures:
1. Arresting perpetrators of terrorist's crimes and prosecuting them according to the national law or extraditing them in accordance with the provisions of this Convention or existing Conventions between the requesting and requested States.
 2. Ensuring effective protection of persons working in the field of criminal justice as well as to witnesses and investigators.
 3. Ensuring effective protection of information sources and witnesses on terrorist crimes.
 4. Extending necessary assistance to victims of terrorism.
 5. Establishing effective cooperation between the concerned organs in the contracting States and the citizens for combating terrorism including extending appropriate guarantees and appropriate incentives

to encourage informing on terrorist acts and submitting information to help uncover them and cooperating in arresting the perpetrators.

Division II: Areas of Islamic cooperation for preventing and combating terrorist crimes.

Article 4: Contracting States shall cooperate among themselves to prevent and combat terrorist crimes in accordance with the respective laws and regulations of each State in the following areas:

First: Exchange of Information

1. Contracting States shall undertake to promote exchange of information among them as such regarding:
 - a) Activities and crimes committed by terrorist groups, their leaders, their elements, their headquarters, training, means and sources that provide finance and weapons, types of arms, ammunition and explosives utilized as well as other ways and means to attack, kill and destroy.
 - b) Means of communications and propaganda utilized by terrorist groups, how they act, movement of their leaders, their elements and their travel documents.
2. Contracting States shall expeditiously inform any other Contracting State regarding available information about any terrorist crime perpetrated in its territory aimed at undermining the interests of that State or its nationals and to state the facts surrounding the crime in terms of its circumstances, criminals involved, victims, losses, devices and methods utilized to carry out the crime, without prejudicing investigation and inquiry requisites.
3. Contracting States shall exchange information with the other Parties to combat terrorist crimes and to inform the Contracting State or other States of all available information or data that could prevent terrorist crimes within its territory or against its nationals or residents or interests.
4. The Contracting States shall provide any other Contracting State with available information or data that will:
 - a) Assist in arresting those accused of committing a terrorist crime against the interests of that country or being implicated in such acts either by assistance, collusion, instigation, or financing.
 - b) Contribute to confiscating any arms, weapons, explosives, devices or funds spent or meant to be spent to commit a terrorist crime.
5. The Contracting States undertake to respect the confidentiality of information exchanged between them and shall refrain from passing it to

any non-Contracting States or other parties without prior consent of the source country.

Second: Investigation

Each Contracting State pledges to promote cooperation with other contracting states and to extend assistance in the field of investigation procedures in terms of arresting escaped suspects or those convicted for terrorist crimes in accordance with the laws and regulations of each country.

Third: Exchange of Expertise

1. Contracting States shall cooperate with each other to undertake and exchange studies and researches on combating terrorist crimes as well as exchange of expertise in this field.
2. Contracting States shall cooperate within the scope of their capabilities to provide available technical assistance for preparing programs or holding joint training sessions with one or more Contracting State if the need arises for personnel required in the field of combating terrorism in order to improve their scientific and practical potential and upgrade their performance standards.

Fourth: Education and Information Field

The Contracting States shall cooperate in:

1. Promoting information activities and supporting the mass media in order to confront the vicious campaign against Islam, by projecting the true image of tolerance of Islam and exposing the designs and danger of terrorist groups against the stability and security of Islamic States.
2. Including the noble human values, which proscribe the practice of terrorism in the educational curricula of Contracting States.
3. Supporting efforts aimed at keeping abreast of the age by introducing an advanced Islamic thought based on ijthad by which Islam is distinguished.

Chapter II: In the Judicial Field

Section I: Extraditing Criminals

Article 5: Contracting States shall undertake to extradite those indicted or convicted of terrorist crimes, requested for extradition by any of these countries in compliance with the rules and conditions stipulated in this Convention.

Article 6: Extradition shall not be permissible in the following cases:

1. If the Crime for which extradition is requested is deemed by the laws enforced in the requested Contracting State as one of a political nature and without prejudice to the provisions of Article 2. paragraphs 2 and 3 of this Convention for which extradition is requested.

