

## **Against Islamic Jihad and American Struggle**

Although I strongly condemn the terrorist 11 September attacks on the USA, I think that the International Community failure in suppressing the tough response of the US and absolutism, by any means, is a main challenge against the international Legitimacy. In its response, the USA has organized a military expedition since 7<sup>th</sup> of October on a worldwide basis according to its individual understanding for the direct expected danger threatening it, without any assessment to this understanding through approved institutional systems or through the procedures of the International Law.

In order to simplify the seriousness of the situation in a familiar legal language, let's suppose as if a person's house was attacked, and the attacker were killed during the attack, then the victim took a rifle and fired the whole town killing all he thought were responsible for the attack or took part in it. This failure in complying with the International Legitimacy enhances the issue of the aggressive Islamic fundamentalism, and upsets the possibilities of supporting the international peace and protecting the international human rights in the Islamic communities.

There is not enough room to search and assess the legitimacy of the deeds which have been done by the US since the 7<sup>th</sup> of October, it would be better if we did so earlier. However, the main point, that I am interested in, concerns with the institutional failure in adhering to the International Legitimacy, even if the US deeds were found legal and proper on analyzing and assessing them in the right way. The essence of principle of legitimacy, either locally or internationally, is basically based on the standards and the procedures necessary for juridical neutral independent investigations and decisions, instead of individual decisions for the right to act in a certain way. So legitimacy fails when parties resort to the justice of paying back by hands and establishing self to protect justice. However, this becomes more danger when it is done by the only greatest power and the permanent member in the Security Council, which is supposed to be responsible for the international peace and security.

We can better estimate the dangerous perspectives involved in that failure when they are seen under positions during the western occupation and the western aggressive exercises in the period of post- colonialism in many parts of the world. Afghanistan, itself, was targeted to be subdued by Britain and Russia in the past. It was an arena for the Cold War between the Soviet Union and the USA in the eighties and an arena for the current conflict at the present time. This includes also using USA terrorism or supporting it on the other countries territories especially in the Middle America and South America, and also its back for long term to the same troops which now seek to destroy it in Afghanistan. We should remember

when we discuss the international legislation that UN was ignored simply the sentences of the International Justice Court regarding its illegal operations such as in Nicaragua in the early of eighties, and invading Panama to kidnap its president and bring him to UN for suing him where he still there passes a judgment in the prison.

I cannot demonstrate any legal or political or moral difference between this (struggle) which performed by UN against whom it considers its foes , and (Jihad) which performed by the Islamic groups against whom they consider their foes. The Arab term "personal Jihad" or "special Jihad", and it uses in Arabic to describe various group of activities to elevate the religion. In fact, the main religious meaning of the word (Jihad) is "control of mind", including curbing any temptation to harm the others, but the expression itself may also mean religious obligatory aggressive war to spread religion or "defend" it. The problem in the last meaning of Jihad is that it is confined to disorganized and direct violence to achieve political purposes, or eliminate what we consider as injustice by personal invitation accompanied by what it forms as danger on the innocence spectators. According to this extreme and specific meaning of this expression, I compare the actions of UN since 7 October with claims of "Jihad" from Islamic terrorists. The saying of one of the two methods is permitted as considering it "American exception" , and the second as considering it religious duty because this associates only with the motives of doers, not with their studied intentions to behave in this behavior, and not with consequences of their actions. This saying does not affect my aim in this analysis. Moreover, 11 September attacks demonstrate clearly that the religious motives do not have any "advantage", on account of the secular accounts of materialistic benefits.

