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The Use of force Against Organized Armed Groups Accused of Terrorism from an International Perspective

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Abstrac

In recent decades, international conflicts targeting terrorist organizations and individuals have emerged, creating a modern concept of armed conflicts by non-state actors, including states and organized non-state armed groups. This situation has raised doubts about the legality of the use of force as a tool to respond to attacks by these groups. This would end in excessive use of force by states, targeting and killing individuals, the establishment of international military alliances outside the scope of the Un, the absence of international criminal responsibility for doing so, not applying peaceful international legal methods against armed group, and the attempt to find ways to stop countries from the use of force away from the purposes of the Un.

Keywords: armed conflicts, international terrorism, alliances, using force, hostilities, Geneva Conventions, ISIL, International humanitarian law (IHL).

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ملخص

ظهرت في العقود الأخيرة نزاعات دولية تستهدف المنظمات الإرهابية والأفراد، وخلقت مفهوم حديث للنزاعات المسلحة من أطراف خارج نطاق الدول، تضم الدول والجماعات المسلحة المنظمة من غير الدول، أثارت وبجدارة الشكوك حول مدى شرعية استخدام القوة كأداة للرد على هجمات تلك الجماعات، مع ازدياد التخوف بسبب الاستخدام المفرط لها من قبل الدول في استهداف الأفراد وقتلهم وإنشاء تحالفات دولية عسكرية خارج نطاق الأمم المتحدة، وغياب المسؤولية الجنائية الدولية المترتبة على الإقدام على هذا الفعل، والخروج عن الطرق القانونية الدولية السلمية لمكافحة الجماعات المسلحة المنظمة، ومحاولة إيجاد سبل لكف الدول عن استعمال القوة بعيدا عن مقاصد الأمم المتحدة.

الكلمات الدالة: النزاعات المسلحة؛ الإرهاب الدولي؛ الأحلاف؛ استعمال القوة؛ الأعمال العدائية؛ اتفاقيات جنيف؛ داعش؛ القانون الدولي الإنساني.

Introduction:

The use of force against organized armed groups by some states has become the primary means to fight groups accused of exercising international terrorism. The risk of using force by individual states away from international law rules relating to the use of force, through the establishment of international alliances that consists of several countries in order to eliminate armed groups without adhering to provisions and rules of the use of organized with the absence of international criminalization of these acts, leading to shaking confidence in the international law provisions, and leaving international affairs run by the states wishes. To highlight the use of force as a tool to fight terrorism away from international reference and not following legal procedures crisis would expose these actions to doubts. So, it is essential establish legal classification that should be agreed upon based on international framework that defines those groups , ways to fight them collectively away from individual state.

1: The nature of conflict with organized armed groups and its legal implications:

International Humanitarian law (**IHL**) is applied during armed conflicts[1], and it is a part of international law that regulates relations between states and controls the behavior of both State and individuals during armed conflicts[2]. It is represented by conventions concluded by states. This is represented by conventions concluded by states as well as international agreed upon norms arising from practices of states and accepted by them as something mandatory as well as being principle[3]. The four Geneva Conventions and its two annexes represent the main documents of **IHL**[4].

(1) ICRC (2014), what is The International Humanitarian Law? The Advisory Service on International Humanitarian Law. The IHL, the law of war and the law of armed conflict are synonymous terms. The law of war is a common term before the conclusion of the UN Charter. When the war becomes illegal under the Charter, which forbids the use of force in international relations, it was replaced by the term "the law of war" by the term "the law of armed conflict". Then, the term IHL appeared and became common after Tehran Conference in 1968.Amer, Saladhaldin, Introduction to the study of public international law, Dar al-Nahda al-Arabeh, Cairo, S994-996.

(2) Blank, R Laurie (2012), Targeted Strikes: The Consequences of Blurring The Armed Conflict And Self-Defense Justifications, Vol.38:5, William Mitchell Law Review.

(3) Ibid, ICRC (2014), what is The International Humanitarian Law.

(4) See Document No. MDE 15-007-2009. 6-13

International Armed Conflict **IAC** breakouts if the parties of conflict are among the contracting states of the Geneva Conventions and its annexes, and this type of conflict does not break except when a contracting state or more resort to the use of armed force against another state. However, Article 3, which is common in Geneva Conventions, includes cases where one of the parties is not a state. The article stipulates that "In the case of the occurrence of armed conflict not characterized as international in the territory of a contracting Party". In addition, annex 2 of the four Geneva Conventions talks about this kind of conflict, and it was the first international treaty devoted entirely to Non-International Armed Conflicts (NIACs) cases. However, states not signing the Second Protocol are committed to the principles of international law arising from established norms between civilized nations, humanitarian laws and public conscience.

In this regard, some **NIACs** definitions are presented in an attempt to find specific criteria to determine the nature and classification of this conflict. (The International Committee of the Red Cross) **ICRC** has decided that **NIACs** "are protracted armed confrontations taking place between governmental armed forces and one of the armed groups or more or between such groups in the territory of a member State to Geneva convention, and that armed confrontation must reach a minimum level of intensity and the concerned parties in the conflict should have a minimum level of organization")[1]

In addition, **NIACs** has been defined as " fight that breaks out within the territory of one state only between regular armed forces and dissident armed groups, or between armed groups fighting each other ")[2]. It is also defined as "armed conflict going on in the territories of a single state")[3]. In addition to the **IAC** definition, (International Criminal Tribunal for Yugoslavia) **ICTY** defined **NIACs** as "protracted armed violence between governmental authorities and organized armed groups or between such groups in a given state." Legally "no

(1) This definition was mentioned and adopted by **ICRC** in a number of reports and opinions including: Ibid،ICRC (2008) Presented a Paper Entitled "How The Term Armed Conflict Are Defined in International Humanitarian Law? Also, it was mentioned in International Conference of the Red Cross and Red Crescent (RC) IC / 11 / 5.1.231. 20 2011.

(2) Ibid,ICRC (2008).

(3) Matar, Abdelfatah, 2011, International Humanitarian Law: its sources principles, and primary rules, Dar al-Jamia al-Jadida, p. 97. Also, see Ahmad, Said Ali, Studies in International Humanitarian Law, edition 1, Dar al-Akadimia for publication, p. 50.

another type of armed conflict exists".)(1 It is worth emphasizing that **IHL** rules regulate the course of both internal and international armed conflicts. In addition, there must be armed conflict that constitutes a violation of the text of this law)(2. The applicable legal standards depends on determining circumstances)(3, what is happening on the ground)(4 because it is based on "accurate facts")(5.It is clear from the above that none of the previous classification applies on the ongoing conflict between states and the organized armed groups in the world even if we take the literary meaning of aforementioned statements. As for contemporary conflicts characterized by regional dimensions and wide battle field between states and armed groups, the use of force against organized armed groups with regard to the expansion of the new war concept to be included within **IAC** and be subject to **IAC** principles due to its international nature as well as the possibility of applying the rules of **NIACs** on the war crossing the borders of a given state. It is easy to say that there armed conflict exists between states and organized armed groups, but the issue is more complex and difficult to identify if we want to classify the conflict between the concerned parties, as there are sharp legal contradictions at the world level regarding. New classifications for the ongoing conflicts, and that the present international law provisions do not apply on the new conflicts. It is clear from the opinion of **ICRC** that the main difference between them is the type of the conflicting parties. **IAC** presumes that the use of force be two states or more and organized armed groups in the territory of the state. In fact, annex 2 confirms the importance of what is stated in the Article 3 and sets general standards that contributes to determining whether the nature of the armed conflict is non-international. Some **NIACs** standards are derived from paragraph I of Article 1 of Annex II, in addition to the definition proposed by **ICRC** and **ICTY**. According to **ICRC** opinion, at least two realistic standards are considered indispensable for the classification of a case of violence according to Article 3 of the Geneva Conventions. Parties involved must have certain level of organization and that the acts of violence must reach a certain level of intensity)(6.Article 1, paragraph of 1 Annex 2 clearly stipulates that the

(1) Ibid, ICRC (2008) Presented a Paper Entitled "How The Term Armed Conflict Are Defined in International Humanitarian Law?"
(2) Ibid,IT-94-1-A 2 ICTY, para 67.
(3) See Document No. MDE 15-007-2009.
(4) Ibid, ICRC (2008).
(5) IC / 11 / 5.1.231. 2011. 14-18
(6) these standards were adopted on a permanent basis in a number of reports issued by the **ICRC**, as reports for 2008 and 2011,and the International Law Association(ILA) also adopted these standards(commission report entitled the use of force, 2010. ILA, the Hague Conference (2010), Use of Force, Final Report on the Meaning of Armed Conflict in International Law.

organization is represented by an organization with a leadership, and practices power on a part of its territory in order to be able to perform continuous and coordinated military conflicts and that these are the basic criteria for judging the state of the ongoing violence.

