

**Problem of the Distinction between Terrorist Organizations and  
Armed Resistance Movements  
A Legal Analysis Indicating the Limits between Terrorism and  
Resistance**

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*Received: 14/05/2024*

*Accepted: 27/06/2024*

*Published: 30/06/2024*

**Abstract:**

The difference between the liberation movement and the terrorist group is based primarily on the goals, methods, and means used to achieve these objectives. The liberation movement is typically a political or social organization aiming to attain independence, autonomy, or freedom for a particular group of people or a given territory. On the other hand, a terrorist group is characterized by its deliberate use of terrorism, violence, and threat against innocent civilians for political, ideological, or religious purposes.

It is often difficult to distinguish the concepts of terrorist organization and armed resistance due to their use by states and international organizations, depending on political interests, and often outside the scope of the rules of international law and the objective norms established in international norms and practices.

**Key words: Resistance Movement- Terrorist Group- Distinction- International Law**

## **Introduction.**

The historical context of resistance movements is diverse, and it depends on the specific circumstances. The historical context of resistance movements is diverse and depends on the specific circumstances in which these movements emerged. Terrorism is assimilated to an "evil that spreads terror." It takes on a new dimension at the beginning of the 21st century and becomes a predominant problem for the security of states. However, terrorist action is not new. The word appeared in France in November 1794 to describe a mode of exercise of counter-revolutionary power, with the context being the struggle against counterrevolutionaries by supporters of the Reign of Terror.<sup>1</sup>

The French Revolution invented modern terrorism, first as a thing and then as a word. In 1789, France discovered not so much modern democracy as political terror. The revolutionaries suddenly assumed the right to kill in the name of human progress and pure intentions.<sup>2</sup>

In the following century, terrorism became a form of action targeting representatives or attributes of the state, as seen in Ireland from the 1860s onwards or in Russia in the 1880s (such as the assassination of Tsar Alexander II in 1881). Anarchists began using it after 1850 as a means of exerting pressure by targeting state leaders before taking on other forms in the 20th century. By the end of the century, its violent actions were aimed at spreading terror, exerting pressure on the state, and impacting civilian populations by transmitting an ideological message through fear. During 1960s, in the cold war, began a long cycle of terrorism, the essential feature of which was that it was protean.<sup>3</sup>

However, some general elements can be identified in the historical context of armed resistance across different epochs and regions, such as occupation and oppression. During World War II, resistance played a crucial role, particularly in Europe occupied by the Nazis, where resistance groups operated secretly against Nazi occupying forces in countries like France, Norway, and Poland. Similarly, during national liberation wars, resistance movements were closely linked to struggles for independence in various parts of the world, where indigenous populations fought against colonial empires or foreign powers. The fight against apartheid also took the form of resistance against the apartheid regime, with organizations like

the ANC leading campaigns of civil disobedience, boycotts, and armed actions.<sup>4</sup>

Since the attacks of September 11, 2001, in New York, the dimension of terrorism has shifted in meaning. From terrorism advocating territorial independence, it has evolved into an international, deterritorialized, and global terrorism simultaneously. What is the geopolitics of terrorism at the beginning of the 21st century?

Terrorist action is complex to define because it is evolutionary and interpretative. It is generally considered a form of asymmetric (from weak to strong) and unconventional warfare...

It is important to note that each resistance movement is shaped by historical, political, economic, and social factors specific to its context. Motivations, strategies, and forms of resistance can vary considerably depending on the specific circumstances of each situation.

The distinction between an armed resistance movement and a terrorist organisation can be complex and controversial. In general, an armed resistance movement seeks independence or self-determination for a group or region that is under the control of another state or power. They may use violent tactics, but they generally seek to target military rather than civilian targets. On the other hand, a terrorist organisation uses violence to achieve political, economic, or social objectives, and may target civilians as well as military personnel. Terrorist organisations often seek to instil fear and panic in the population to achieve their objectives. It is important to note that the distinction between a liberation movement and a terrorist organisation can be subjective and depends on the observer's point of view. For example, some groups considered to be liberation movements by some may be terrorist organisations by others. Furthermore, some groups may use violent tactics at certain points in their history, but not at others. Ultimately, the distinction between a resistance movement and a terrorist organisation depends on the way in which the groups use violence and the objectives they seek to achieve.<sup>5</sup>

The importance of this subject lies in understanding the theoretical basis of the concepts of terrorism and armed resistance, as well as trying to understand their causes and the fundamental differences between them.