In my opinion, the effects of 11 September attacks prove that the assumption of Samuel Huntington - about " civilization conflict", in addition to what resulted from it as being severe risks on the peaceful relationships between countries - is incorrect. The incorrectness of this assumption becomes clear through the motives of attacks were result of secure and political injustice and others, regarding to human rights and against the foreign policy of UN , and not because of general Islamic hostility does not have any base against what it calls "Western civilization". Moreover, there is no any indication to civilization conflict in the real situations of any Islamic country, where all countries supported the continuous and massive military reaction performed by UN, or accepted it. The governments of Islamic majority countries conducted according to their estimations for their secure, political and economic benefits, instead of uniting with Muslims who are alleged that they

attacked UN or the accused countries of housing or supporting them, as the person may expect according to the assumption of Huntington. What happens in everywhere is simply the actual power policies and not a shape of civilization conflict. In spite of this, the theory of Huntington may be dangerous prediction, and achieves itself because its main assumption may become "justified" if anyone of the parties or both in this dispute, or others tackled seriously with this assumption, and conducted according to it.

In the light of this, it becomes clear that what resulted from 11 September attacks or 7 October has relation to "the difference of power" between the parties of dispute, and its allies, in spite of their religious or cultural backgrounds of "power of difference" between what called Western and Islamic civilizations. The religions and cultures, as in all world, become only serious part of conflict as the situation regarding to the way of understanding and explaining the incidents, and responding to them by all parties. These incidents are not independent or constant changes. It is important to emphasize that in compliance with the international legislation cannot be justified by the results which have been achieved by this. In this our example, we can justify the topple of the bloody and subduing system of Taliban government in Afghanistan, as "justification" for the American military campaign which achieved immediate improvement in the field of protection human rights of the supreme majority of population, in addition to find better conditions to achieve peace and political stability, and the economic development for the all country. If this was correct and able to continue, it is merely an assumption defected by many ambiguities. Anywhere, justification of situations, as being retroactive effect according to this method, breaches the legal principle essence which requires achieving legislative outcomes according to stable procedures and principles in general. In adverse this, other parties may resort to use this dangerous precedent as justification for wide group of adventures surrounded by risks, and some of adventures may have dangerous outcomes.

The main point in this analysis is my persuasion of the vital importance of sovereignty of law as a mean to face these challenges. But we should emphasize that the sovereignty of law in this sense means harmonious "law" with the international law of human rights, and not simply with any concept of this term. In my opinion, this is the effective reply and is able to last on the fact of (our joint fragility) as human being in anywhere, even persons and groups who enjoyed more with the privileges and safety, as what declared from these dramatic and painful attacks in 11 September. Challenge terrorism for Islamic countries:

The role of Islam in the national policies and international relationships represents supreme case which the Islamic communities face it today, and especially regarding to what should apply the ordains of jurisdiction and to any extent. Different situations about this principal topic highlighted in dense general discussions which held in the countries since 11 September , these range between not join absolutely between Islam and attacks on one hand, and strong support to it as considering it has the cause which justifies it, if the Islamic jurisdiction imposed it on the other hand. In fact, the relationship between jurisdiction and terrorism was always exciting topic for more arguments among Muslims since the First Domestic War( the Supreme Ordeal) which happened at the end of rebellion against the third caliph Othman , and his assassination in 35 B.d.(656 A.d.). Where it is able to quote written authorized texts (such as the Holy Qur'an and Hadith), in addition to analogy on events happened in the early Islamic history to support any party or the two parties in this argument, so I think that it should seek to reach to a compromise depends on comparison and analogy between these opinions, so any competitive texts sources cannot be clear to understand it, and cannot harmonize between them only by returning to a framework depends on analogy to determine today its meanings and its practical implementations.

The main idea launches to find a compromise by analogy and comparison with the fact that the Islamic sources are supposed to provide moral and political guidance for Islamic communities which have severe difference in themselves because they live under severe different conditions – from country or city (Medina) in the Arab island in the seventh century to Qatari states communities today and to the future. The historical environment was so severe and violent where resorting to use power in the relations between the human groups, is the prevailing tradition. There was not simply a connection of the concept, and also it was impossible according to practical side to regulate the jurisdiction of the relationship between the human groups (international relationships) on the base of principles of peaceful coexistence and sovereignty of law, according to the new meaning to these terms. The prevailing traditional point of view is that the jurisdiction confined the legal use causes of hostile power in (Jihad) to spread Islam. Also, the jurisdiction regulated the executive measures in battles including prohibiting to kill children, old men, women or civilians. But it is clear that there are many ambiguities and differences in opinions regarding to the jurisdiction concept about this topic, and the practical practice was not harmonized with the theory across the Islamic history. Although my severe worry about the dangerous threat which