In this regard, it is noteworthy that international jurisprudence represented by interpretative guide of counseling services has established a set of requirements according to which armed groups are considered party to the conflict. The most important requirement is that these groups should have reached a certain level of organization to exercise a continuous combat act capable of harming the other party in the conflict) (1. So, **NIACs** must take place in the territory of a contracting state.)(2. So, some parties see that the conflict should be occurring outside the borders of the Contracting States, and that any other conflict occurring outside the borders of the contracting state is excluded from the application of **IHL**. This might indicate that the second annex applies only "within this narrow definition, and does not extend to a generally derived law. Also, the conflict must be between the governmental armed forces of the state and dissident armed forces or other organized armed groups in the territory of a State that exercise power on part of its territory. This means that the text provides regional control requirements,)(3 However, this definition has actually lost its importance in practical practice)(4.By this provision, the geographical boundaries criterion is no longer important. The International judiciary has unimportant opinion in this matter, where the international Criminal Tribunal for Rwanda (**ICTR**) in Article 7of the Statute of the Court states " the international Tribunal for Rwanda includes the territory of Rwanda, including the earth surface and airspace, as well as the neighboring states territory related to serious IHL violations committed by the citizens of Rwanda)(5 This indicates that if the armed conflict spreads to neighboring countries by organized armed

(1) Interpretative Guide to the Notion of Direct Participation in Hostilities under **IHL**, Op. cit, pp. 32-36.

(2) Matar, Issam Abdelfatah, International Humanitarian Law, its sources, principles and rules, Ibid. p.98.

(3) Ibid, **ICRC** (2008), Presented a Paper Entitled "How the Term Armed Conflict is Defined in International Humanitarian Law?"

(4) Ibid, **ICRC** (2008)

(5) The Security council established International Tribunal for Rwanda on of November 8,1994 under resolution No. 955 (1994), S/RES/955(1994).

groups, remains a non-international conflict in spite of crossing the geographical borders of the state. It is important to mention that what is stipulated in Article 3 is significantly similar to the text of Annex 2" each party in the conflict "are the governmental armed forces of a specific state and dissident armed forces or other organized armed groups. This means that the precondition for the application of the text is the presence of two parties or more, one of which is a state that is government forces of a state ". Usually, it cannot be argued that it is difficult to determine the existence of this party ")(1 and the dissident armed forces or other organized armed groups, and whether or not they are parties to the conflict ")(2, excluding the non-inclusion of any conflict that might break out between these groups from the application of the international law. The International judiciary confirmed in a number of cases. The International judiciary (**ICTR**) has a very important view on this issue, when the International Criminal Tribunal for Rwanda stated that **NIACs** occur between nations, dissident groups, and organized armed groups or between such groups. It decided in paragraph 70 that" armed conflict exists whenever there is armed force used between states or when there has been protracted armed violence between governmental authorities and organized armed groups or between such groups within a state ")(3, in addition to the adoption of the same aforementioned criteria by The International Criminal Court) (**ICC**) in article8(4). Moreover, the criterion of the conflict duration is required, and it appears in **ICTY** rule and the Rome Statute. Amnesty also adopted the criterion of duration for classifying conflict as non-international)(5.This was a key

(1) IC / 11 / 5.1.231. 2011, Op. cit.

(2) Ibid.

(3) IT-94-1-A 2 ICTY, Op. cit, Para 70.

(4) Article 8 showed, the second paragraph (f) states "the second paragraph apply (e) on the armed conflict of **NIACs** nature, thus it does not apply on situations of internal disturbances and tensions, such as riots or isolated or sporadic violence or on other acts of similar nature, and applies on armed conflicts taking place on the territory of a state when there is protracted armed conflict between governmental authorities and organized armed groups or between such groups " Rome Statute (**ICC**), adopted in Rome on July 17, 1998.

(5) The organization noted in a report by saying, "... When fighting breaks out during a long-term occupation between the occupying power (a state) and non-state armed groups, it is generally described as **NIACs**. Such a fighting is governed by the rules governing the conduct of military actions." See document No. MDE 15-007-2009, Op. cit.

feature in cases of permanent armed conflict in recent years)(1. In this regard, it must be confirmed that the ICRC also adopts these criteria.

1/2: the use of force against organized armed groups:

Refrain from the use of force and the prohibition of threat of the use of force is clearly stipulated by the United Nations Charter (UN Charter), and this is binding to all members of international community)(2. The Charter imposes direct obligation on all States to refrain from any action that could threaten international peace and security)(3, and can impose obligations on states and force them to implement them)(4. It is the principle that has become part of customary international law; it is one of governing rules.)(5.It applies on all states without exception, and includes obligatory rules on all states, aiming to achieve the best interest of international community)(6, which may not be violated or excluded from the application)(7. It should be noted that the principle of refraining from threat or use of force in international relations is

(1) ICRC mentions some examples of countries where organization was present for two or three or four decades in a permanent state of armed conflict, such as Afghanistan, Colombia, Democratic Republic of Congo, Israel and the occupied Palestinian territories, the Philippines, Somalia and Sudan. Ibid, IC / 11 / 5.1.231. 2011. 26-35

(2) International community is not intended to mean all countries, but the vast majority of them, belonging to various principal legal systems recognized by the world, namely the Anglo-Saxon system, the Latin system, the Germanic system, and Islamic System, Ibrahim., Ali,1995, al-Wasit fi al-Muahdat al-Dawlia (international treaties), edition 1, Dar al-Nahda al-Arabia, Cairo, p. 675

(3) Normative treaties contain general rules and aim to achieve the interests of the public, and apply on all nationals of the law, and its effects are not limited to their founders, Murjan, Mohammad Magdy,1981, the effects of treaties on non-member states, Dar al-Nahd al-Arabia, Cairo, p. 468

(4) This is evident in article 103 of UN Charter.

(5) Article 35 of the Vienna Convention on the Law of Treaties of 1980 defined the Peremptory norm as "general rules of international law accepted and recognized rule by the international community as a whole as a rule that shall not prejudiced, which may be modified only by a subsequent rule of the general rules of international law having the same nature ".

(6) Alsaid, Rashad Aref, 2011, General International law in its new form new robe, second edition, Dar Wail for Publishing and Distribution, Amman, p. 181.

(7) Fatlawi, Suhail Hussein Hawamdeh, Ghalib Awad (2009), Public international law, the principles of public international law, Part1, Dar al-Thaqafa for Publishing and Distribution, Amman, p. 165.

known as "the global and binding principle")(1 under international law) (2. The fourth paragraph of Article 2 of the Charter stipulates that absolute abstinence of the use or threat to use force between states)(3; however, there is nothing mentioned about what is meant by use of force or threat of force and the nature of the actions involving the threat or use of force. Unfortunately, the second article in paragraph 4 provides little concrete guidance with respect to behaviors representing a breach of the prohibition of the use or threat of use of force)(4.

Thus, it is useful to go to the signals stipulated in legal judiciary indicating the nature and scope of the use of force and the threat to use it. In the case of Nicaragua against the United States 1986 presented to The International Court of Justice (**ICJ**) on the use of force by the United States against Nicaragua, the US claims that the later provided support for the gangs, "contraband" in El Salvador. The court sees that the concept of armed attack should not include assistance or logistics and or other support, and that these acts do not represent the use of actual force, and the armed attack by the United States constitutes illegal action, and what Nicaragua did with the armed opposition against El Salvador is considered interference in the internal affairs of it, but is not considered armed attack)(5.

