

## **"The Arab Convention for Counterterrorism: Confronting Violence, Threat, Harms, and Preserving General Security and Peace."**

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### **Abstract**

The phenomenon of terrorism is a global issue that transcends geographical boundaries and affects various societies around the world. Terrorist attacks and violent acts committed by terrorists pose a serious threat to public security and stability.

Multiple complex and intertwined factors contribute to terrorism, including political, social, economic, religious, and cultural factors. Extremist ideologies and ethnic, religious, or cultural tensions can be exploited to justify violence and terrorist attacks.

Countries affected by terrorism deal with this complex phenomenon seriously. Strict legal and security measures are taken to combat terrorism and mitigate its negative impacts. These measures include enhancing international cooperation in counterterrorism, exchanging information and expertise, strengthening security and intelligence capabilities, and enhancing domestic legislation to combat terrorism and prosecute those involved.

Furthermore, many efforts focus on combating terrorism through awareness and education. Democratic values, human rights, and cultural diversity are promoted as means to counter extremist ideologies and prevent their spread. Educational and awareness initiatives foster a deeper understanding of coexistence, tolerance, peace, and promote values of tolerance and openness.

In addition, communities affected by terrorism focus on supporting and rehabilitating victims and providing psychological and social support to affected individuals and communities. Building resilience, solidarity, and community cooperation are essential in overcoming the effects of terrorism and rebuilding affected communities.

Ultimately, combating terrorism requires multidimensional and integrated efforts from governmental entities, civil society, and international institutions. These efforts should aim to address the root causes of terrorism, strengthen public security and stability, promote justice, human rights, and sustainable development as means to counter terrorism and prevent its future spread.

**Key words :** Terrorist crime, Moroccan legislator, Criminal Law.

### **Introduction:**

**Objectives:** There is no doubt that terrorism is a global criminal phenomenon, not specific to place or time. At the same time, terrorism is considered a serious crime that threatens the security of societies in the world, due to the turmoil and chaos it causes.

In this context, terrorism, according to the Arab Convention to Combat Terrorism (1), represents every act or threat of violence, regardless of its motives or symptoms, that occurs in implementation of an

individual or collective criminal project, and aims to spread terror among people, or intimidate them by harming them or endangering their lives, freedom, or security. To endanger or cause damage to public and private facilities and property.

In view of the negative effects and social unrest that the terrorist crime causes, countries (2) threatened by terrorism have taken the initiative to study this crime from all aspects, and to develop a legal framework that regulates it and limits its seriousness.

At the international level, especially after the terrorist attacks of September 11, 2001, in the United States of America, the powers granted to the government were expanded to pursue and prosecute those suspected of being terrorists, and all countries were warned of the danger of terrorism.

At the national level, after the tragic events that took place in Casablanca on May 16, 2003, the Moroccan legislator took the initiative to bring into existence in a short time a new law regulating the terrorist crime under No. 03.03(3), according to which the provisions of the Criminal Code were amended by adding Part One bis "Terrorism."

In view of the development of the terrorist crime and the emergence of the so-called Islamic State in Iraq and the Levant (ISIS), and the frequent talk about this terrorist organization and praise for its criminal acts, the Moroccan legislator hastened to change and supplement the requirements of Law 03.03, in accordance with Law No. 86.14(4), related to combating terrorism, by criminalizing Propaganda, praise or promotion of terrorist organizations.

**Accordingly, to what extent can we talk about terrorist crimes in Moroccan legislation?**

**A number of questions arise from this problem, as follows:**

What is a terrorist crime and what is its nature? Or how can it be distinguished from similar crimes? What are the necessary elements for a terrorist crime to be committed? What are the penalties for committing a terrorist crime? What is the judicial authority responsible for terrorism cases? What are the procedures that can be followed in this section?

**The problem will only be answered through two topics:**

The first section: The concept of terrorist crime and its elements

The second section: penalties and provisions for terrorist crimes

**The first topic:** The concept of terrorist crime and its elements:

Through this study, we will address the concept of the terrorist crime (**the first requirement**), and the necessary elements for the terrorist crime to occur (**the second requirement**).