surrounds the international legal legislation, so I emphasize that it can never defend to the traditional concepts of (Jihad). In my opinion, the serious threat of the international legal legislation, as deemed recently in the actions of the UN, and conspiring of all great world power according to this regard, does not justify reforming the struggle to this old meaning. Also, the facts of power relationships in the world are not available today. The challenge that faces the Islamic communities today is how to ignore in an institutional and effective way these ideas regarding to Jihad, and how to neglect it from hearts and minds of Muslims, and not only including the formal policies and practice of their states. Where Islam addresses directly the Muslim, so there was always a strong feeling of obligatory commitment with what consider being jurisdiction, in spite of the state policy or formal procedures. The Muslim resorts to religious justifications for performing direct violent actions against local corrupted systems, and supposed foes abroad when the justice has not been achieved under the sovereignty of law. There are internal and external sides of the proposed change in the nature and role of jurisdiction in the kind of modern Islamic communities. The internal side includes theoretical or religious discussions about the logic or justification of change, and means of bearing change shock in the life of individuals and communities. The internal side also includes the available social and political "field" for these discussions and experiment ideas and new living methods. The deep-rooted acceptance and the effective application for international principles of human rights will be necessary and vital for all aspects of social change and cultural convert.

According to the external side, any community feels threat or suffers from an attack, deepens in its mind the principle of sieging , where the individuals and groups become preferring to protection and fortification including traditional methods in understanding and explaining objects. According to this view, the foreign policy of the UN contributes in reducing the necessities of convert and the social change, in addition to enhancing the sense of the outside threat which encourages to fortify in narrow mind. It also encourages doubting in truth of the international principles of human rights whether it was supporting restraint systems as the Kingdom of Arab Saudi, or giving power to rule system as in Iraq to strengthen its sovereignty by adopting the foreign pressure of sanctions , and threatening continually of waging air attacks as being justifications for its actions. These short term consequences increase now because of the military campaign in Afghanistan.

The recent failure of commitment of the international legal legislation confuses the political imposition, and the political concept from whom

emanates the debate about the traditional practice, and understanding struggle in the Islamic society.

The challenge of the American (struggle) to the international legal legislation:

I do not propose here that the UN stands impotent toward repeated and terrible attacks against its citizens and its benefits in and out. Also, I do not get any deduction about justification or justifications for its military campaign against Afghanistan, but simply my situation is that the actions of the UN since 7 October are not acceptable as considering it copes with the international legal legislation only if it was submitted to scrutiny, and complied to the procedural and institutional requirements of this international system. Whatever the justification or the justifications which may be created to justify the UN actions, and it cannot consider to be an entitlement to the UN to behave as prosecution, judge, witnesses and executive corporation in a case pertain to it, and in spite of this, it continues prosecution using the international legal legislation.

In spite of the detailed evaluation of this legal legislation has not been included in this chapter, so it is important to notice that the limited activities of the International United Nation Security Council, according to this regard, assert the deficiency of the international legal legislation. The Security Council adopted two decisions before 7 October: decision No 1368 dated in 12 September 2001, and decision No 1373, dated in 28 September 2001. The first decision condemned simply the attacks, and decided to "continue to pay attention to the topic", while the second decision asserted the right to defend the self primarily, and it does not approve using power according to the seventh chapter in the UN Charter. In my opinion, the failure of the international legal legislation is concealed in the American military campaign started seven weeks from 11 September attacks, and continued more than three months (until writing these lines), and in spite of this, the International Security Council does not empower or approve or denounce any actions, and not to mention this conduct to maintain the international peace and security according to the UN Charter.