In addition, the most important decisions of **ICJ** regarding the threat of force in international law relating to nuclear weapons. International law relating to nuclear weapons (Advisory Opinion of the International Court of Justice on the Legality of the Threat or Use of Nuclear Weapons, 1996), where the court stated that the use of force and threat to use force must be reconsidered altogether, according to Article 2, paragraph 4of the UN Charter. This means that if the use of the same power in a particular case is illegal for whatever reason, the threat of force shall also be illegal) (6. It is clear from the decision that states possessing nuclear weapons to be used for self-defense and the threat

(1) Article 1, the second paragraph of the Declaration in 1987 on strengthening the effectiveness of the principle of refraining from the threat or use of force in international relations.

(2) It has been described by the **ICJ** as a peremptory norm of international law، which cannot be derogated by states، Nicaragua v. United States، paragraph 190. ICJ, Reports (1983)

(3) Bothe, Michael (2004), Second Expert Meeting on the Notion of Direct Participation in Hostilities in Non-International Armed Conflict, The Hague, 25 / 26 October (2004) Expert Paper submitted.

(4) Green, James A, Grimal, Francis (2011),The Threat of Force as an Action in Self-Defense Under International Law, Vanderbilt Journal of Transnational Law.p.285

(5) Ibid, **ICJ**, Reports (1983), Nicaragua v. United States, 210-211.

(6) Ibid, paragraphs 37-50.

of using force against those who could violate its territorial integrity or political independence is a legal procedure)(1.

Some commented on this provision by arguing that the threat of the use of force is prohibited like the use of force, and the threat to use force in unjustified circumstances is in itself illegal threat and vice versa. This provision clearly and extensively specifies that the threat of the use of force can be legal against those who would violate a state territory and policies. They may be considered legal only if they are implemented within the rules of the Charter and approval by international laws. This provision was opposite to what the court decided in its verdict on the case of Nicaragua that the threat to use force is prohibited like the actual use of force fully. Based on the above, countries are deprived from the right to resort to the use or threat of force to settle international disputes to achieve international peace and security. The deterministic case of banning the use of force is debatable and the prohibition of the use or threat of force is not conclusive)(2. If the security council (**SC**) decides to use force , where the only universally accepted way to justify the use of force is shown in articles 42)(3 and 51 of the Charter)(4, thus, if a certain state decides to use actual force individually or collectively against another country, the state must make sure that the actions do not violate Article 2 paragraph 4 There are only two cases where the State may act contrary to this provision when SC practices its powers under Chapter VII to restore international peace and security, or when the state uses force against another state based on its inherent right of self-defense under Article 51 Chapter VII of the Charter, which stipulates that : "Nothing in this Charter impairs the inherent right of individual or collective states to defend themselves, and that necessary measures be taken to maintain international peace and security. Measures taken by members by using the right of self-defense must be reported to the Council immediately.

(1) Ibid ,Green, James A, Grimal, Francis(2011), the Threat of Force as an Action in Self-Defense under International , p.285

(2) Ibid. Green, James A, Grimal, Francis (2011), the Threat of Force as an Action in Self-Defense under International. p.285

(3)Ibid. p.285

(4) Article 42 stipulates that "if the SC considers that measures stipulated in article 41 would be inadequate or have proved to be inadequate، the SC may take such action by air، sea، or land forces as necessary to maintain international peace and security or to restore it. These actions may include demonstrations, blockade, and other operations by air, sea, or land forces of UN members.

These actions do not affect the council right to take actions that deem necessary according to its continuing authority and responsibility stated in the charter at any time to maintain international peace and security or restore it".) (1 It is necessary to specify the exceptions that allow breaching the general rule of the Charter with regard to the use of force or threat to use it. Article 51 classifies the procedures that are likely to allow breaking the prohibition of the use of force and the threat of the use of force. The prohibition of the use of force is objectively stated in the UN Charter regardless of the individual interests of states. So, the UN has prevented states from using force away from the purpose of the international community)(2, and the interpretation of the treaty is made in accordance with the its components and purpose) (3. The SC assumes its primary task, which is to maintain international peace and security)(4 The Charter gives the council different powers to take appropriate measures to maintain international peace and security, resolve disputes peacefully, take actions against those threatening international peace and security and use military and non-military means against them. It seems necessary to consider the legal argument of the United States of America as an example on the pretext of self-defense as a legal justification in the context of the legal frameworks of self-defense and armed conflict as a means of legitimate dispute to the use of force.

With regard to the possibility of the application of these legal frameworks on terror war against al Qaeda members, the United States has said in many formal occasions)(5 that the armed conflict waged against terrorism in all regions of the

(1) ILA، The Hague Conference (2010)، Use of Force، Final Report on the Meaning of Armed Conflict in International Law، Op. cit.

(2) UN Charter text in its preamble states " to ensure by accepting certain principles and setting up necessary plans that armed force shall be used only for the common interest."

(3) Article 31 of the Vienna Convention of Treaties of 1980 (general rule of interpretation) "the treaty shall be interpreted in good faith in accordance with the meaning given to its wording within the context pertaining to its topic and purpose".

(4) This goal comes on top of objectives pursued by UN, and this goal was the most important goal for which the international organization was created. So UN Charter puts a set of principles and behavior to be followed in order to respect international peace and security operations.

(5) US President declared" To defend our liberty and to defend our lives, Text of Bush's Speech (2002), United States Military Academy at West point. In a speech by US President adviser, he said, " the United States in an armed conflict with al Qaeda, as well as the Taliban and the forces associated with them, in response to the horrific September 11 attacks, and that the force could be used in line with the inherent right of self-defense under international law to use force, including deadly force, to defend itself, including targeting persons such as al-Qaida leaders" Koh, Harold Hongju (2010), Legal Adviser, Department of International Law, Obama and U.S Department of State. Annual Meeting of the American Society of International Law in Washington.He announced in a speech. " The use of force against al-Qaeda members in the framework of both international law and the United States law, including the inherent right of national self-defense since 2001 and the US government authorization to use military force " Speech. John Brennan (2012), Assistant to the President for Homeland Security and Counter-Terrorism.

world comes as self-defense against September 11 attacks, and in line with the rules of international law and the principle sun Charter text of article 51 of it, so, American and British forces started to use force in Afghanistan, with the announcement of the US that it exercises its inherent right of self-defense)(1 based on SC resolutions)(2 No. (1368) on 12 September, 2001 and resolution (1373) on 12 September in the same year, which were passed after the attacks of September as permission from SC to use force in self-defense which decided that self-targeted strikes are "legal")(3.Some)(4states considered these decisions as an excuse to use force to fight terrorist groups with permission from the SC, according to their argument, while others say)(5 that SC decisions do not include permission to use force to fight terrorism, but rather they include specific measures to combat terrorism collectively, stating that all States have to take a wide range of measures against terrorism; they supported their opinion by saying that these decisions do not fall under Chapter 7 of the Charter)(6, and military force are not mentioned to respond to the attacks. Moreover, The United Nations General Assembly) UNGA decision taken because of September attacks strongly condemns these groups, but does not recognize the right to use force to respond to them) (7.The recognition of the natural right of self-defense allows the United States to use force against non-state parties, such as al Qaeda terrorists beyond national borders, especially, the United States practices against AL- Qaeda not been challenged by the SC)(8. This is because the Council did not issue any condemnation or a response about the use of force

(1) A letter dated on October 7,2001 from the permanent representative of the United States to the UN addressing the SC President in which he said, "according to article 51 one of **UN Charter**, I would like, on behalf of my Government, to announce that the United States, along with other countries, have started procedures to practice their natural right of individual and collective self-defense in the aftermath of armed attacks carried out against the United States on September 11,2001.

(2) See. /RES/1368/2001- S/RES/1373/2001.

(3) Speech. John Brennan (2012), Assistant to the President for Homeland Security and Counter-Terrorism, Op. cit. He said, "The targeted strikes are legal."

(4) Blau, Avery (2008), Legality of Targeted Killings as a Tool of War: The Case of Commander Sinan al Harithi, Salem Department of political science, University of Massachusetts Dartmouth, Budapest. Elizabeth Wilmshurst (2005), Principles of International Law on the Use of Force by States In Self-Defense, Chatham House.

(5) Shah, A. Alexander, (2010)**,** War on Terror, Operation During Freedom, the Legality of a U.S Drone Attacks in Pakistan, Vol.9, issue 1, Washington University global studies law review

(6) Ibid.

(7) A/RES/56/1.

