International Criminal Policy in Countering Terrorism: Human Rights Challenges in the Middle East

Fatemeh Sattari Ghorbani

Department of criminal Law and Criminology,Chalus Branch,IslamicAzadUniversity Chalus,Iran

FatemrhSattarighorbani@iau.ir

Ali Mansoor Lakoorag

Department of Criminal Law and Criminology,Chalus Branch IslamicAzadUniversiy Chalus,Iran

Ali1358@iau.ac.ir

Abstract

Terrorism represents one of the most serious threats to international peace and security, demanding effective international criminal policy responses. This study examines how international criminal frameworks—through conventions, United Nations resolutions, and judicial mechanisms—have attempted to address terrorism while balancing human rights concerns. Despite these efforts, implementation in the Middle East has often resulted in significant human rights challenges, including violations of fair trial guarantees, the prohibition of torture, and the application of disproportionate punishments. Using a descriptive–analytical approach and relying on international legal instruments, this research highlights the persistent tension between state security priorities and international human rights obligations. The study concludes that a more balanced, rights-based approach is essential to ensure both effective counter-terrorism and the protection of fundamental human rights in the region.

Keywords:

International Criminal Policy; Terrorism; Human Rights; Middle East; Criminal Justic

1. Introduction

In recent decades, terrorism has emerged as one of the most complex and contentious legal and political phenomena at the international level. The expansion of transnational terrorist networks and the increasing scale of violent attacks have posed serious threats to both national and international security. In response, states and international organizations have sought to develop coordinated criminal policy measures aimed at preventing and suppressing terrorism.

International criminal policy, consisting of legal norms, institutional mechanisms, and enforcement strategies, plays a central role in criminalizing terrorist acts, facilitating prosecution, and enhancing international cooperation. However, the adoption and implementation of counter-terrorism measures have raised significant concerns regarding their compatibility with international human rights standards.

These concerns are particularly evident in the Middle East, a region that has experienced prolonged conflict, political instability, and heightened security threats. In many cases, states have relied on exceptional criminal laws and emergency measures that restrict fundamental rights, including the right to a fair trial, protection against arbitrary detention, and freedom from torture. Such practices risk undermining the legitimacy of counter-terrorism policies and may contribute to cycles of violence and instability.

This study aims to examine international criminal policy in countering terrorism and to analyze the human rights challenges arising from its implementation in the Middle East. The central question addressed is whether existing international frameworks adequately balance the imperatives of security with states' human rights obligations

2. Conceptual and Theoretical Framework

2.1 International Criminal Policy

Criminal policy generally refers to the collection of strategies, measures, and societal responses designed to address criminal behavior. These responses are implemented through legislative, judicial, and executive mechanisms. At the international level, criminal policy extends beyond domestic boundaries and involves cooperation among states to confront crimes that threaten global peace and security.

International criminal policy is characterized by its reliance on international treaties, customary norms, and institutional cooperation. In the context of terrorism, it seeks to harmonize domestic legislation, establish jurisdiction, and promote mutual legal assistance. Unlike domestic criminal policy, international criminal policy depends heavily on state consent and coordinated action, which can limit its effectiveness and consistency.

2.2 Terrorism in International Law

Despite the global consensus on the danger posed by terrorism, international law lacks a universally accepted definition of the term. Political disagreements, particularly concerning the distinction between terrorism and legitimate struggles for self-determination, have prevented the adoption of a comprehensive definition.

Nevertheless, the international community has adopted a functional approach through sectoral conventions that criminalize specific terrorist acts. These instruments generally conceptualize terrorism as acts of violence intentionally directed against civilians or non-combatants with the aim of instilling fear and coercing governments or international organizations. This approach, while pragmatic, has also led to fragmentation and uneven implementation across regions.

3. International Instruments and Mechanisms in Countering Terrorism

3.1 Thematic Conventions

In the absence of a comprehensive definition of terrorism, the international community has relied on a series of thematic conventions addressing specific manifestations of terrorist activity. These include the International Convention for the Suppression of the Financing of Terrorism (1999), the International Convention for the Suppression of Terrorist Bombings (1997), and the Convention for the Suppression of Unlawful Seizure of Aircraft.

These instruments obligate states to criminalize certain acts, establish jurisdiction, and cooperate in extradition and prosecution. Together, they form the legal backbone of international counter-terrorism efforts.

3.2 United Nations Security Council Resolutions

United Nations Security Council resolutions, particularly those adopted after the attacks of September 11, 2001, have played a decisive role in shaping international criminal policy on terrorism. Resolution 1373 (2001) imposes binding obligations on states to criminalize terrorist acts, freeze financial assets, and strengthen judicial and intelligence cooperation.

While these resolutions have enhanced global coordination, they have also been criticized for prioritizing security concerns over human rights protections, especially in their domestic implementation.

3.3 The UN Role in Balancing Security and Human Rights

To address these concerns, the United Nations has developed oversight and monitoring mechanisms aimed at integrating human rights into counter-terrorism policies. The establishment of the Special Rapporteur on the promotion and protection of human rights while countering terrorism reflects the recognition that effective counter-terrorism must be consistent with international human rights law.

4. Human Rights Challenges in the Middle East

4.1 Fair Trial Violations

One of the most significant challenges in the Middle East relates to violations of fair trial guarantees. Special courts, restrictions on access to legal counsel, reliance on secret evidence, and closed proceedings are often justified on security grounds. Such practices undermine the right to a fair and public hearing as enshrined in international human rights instruments.

4.2 Arbitrary and Prolonged Detention

Counter-terrorism laws in several Middle Eastern states permit prolonged or indefinite detention without charge or trial. These measures, frequently justified as necessary to prevent imminent threats, conflict with international norms prohibiting arbitrary detention and requiring judicial oversight.

4.3 Disproportionate Punishments

Another major concern is the imposition of disproportionate punishments, including lengthy prison sentences and, in some cases, capital punishment. The absence of proportionality and due process raises serious questions about compliance with international human rights standard.

5. Conclusion and Recommendations

International criminal policy has developed an extensive framework to address the threat of terrorism. However, the implementation of these policies in the Middle East has often resulted in significant human rights challenges. Excessive reliance on security-driven approaches risks eroding fundamental rights and undermining long-term stability.

To address these challenges, this study recommends strengthening international monitoring of counter-terrorism measures, reviewing domestic legislation to ensure compliance with fair trial and due process standards, and promoting preventive, rights-based approaches. Additionally, enhanced training for judicial and executive authorities on international human rights obligations is essential to achieving a more balanced and effective counter-terrorism policy

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