2. If the Crime for which extradition is sought relates solely to a dereliction of military obligations.
3. If the Crime for which extradition is requested, was committed in the territory of the requested Contracting State, unless this crime has undermined the interests of the requesting Contracting State and its laws stipulate that the perpetrators of those crimes shall be prosecuted and punished providing that the requested country has not commenced investigation or trial.
4. If the Crime has been the subject of a final sentence which has the force of law in the requested Contracting State.
5. If the action at the time of the extradition request elapsed or the penalty prescribed in accordance with the law in the Contracting State requesting extradition.
6. Crimes committed outside the territory of the requesting Contracting State by a person who was not its national and the law of the requested Contracting State does not prosecute such a crime if perpetrated outside its territory by such a person.
7. If pardon was granted and included the perpetrators of these crimes in the requesting Contracting State.
8. If the legal system of the requested State does not permit extradition of its national, then it shall be obliged to prosecute whosoever commits a terrorist crime if the act is punishable in both States by a freedom restraining sentence for a minimum period of one year or more. The nationality of the person requested for extradition shall be determined according to the date of the crime taking into account the investigation undertaken in this respect by the requesting State.

Article 7: If the person requested for extradition is under investigation or trial for another crime in the requested State, his extradition shall be postponed until the investigation is disposed of or the trial is over and the punishment implemented. In this case, the requested State shall extradite him provisionally for investigation or trial on condition that he shall be returned to it before execution of the sentence issued in the requested State.

Article 8: For the purpose of extraditing crime perpetrators according to this Convention. the domestic legislations of Contracting States shall not have any bearing as to their differences with respect to the crime being classified as a felony or misdemeanor, nor as to the penalty prescribed for it.

Section II: Rogatory Commission

Article 9: Each Contracting State shall request from any other Contracting State to undertake in its territory rogatory action with respect to any judicial procedures concerning an action involving a terrorist crime and in particular:

1. To hear witnesses and testimonies taken as evidence.
2. To communicate legal documents.
3. To implement inquiry and detention procedures.
4. To undertake on the scene inspection and analyze evidence.
5. To obtain necessary evidence or documents or records or their certified copies.

Article 10: Each Contracting State shall implement rogatory commissions related to terrorist crimes and may reject the request for implementation with respect to the following cases.

1. If the crime for which the request is made, is the subject of a charge, investigation or trial in the country requested to implement rogatory commission.
2. If the implementation of the request prejudices the sovereignty or the security or public order of the country charged with this mission.

Article 11: The request for rogatory mission shall be implemented promptly in accordance with the provisions of the domestic laws of the requested State and which may postpone its implementation until its investigation and prosecution procedures are completed on the same subject or until the compelling reasons that called for postponement are removed. In this case the requesting State shall be informed of this postponement.

Article 12: The request for a rogatory commission related to a terrorist crime shall not be refused on the grounds of the rule of transaction confidentiality for banks and financial institutions. And in the implementation of the request the rules of the enforcing State are to be followed.

Article 13: The procedure, undertaken through rogatory commission in accordance with the provisions of this Convention, shall have the same legal effect as if it was brought before the competent authority in the State requesting rogatory commission. The results of its implementation shall only be utilized within the scope of the rogatory commission.

Section 3: Judicial Cooperation

Article 14: Each Contracting State shall extend to the other contracting parties every possible assistance as may be necessary for investigation or trial proceedings related to terrorist crimes.

Article 15: If judicial competence accrues to one of the Contracting States for the prosecution of a subject accused of a terrorist crime, this State may

request the country which hosts the suspect to prosecute him for this crime subject to the host country's consent and providing the crime is punishable in that country by a freedom restraining sentence for at least one year or by a more severe sanction. In such a case the requesting State shall pass all investigation documents and evidence related to the crime to the requested State.

Investigation or trial shall be conducted on the grounds of the case or cases brought by the requesting State against the accused in accordance with the legal provisions and procedures of the country holding the trial.

Article 16: The request for trial on the basis of para (1) of the previous article entails the suspension of procedures of prosecution, investigation and trial in the territory of the requesting State except those relating to the requisites of cooperation, assistance or rogatory commission sought by the State requested to hold the trial procedures.