The problem of the study lies in the confusion between terrorism and resistance, and even in the consideration of different forms of resistance as terrorism. This is despite the clarity of the rules of international law, which

have interpreted and defined numerous principles determining when violence is terrorism and when it is legitimate resistance.

To develop this issue, the present study will be divided into two parts as follows:

**First Part: Terrorist Organization (Conceptual Definition, Characteristics, Motivations)**

**Second Part: Armed Movement of Resistance (As for the International Law)**

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**First Part: Terrorist Organization (Conceptual Definition, Characteristics, Motivations)**

In this first part, the researcher examined the concept of terrorism as well as its characteristics and motivations.

**A. Concept:**

**1. Definition:**

The notion ‘terrorism’ emerged with the French revolution during the period following the fall of Robespierre, it referred to the Reign of Terror of the years 1793-1794. This expression reappeared towards the end of the 19th century.<sup>6</sup>

The word is fixed for the first time in the 1798 supplement to the Dictionnaire de l'Académie française.<sup>7</sup>

Divergent views on what constitutes terrorism often arise from disagreements over the right of peoples to self-determination as enshrined in Article 1, paragraph 2 of the Charter of the United Nations. Finding a common definition is made even more difficult by the “political exclusion clause”, which aims to help decide between what would normally be considered criminality and the right to resist tyranny.

At first part, the definition of terrorism differs based on the context and points of view. However, it can generally be defined as the sum of acts of violence (Attacks, hostage takings) committed by an organization or individuals for the purpose of creating an unsafe atmosphere, blackmailing a government or satisfying hatred towards a community, country, or system<sup>8</sup>.

This definition sparks debates due to the diversity of organizations labelled as 'terrorist' and the contexts in which they operate, making any stable definition difficult.

Bruce Hoffman, a prominent specialist, proposes an academic definition: "The deliberate creation and exploitation of fear through violence or the threat of violence in order to achieve political change. Terrorism is specifically designed to have psychological repercussions far beyond the immediate victims or targets of terrorist attacks. Its purpose is to generate fear in a wider target audience and thus intimidate them."

Another renowned scholar, Martha Crenshaw, defines terrorism as "the deliberate and systematic use or threat of violence in order to obtain changes in political behaviour by force. It is accompanied by symbolic acts of violence, intended to convey a political message to spectators."

Similarly, in a definition often repeated since, Brian Jenkins, an expert in terrorism, calls terrorism «theatre».

These definitions present common principles that involve the deliberate use of disproportionate violence to provoke collective terror and may be associated with political, religious, or social motivations.

Furthermore, the fight against terrorism is a major issue for many states, as the terrorist threat evolves and persists, notably through radicalized lone actors.

Terrorism is defined as the use of terror for ideological, political, or religious purposes, and it can take different forms and be perpetrated by different entities.

No definition of terrorism is universally accepted, given the views, moral judgments, prejudices, and geopolitical interests summarized in the phrase "a terrorist for some is a freedom fighter for others".<sup>9</sup>

## **2. Characteristics:**

-Lack of international legitimacy.

-Nature of the actions undertaken.

-The characteristics of terrorism may vary according to context and perspective, but here are some general features often associated with terrorism:

\*Indiscriminate use of violence: Terrorism often involves the deliberate use of violence or the threat of violence to achieve political, social, or ideological goals.

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\*Political objective: Terrorist acts are generally aimed at influencing government policies, creating fear among the population, or creating social change.

\*Ideological or religious: Many terrorist acts are motivated by specific political, religious, or social ideologies.

\*Deliberate targeting of civilians: Terrorists often deliberately target innocent civilians to create emotional impact and terror within the population.

\*Use of fear and intimidation: Terrorism relies on the creation of fear and intimidation to achieve its objectives. Terrorist acts are often designed to have a significant psychological impact.

\*Asymmetric: Terrorist groups may be asymmetrical to national security forces, using unconventional tactics to compensate for a lack of military power.

\*Use of media tactics: Terrorists often exploit the media to spread their messages, amplifying their reach and impact.

\*Clandestine operations: Terrorist operations can be planned and carried out clandestinely to evade detection by security forces.

\*Clandestine financing: Terrorist groups may receive secret funding, often through criminal activity, to support their operations.

\*Cell network: Terrorist organizations can be organized into independent cells that act autonomously but contribute to the group's overall objective.

It is important to note that terrorism is a complex and multifaceted phenomenon, and it can take different forms depending on the geographical, political, social, and cultural context.

### **3. Causes:**

The causes of terrorism are not exhaustive, and it is important to recognize that terrorism is often the result of multiple interconnected factors.