(8) Christian J. Tams (2009), the Use of Force against Terrorists, Vol. 20 No. 2, the European Journal of International Law Cullen, Peter (2007). The Role of the Targeted Killing in the Campaign against Terrorism, Pennsylvania, Strategic Research Project War College of the US Army.

by the United States against terrorist groups and the practicing targeted killings in order to achieve its purpose, which is the killing of armed groups and individuals. The council reaction was characterized by being silent to what is going on the world stage, and it indicated that there is need to combat terrorism in line with UN Charter. Accordingly, the SC should exercise its powers bestowed on it under the Charter, and take an active and a vital role against countries that use force outside the provisions of the Charter, otherwise, the Charter might be breached, the international equation changes and international law loses its value in front of practices of irresponsible states.

In conclusion, the attacks by non-state armed organizations are still controversial. This case is looked at as whether the approach followed to interpret it is wide or tight and reflects international law requirements. For this reason, achieving consensus on this issue seems clearly very difficult. The UN Charter affirmed the right of self-defense individually and collectively, and the difference in the interpretation of article 51. On the other hand, it stood firm regarding the rigged opinion of ICJ judges, and that adhering to the requirements article 51 poses undesirable constraint on States. "These are only examples of the use of force against armed groups by some states and their cases have been brought before the international judiciary in an attempt to classify the nature of the conflict and find a solution to minimize the use of force against these groups"

1/3: International Criminal liability regarding violation of the rules of international humanitarian law:

UNGA issued a decision in (2001)[1] relating to the responsibility of States for internationally wrongful acts[2] after it was proved by (International Law Commission) ILC, including a detailed explanation of the illegal acts under international law[3] and the effects resulting from the breach or violation of these rules and how to redress the victim state. The State international

(1) A/RES/56/83.

(2) Article one of the resolution issued by the UNGA provides the definition of internationally wrongful acts which are “every internationally wrongful act by States entailing their international responsibility." A / RES / 56/83

(3) WE support what by some people by naming “wrongful international act “ instead of “ international crime”, and the adoption of ILC label adopted by the UNGA in drafts submitted from the former to formulate the decision governing the responsibilities of criminal states for an internationally wrongful act. Fadel, Samir Mohammed (1976), al-Masoulia al-Dawlia an- Adrar al-Natija an Istikhdam a-Taqa al-Nawawia waqt al-Silm (International Liability for Damage resulting from the use of nuclear power in time of peace), Alam al-Kutub, Cairo, p. 130.

responsibility system) (1 for its illegal actions is subject to the rules of international law) (2, and it is the basic condition for international responsibility and attributable to the State)(3.The state cannot invoke its internal system to justify international violations entailing responsibility or invoke it for non-implementation)(4 There must be punishment in the case of committing illegal against not in line of legal rules)(5. Therefore, the case of necessity may not be invoked in certain circumstances on the ground that there is no legitimacy in order to breach an international obligation)(6. Some international humanitarian conventions applied on armed conflicts cannot be excluded due to military necessity) (7. International responsibility of the state requires certain conditions, that is the occurrence of an illegal international act contrary to the rules of (Customary International Humanitarian law) (CIHL) or applicable international conventions, and that the act is attributed to a state according to international law rules, resulting in damage on another country)(8. Through these conditions, elements of international illegal acts identify the occurrence of wrong acts

(1) International responsibility was defined by some people as " a legal system under which the state that performs illegal act according to international law, shall be committed to compensate the state that has been harmed as a result of this work."Taimeh, Amir (2011), the general theory of the responsibility of the international state in light of the new regulation, Diwan al-Matbuat al-Jamia. p.289. It was also defined by another person as " a set of international rules of law applicable to international law members in the case of committing violation of the obligations established in accordance with the provisions of international law, which causes damage to another member of international law. Reza, Hamsi, 1999, the international responsibility, edition 1, Dar al-Qfilh for Publishing and Printing, Algeria, p. 10. It was also defined as "the legal system under which one of the members of the international law shall assume legal consequences resulting from violating international legal obligation in the face of other person of international law. Bin al-Siddiq, Lifqair r Boulanouar, 2015, War crimes in the light of the provisions of international humanitarian law, edition 1, Dar al-Aiyam for publication and distribution, Amman. p 165.

(2) **Taimeh, Omai, 2011,** the general theory of the responsibility of the international state in light of the new regulation, op. Cit., p. 299.

(3) Riza, Hamsi, International responsibility, Ibid.p.39.

(4) See article 32, Legalization of the internationally wrongful act A/RES/56/83

(5) Al-Azzawi, Younis,1970,, the problem of personal criminal responsibility in international law, comparative study, Shafik Press Baghdad, p. 39.

(6) Laursen, Andreas (2004), The Use of Force and (The State of) Necessity, Vanderbilt Journal of International LawLeander, Anna (2013). International Legal Theory: Symposium: Expertise, Uncertainty, and International Law.Vol. 26 / Issue 04. Leiden Journal of International Law.

(7) (A/56/10),Par 19.

(8) Fadel, Samir Mohammed,1976, International Liability for Damage resulting from the use of nuclear energy in peacetime, op. Cit., P. 45.

represented by not implementing a commitment that could have been done. This is based on two pillars, one is physical through aggression and one is moral done on purpose and perception, resulting in the occurrence of physical or moral damage, and hurting the legitimate right or interest of a party to the international law, and on a causal relationship between the wrong act and the damage)(1. International criminal responsibility may arise especially if force is used in response to previous attacks, so it is no longer necessary to use self-defense, as there is no damage. So, if force is used to deter or prevent terrorist attacks in the future, it is difficult to make it proportionate.This is because without the adoption of standards and conditions for the use of force, there are no limits for self-defense)(2. This assertion leaves room to kill people without considering whether they pose any immediate threat)(3. Therefore, ILC affirmed keenness on establishing highly restrictive conditions for the application of this principle, so that the violation of international law be not easy ((4. Moreover, even if the case of necessity is justified, it does not exempt from responsibility. This is what ICJ decides in the case of Hungary and Slovakia)(5; the second paragraph of commentary attached to Article 33 explains that the state of necessity is a special case that can be distinguished from other concepts, and it differs from the circumstances rejecting wrongfulness such as approval and countermeasures)(6,and it differs from other circumstances that reject illegality, such as agreement and counter deliberations regarding an internationally wrongful act and self-defense, in that the illegality of an act committed in the case of necessity is not ruled out)(7.An affected State can take action, such as raising a lawsuit at Judicial authority of international jurisdiction)(8,which is usually before the ICJ, claiming compensation or

(1) Riza, Hamsi,The international responsibility, op. Cit., P. 130
(2) Jackson, Maugoto Nyamoya (2003), War on the Enemy: Self-Defense and State-Sponsored Terrorism, Vol.2. 4, 406, Melbourne Journal of international law.
(3) Kretzmer, David (2005), Targeted Killing of Suspected Terrorists: Extra-Judicial Executions or Legitimate, Vol.16, No.2, 171–212, the European Journal of International Law.
(4) A/CN.4/SER.A/1980/Add. L (Part 1),Op.cit,p34
(5) The Court notices that ".., it is not a reason to terminate the treaty even if a case of necessity is found, and it exists. It shall not be invoked only to absolve the state from its responsibility as it has failed to implement the treaty. "ICJ, Reports of Judgments (1997), the Gabcikovo-Nagymaros Project.
(6) See articles 15-20 on legalization of the internationally wrongful act A/RES/56/83
(7) A/Cn.4/Ser. A/1980/Add. L (Part 2), p34.
(8) Article 89 of the additional annex to the Geneva Conventions of 1977 stipulates that "the High Contracting Parties pledge to act jointly or individually in serious violations situations of the agreements. This annex is in collaboration with the UN and in line with the UN charter".

repair)(1. If state responsibility for one of war crimes is proven, it shall be obligated to compensate the damage caused by these crimes) (2.On the other hand, Rome Statute preamble confirms that ICC court possesses international jurisdiction and the power to exercise its jurisdiction over persons regarding the most serious crimes of international concern as indicated in the text of the statute)(3. The text of Statute of ICC stipulates its jurisdiction to deal with war crimes as well as genocide crimes, crimes against humanity and the crime of aggression when national courts fail to achieve justice. The Member States, the SC, and Attorney General of the Court can refer cases to it)(4. The role of the SC and its authority to establish a special criminal court to prosecute and punish war crimes perpetrators and decide the criminal liability of an unlawful act committed and punish perpetrators of such crimes, whether nations or individuals is well recognized)(5.It is noted that the mechanisms of accountability on international unlawful acts exist strongly and have broad powers to punish war crimes perpetrators, but it is criticized because no judicial party has ever decided criminal responsibility of a country that relies on the use of force against organized armed groups and the resulting indiscriminate attacks causing unjustified suffering to innocent civilians. Not activating its jurisdiction will certainly result in impunity of criminals, depriving affected countries from adequate compensation, not desisting the practice of internationally unlawful acts. On the other hand, if it is proved that the act is internationally lawful and was used in accordance with the provisions and rules of international law, taking in to account UN Charter principles, purposes, and reporting to SC about all procedures taken is regarded anon-existence of criminal responsibility. This does not lead to any accountability or consequences on the state, because it previously performed unlawful act to defend itself as a necessity against imminent danger or actual attack carried out proportionately against it. In the context of using force against suspected terrorists after having a report that,

(1) Taimeh, Omair, 211, The general theory of international responsibility of the state in light of the new legalization, p. 225.