**The first requirement: the concept of terrorist crime**

The concept related to the crime of terrorism can be addressed by defining the terrorist crime (the first paragraph), and determining its nature by distinguishing the terrorist crime from similar crimes (the second paragraph).

**The first paragraph:** Definition of the terrorist crime

If the crime(5) in general, according to jurists, is every act or omission that the legislator has committed as a crime in one of the criminal texts, and has prescribed a punishment or preventive measure for it because it causes social disturbance, and this act or omission is issued by a person capable of criminal accountability.

If the crime is an act or omission that violates the criminal law and is punishable under it, according to the requirements of Chapter 110 of the Moroccan Criminal Code.

If criminal legislation is the one that defines human actions that are considered crimes, due to the social disorder they cause, and requires that their perpetrators be punished with penalties or preventive measures, according to the requirements of Chapter 1 of the Moroccan Criminal Code, then what is the legal definition of a terrorist crime? What actions are considered terrorist crimes?

Referring to the provisions of Law No. 03.03 relating to combating terrorism, especially Chapter 1-218, we find that it does not define a terrorist crime, but rather enumerates the acts that constitute a terrorist crime whenever they have an intentional relationship with an individual or collective project that aims to seriously harm public order through intimidation, intimidation, or violence.

Hence, it is clear that the Moroccan legislator did not define the crime of terrorism as a crime in itself, but rather defined it through the goal it aims to achieve, that is, the goal of the person committing it, as the aforementioned chapter stipulates that: "The following crimes are considered terrorist acts, if they are related to Intentionally carried out by an individual or group project that aims to seriously harm public order through intimidation, intimidation or violence(6).

**The legislator has attached to this definition a long list of criminal acts that constitute a terrorist crime. These crimes are as follows:**

First: The crimes specified in Chapter 1-218 are:

1. Intentionally assaulting people's lives, safety, or freedoms, or kidnapping or detaining them.
2. Counterfeiting or counterfeiting money or public loan bonds, or counterfeiting state seals, stamps, stamps, or marks, or counterfeiting or counterfeiting stipulated in Chapters 360, 361, and 362 of this law.
3. Vandalism, defect or damage.
4. Diverting or damaging aircraft, ships, or any other means of transportation, or damaging air, sea, or land navigation facilities, or damaging, sabotaging, or damaging means of communication.
5. Theft and extortion of money.
6. Manufacturing, possessing, transporting, promoting or using weapons, explosives or ammunition in violation of the provisions of the law.
7. Crimes related to automated data processing systems.
8. Forgery or falsification of checks or any other means of payment referred to respectively in Articles 316 and 331 of the Code of Commerce.
9. Forming a gang or agreement in order to prepare or commit an act of terrorism.
10. Hiding items obtained from a terrorist crime while knowing it.

Second: The crimes specified in Chapter 1-1-218 are(7):

- Joining or attempting to join, individually or collectively, in an organized or unorganized context, with terrorist entities, organizations, gangs, or groups, whatever their form, purpose, or location, even if the terrorist acts do not aim to harm the Kingdom of Morocco or its interests.

- Receiving training or training, whatever its form, type, or duration, inside or outside the Kingdom of Morocco, or attempting to do so, with the intention of committing a terrorist act inside or outside the Kingdom, whether the aforementioned act occurred or not.

- Recruiting, training, or training one or more people by any means in order to join terrorist entities, organizations, gangs, or groups inside or outside the Kingdom of Morocco, or attempting to commit these acts.

Third: Crimes specified in Chapter 2-218:

It consists of praising acts that constitute a terrorist crime through speeches, shouting, or threats spoken in public places or meetings, or through writings and publications sold, distributed, offered for sale, or displayed in public places or meetings, or through posters displayed to the public through various audio-visual media. And electronic.