- **Political Causes:**

The emergence of revolutionary tendencies in some societies is one of the causes of terrorism and the motivations that lead to it. Indeed, the Second World War gave rise to the manifestation of international terrorism with its political incentives and the resulting violence against populations. Likewise, colonial states worked to hinder the progress of newly independent nations by using terrorism. The 1973 report of the United Nations Special Committee on Terrorism noted that the emergence of

political terrorism is due to acts of repression by colonial regimes, racist and foreign peoples fighting for their liberation and their legitimate rights to self-determination.<sup>10</sup>

- **The Economic Causes of Terrorism:**

The main causes of the increase in terrorist acts around the world are the rise of the economy in international life as a new global force. Additionally, poverty, famine, and misery resulting from the injustice of the economic system in the world are the result of the exploitation and domination of certain small countries by major powers, as well as the exploitation of the resources of these countries. This pushes individuals and communities from exploited countries to resort to violence to strike against the structures of dominant countries.<sup>11</sup>

There are other causes that contribute to the proliferation of terrorism besides individual, social, and cultural factors, such as the mediatization of radicalized discourse, which pushes individuals to adopt violent extremist positions.

### **B. Legal Bases:**

In international law, there are conventions and resolutions that define and condemn terrorism, and the fight against terrorism raises questions about respect for fundamental rights.

At the 1937 Geneva Conference, the League of Nations (forerunner of the United Nations) defined acts of terrorism in the "First International Agreement concluded at Geneva on 16 November 1937". According to this definition, terrorism is defined as "criminal acts directed against a State which, by their nature or purpose, have the effect of creating terror among individuals or the general public, without regard to particular persons or groups of persons".<sup>12</sup>

Consequently, the General Assembly adopted the draft resolution submitted by the Afro-Asian countries, which received 76 votes in favour and 35 against. This draft resolution, noted under number 3034 and adopted on 19 September 1972, highlights the significant role played by the Arab countries in this context.

The resolution addressed the confirmation of the right of peoples to self-determination, the fundamental principle of seeking their independence, and the legitimacy of their struggle and resistance against colonisation and foreign domination.

One of the resolutions that has had a major impact on the issue of terrorism is that issued by the United Nations General Assembly. In this

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context, it asks the competent committee on international terrorism to begin by studying the true and fundamental causes of terrorism, and then to make appropriate recommendations for dealing with it.

In 1979, a United Nations resolution was adopted condemning acts of terrorism and referring to the protocols of the 1977 Geneva Convention. The aim of these protocols was to grant protection to national liberation movements in accordance with the rules of international humanitarian law (the laws of war). This means applying the rules of international armed conflict to national liberation movement combatants, particularly regarding the treatment of prisoners of war.

In 1980, the United Nations Commission on International Terrorism made progress in drafting a unified convention on legal measures to combat international terrorism. The Commission characterised international terrorism as an act of serious violence or threat of violence, committed by an individual acting alone or in collaboration with others, directed against persons, places, means of transport, communications, or members of the public, with the purpose of threatening, injuring, killing, obstructing the activities of international organisations, or causing loss, damage or injury to places, property or means of transport and communication, with the aim of impairing friendly relations.

Thus, international terrorism is defined as a serious act of violence, or threat of violence, perpetrated by an individual acting alone or in collaboration with others, directed against persons, places, means of transport, communications, or members of the public. It is intended to threaten, injure, kill, hinder the activities of international organisations, or cause loss, damage or injury to places, property or means of transport and communication, with the aim of jeopardising friendly relations between States or citizens of different States, or extorting concessions from States. In addition, conspiracy, attempt, participation, or general incitement to commit such acts constitute crimes of international terrorism.<sup>13</sup>

There are several subsequent resolutions, in addition to the Declaration on Principles of International Law concerning Relations of Friendship and Cooperation among States, and the Declaration on Strengthening International Security and Defining Aggression and the Means of International Humanitarian Law Applicable in Armed Conflict. All this culminated in the unanimous adoption by the United Nations General Assembly on 9 December 1985 of Resolution 61/40, in its



paragraph six "06", calling on States to: comply with their commitments under international law, refrain from organising or encouraging terrorist acts in other countries, and cooperate in preventing certain activities organised on their territory, even by means of assistance, participation or silence.<sup>14</sup>

The scale of terrorism has prompted the international community to enact several international instruments on the fight against terrorism:

Security Council resolutions, in particular resolution 1373 (2001), are crucial in the fight against terrorism. They call on Member States to take measures to prevent and combat terrorism in all its forms.

The International Convention for the Suppression of the Financing of Terrorism: Adopted in 1999, this convention aims to prevent and combat the financing of terrorist activities.