Article 17:

1. Procedures undertaken in either of the two States - the requesting State or the one where the trial is held - shall be subject to the law of the country where the procedure is executed and which shall have legal preeminence as may be stipulated in its legislation.
2. The requesting State shall not bring to trial or retrial the accused subject unless the requested State refuses to prosecute him.
3. In all cases the State requested to hold trial shall inform the requesting country of its action with respect to the request for trial and shall communicate to it the results of its investigations or trial proceedings.

Article 18: The State requested to hold trial may undertake all measures and procedures stipulated by its legislation regarding the accused both before and after the request for trial is received.

Section 4: Seized Assets and Proceed of the Crime

Article 19:

1. If the extradition of a subject is decided, the Contracting State shall hand over to the requesting State the assets and proceeds seized, used or related to the terrorist crime, found in the possession of the wanted subject or with a third party.
2. The material mentioned in the previous item shall be handed over even if the accused has not been extradited either due to his escape, death or any other reason after ensuring that these were connected with the terrorist crime.
3. The provisions contained in the two previous items shall not prejudice the rights of any of the Contracting States or bona fide from others with respect to the above-mentioned assets and proceeds.

Article 20: The State requested to hand over the assets and proceeds may undertake all necessary custodial measures and procedures for the implementation of its obligation. It may also retain them provisionally if required for penal action implemented therein or hand them to the requesting State on condition that they shall be returned for the same purpose.

Section 5: Exchange of Evidence

Article 21: A Contracting State shall see to it that the evidence and effects of any terrorist crime committed on its territory against another Contracting State are examined by its competent organs and may seek assistance to that end from any other Contracting State. Moreover, it shall take every necessary step to safeguard the evidence and proof of their legal relevance. It may communicate, if requested, the result to the country whose interest were targeted by the crime. The State or States which have assisted in this case shall not pass this information to others.

Part III: Mechanism for Implementing Cooperation

Chapter I: Extradition Procedures

Article 22: The exchange of extradition requests between Contracting States shall be Undertaken directly through diplomatic channels or through their Ministries of Justice or their substitute.

Article 23: A request for extradition shall be submitted in writing and shall include:

1. The original or an authenticated copy of the indictment, arrest order or any other instruments of identical weight issued in line with the conditions stipulated in the requesting State's legislation.
2. A statement of the acts for which extradition is sought specifying the dates and places, where these acts were committed and their legal implications along with reference to the legal articles under which they fall as well as a copy of these articles.
3. Description, in as much detail as possible, of the subject wanted for extradition and any other information such as to determine his identity and nationality.

Article 24:

1. The judicial authorities in the requesting State may approach the requested State by any channel of written communication and seek the preventive arrest of the wanted subject pending the arrival of the extradition request.
2. In this case the requested State may effect the preventive arrest of the wanted subject. However, if the request for extradition is not submitted

together with the necessary documents listed in the above article, the subject whose extradition is sought may not be detained for more than thirty days as of the day of his arrest.

Article 25: The requesting State shall send a request together with the documents listed in Article 23 of this Convention. If the requested State accepts the request as valid, its competent authorities shall implement it in accordance with its legislation and shall promptly notify the requesting State of the action undertaken.

Article 26:

1. In all cases stipulated in the two articles above, preventive detention shall not exceed sixty days after the date of arrest.
2. Temporary release may be effected during the period stipulated in the previous article and the requested State shall take appropriate measures to ensure that the wanted subject does not escape.
3. Release shall not prevent the re-arrest of the subject and his extradition if it was requested after his release.

Article 27: If the requested State requires additional clarification to ascertain the conditions stipulated in this chapter, it shall notify the requesting State thereof and fix a date for provision of such clarifications.

Article 28: If the requested State received a number of extradition requests from various countries related to the same or diverse acts, this State shall decide upon these requests bearing in mind the circumstances and in particular the possibility of subsequent extradition, date of receiving the requests, degree of the danger of the crime and where it was committed.

Chapter II: Measures for Rogatory Commissions

Article 29: Rogatory Commission requests must specify the following:

The competent authority that issued the request.

Subject of the request and its reason.

The identity and nationality of the person being the subject of the rogatory commission (as may be possible)

Information on the crime requiring rogatory commission, its legal definition and penalty inflicted on its perpetrators along with maximum available information on its circumstances in order to ensure the efficient implementation of the rogatory commission.