Fourth: Crimes specified in Chapter 3-218:

It consists of introducing or placing a substance that endangers human or animal health or the environmental sphere, in the air, on land or in water, including territorial waters.

Fifth: Crimes specified in Chapter 4-218:

Which is the financing of terrorism, and also intentionally and by any means, directly or indirectly, providing, offering, collecting or managing money or property, even if it is legitimate, with the intention of using it or knowing that it will be used, in whole or in part, to commit a terrorist act or acts, whether it occurs. Whether or not the terrorist act occurred, or by a terrorist group, gang, or organization, or providing assistance or advice for this purpose(8), or attempting to commit the aforementioned acts.

Sixth: Crimes specified in Chapter 5-218:

Which consists of using any means to persuade others to commit one of the crimes stipulated in Law 03.03 relating to combating terrorism, or to push them to commit it or incite them to do so.

Seventh: Crimes specified in Chapter 6-218:

This is represented in cases of participation in general, stipulated in Chapter 129 of the Criminal Code, and in the intentional provision to anyone who commits a terrorist act or contributes or participates in it, weapons, ammunition, tools for carrying out the crime, cash assistance, means of subsistence, correspondence, or transportation, or a meeting place. Or living or hiding, and anyone who helps him dispose of what he obtained from his criminal work, and anyone who provides him with any kind of assistance while knowing this.

Eighth: Crimes specified in Chapter 8-218:

It is the failure to report a terrorist crime. What is noticeable in this context is that the legislator in Chapter 1-218 expressed the crimes that are considered terrorist acts, and in the following Chapter 1-1-218 he expressed the acts that are considered terrorist crimes, as if suggesting to us that there is a difference between Terrorist acts and terrorist crimes, and this may pose a problem.

Since the Moroccan legislator did not define the concept of terrorism, leaving room for jurisprudence and specialists in the field, there is no harm in reviewing some definitions related to terrorism and terrorist crimes for reference.

Among the definitions, we find the definition adopted by the relevant committee in charge of international terrorism of the United Nations General Assembly, as well as the definition expressed by the body of international jurisprudence and based on international scientific practice, which views terrorism as: “an attack on lives, funds, and public or private property in violation of the provisions of the law.” Public international law in its various sources, including general principles of law within the meaning of Article 38 of the Statute of the International(9) Court of Justice.

The French legislator defined terrorism as follows: “Terrorism(10) is a violation of the law committed by an individual or a group organization with the aim of causing a serious disturbance in public order through the threat of intimidation.

**In general, it can be said that a terrorist crime has two elements:**

The first element is physical, and is represented by the acts of violence that constitute it, such as throwing bombs and explosives, acts of sabotage and destruction, and acts of seizure, kidnapping, and detention.

The second element is moral, and is evident in the psychological impact that the act has on the souls of the general public, which is the fear, terror, and panic that accompany the actions resulting from the terrorist crime.

If a terrorist crime, according to Moroccan legislation, is any individual or collective project that aims to seriously harm public order, then what is the nature of this crime? This is what we will see in the next paragraph.

**The second paragraph: The nature of the terrorist crime:**

Determining the nature of the terrorist crime is not an easy matter, as it requires research to distinguish it from similar crimes. Therefore, determining the nature of the terrorist crime raises the following question: Is the terrorist crime a political crime or an ordinary crime? Or is it a crime of a special nature? In other words, what is the location of the terrorist crime among other crimes?

**First: Terrorist crime and organized crime(11):**

Terrorist crime is defined as (criminal acts committed by a number of professional persons using modern scientific means and equipment, and huge sums of money, with thoughtful planning and scientific organization, with the intention of achieving economic goals) (12).

**. Similarities between terrorist crime and organized crime:**

- Both crimes seek a policy of terror and intimidation among individuals and governments alike(13)
- In both crimes, there is secrecy in the organization, chain of command, and an authority hierarchy(14)

The similarity between and cooperation between terrorist organizations and organized crime groups is not limited to the exchange of experiences, but rather extends to cooperation and exchange of activities. Organized gangs actually solve one of the most important problems of terrorist groups, which is obtaining weapons.