(2) For example, in the case of United States and Nicaragua the Court ruled the liability of U.S. A for damages caused by and resulting from the use of force against Nicaragua and ruled that financial compensation be paid by the United States to Nicaragua. ICJ Reports (1983), Nicaragua v. United States, par 283-285.

(3) Article 1 of the Rome Statute.

(4) Article 13 of the Rome Statute.

(5) Article 29 of the Charter stipulates that SC establishes secondary branches that deem necessary for the performance of its functions"

armed conflict broke out between conflicting parties and that counter attacks are necessary for self-defense against the ongoing attack or imminent threat and the situation is proportionate, it should be taken into account that the attack should be neither excessive nor retaliatory. Thus, full precautions during the attack to be carried out must be taken and any side effects beyond the benefit of the attack must be avoided with the consent of the concerned State on its territory the use of force is taking place. Otherwise, this is undoubtedly considered a war crime indicating international criminal responsibility.

2: International terrorism:

The term terrorism has been mentioned in many international conventions, particularly in IHL[1] or threats of violence is considered one of the most important issues in CIHL violence Prohib.[2] Moreover، some international criminal tribunals statutes classified terrorism as a war crime such as ICTR [3].

2/1, definition of terrorism:

(1) The Fourth Geneva Convention, Article 33 of stipulates that "collective penalties are prohibited and likewise all measures of intimidation or terrorism", both Protocols Additional to the Geneva Conventions of 1977 prohibits acts aiming at spreading terror among the civilian population, as well as civilian personnel who are not object of attack. Acts or threats of violence, the primary purpose of which is to spread terror among the civilian population, are prohibited "This was reported in the second paragraph of Article 51 of the first additional Annex to the four Geneva Conventions of 1977, and Article 4, the second paragraph of the article of the second additional Annex to the four Geneva Conventions of 1977 also prohibited terrorist acts in every time and place, against persons who do not or are no longer taking part in hostilities.

(2) The second rule of **CIHL** rules stipulates “prohibition of acts or threats of violence mainly aim to spread terror among the civilian population. “Henckaerts, Jean Marie, Dos Wald Beck (2008), **CIHL Rules**, vol. I, ICRC

(3) The terrorist acts in the statutes of the **ICTR** court and the special court for Sierra Leone are considered war crimes. Article 4of the Statute of ICTR stipulates, "ICTR has the authority to prosecute persons who commit or order the commission of serious violations of Article 3 of the four Geneva Conventions of 1949 and the second additional Appendix of 1977. These violations include, but are not limited to, acts of terrorism.... “Likewise, the text of Article 3of the Statute of the Court of Sierra Leone is identical to that of in the previous court. In addition, indictments in the case of The Prosecutor against Galic in 2003 included that terrorizing the civilian population is a violation of the laws of war, and it is actually illegal. " a The Trial Chamber for Stanislav Galic that he is guilty of violations of the laws or customs of war (acts of violence, the primary purpose of which is to spread terror among the civilian population, stipulated in Article 51 of the first additional Annex to the Geneva Conventions of 1977 in accordance with Article 3 of the Statute of the Court. "**ICTY** (2003), The Prosecutor v. Stanislav Galic, Case Number it-98-29-TJudgment and Opinion.

The term terrorism has been broadly discussed, but the definition of terrorism at the present time has not been agreed upon internationally. Much time, a lot of effort has been exerted to define terrorism over the years. It was defined as "the threat or use of force for political purposes, by a party other than the State which intentionally target civilians and other non-combatants, in violation of the law about the course of hostilities.") (1. The draft of the proposed agreement prepared by The International Law Association (**ILA**) defines international terrorism crime as "any serious act of violence or threats by a person whether acting individually or in association with other persons or organizations. Causing injury or death of people and obstruction of activities of international organizations…")(2. Moreover, even some regional conventions on terrorism do not provide definition for it except in rare cases.)(3Due to the absence of explicit recognition of criminalization of terrorism in UN Charter, and the absence of definition of terrorism **CIHL** until now, UN efforts have failed to formulate a single unanimous definition of terrorism accepted by all States ….)(4. So far, UN efforts have failed to formulate a single comprehensive definition of

(1) Arend, Anthony Clark (2002). International Law and Rogue States: The Failure of the Charter Framework, Vol. 36:4, New England Law Review.

(2) Report of the Fifty-Ninth [59th] Conference, Held at Belgrade August 17th to August 23rd, 1980, of the International Law Association Hardcover– 1982. Adapted from. Jackson, maugoto, Nyamoya (2003), War on the Enemy: Self-Defense and State-Sponsored Terrorism.
Arab Convention for the Suppression of Terrorism Act 1998 of the Islamic Conference on Combating International Terrorism 1999- European Convention for the Suppression of Terrorism of 1977 - Arab Convention for the Suppression of Terrorism of 1998 - Convention of the Islamic Conference on Combating International Terrorism 1999 - Inter-American Convention against Terrorism 2002 - Council of Europe Convention on the Suppression of Terrorism of 2005, (Recast the sentence) American States anti-terrorism Convention 2002, Council of Europe

(3) Several regional conventions on terrorism were adopted, for example: the OAS Convention of 1971 to prevent and punish acts of terrorism taking the form of crimes against persons - European Convention on the Suppression of Terrorism Act 1977, Arab Convention for the Suppression of Terrorism Act 1998 of the Islamic Conference on Combating International Terrorism 1999, American States anti-terrorism Convention 2002, Council of Europe Convention on suppression of terrorism in 2005. However, these agreements did not define terrorism, while Arab Convention for the suppression of terrorism in 1998 defined the crime of terrorism as follows: Article 1, paragraph 2 defined terrorism as "any act of violence or threat, whatever its motives or purposes, that occurs in implementation of individual or collective criminal plan, aiming to spread horror among people, or intimidate them by harming them or endangering their lives or liberty or security to danger, or damage to the environment or to public facilities or property or private, or occupying or seizing them, or endangering a national resource at risk. "

(4) Engle, Eric (2010). Targeted Killing? Terrorists, Insurgents, and Pirates, Vol. 9, 11, Berkeley Journal of International Law.

terrorism acceptable to all states, but there is a fundamental objective of terrorism that can be defined as the spread of fear among a certain number of civilian populations through the use of violence.

2/2: international resolutions issued on terrorism:

Following September 11attackson, the twin towers of World Trade in U.S.A and Pentagon, the term terrorism has been circulated at a large scale. Immediately, U.S.A declared war on al-Qaeda and global war on terrorism) (1.

American administration changed this name later)(2 because of intense criticism directed to that label and in order to be able to justify the killing of people in several places of the world as a necessity to defend itself. This means that it should concentrate only on individuals who are planning to attack the United States(3).

and SC issued two resolutions, (1368) and (1373,)on these attacks)(4.Some parties)(5 took these resolutions as justification to use force to combat terrorist groups in self-defense as permission from SC, while others argue that)(6these resolutions did not include permission to use force to fight terrorism, but rather

(1) The US president at that time said, "Our war on terror begins with al Qaeda, but it does not end there, and will not end until every of global reach is defeated. President Bush Declares "War on Terror" Speech to a Joint Session of Congress, 20 September 2001.