Article 30:

1. The request for rogatory commission shall be forwarded by the Ministry

of Justice in the requesting State to the Ministry of Justice in the requested State and returned in the same way.

2. In case of expediency, the request for rogatory commission shall be directly forwarded by the judicial authorities in the requesting State to the judicial authorities in the requested State. A copy of this rogatory commission shall also be sent at the same time to the Ministry of Justice in the requested State. The rogatory commission shall be returned together with the papers concerning its implementation in the way stipulated in the previous item.
3. The request for rogatory commission may be forwarded directly from the judicial authorities to the competent authority in the requested country. Answers may be sent directly through the said authority.

Article 31: Requests for rogatory commission and accompanying documents shall be signed or stamped with the seal of a competent authority or that authorized by it. These documents shall be exempted from all formal procedures that could be required by the legislation of the requested State.

Article 32: If the authority that received the request for rogatory commission was not competent enough to deal with it, it shall automatically transfer it to the competent authority in its country. If the request is forwarded directly the answer shall reach the requesting State in the same manner.

Article 33: Any refusal for rogatory commission shall be explained.

Chapter III: Measures for Protecting Witnesses and Experts

Article 34: If the requesting State deems that the appearance of the witness or expert before its judicial authorities is of special importance, reference thereto shall be made in its request. The request or summons shall include an approximate statement in terms of compensation, travel expenses, accommodation and commitment to make these payments. The requested State shall invite the witness or expert and inform the requesting State about his/her reply.

Article 35:

1. No penalty nor coercive measure may be inflicted upon the witness or expert who does not comply with the summons even if the writ provides for such a penalty.
2. If the witness or expert arrives voluntarily to the territory of the requesting State, he shall be summoned according to the provisions of the internal legislation of this State.

Article 36:

1. A witness or expert may not be subjected to trial, detained or have his freedom restricted in the territory of the requesting State, for acts or court rulings that preceded his departure for the requesting State, irrespective of his nationality, as long as his appearance before the judicial authorities of the said State is based on a summons.
2. No witness or expert, whatever his nationality, appearing before the judiciary of the State in question on the basis of a summons, may be prosecuted or detained or have his freedom restricted in any way on the requesting State's territory for other acts or court decisions not mentioned in the summons and predating his departure from the State from which he is requested.
3. The immunity privileges stated in this Article shall become invalid if a witness or expert remains on the requesting State's territories for over thirty consecutive days despite his ability to return once his presence was no longer requested by the judiciary, or if he returns to the requesting State's territories after his departure.

Article 37:

1. The requesting State shall undertake all necessary measures to ensure the protection of a witness or expert from publicity that could endanger him, his family or his property as a result of his testimony and in particular:
 - a) To ensure confidentiality of the date and place of his arrival as well as the means involved.
 - b) To ensure confidentiality of his accommodation, movements and locations where he may be found.
 - c) To ensure confidentiality of the testimony and information given to the competent judicial authorities.
2. The requesting State shall provide necessary security required by the condition of the witness or expert and of his family, and circumstances of the case and types of expected risks.

Article 38:

1. If the witness or expert who is summoned to the requesting State is imprisoned in the requested State, he shall be provisionally transferred to the location of the hearing at which he is to testify according to conditions and times determined by the requested State.
2. Transfer may be denied:
 - a) If the witness or expert refuses.

- b) If his presence is necessary for undertaking criminal procedures in the territory of the requested State.
 - c) If his transfer would prolong his imprisonment.
 - d) If there are considerations militating against his transfer.
3. The transferred witness or expert shall remain in detention in the territory of the requesting State until he is repatriated to the requested state unless the latter requests his release.

Section IV: Final Provisions

Article 39: This Convention shall be ratified, or adhered to, by the Signatory States and the instruments of ratification or accession shall be deposited with the General Secretariat of the Organization of the Islamic Conference not exceeding a period of thirty days as of the date of ratification or accession. The General Secretariat shall inform all Member States about any deposition and date of such instruments.