The International Convention for the Suppression of Terrorist Bombings: This convention, adopted in 1997, aims to prevent and punish terrorist attacks involving explosives.

The United Nations Global Counter-Terrorism Strategy: Adopted in 2006, this strategy provides a global framework for strengthening international cooperation in the fight against terrorism.

The Universal Declaration on Combating Terrorism, adopted by the United Nations General Assembly, reaffirms the commitment of Member States to combat terrorism in accordance with international law.

A terrorist organisation is therefore a structured and organised group that uses tactics of terror and violence to achieve political, social, or ideological objectives. These groups can have a variety of structures, ideologies and operate on different scales. The following are some of the common characteristics of terrorist organisations, although it is important to stress that the term "terrorist organisation" can be subject to debate and varying interpretations depending on political and cultural perspectives. The fight against terrorism is a major concern for the international community, and many countries have put in place measures to prevent and combat terrorism.

## **Second Part: Armed Movement of Resistance (As for the International Law)**

This part addresses the concept of MRA according to international texts and mechanisms as well as the conditions and criteria of distinction.

### **A. Concept of AMR:**

#### **1. Definition:**

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The "resistance movement" generally refers to a group or organization that actively opposes a foreign occupation, oppressive regime, or force contrary to its interests, using various means such as armed struggle or forms of protest. It represents the popular reaction of a people to the occupying forces and their institutions, with the aim of facing injustice and oppression, and trying to end the occupation and methods available to that specific people. This is often manifested in active resistance against repeated invasions and occupations in many countries scattered around the world.

It is crucial to note that the legitimacy and legal recognition of these movements often depend on the specific context of the conflict and the conformity of their actions with the norms of international law. Some liberation or resistance movements may be considered legitimate and benefit from specific rights, while others may be classified as terrorist groups, with different legal consequences. The complexity of these situations underlines the importance of case-by-case analysis under international law.

Many researchers do not distinguish between armed struggle and resistance, although there are substantial differences between the two concepts realistically. Resistance (resistance in French) is a broader and older concept, with various aspects. It is characterized by its permanence and continuity, being intrinsically linked to the presence of the occupation. It may be weak or strong depending on the circumstances and consequences of the events and may be peaceful or armed. The actors involved often tend to be discreet and reserved in their communication and organization.

In international law, the terms "liberation movement" and "resistance movement" are often used in the context of armed conflict and humanitarian law.

A consensual definition is impossible because of a paralyzing scholastic controversy that takes as its inking point the right of peoples to dispose of themselves.<sup>15</sup>

An observation could be made regarding the distinction between armed struggle and resistance, although there are substantial differences from a realistic point of view. Indeed, resistance is a broader and older concept, with various aspects, and it is characterized by its permanence and continuity. Resistance is intrinsically linked to the existence of the occupation, and it may be marked by weakness or strength depending on

the circumstances and consequences of the events. It can be peaceful or armed, and officials generally tend to be discreet and reserved in the proclamation of their organization.

To sum up, the liberation movement often focuses on achieving national independence, while the resistance movement has a broader scope and can encompass the struggle against various forms of injustice. However, the distinction is not always clear, and in many cases, liberation movements can also be considered resistance movements, especially when the struggle involves resistance tactics in the face of external oppression.

For the use of violence to be considered legitimate in times of war, it must respect the restrictions imposed by international humanitarian law. Therefore, members of the armed forces who have a legal right to use violence may be classified as terrorists if they violate the laws of war.<sup>16</sup>

## **2. Distinctive Characteristics:**

Terrorist organizations and armed movements of resistance could share certain similarities, but they are generally distinguished by several characteristics:

### ✓ Legitimate Objectives:

When a resistance movement is built, its creation at the base comes from the observation that the people from which it comes need to be represented to fight, whatever the means, for the exercise of its rights and freedom violated.<sup>17</sup>

### ✓ Resistance of Legitimacy:

The legitimacy of resistance requires a methodology that progressively demonstrates its advancement toward the desired objective. This methodology can be illustrated by the following steps:

#### ✓ identification of the enemy and isolation:

It is crucial to clearly define the enemy and work towards its isolation and encirclement. This may involve efforts to expose the enemy's harmful actions on the international stage and to mobilize support against it.

#### ✓ Neutralization of the opponent:

This is to prevent the opponent from widening his forehead by widening the circle of his allies. This can be accomplished by undermining the bonds between the adversary and its partners, highlighting the contradictions or negative consequences of their alliance, and working to weaken the adversary's support base.