(2) when US President Obama took office in 2009, the legal adviser to the Ministry of State, Harold Koh advised him to reject the label “the global war on terrorism”, preferring instead to the US military base of operations on the view that the United States is in "armed conflict with al-Qaeda -, the Taliban and associated forces. "Galleys proofs, Odle **(2013**), Targeted Killings in Yemen and Somalia: Can the United States Target Low-Level Terrorists? Vol.**27, Emory International Law Review.**

(3) See U.S. Policy Standards and Procedures for the Use of Force in Counterterrorism Operations Outside the United States and Areas of Active Hostilities, WHITE HOUSE 1 (May 23, 2013)

(4) Resolution No. 1386 S/RES/1386/(2001) one day after September 11 attacks in response to that date attacks, called on " to combat by all means threats to international peace and security caused by terrorist acts, and recognizes the inherent right of individual or collective self-defense in accordance with the Charter. The SC returned to stress, in its resolution 1373 S / RES / 1373 (2001) what was stated in the resolution, "Reaffirming that such acts constitute a threat to international peace and security, and again reaffirming the inherent right to defend their individual or collective self-recognized under CUN".

(5) Blau, Avery (2008), Legality of Targeted Killings as a Tool of War: The Case of Commander Sinan al Harithi, Salem Department of political science, Op.cit.Elizabeth, Wilmshurst (2005), Principles of International Law on the Use of Force by States in Self-Defense, Op.cit.

(6) Shah, A.Alexander, (2010), War on Terror, Operation during Freedom, the Legality of a U.S DroneAttacks in Pakistan, Op.cit.

they included specific measures to combat terrorism collectively,)(1.Before the events of September 11,UNGA dealt with the issue of terrorism in a number of decisions "intermittently as an international problem")(2, and issued a number of agreements and declarations and called on States to join and adopt them)(3.In addition, after September attacks, UNGA issued new protocols and agreements to combat terrorism)(4 to tighten the attention on the fight against terrorism. Since the events of September, UNGA called on States to become parties to these international instruments, focused permanently and continuously through its resolutions on terrorism,)(5.The issue has received widespread attention by the UNGA in a number of resolutions named measures to eliminate international terrorism()6, and UN global strategy based on the unique consensus reached by world leaders at their summit held in September to counter-terrorism)(7 (2005), that is condemnation of terrorism in all its forms and manifestations)(8. The most important statement in the decision taken by

(1) Perhaps the most important statement in the two resolutions is the imposing of measures all countries must take to combat terrorism, including the prevention and prohibition of financing of terrorist acts and freezing terrorist funds and persons and entities associated with them, and refraining from providing support to terrorists and not providing safe haven to them or to those who finance or help them, and to ensure that terrorists are brought to justice, and the inclusion of terrorist acts in national laws as serious crimes.

(2) Shnkao, Baan (2010), The Prohibition of the Use of Force in International Relations in International Law, Strategic Studies.

(3) The following are some of the conventions and protocols dealing with terrorism: the 1963 Convention on Offenses and Other Acts Committed on Board Aircrafts, the 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, International Protocols of 1988 for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on continental shelf, the international Convention for the suppression of terrorist Bombings of 1997, the international Convention for the suppression of the financing of terrorism of 1999.

(4) See for example. Protocol of 2005 for the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, the International Convention for the Suppression of Acts of Nuclear Terrorism of 2005, the Convention of 2010 for the suppression of unlawful acts relating to international civil aviation

(5) Ibid,Shnkao, Baan, (2010), The prohibition of the use of force in international Relations.

(6) The UN adopted the subject of international terrorism through the UNGA to combat terrorism in a lot of decisions issued by it under the name of the measures aiming to eliminate international terrorism, calling on all States to take additional measures to eliminate international terrorism, and calling on all States to refrain from financing terrorist activities, or encouraging, or training, or supporting them in any way. Examples of decisions issued on measures to eliminate international terrorism. A / RES / 69/127 / 2014- A / RES / 67/99 / 2012- A / RES / 62/71 2007- A / RES / 61/40 / 2009

(7) "Member States began a new stage in its efforts to combat terrorism by agreeing on a global strategy to combat terrorism. This strategy, which was adopted on September 8, 2006 and formally launched September 19, 2006 states, for the first time, that countries across the world have agreed on a unified strategic approach to fight terrorism. The strategy forms the basis of a specific plan of action that tackles conditions leading to the spread of terrorism, prevents and combats terrorism, and takes measures to build the capacity of States to combat terrorism, and strengthens the role of the UN in the fight against terrorism, and ensures respect for human rights in the context of countering terrorism ".

(8) Decisions related to the global strategy of the United Nations to combat terrorism are as follows: A/RES/68/2762014-A/RES/66/282-2012-A/RES/64/2972010-A/RES/60/2882006A/RES/62/272 2008

the UNGA on the September 8 of the following year)(1 is" States commitment to peaceful settlement of disputes, and to act in accordance with chapter 6 of the Charter, and that the SC has to adopt a resolution to set the principles of the use of force, which is necessary in order to coordinate its activities within the mandated states in the Charter. They also reaffirmed that SC has the primary responsibility of maintaining international peace and security. "In the midst of this global trend acceleration to combat terrorism, the SC issued a number of resolutions relating to terrorism) (2 and al-Qaeda in Afghanistan) (3. These resolutions included a list of sanctions against Al-Qaida in Afghanistan as a terrorist organization, but this list does not include the use of force as a punishment for acts of violence perpetrated by Al-Qaida in a number of cities in the world. The sanctions include freezing movable and immovable property of the organization, and not allowing Al-Qaida to use the airspace to fly private planes owned by Al-Qaida and preventing the sale or supply of arms, ammunition, military vehicles and equipment, or providing any technical military advice. In this regard, the Economic and Social Council ESC had a role and issued a number of decisions)(4 to strengthen international cooperation and technical assistance to promote the implementation of universal conventions and protocols related to terrorism. From the above, we conclude that many resolutions issued by the **UNGA** and SC; condemn terrorist acts because they represent a threat to international peace and security. They call on all States to refrain from providing support to terrorist organizations, suppress terrorist activities and financing, and coordinate with each other to prevent acts of terrorism. The UN Calles on all countries to urgently join the international conventions and protocols relating to terrorism issued by the UNGA. However, there is no decision issued by the UN that explicitly allows acting against another country by using force to fight terrorism of individuals or organized armed groups on its territory, but there has been no decision that explicitly and clearly states that an armed attack has occurred that allows the use of force. Through the analysis of previous resolutions issued by the SC, it is evident that all of them focus on addressing and fighting terrorism through peaceful means.Also, the decisions issued to condemn terrorist attacks that occurred in different cities and countries, did not talk about the use of force. Terrorist

(1) A/RES/60/288

(2) For example, decisions under the title " confront terrorism in all its forms" and decisions under the title "the fight against terrorism "S/RES/1624(2005)S/RES/1566(2004) - -S/RES/1535(2004)- S/RES/1617(2005)- S/RES/1988(2011), and decisions under the titles " fighting terrorism"- S/RES/2129(2013) S/RES/1456(2003)- S/RES/1455(2003)

(3) S/RES/1267(1999), S/RES/1333(2000), S/RES/1989(2011)

(4)E/RES/2002/19-E/RES/2003/22-E/RES/2004/19-E/RES/2005/19-E/RES/2007/18-E/RES/2009/21

attacks that took place in different cities and countries did not mention the use of force) [1]. Apart from the condemnation of terrorism and the fact that terrorist acts threaten international peace and security, the right of self-defense was reaffirmed in the scope of the CUN rules. However, the force has become a recognized tool in some countries, which call for eradication of terrorism

2/3: Islamic organization in Iraq and the Levant (ISIL):

In the last few years, a number of international alliances have been created to combat terrorism using armed force years. Several countries took the topic as a means to fight extremist organizations so-called Islamic organization in Iraq and the Levant (**ISIL**))[2]. In September 2014, the United States and some Arab countries, including "Jordan")[3] launched air strikes against the Islamic organization. These operations were widely and openly launched, and drones attacks increased remarkably and heavily, which raised negative concerns about the risks that is this procedure will be an international norm to combat terrorist or extremist or rebel groups, without the exposure of these countries to international criticism for their unlawful acts that violate UN Charter. Of