Article 40:

1. This Convention shall enter into force thirty days after the deposit of the seventh instrument of ratification or accession at the OIC General Secretariat.
2. This Convention shall not be applicable to any other Islamic State until it deposits its instruments of ratification or accession with the General Secretariat of the Organization of the Islamic Conference and after a period of thirty days of the date of deposition.

Article 41: It is not permissible for any Contracting State to make any reservation, explicitly or implicitly in conflict with the provisions of this Convention or deviating from its objectives.

Article 42:

1. A Contracting State shall not withdraw from this Convention except by a written request to the Secretary General of the Organization of the Islamic Conference.
2. Withdrawal shall be affective six months after the date of sending the request to the Secretary General.

This Convention has been written in English, Arabic and French of equal authenticity, of one original deposited with the General Secretariat of the Organization of the Islamic Conference which shall have it registered at the United Nations Organization, in accordance with the provisions of Article 102 of its Charter. The General Secretariat shall communicate approved copies thereof to the Member States of the Organization of the Islamic Conference.

As was pointed out above, there is no universal and unanimously agreed upon definition of “terror” and “terrorism.” Nevertheless, with respect to the consensus on some of the elements, and irrespective of the instances and details, the hideousness and inhumanity of such acts is obviously undeniable. To look more closely and more precisely into Islam’s view of terrorism, it is necessary to have a look, no matter how brief, at Islam’s general principles.

1. Islam’s call for peace and security

Islam is a religion of peace and security¹ and the Prophet of Islam is “a mercy to all worlds (nations).”² The spread of Islam was, to a great extent, a result of the Prophet’s impeccable manners, His soft-heartedness, gentleness, forgivingness, and kindness.³ Islam neither approves of terrorism nor allows for it. In other words, regarding all definitions and characteristics that were discussed above, Islam not only opposes to terrorism, but also deems it to be a crime and a cardinal sin, and terrorists receive severe punishment in both this world and the hereafter.

Islam has never consented to the killing of innocent people. Islam is the religion of truth, and Allah the Almighty calls for security and safety: “And Allah invites to the abode of peace,”⁴ which is indeed everlasting: “Peace be to you for your patience. How excellent is the reward of the ultimate abode!”⁵ Not only Allah the Almighty’s call for security and safety is expressed in the best and most sensible way: “Invite to the way of your Lord with wisdom and good advice, and dispute with them in a manner that is best,”⁶ but also Islam’s attitude toward international relations is based on peaceful co-existence: “Allah does not forbid you in regard to those who did not make war against you on account of religion and did not expel you from your homes, that you deal with them with kindness and justice. Indeed, Allah loves the just.”⁷ Thus, Islam does not order Muslims to fight against the unbelievers who do not fight against our religion; nor does it allow them to fight against unbelievers who do not displace them from our homeland. In fact, it does not even forbid Muslims to do good and justice to such

1. The Holy Quran: Al-Aa’raf: 198-199.

2. The Holy Quran: Al-Anbia’: 107.

3. The Holy Quran: Al-i Imran: 159.

4. The Holy Quran: Yunus: 25.

5. The Holy Quran: Ra’ad: 24.

6. The Holy Quran: Nahl: 125.

7. The Holy Quran: Mumtahanah: 8.

unbelievers. Islam ordered Muslims to treat unbelievers in this way at a time when it was at its zenith and addressed the unbelievers, who were a small minority, and asked them to unite under in the name of Oneness: “Say, ‘O People of the Book! Come to the word common between us and you.’”¹

From an Islamic perspective, security is the highest reward given to a society on the path of faith and good, and is man’s rise to the peak of his perfection: “And that their He will surely change their state to security after their fear.”² Providing security for all citizens, whether Muslim or non-Muslim, is a basic responsibility that should be assumed by all governments.³

2. Islam’s Measures to Fight against Terrorism

From an Islamic point of view, human being is endowed with the capacity of being His vicegerent.⁴ Therefore, God has bestowed inherent honor and dignity on human beings: “Certainly, We have honored the children of Adam, and carried them over land and sea, and provided them with all the good things, and given them an advantage over many of those We have created with a complete preference.”⁵ Such honor and dignity entails the security of man’s life, property, and all his belongings the protection of which is a moral obligation upon others.⁶