#### ✓ Strengthening friendships and acquiring allies:

The resistance must seek to strengthen its friendships and gain allies. This can be achieved by establishing strategic partnerships, providing

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incentives to attract support from other international actors, and demonstrating the righteousness of the cause to potential partners.

✓ Supplying increased support:

The resistance must strive to ensure continuous and growing support, both domestically and internationally. This may include mobilizing financial, material, and human resources, as well as devising effective strategies to maximize support from local communities and the international community.

✓ Refusal to engage in secondary conflicts:

It is important to refuse to get involved in secondary conflicts that could divert resources and energy from the main cause. Concentrating efforts on the central objective is essential to maintain the coherence and legitimacy of the resistance.

Following this methodology, the resistance can strengthen its legitimacy by demonstrating its determination, mobilizing international support, isolating the adversary, and expanding its support base.

✓ Foundations of armed practice:

- Armed resistance law and legitimate defence, article 51 of the charter of the United Nations.

- The importance, for the effective guarantee and observation of human rights, of the universal realization of people right to self-determination and the swift granting of independence to colonial countries and people.

"Article 41 of the First Convention on International Armed Conflicts included conflicts in which people struggle against colonial domination and foreign occupation, or against racist regimes, in the list of international armed conflicts in which peoples exercise their right to self-determination."

This suggest that article 41 of this convention recognized the right of people to resist foreign occupations and fight against racist regimes within the framework of practicing their rights for auto determination.

The United Nations calls for direct intervention through numerous international resolutions emanating from its institutions and members, to confirm the undeniable right of all people under occupation, subjected to the control of regimes of racial discrimination and all forms of foreign domination, and to support the legitimacy of their struggle, particularly

regarding liberation movements. This is in line with the principles of the United Nations and its legal rules considered binding for all.<sup>18</sup>

Resolution 3034 of the year 1972 affirmed the undeniable right of all peoples under colonization, under regimes of racial discrimination, and other forms of foreign domination. It also supported the legitimacy of their struggle, particularly that of liberation movements, in accordance with the objectives and principles of the United Nations Charter and other relevant resolutions on the issue. While condemning acts of repression and terrorism perpetrated by terrorist and racist regimes, it affirmed the denial of the legitimate right of peoples to self-determination and the exercise of their rights.

It should be noted that the legitimacy of resistance in international law has been established in response to the efforts of the United Nations to differentiate between terrorism and legitimate resistance against occupation.

There is no relationship or rule in public international law that impedes the inhabitants of occupied territories from engaging in acts of armed national resistance. On the contrary, there are duties that oblige them to do so in defence of their homeland, its sanctity, in victory for its honour, and in refusal to submit to the provisions of civil protection. Moreover, this includes direct participation in resistance against the occupier.

The resistance of peoples has varied in its approaches and has developed ingenious techniques and means to defeat the occupier, depending on the complex nature of the occupation, its conditions, its oppressive characteristics, the capabilities of the resistance, and its strategic depth.

Thus, the practice of armed popular resistance is always examined considering these noble objectives, endowing resistance with a legitimacy tinged with nobility. It is distinguished by the respect for the laws of war established for combatants in the resistance, based on the justification of their legitimate causes and objectives. However, it remains subject to all conditions of adherence to the international standards established by the United Nations<sup>19</sup>.

## **B. Legal Bases and Conditions Defining Armed Resistance:**

### **1. Legal Bases:**

In the struggle of peoples against oppression, especially against colonialism, several texts support the legitimacy of this resistance for, including:

-The Peace Conference held in Paris in 1919 adopted the principle of the Right to Resistance to Occupation, but its universal application was questioned, notably during the San Remo Conference in 1920, which

decided to divide Arab territories under the pretext of defining the meaning of the principle of self-determination of peoples.

-The text of the United Nations Charter adopted in 1945 confirms the principle of self-determination.

-However, the Universal Declaration of Human Rights of 1948 does not explicitly mention the right of peoples to self-determination, thus leaving room for colonial powers to not limit their activities, except regarding self-determination as mentioned in various articles of the Declaration.

-The specific resolution on granting independence to colonial territories, adopted by the United Nations General Assembly on December 14, 1960, explicitly states in its paragraph 2 that "all peoples have the right to self-determination", as paragraph 4 also specifies, calling for the cessation of all forms of aggression against peoples so that they can freely exercise their right to independence within territorial integrity.

-Resolution 2105 of 1965 deals with the application of international law in conflicts arising from movements of national liberation against colonial powers.

-Resolution 2674 of 1970 calls for the protection of freedom fighters, including those taken as prisoners of war, and urges the United Nations to develop principles to strengthen the protection of these activists against control by racist regimes.