**2. The differences between terrorist crime and organized crime:**

Although the two crimes share many points, there remains a difference between the two crimes, which is evident as follows:

In terms of the goal: Organized crimes aim to obtain the largest amount of money by various means, while the goal of terrorists is generally political and not to make money, although some consider money to be the backbone of terrorism(15).

- In terms of the location: Some believe that the location of the two crimes is different, as while the impact of the crime in organized gangs does not extend beyond its victims, while the impact of a terrorist crime extends beyond its victims and affects the entire society.

- In terms of the direct goal: There is a difference in the direct goal of the crime. While the victim (individuals or governments) is the target in organized crimes, the victims in terrorist crimes, especially individuals, are usually not the ultimate goal of the terrorist criminal.

### **Second: Terrorist crime and political crime:**

Political crime is defined as “crimes whose commission is politically motivated, or which are committed for a political purpose or political motive, even if they include acts such as ordinary crimes such as murder and sabotage. Some consider every crime committed against the state a political crime as long as it threatens its internal or external safety, and these are crimes related to... Usually due to political unrest(16).

#### **. Similarities between terrorist crime and political crime:**

Both terrorist crime and political crime participate in the act of violence, in which the criminal uses violent means(17).

The penalties and measures applied to a political crime are almost the same as those to which a terrorist crime is subjected (death penalty, deprivation of liberty and fines, deprivation of national rights). The same can be said at the level of punishment implementation.

- The Moroccan legislator has often attached the terrorist crime to the crime of harming state security, which is a political crime in nature (Articles 59, 80 and 102 of the BC, amended under the Anti-Terrorism Law).

### **2. The differences between a terrorist crime and a political crime:**

- The legal requirements related to the extradition of criminals (Article 721 of the Q.S.C., as well as the international agreements on the subject) exclude political crimes and crimes related to them from extradition, while the matter does not apply to terrorist crimes.

- If a political crime cannot be imagined to be committed by a natural person, then according to the Terrorism Law (03.03), a terrorist crime can be committed by a legal person(18).

- The method used in the terrorist crime is a terrible and cruel method that targets innocents and public order as a whole, and this is something that we do not see in a political crime. The terrorist who kills dozens of innocent people does not have the ultimate goal of killing innocent people, but rather to destabilize stability in general. As for the criminal act related to the crime, Politics, such as the assassination of a political figure, is directly linked to the ultimate goal of changing the existing political system (19).

Based on the above, it can be said that it is unlikely to classify a terrorist crime as an organized, political, or ordinary crime, given the heinousness of some of the acts that constitute it (such as killing

innocent people, spreading fear, terror, and intimidation, and destabilizing), as there is an intersection in the terrorist crime between what is a political crime. And ordinary crime.

This is why our professor Jaafar Al-Alawi believes that terrorist crimes constitute a special type of crime, and although it is ancient in its manifestations, it is modern in some of its methods and organization.

What confirms that the terrorist crime is of a special nature are the legal requirements stipulated in Moroccan legislation that are printed with severity and strictness, and this is clearly evident in the following:

- The penalties assigned to it compared to other similar crimes(20).
- The Anti-Terrorism Law departs from the rules established by the Code of Criminal Procedure with regard to some procedures(21).

Assigning jurisdiction to the Rabat Court of Appeal for terrorist crimes(22), unlike other crimes that are subject to the normal rules of jurisdiction (spatial jurisdiction).

This is about the concept and nature of the terrorist crime. What about the necessary elements for its occurrence? This can be explained in the second requirement.

### **The second requirement: Elements of a terrorist crime:**

Talking about the necessary elements for a terrorist crime to occur requires us to address its legal (first paragraph), material (second paragraph), and moral (third paragraph) elements.