Among Islamic strategies for the protection of man’s honor and dignity, is fighting against the causes of insecurity and discomfort. Even though there is no such a term as “terrorism” in the terminology of Islamic fiq’h, the religious teachings of Islam represent Islam’s attitude toward the negation of the legitimacy of terrorism, and even toward fight against it. Fight against “Muharibah,” “Fatk,” and “Ightial,” are among Islamic measures to fight against terrorism. Furthermore, one of the unquestionable general principles of Islam is adherence to legitimate international treaties and conventions, as well as Islamic governments’ support for conventions on fight against terrorism. What follows is a brief explanation of these latter principles:

1. The Holy Quran: Al-i Imran: 64.

2. The Holy Quran: Noor: 55

3. *Nahj al Balaghah*: compiled by Sonhi Saleh, Tehran, Manshurat Dar al Higraph, 1412 (lunar hegira), 5:47: pp 69-70

4. The Holy Quran: Baqara: 30.

5. The Holy Quran: Asra’: 70.

6. Abdulmahdi Abdolqadir; Abdulhadi, *al Irhab al Alami*: Man Yasna’ahu wa Man Yamna’ahu; Beirut, Mo’assasat al Arabiyyah al Haditha; bita: p 165.

A: Fight against Muharibah

In political fiq'h, engaging in armed struggle and disturbing people's security and peace through threat and fear, is among crimes which deserve prescribed punishment. Muharibah is an intimidating act which carries capital punishment, and God the almighty has ordered to treat it decisively: "the recompense of those who make war against allah and his messenger and spread corruption in the land is that they are to be killed or crucified, or have their hand and a foot cut off on opposite sides, or be expelled from the land. for them is shame in this world and a great punishment in the everlasting life;"¹

B: Forbidding "Fatk"

Based on Islamic traditions and teachings, "fatk" has been strongly disapproved of and forbidden. Literally, fatk means to arbitrarily kill or injure innocent people with personal intentions and material motives.²

C: Forbidding "Ghaylah" and "Ightial"

Another criminal act which leads to insecurity is "Ghaylah" and "Ightial," which is forbidden in Islam. Ghaylah and Ightial is a crime very much similar in nature to Fatk. The only difference is that Ghaylah and Ightial is to kill innocent people in an ambush, i.e. unexpectedly. The victim is thus tricked and trapped.³ Some have taken this term to be equal to terror.⁴

D: Adherence to International Conventions

One of the effective ways of fighting against terrorist acts is cooperation on international conventions and adherence to them. One of the Islamic principles governing international relations is "meeting commitments": "Keep your agreements,"⁵ and "Believers should keep their agreements."⁶ Therefore, there is no room left for doubt into the credibility Islam gives to international conventions, except in cases where the convention is considered illegitimate or the Islamic ruler himself does not enjoy the required legitimacy for concluding such conventions. To sum up, Islam is against illegal violence and terrorist acts.

1 - The Holy Quran: Ma'idah: 33.

2. Ibn Athir, *al Nihayah fil Hadith wal Athar*, Beirut, Dar al Tafsir, Bit, vol 2, p 409.

3. *Al Munjid*, under the entry "Ghaylah".

4. Javad Kusha, *Terrorism and Legitimate Defense from the viewpoints of Islam and International Law*, Tehran, the Center for Judicial Development Studies, 2007, p 182.

5. The Holy Quran: Ma'idah: 1.

6. *Famous Quotation from the Prophet*: Sheikh Tousi: vol. 7, p 371.

E: Islam's Fight against the Origins of Terrorism

The UN Counter-Terrorism Committee which was established in order to identify the origins and fundamental elements of terrorism, counted the following elements as the major causes that give birth to terrorism:

1. Use of force contrary to the Charter of the UN
2. Invading the political independence, sovereignty, and stability of the states
3. Apartheid
4. Exploitation
5. Inequality and unbalanced development between the northern and southern states and developing states
6. Political, economic, and social injustice
7. Wide systematic violation of human rights
8. Hunger, famine, poverty, and the like.

It seems that Islam has dealt with the issue of fight against terrorism very realistically; for, Islam and its teachings are structured in such a way that if Muslims adhere to them, then the eight above-mentioned elements and other causes of terrorism will vanish.