(1) Indonesia's Bali attacks S/RES/1438(2002)- S/RES/1450(200) Kampala attacks in Kenya-S/RES/1516(2003) Istanbul attacks-S/RES/1530 (2004)-Madrid attacks S/RES/1611 (2005) London attacks S/RES/1618(2005)-Iraq attacks

(2) Islamic organization in Iraq and the Levant, known for short, "ISIL" (The Islamic Organization in Iraq and the Levant (ISIL) is an armed organization described as terrorist adopting the Salafi and Jihadi thought, and its members aim to restore "Islamic Caliphate and the application of Sharia," It extends in Iraq and Syria. The leader of this organization) Abu Bakr al-Baghdadi, who began the composition of the Muslim organization in Iraq, on October 15, 2004. ISIL organization originated from al-Qaida in Iraq, which was founded Abu Mosab al-Zarqawi in 2004.In 2006 and after the ongoing events in Syria and fighting of revolutionary groups and the free army with Bashar al-Assad regime, al-Nusra Front was formed for the people of Syria in late 2011. The leader of this organization announced the merge of al_Nusra Front organization with the Islamic State of Iraq, under the name of the Islamic State in Iraq and the Levant,commencingfrom2014, under the leadership of its leader, Abu Bakr al-Baghdadi

(3) The Royal Jordanian Air Force at dawn on September 23,2014 carried out air strikes on ISIL organization inside the Syrian borders, under the name(pre-emptive air strikes to eliminate terrorism). An official source at the General Command announced that the Jordanian armed forces are involved with the international alliance led by America to air strike a number of terrorist sites used as a center for terrorist operations, and they destructed a number of selected targets belonging to these groups, which used to send some terrorist to carry out terrorist acts inside the Kingdom, Aldastour Newspaper, issue No. 16952, September 24, 2014, Amman. This was announced by the Minister of State for Media Affairs, Dr. Mohamed Momani, the official media spokesman for the Kingdom affairs. In spite of his assertion earlier during a press conference held on September 8, 2014 at the headquarters of the prime minister, but Jordan was not mentioned among the ten countries within the coalition of to confront ISIL, al-Dastour Newspaper, and issue No.16 936, of September 8, 2014, Amman.

course, talking about military operations)(1 World Alliance led by the United States in Iraq and Syria against the so-called Islamic organization lies in the same context and it is not much different from what has been discussed regarding the organized armed groups. The United States has international approval from the Government of Iraq)(2 to launch such strikes targeting ISIL, but this reason is not enough to give this war international legitimacy. The permanent representative of the United States in the UN)(3 argues that these operations came within the framework of individual and collective self-defense based on article 51 of UN Charter. Therefore, the United States decided to use military operations in Syria to protect Iraq from future attacks. However, what has been previously explained about exclusion of UN Charter regarding the use of force does not apply on what is happening in Iraq and Syria by taking it as an excuse for those air strikes. (Weller))(4 analyzed air strikes performed by international coalition against ISIL، and the US claims that self-defense applies on is a new legal justification for the use of force. Discussing the wrong support of self- defense as stipulated in article 51 of the charter, any actual or future attack is enough to practice the right of self-defense. This however did not happen and this justification is insufficient for the legitimization of this alliance, and collides with the UN Charter principle of non-interference in the internal

(1) Military operations against the Islamic organization are the ones carried out by an international coalition led by the United States. It started its first strikes on September 19, 2014, in collaboration with other countries including of KSA, UAE, Bahrain, and Morocco, which participated in the attack.

(2) The Permanent representative of Iraq to the UN requested in a letter addressed to the President of the SC on June 25,2014,demanding"the support of the international community to eliminate ISIL and restore the country's stability" S / 2014/440, and also in another letter in the same year on September 20,he repeated the same demand, and he told the SC that the Iraqi government had asked the United States to lead the international efforts to strike the Islamic organization in Iraq and Syria, S / 2014 / 691.

(3) The permanent representative of Iraq to the UN in a letter addressed to the President of the SC on September 20, 14.S / 2014/69, which considered the United States the leader of the international coalition against ISIL. The permanent representative of the United States to the UN in a letter addressed to the Secretary-General of UN on September 23, 2014, stating that the request of the permanent reprehensive of Iraq to the UN to fight ISIL extends by implication to fight this organization in Syria because ISIL in Syria crossed the borders and performed armed attacks against the civilian citizens in Iraq, and to enable Iraq to regain control of its borders, S / 2014/695.

(4) The permanent representative of the United States to the UN in a letter on September 23, 2014. Weller, Marc (2015), Striking ISIL: Aspects of the Law on the Use of Force, Vol.19 Issue: 5 American Society of International Law.

affairs of states)(1. The justifications of the United Kingdom and US to use force against ISIL)(2depend largely on the claim that the military action in the territory of the State is based on the legal approval of its government, without any indication that the military assistance to governments facing internationally prohibited internal rebellion is based on the international law for the year 1975,"the principle of non-interference in the civil wars "in an attempt to reduce the indirect use of force by the Super Powers)(3, stating that even intervene with the approval of the government deprives people from the right to organize their affairs and determine their political future, and the recent states practice with respect to the use of force in Iraq against the Islamic organization suggests that the evidence relating to that rule is very weak(4).It seems that the conflict

(1) The seventh paragraph of Article 2 of the Charter states that the UN principle " non-intervention in matters that are essentially within the domestic jurisdiction of the leader of any State ", and also UNGA is concerned about the principle of non-intervention, and it issued a declaration in 1965 on the inadmissibility of interference in the internal affairs of states and protection of its independence and sovereignty, a / RES / 2131, and it also reconfirmed the importance of this principle again in the declaration of principles of international law concerning friendly relations and cooperation among States in accordance with CUN the 1979 A / RES / 2625. In addition, to the great attention to this principle by the ICJ in the provision on military and paramilitary activities carried out by the United States against State of Nicaragua in 1986.The Court explicitly rejected in this provision to recognize the United States any right to intervene in Nicaragua's internal and external affairs, and considered the issue of intervention illegitimate, and the provisional so states "each state or group of states must not intervene directly or indirectly in internal and external affairs of another state. The Universal Declaration of the rights and duties of States of 1945 in the third article states, "states must refrain from interfering in the internal and external affairs of other States."**ICJ,** (1996), Advisory Opinion, The legality of the Threat or Use of Nuclear Weapons.

(2) "It is clear that International law prohibits the use of force in international relations, except in limited exceptions. However, that international law is equally clear in that this prohibition does not apply on the use of military force by one country in another region until the regional state requests or agrees. Itis clear in this case that Iraq had agreed to the use military force to defend itself against ISIL in Iraq. " Policy paper (2014),Summary of the Government Legal Position on Military Action in Iraq Against ISIL, Prime Minister's Office, 10 Downing Street.

(3) Akande, Dapo. Vermeer, Zachary (2015), the Airstrikes against Islamic State in Iraq and the Alleged Prohibition on Military Assistance to Governments in Civil Wars, Blog of the European Journal of International Law.

(4) Ibid, Akande, Dapo. Vermeer, Zachary (2015), the Airstrikes against Islamic State in Iraq and the Alleged Prohibition on Military Assistance to Governments in Civil Wars.

between the Iraqi government and the Islamic organization falls within the scope of the ban stated in the decision of the International Law Institute)(1. It seems that this condition is met in this case)(2. The text of Article 1 of annex 2 to Geneva Conventions applies on the Islamic organization)(3. As a result, any military action or other aid under the resolution of the Institute of International Law is not permissible)(4. However, this decision carries exception, that allows foreign intervention in such a case to provide support and assistance to the other party as stated in Article 5 of the decision, based on the UN charter or any rules related to international law)(5. If it is possible to justify the intervention of states and their participation in the air strikes in Iraq and Syria against the Islamic organization)(6.