#### **The first paragraph: The legal element of the terrorist crime:**

The legal (or legal) element of a crime means - in general - that an act or omission may not be considered a crime, unless there is an explicit legal text prohibiting the commission of this act or omission (the positive side of the legal element). However, considering the act or omission a crime under a text of... Criminal texts alone are not sufficient to consider their perpetrator a criminal and hold him accountable. Rather, it is necessary that (the act or omission) not be subject to any reason for justification or permissibility (the negative aspect of the legal element).

If the above requirement applies to ordinary crimes, does the same requirement apply to the legal element of a terrorist crime?

What should be pointed out in this regard is that the legal element in the terrorist crime has a special, exceptional character compared to other criminal acts in view of a set of considerations justified by the specificity of this type of crime, and it revolves around two important elements(23).

**The first:** It is represented by the obligation to criminalize the terrorist act according to a special penal text. According to the legal, jurisprudential and classical principle that “there is no crime and no punishment except by an explicit legislative text,” it was impossible to punish terrorist crimes under the old Moroccan criminal law, as this type was not addressed. Of crimes, and therefore there was a problem in pursuing these crimes due to the presence of a legislative vacuum in the criminal law, and the reason why the Moroccan legislator did not enact or provide for such crimes may be due to the fact that Morocco was immune to these crimes until Morocco was targeted in 2003.

In the face of this inevitable fact, it was necessary for the Moroccan legislator to keep pace with the approach followed by most comparative legislation. In this context, the Kingdom of Morocco took the initiative, immediately after the events in Casablanca on May 16, 2003, to enact Law No. 03.03 related

to combating terrorism, as a national law specifically for combating terrorist crimes. And combating it, thus completing the legal pillar of the terrorist crime under the modern legislative system, in application of the principle that there is no crime and no punishment except by a legislative text in accordance with the requirements of Chapter Three of the Criminal Code(24).

**The second:** It is represented in not imagining that the terrorist crime is subject to reasons of justification or permissibility, as is the case with other crimes in accordance with the requirements of Chapter 124 of the Criminal Code(25).

Accordingly, the legal pillar of the crime of terrorism is Law No. 03.03, relating to combating terrorism, both substantively and formally.

### **The problem remains in this regard on two basic points:**

**The first:** It relates to the general and broad concept of public order stipulated in Chapter 1-218 of the Anti-Terrorism Law. Is every crime that takes the form of a deliberate project aimed at seriously harming public order, by intimidation, intimidation, or violence in the souls of the nation, considered a terrorist crime? Or must the acts and crimes specified exclusively in the law relating to combating terrorism be adhered to?

**Second:** At the time of the terrorist events in Casablanca on May 16, 2003, Law No. 03.03 relating to combating terrorism was enacted, which was applied retroactively to those involved in these events. Therefore, this retroactive application is not considered a violation of the principle that "it cannot be applied." "Retroactive law"? Or is the country's interest in this case more important than implementing the law?

What is best for the accused?

This is about the legal element of the terrorist crime. What about the material element of this crime?

### **The second paragraph: The material element of the terrorist crime:**

The Moroccan legislator punished the perpetrator of the crime because of the social disorder it causes, whether in its positive or negative form.

The article element of a terrorist crime(26) is considered the most practical element in the occurrence of this type of crime. If the general rule justifies the prohibition of a terrorist crime due to the social disorder it causes, in the form of terrorizing the general public and spreading panic and fear among them, then this disorder is impossible to imagine or materialize on the ground. In reality, unless the terrorist actor commits a material activity, whether in the form of an action, as is the case with the enumeration contained in Chapter 18-218 of Law 03.03, or in the form of omission, as is the case with failure to report a terrorist crime (Chapter 8-218).

If the rule regarding the material element of a crime is that it consists of three elements: criminal behavior, a criminal result, and a causal relationship, then how can we discover these elements through a terrorist crime?

#### **1. Criminal behavior in terrorist crime:**

According to the provisions of Chapter 1-218 of Law 03.03, criminal behavior in a terrorist crime is an act or group of terrorist acts linked to an individual or collective project aimed at seriously harming public order and destabilizing public security.



