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Preventive Approaches of the Islamic Republic of Iran in Combating the Financing of Terrorism with an Emphasis on International Documents

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Extended Abstract

Terrorism in today's world has become a multidimensional phenomenon, and terrorism financing, as one of the fundamental challenges to the international security system, has targeted not only the domestic stability of countries but also collective security. In this regard, the Islamic Republic of Iran, considering its geopolitical conditions and surrounding threats, has formulated criminal and preventive policies to combat this phenomenon. The present research has been conducted with the aim of analyzing Iran's preventive approaches in combating terrorism financing and their alignment with the standards of international documents. To achieve this goal, a descriptive-analytical method has been used, relying on the analysis of legal documents, domestic laws, and international conventions.

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Legislative challenges arising from the lack of a single and universal definition of the concept of terrorism have faced difficulties in the full implementation of international standards. The Islamic Republic of Iran, as a country that has itself been a victim of terrorism, has designed a unique legislative model within this ambiguous context, which not only has not fallen behind global standards but has also introduced effective legislative innovations into its legal literature across many supervisory layers. With the understanding that definitional ambiguity can be used as a political lever against states, it has sought to localize norms. This national approach is, in fact, a reaction to attempts that intend to isolate legitimate regional resistances under the guise of terrorism.

In international documents, including the 1999 New York Convention, special emphasis has been placed on the importance of tracking financial flows and identifying the identities of actors involved in transactions. The legal system of Iran, by accepting part of these norms and integrating them into domestic laws, has traversed a path in which financial institutions are defined as the front line of the combat. The country's legislative transformation in the years 2007 and 2015 is considered a turning point in this path, which was carried out with the aim of directly criminalizing terrorism financing and creating legal frameworks for institutional supervision. In these laws, the traditional concepts of combating money laundering have expanded and extended to the sensitive field of terrorism financing. The main basis of the argument of this research is built on the assumption that prevention in the field of terrorism financing, before being a judicial matter, is a "supervisory and financial" process.

In the past, the focus of the legislator was mainly on punishing the perpetrators after the commission of a crime, but with the legislative developments of recent decades, particularly by relying on the experiences gained from anti-money laundering laws and their elevation to the level of combating terrorism financing, this approach has undergone a fundamental change, and the legal system of Iran has not merely relied on passive modeling in designing preventive mechanisms. Prevention in Iran's system is a combination of adhering to technical banking standards and maintaining ideological and political boundaries, which is reflected in the country's criminal legislation; the Islamic Republic of Iran has adopted a combined approach (criminal and non-criminal) in which criminal prevention is highlighted through laws such as the “Counter-Terrorism Financing Law” passed in 2015 and its subsequent amendments in 2018. Studies show that despite the lack of formal accession to the 1999 New York Convention, Iran has integrated its key provisions into its domestic law.

In this regard, a significant portion of the Iranian legislator’s efforts in drafting preventive rules has been focused on controlling suspicious financial flows. These preventive measures in Iran’s legal system, beyond mere criminalization, have proceeded to create supervisory structures to identify the roots of terrorism financing for terrorist groups. One of the key points that must be mentioned is the role of financial institutions and the responsibilities assigned to them in domestic laws. The Counter-Terrorism Financing Law, by utilizing previous legal experiences in the field of combating money laundering, has designed mechanisms that attempt to ensure alignment with global standards alongside the preservation of national authority. In fact, an analysis of the governing regulations shows that Iran’s approach, in the link between criminal measures and administrative supervisions, seeks to block existing gaps in the path of financing terrorist activities. However, the analyses of this research indicate that the existing challenges are not merely limited to legal texts and also have their own specific complexities in implementation. The article emphasizes that the Iranian policymaker, despite these challenges, has sought to design a framework compatible with national security by relying on domestic legal and jurisprudential (Fiqh) sources.

In completion of the previous discussions, this research insists precisely on the point that the preventive system in the Islamic Republic of Iran is the product of an evolutionary legislative process, shaped in response to national security needs and international structural pressures. A comparison between the provisions of the 1999 Convention and domestic law indicates that the Iranian legislator has taken effective steps in the field of “criminal liability of legal persons,” which is aligned with global standards for combating terrorism financing. However, the article emphasizes that one of the main obstacles in the path of full implementation of these standards is the flexible yet ambiguous nature of the concepts mentioned in international documents.

Furthermore, it should be noted that the position of the 1999 New York Convention within Iran's legal system is one of the contentious focal points of this research. Although Iran has, in practice, reproduced many of the norms arising from this Convention in its national laws, its lack of formal accession stems from precise legal and political considerations regarding the definitions and instances of terrorism. This research clearly argues that the Iranian legal system, by adopting a "maximalist prevention" approach, has sought to combat terrorism financing networks without harming national sovereignty. From the perspective of this article, preventive measures are not limited solely to the criminal sphere; rather, they encompass a broader range of banking and financial supervisions in which the "Financial Intelligence Unit" (FIU) plays a pivotal role. The comparative study conducted in this research indicates that the Iranian model shares significant commonalities with the models prevalent in international conventions regarding the "supervision of natural and legal persons." Nevertheless, in the section of the definition of terrorism, conceptual gaps exist between what is recognized as a unified standard in international documents and what is accepted in domestic law. This research states that the Iranian legislator has preferred, instead of accepting external definitions, to interpret concepts based on its own legal principles in a manner that prevents political or legal abuses. Additionally, this article emphasizes that the fight against terrorism financing must be based on balanced international cooperation, such that the unilateralism of certain international financial institutions does not violate the rights of developing countries or countries under sanctions.

In the final part of the analyses, we conclude that despite all legislative and executive challenges, the Iranian legal system has experienced a forward movement in aligning its structures with preventive requirements over the last decade. The creation of databases of persons at risk and the obligation of financial institutions to provide rapid reporting are among the achievements of this legislative process. The final emphasis is on the fact that terrorism grows in a context of financial concealment. Therefore, any step taken toward the transparency of financial flows is a step toward undermining the foundations of terrorism. The Iranian policymaker must guide this process with a proactive outlook so that the country, in its challenging regional environment, ensures its security as a law-abiding yet intelligent actor. Under the shadow of this integrated approach, a vision can be achieved in which the country's financial system is not only secured against terrorism financing threats but also becomes a model for other developing countries. This research suggests that to exit interpretive deadlocks, there is a need for an international legal discourse based on a common and non-political definition of the concept of terrorism. Furthermore, expanding the scope of "preventive measures" without considering the legal differences between systems will lead to inefficiency at the implementation level. Therefore, the strategy of the Islamic Republic of Iran must continue to be based on strengthening the rule of law domestically, alongside active legal diplomacy in the international arena, to combat terrorism financing threats while utilizing legal capacities to preserve national interests.

Key words: Financing of Terrorism, Terrorism, Criminal and Non-criminal Prevention, Islamic Republic of Iran, Preventive Policy.

Conflict of Interest

The authors declare that there is no conflict of interest in conducting this research study.