-Resolution 2625 of 1970 of the United Nations General Assembly also addresses the right to self-determination.

-In 1973, the United Nations General Assembly adopted Resolution 3103 concerning the fundamental principles of international law regarding the struggle against foreign domination and racism.

This resolution explicitly confirms the legitimacy of the fight against foreign domination and racism, with reference to resolution 3314 adopted on 14 December 1974, which clearly sets out the conditions of self-defence in the context of peoples' self-determination.<sup>20</sup>

- The legal legitimacy of national liberation movements was also confirmed at the Diplomatic Conference in Geneva in 1977, which led to the adoption of Additional Protocols to the Geneva Conventions of 1949. These protocols affirmed that armed conflicts resulting from the struggle for self-determination of peoples are considered international armed conflicts.

- Furthermore, the Arab Convention on Combating Terrorism of 1998 confirms the right of peoples to struggle against foreign occupation and

armed aggression, including by the liberation of occupied territories, in accordance with the principles of the United Nations<sup>21</sup>.

Therefore, the use of legitimate force by peoples to free themselves from foreign colonization is not considered terrorism, but rather as a legitimate right recognized by international law. In this context, it is unjust to punish a people for using force against colonial powers as long as this action is in accordance with the principles of international law. On the contrary, the international community is obligated to assist colonized peoples in freeing themselves from foreign domination.

## **2. Conditions Defining the Armed Resistance:**

Despite the occupation, regardless its nature, is condemned both legally and morally, and it is imperative to grant resistance the right to confront and repel it, this must be done according to certain conditions established by the consensus of the international community to acquire absolute legitimacy in the struggle and use of force. These conditions are defined by international law and conventions related to armed conflicts, as well as by the provisions stated in the United Nations Charter.

\*There must be an actual occupation situation with the presence of occupying forces within the occupied territories.

\*Acts of resistance must be carried out by individuals from the people of the occupied territory.

\*The resistance must target the military forces of occupation.

\*Acts of resistance must take place within the borders of the occupied territories and not outside.

\*Article 4 of the First and Second Geneva Conventions concerning the treatment of prisoners of war addresses these points. This article pertains to members of regular armed forces, militias, and volunteer units belonging to such forces, as well as members of other militias, including organized resistance movements, who operate within or outside their territory, even if that territory is occupied, subject to the following conditions:

\*The additional conditions mentioned to benefit from the protections of Article 4 are:

-They must be under the command of a person responsible for their actions.

-They must wear a distinctive mark.

-They must openly carry arms.

-They must comply with the laws and customs of war.

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These criteria are established within the framework of international humanitarian law to determine the status of prisoners of war and to guarantee appropriate protection to those who meet these conditions when they are captured.

Resistance in international law can take several forms, depending on the context, the nature of the situation, and the actors involved. Here are some common forms of resistance in international law:

-Armed resistance: In certain situations, groups or states may resort to armed force to resist aggression or occupation. This can take the form of armed conflicts, guerrilla warfare, or actions of armed resistance.

-Nonviolent resistance:

Nonviolent movements can be organized to oppose regimes or actions contrary to international law. These movements may include actions such as sit-ins, peaceful marches, awareness campaigns, etc.

Article 13/2 of the first and second Geneva Conventions of 1949 refers to the treatment of persons participating in national liberation movements. "Members of militias and volunteers of other units, including those participating in organized resistance movements against a regime and who are members of one of the parties to the conflict, acting within or outside their territory, even if that territory is occupied, provided that these militias or volunteer units meet the following conditions: a) Being placed under responsible command, which is accountable for their actions and represents them; b) Wearing a fixed, visible, and recognizable distinctive sign in the form of a flag, scarf, or other emblem".

(1) The weapons of the resistance must be visible and carried openly, even if they are carried in a light manner. "

This is a provision of the Geneva Conventions aimed at defining the conditions under which members of resistance movements benefit from the protections afforded to combatants during times of international armed conflict.

It is important to note that resistance in international law can be complex and must be evaluated on a case-by-case basis depending on specific circumstances. Some forms of resistance may comply with international law, while others may be considered illegal. The legitimacy of resistance often depends on adherence to the principles and norms of international law<sup>22</sup>.