Also, this act or behavior may be words, writing, or actions, including, for example, the glorification of terrorism. Moreover, this behavior does not require a certain degree of seriousness, as it can be achieved by merely spreading deviant and inciting ideas. Rather, it is sufficient for the possibility of criminal accountability to like some pages on websites. Social networking (Facebook, for example) for terrorist groups and organizations on the basis that admiration is tantamount to approval and recognition.

## **2. The criminal consequence of the terrorist crime:**

The criminal result is what happens in the outside world as a result of criminal behavior, and it is divided into two parts: a material result that is achieved by creating any change in the external world resulting from the criminal behavior, whether this change affects people or things, and a legal result that represents an attack on the interest it protects. law or harm it. In both cases, the result of a terrorist crime is manifested in two things: the existence of a state of danger that threatens public order, and the occurrence of damage.

Accordingly, the legislator does not care about the type of means used in the terrorist crime, but rather the result that it produces, which is instilling terror and fear in the souls of citizens and creating a danger that threatens public order through terror, intimidation, or intimidation. Moreover, this result is not required to be achieved in most cases, because the terrorist crime finds itself among Formal crimes and material crimes. The evidence for this is that we often hear in the media that such and such a terrorist plot has been thwarted, and the suspects will be brought to justice as soon as the investigations are completed under the supervision of the competent Public Prosecution.

## **3. The causal relationship between behavior and criminal outcome in a terrorist crime:**

The causal relationship between criminal behavior and the criminal result means that there is a link between them, and the causal link exists when the resulting result is likely to occur according to the normal course of things. That is, it is not required that the perpetrator expected or wanted the result. Rather, the causal relationship is an objective element that is understood from the nature of the course of events. The occurrence of the crime or the possibility of its occurrence, and the perpetrator's knowledge and expectation of it have nothing to do with it.

Given the multiplicity of terrorist crimes and their division between formal crimes and material crimes, that is, crimes of danger and crimes of harm, the effect and necessity of the existence of a causal relationship raises several problems at this level.

However, the availability of the legal and material element of the crime is not enough. Rather, the moral element must also be present.

### **The third paragraph: The moral element of the terrorist crime:**

The mere establishment of an individual or collective project that aims to seriously harm public order by means of intimidation, intimidation or violence is not required for a terrorist crime to occur, even if the criminal images are realised.

stipulated in this part. Rather, the element of premeditation must be present by the criminal perpetrator, which is termed the moral element of the terrorist crime.

The moral element of a terrorist crime is what is called criminal intent, and criminal intent (as in some jurisprudence) is "the psychological force behind the criminal activity with which the perpetrator

voluntarily targeted an attack on one of the interests protected by the criminal legislator(27),” and what concerns us is the criminal intent in the crime. Terrorism, both public and private.

### **First: General criminal intent in a terrorist crime:**

The general criminal intent in a terrorist crime does not deviate from the elements that make up every criminal intent, depending on the nature of the crime, and these elements are manifested in will and knowledge.

**1. Will:** In a terrorist crime, the will of the perpetrator must be directed towards achieving the criminal behavior and the criminal result of preparing a project that exposes citizens and institutions protected by law and public order to danger.

**2. Knowledge(28):** The presence of will, knowledge, behavior, and result is not sufficient for the criminal intent of the terrorist offender to be complete. Rather, the offender’s knowledge must be aware, while engaging in the criminal activity, of every fact whose presence results in the existence of the crime, and among these facts are:

- Knowledge of the incident that produced the activity: In terrorist crimes directed against individuals, the perpetrator must be aware that his action violates the victim’s right to life.
- Expect the outcome: The perpetrator who throws a bomb in a hotel or café, or blows up a car into a crowd of people, must know that the death of innocent people is a direct result of the act of the bombing he carried out.
- Expecting a causal relationship: For example, someone who bombs a cafe crowded with people is expected to result in the death of a large number of people.