Despite international consensus on the criminalization of ISIL, it does not mean that the use of force is legitimate and unconditional by the consent of the Government of the regional state, and the actions taken without the approval of the SC have put the United States and its allies on a illegal dubious ground and this allows individual unlawful intervention)(7. In fact, the SC decisions in the past few years often talk about the fight against terrorism practiced by ISIL in Iraq and Syria at a large scale. SC special decisions concerning Islamic State call on all states to impose financial sanctions, not to fund the organization, refrain from any forms of support, and prevent the supply of weapons to terrorists.)(8 The decisions condemned violent extremism at a larger scale, but the recommendations were limited to punishing individuals actions, which

(1)Article I the concept of civil war. For the purposes of this resolution, the civil war is that war which broke out in the territory of a state with the opposition, and started between the government and rebel movements or more, which aims to overthrow the government, or the political or economic or social system of the state, or to achieve separation or autonomy of any part of that State..". The Institute of International Law(1975), The Principle of Non-Intervention in Civil Wars Session of Wiesbaden - (Eighth Commission, Reporters: Mr. Dietrich Schindler)

(2)Ibid,Akande, Dapo. Vermeer, Zachary (2015), the Airstrikes against Islamic State in Iraq and the Alleged Prohibition on Military Assistance to Governments in Civil Wars.

(3)This annex applies on the territory of one of the High Contracting Parties between its armed forces and dissident armed forces or other organized armed groups, practicing control on a portion of its territory and able to undertake sustained and concerted military operations.. "

(4) Article 2, Prohibition of assistance. Ibid, the Institute of International Law (1975), the Principle of Non-Intervention in Civil Wars Session of Wiesbaden.

(5)Ibid.

(6)Permanent Representative of the United States in a letter on September 23,2014.

(7)Ibid, Akande, Dapo. Vermeer Zachary (2015), the Airstrikes against Islamic State in Iraq and the Alleged Prohibition on Military Assistance to Governments in Civil Wars.

(8)S/RES/2160(2014)S/RES/2161(2014)S/RES/2133(2014)S/RES/2249(2015)S/RES/2199(2015)

focus on blocking funding, possession of weapons, restricting the flow of foreign fighters, and the call for a coordinated international response in this regard، but none of these decisions authorized the use of military force against ISIL explicitly and clearly. The UN Charter has to intervene if a state performs certain actions that threat security and international peace as stated in chapter 7 of Charter. Failure to do so is a failure to respect the fundamental purpose of UN. The silence of SC regarding air strikes by states in their alliances or in the war on terror is understandable although decision No. (288) of the year (2005))(1 are clear and explicit in that they emphasize the use of force. The fear from targeted killings operations increases Arab and international recognition and SC support for Arab coalition)(2 against the Houthis in Yemen under Chapter 7 of the Charter)(3 after issuing several resolutions and presidential statements in connection with the situation in Yemen)(4. This coalition is followed by the formation of an military Islamic alliance to fight terrorism)(5 by the Kingdom of Saudi Arabia in mid-December 2015. Thus, an urgent need for strict international coordination for the time being is required to avoid further ignorance of provisions of the Charter. To avoid any criticism about the practice of armed force against terrorist groups individually, it is noted that the states resorted to what is called international alliances by annexation of a group of states to jointly strike specific targets of terrorist groups to unanimously lend international legitimacy stemming from the practice of a unified action by a number of states. However, such issue necessarily requires more clarity about the adherence to the basic laws on disputes. As for the principles that must be in

(1) A/RES/60/288

(2) al-Hazm Storm is Saudi Arabian military operation, with the participation of an international coalition comprisingten countries against Ansar Allah rebels and forces loyal to them and Ali Abdullah Saleh, the Yemen'sformer president. It began on March 26, 2015. Saudi Arabia announced the launch of the operation al-Hazm Storm carried out by it in addition to the GCC countries (the United Arab Emirates, Bahrain, Qatar, Kuwait and Oman) and with the participation of Jordan, Egypt, Morocco, Sudan and Pakistan.

(3) The SC announced in its decision in 2140 of the year2014 that the situation in Yemen is a threat to international peace and security S / RES / 2140.2014, and On April 14,2015, the SC in its decision No. 2216 of2015 approved, the Gulf draft resolution under Chapter 7 calling the Houthis in Yemen to withdraw and stop violence with the imposition of sanctions on them, by 14 votes with one abstention by Russia.

(4) The SC issued several resolutions on the situation in Yemen (S/RES/2014.2011-S/RES/2051.2012-,in addition to many formal presidential statements by the president.(S/PRST/2014/18 -S/PRST/2013/3 -S/PRST/2015/ 8)S/RES/2117.2013-S/RES/2201.2015

(5) Saudi Press Agency, December 15, 2015.

specific circumstances justify specific exceptions, and that the laws of war form a major legal, which might be the only legal framework, with respect to carrying out military operations to combat terrorism.

Conclusion:

International laws on armed conflict are seen the basic legal and the most appropriate framework which governs the conduct of parties in any armed conflicts, and it entails the use of force. Although the dispute in the ongoing war against organized armed organizations beyond the borders of one or several states is not conventional, but it falls under the IHL authority, that governs and regulates the conduct of hostilities. Failure to take into account all provisions of CUN and the rules of armed conflict leads to war crimes in accordance with the provisions of ICC. This will not be available if the SC does not exercise its role to prevent indiscriminate use of force by states and through their cooperation with ICC to bring perpetrators of war crimes to international justice.We support the direction calling for increasing international agreement to combat terrorism, including an integrated international system of investigation, arrest, prosecution and punishment of terrorists as this is a key issue in the analysis to determine the behavior of the conflicting parties and non-infringement on the sovereignty of those states. The approval comes from States for the use of force on their territories, aiming to save the sovereignty of states, but not to authorize the use of force, which can only be used through the SC. We may consider that the legal norms contained in IHL to combat terrorism, that lead to the widespread use of military force is incomplete, but it is the best way to curb the expansion of the irresponsible use of force. It is not clear whether the acts of targeted killings will end the reign of terror, and the use of force is the necessary. So, is sound plans based on international coordination between international community to curb and eliminate terrorism is very significant. Treating terrorist attacks like those classified under Article 51 of the Charter creates a complicated situation as they lack international dimension. Thus, the expansion of the interpretation of article 51 is not based on legal rules but devolves what came in the text of the Charter and resort to professional argument.

Recommendations:

The **UN** Should emphasize the importance of setting global strategy to combat terrorism, encourage states to implement this strategy, and move away from the use of force to combat terrorism, especially because this method did not and will not eliminate terrorism completely. Moreover, international coordination is necessary and must be achieved by inviting member States of the UN every two years to meet and come up with solutions to stop financial support to terrorist groups, and cooperation among States to arrest terrorist suspects and prosecute them in national courts according to legal rules, to

activate and develop domestic laws relating to the use of force to be compatible with international standards.

UN bodies should contribute to monitoring actions taken by states exercising military force. The focus should be on finding effective independent accountability mechanisms. This should be done in consultation with national authorities and different international institutions. States should not take emergency cases or terrorist threat as a pretext to undermine international law.

The **SC** must come out of silence that envelops its decisions about the use of force by some countries, and sets basic guidelines for a legal regulatory framework for the use of force. In addition, SC must come up with legal clear vision based on a strong global consensus that forms the path states should respect if they want to use force to combat terrorism.

The **ICC** must play a bigger role and exercise its jurisdiction in the world regarding accountability and punishment of those who commit war crimes and illegal acts and punish anyone who violates international obligations.

There is a growing need to intensify international efforts to adopt a global strategy to combat terrorism based on cooperation and coordination between countries of the world, aiming to eliminate it, maintain international legitimacy. A new law for armed conflict must be drafted.

We may consider that legal rules included in anti-terrorist IHL, which lead to widespread of use of military force, are incomplete , but they are the best way to curb irresponsible expansion of the use of force. It is worrisome that States have full authority without limitation to classify any act as terrorist without any universal and authoritative agreement to define terrorism.

It is not clear whether targeted killings will end the era of terrorism, and that the use of force is the necessary and decisive action in this case, noting that there is peaceful international cooperation to counter terrorism and the development of plans based on international coordination between the international community to reduce the phenomenon of terrorism and eliminate them.

the treatment of terrorist attacks as attacks that are like those attacks classified under Article 51 of the Charter, creates a complex situation because they the lack of an international personality. The armed attack is attributed to a foreign country or territory in the sense of international law. Even if terrorist acts occupy a given territory, they are not attributable to a foreign source, and it cannot be said that the response to attacks is self-defense. Therefore, the expansion of the interpretation of Article 51 is not based on legal rules, but rather interpretation of the text format.