From "rebel" to "shadow soldier," from "bandit" to "terrorist," the terminology related to the maquisards, in these years of 1943-1944, is as abundant as it is revealing of mindsets and propagandas.<sup>23</sup>

It should be noted, however, that these distinctions can sometimes be blurry because certain groups may be considered terrorist organizations by some international actors and armed resistance movements by others, depending on the political perspective and interests at stake.<sup>24</sup>

### **C. Some Aspects of Distinction:**

The most crucial aspects of distinction between terrorist organization and armed resistance movement are primarily addressed under the following aspects:

#### **-Popular Dynamic:**

In the context of the role of the people, there is a strong popular willingness to join the resistance.

Terrorist acts find no popular support; on the contrary, they are generally condemned and considered illegitimate, deviating from legal norms.

#### **-Psychological and Moral Motivation:**

National motivation is often the driving force of the resistance, acting on behalf of the people from which it originates.

In contrast, acts of terrorism are often motivated by foreign interests, enemies of the nation, or material and selfish motives rather than an attachment to the national cause.

#### **-Targets of Violence:**

Within the framework of resistance, violence is directed against colonial forces, oppression, and collaborators who support occupation or racism, aiming for independence.

Victims of terrorism are generally innocent individuals unrelated to the conflict, and the objective of these acts may be propaganda, regardless of the victims and actual objectives targeted.

In the current era marked by "high intensity" terrorism, no state can claim immunity against a major attack. Reducing the risk of attacks primarily relies on intelligence and effective international cooperation. Given the perpetually evolving nature of the terrorist phenomenon, it is imperative to analyse it objectively, detached from political and media contingencies.

Despite political and legal efforts, both at national and regional levels, to define terrorism as well as resistance, such attempts

do not find sufficient basis in international law or state practices to justify such actions. Moreover, the issue of self-determination, as manifested by the struggle against foreign occupation, is affected by constraints imposed by foreign occupation, especially regarding the rules of international law and international agreements and conventions.

This is clearly illustrated by what is happening in the occupied Palestinian territories. Since October 7, the Palestinian people, who have already endured the abuses of Israeli occupation in the name of fighting terrorism, are now facing unprecedented genocide under the same pretext. This situation further suppresses Palestinian resistance.

**Conclusion.**

Considering the existence of resistance as directly linked to the existence of oppression is important because oppressive practices against any people can engender terrorism and create all the favourable conditions, directly or indirectly. This is particularly true in the presence of a systematic state policy towards vulnerable peoples, attempting to impose their agendas by force, resulting in reactions in the form of armed resistance against these policies.

Here are some proposals based on the study of the issue:

- Supporting all liberation movements worldwide, particularly regarding the legitimate use of armed force in the context of self-determination, as stipulated in Article 7/2 of the United Nations Charter.
- Prosecuting those who incite individuals or organizations to terrorist actions, whether for economic, political, social reasons, or due to a lack of democracy.
- Not tolerating abuses by governments claiming to fight terrorism, by taking arbitrary measures that infringe upon the fundamental rights of individuals, such as freedom of thought, etc.
- Clarifying clear boundaries between terrorist acts and legitimate struggle recognized by international law.
- Ending all duplicity in legal affairs concerning legitimate resistance movements, such as considering trials in Lebanon or Afghanistan as terrorist acts, while ignoring Israeli terrorist practices against the Palestinian people or actions such as the use of drones by the United States.

-Respecting all war conventions authorized by the principles of international law, such as the Geneva Conventions of 1949 and the Additional Protocols of 1977.

-Gradually integrating all agreements, treaties, and resolutions into the national legislation of member states.

Lastly, it is paramount to reaffirm the importance of distinction between the two concepts, as well as to call for consistent application of international law, and to enhance international communication and media efforts to explain the context and history.

<sup>1</sup> -[Philippe Boulanger](#), *Military and Geography, Stakes and Crises of the Contemporary World* Armand Collin, 2<sup>nd</sup> edition, 2015,p207-

<sup>2</sup> - [Jean-François Gayraud](#), [David Sénat](#), , *Terrorism, what do I know?* 2006, p 128. See also, NATO, reference programme on the fight against terrorism, available at [https://www.nato.int/nato\\_static\\_fl2014](https://www.nato.int/nato_static_fl2014) p.

<sup>3</sup>- NATO, reference programme on the fight against terrorism, op cit.

<sup>4</sup>-ibid.

<sup>5</sup> - There are different types of violent extremist ideologies, such as neo-Nazi groups, the Irish Republican Army (IRA), the Weathermen and other extreme right or extreme left groups, Kurdistan Workers Party PKK 1973, Al-Qaeda, Daesh, the latter two rely on a distorted ideology that calls on its followers to take part in violent activities to implant their distorted version of Islam. NATO, reference programme on the fight against terrorism, op cit. p p 34-40

<sup>6</sup>-<https://cours.unjf.fr/repository>.

<sup>7</sup> [Jean-François Gayraud](#), [David Sénat](#), op cit. See also, Gérard Chaliand and Arnaud Blin , *manifestation of terror through the ages, history of terrorism*, Ed bayer, 2004, p 109.

<sup>8</sup>-<https://www.larousse.fr>.

<sup>9</sup> -NATO, op cit, p 11.

<sup>10</sup> -Hussein El azaoui, *Hussein Al-Azawi International Law's Position on Terrorism and Armed Resistance*, Al Hamid Publishing & Distribution House 2013 .P.O. 51

<sup>11</sup> - Ahmed Abdessalam El Hamache, *Ahmed Abdussalam Hamash, International Counter-Terrorism Mechanisms*, Master's Thesis, Middle East University, 2018, p. 40.) 41

<sup>12</sup> - Following the attack in Marseille in 1934 against King Alexander of Yugoslavia and the French Foreign Minister Barthou, the League of Nations (SdN) gave a committee the task of drawing up a draft convention on the prevention and suppression of terrorism. The latter carried out his mission successfully. On 16 November 1937 the Convention for the Prevention and Suppression of Terrorism was adopted in Geneva by an intergovernmental conference. This treaty, which contained a definition of terrorism, nevertheless never entered into force because it had not obtained the necessary number of ratifications. This

## **Problem of the Distinction between Terrorist Organizations and Armed Resistance Movements**

### **A Legal Analysis Indicating the Limits between Terrorism and Resistance**

failure probably played a large part in the attitude of the United Nations (UN) which, in its early years, carefully avoided addressing the thorny problem of terrorism. See, Guillaume Le Floch, *Approach to International Law in Identifying Terrorism from the State*, <https://books.openedition.org/> pp23-41.

<sup>13</sup> - Report of the meeting of “Ad Hoc “group of experts on international co-operation for the prevention and control of the various manifestation of crime including terrorism, Siracusa, Italy, .20-24 January ,1988

<sup>14</sup> - Juan Antonio, Carrillo Salcedo, *Legal Aspects of International Terrorism*, Centre for the Study and Research of International Law and International Relations, Lahaye Academy of International Law. 1988 p. 23.

<sup>15</sup> - constant Sohode, *international humanitarian law against terrorism*, European university editions 2018, p 44..

<sup>16</sup> - Hans-Peter Gasser, *Prohibition of acts of terrorism in international humanitarian law*, *International Red Cross Review*, V 68, n 760, 1986, p 211.

<sup>17</sup> - *Ibid*, p 46.

<sup>18</sup> - see the resolution adopted by the General Assembly at its 27th session, *Measures to Prevent International Terrorism that Endangers or Destroys Innocent Human Lives, Compromises Fundamental Freedoms, and study the causes underlying forms of terrorism and violence that have their origin in misery, disappointment, grievance and despair, and which cause some people to sacrifice human lives, including their own, in an attempt to bring about radical change.*

<sup>19</sup> - There is no doubt that armed resistance in Algeria has been one of the greatest models of this type in modern history. It has inspired many liberation movements around the world. The Algerian resistance introduced highly technical methods to deal with French colonialism. From there, the idea of reprisal operations evolved into martyrdom operations (suicide operations) in the contemporary context.

<sup>20</sup> - See Article 7 of United Nations General Assembly Resolution 1974/3314.

<sup>21</sup> - See Article 2/a of the Arab Convention to Combat Terrorism<sup>18</sup>.

<sup>22</sup>- The incident of the hijacking of the Italian ship "Achille Lauro" in 1985, by a group of Palestinian terrorists, which led to the murder of a civilian, was considered an act of terrorism that had a negative impact on the Palestinian cause... This led to a declaration by the (PLO) as representative of the Palestinian people, on 17/11/1985, affirming the principles that the organization defends in its engagement on the international scene, including by clearly condemning terrorist operations against innocent people and affirming its commitment to previous decisions condemning all external operations, such as kidnapping, and that the Palestinian people insist on the struggle

against the Israeli occupation to achieve their withdrawal from the Palestinian territories. He is convinced that all terrorist operations committed abroad undermine the Palestinian cause, undermining the legitimacy of his struggle for freedom.

<sup>23</sup> - Patricia Boyer, meridional resistance aspect. maquis and war r3 (1943-1944), in World Wars and Contemporary Conflicts 2004/2 (n° 214), pages 125 to 136.

<sup>24</sup> - Currently HAMAS is a crucial polemic, a terrorist organization for the and a resistance movement for

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