Finally, knowledge of the aggravating circumstances of the crime.

### **Second: Criminal intent related to the terrorist crime:**

Special criminal intent acquires exceptional importance in a terrorist crime because of the presence of a specific purpose in the perpetrator that distinguishes terrorist crimes from other crimes.

Terrorist crimes are originally ordinary crimes stipulated in all national criminal legislation, but the advantage of these crimes is the presence of a goal that goes beyond the general elements of criminal intent. Killing a person or killing a policeman is considered a normal crime, but if this killing is associated with a special goal of the perpetrator, Usually the intention is to intimidate and terrorize and not kill itself, so we are faced with a terrorist crime.

It is clear from what was mentioned that the specific intention in terrorist crimes is to intimidate and spread terror among people in order to achieve terrorist goals. Terrorist crimes are characterized by the presence of two intentions, the first of which is direct and short, which is killing or destroying public funds, and the second is the long-term goal, which is to plant terror in the hearts of people in order to reach goals and objectives. Criminal

Therefore, whenever a terrorist crime meets the above-mentioned elements, the penalties and provisions specific to this crime must be known, which is what we will address in the second section.

### **The second section: Penalties and provisions for terrorist crimes:**

The approach taken by the Moroccan legislator to punish terrorist perpetrators is evident in two different methods. The first requires referral to the penalties prescribed for ordinary crimes in the

criminal law, with an emphasis on them whenever these crimes are characterized by a terrorist character. As for the second method, it concerns some independent terrorist crimes, for which the Moroccan legislator has allocated penalties. Especially

In addition to that, the legislator has decided special provisions for punishment, taking into account the specificity of this crime, such as approving mitigating circumstances and excuses exempting from punishment, in order to encourage and reward its perpetrators, in the event that they voluntarily refrain from completing their criminal project or assist the authorities in uncovering its perpetrators, whether before attempting to commit it or after its implementation and before Filing a public lawsuit.(29).

Accordingly, we will divide this topic into two requirements: the penalties and measures prescribed for terrorist crimes (a first requirement), and defining some provisions for punishment in terrorist crimes (a second requirement).

**The first requirement: Penalties and measures prescribed for a terrorist crime in Moroccan legislation:**

Since the enactment of the Terrorism Law and its entry into force, and the clarification of the requirements for its application and the penalties prescribed for the crimes contained therein, it will not be possible in the future for anyone to protest or cling to a failure to comply with its requirements or the severe penalties stipulated therein based on Article 2 of (Q.C).

Referring to Law No. 03.03, related to combating terrorism, it becomes clear that the penalty for terrorist crimes is either a criminal penalty, or a misdemeanor penalty, and then it is either an original penalty or an additional penalty. We also find that the legislator stipulated in the same law preventive measures aimed at protecting society. Of the danger inherent in some individuals who are predisposed to commit acts that lead to social disorder.

**The first paragraph: Original penalties:**

Tracking the penalties stipulated in the Anti-Terrorism Law will lead to an important field observation, the first slogan of which is strictness and strictness, in line with the specificity and exceptional seriousness that is associated with the terrorist crime. Its goal is to rebuke the terrorist criminal and deter him from committing such crimes that undermine the security and interests of the group. .

Referring to Articles 218-2 and 218-8, we find that they specify the original penalties for new terrorist crimes, which are as follows:

criminal act	The legal framework	Punitive penalty	note
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Crimes of praising terrorist acts through speeches, shouting, or threats spoken in public places and meetings, through libraries and publications sold, distributed, or offered for sale in public meetings, or through posters or media outlets.	Chapter 2-218 of Law 03.03	Imprisonment for two to six years and a fine of 10,000 to 20,000 dirhams	-----
Crimes of harming the environmental environment, by introducing or placing a substance that endangers human or animal health or the environmental sphere	Chapter 3-218 of Law 03.03	Imprisonment from 10 to 20 years, in the normal case, and life imprisonment in the case that results in the death of one or more people	The Moroccan legislator has tightened the punishment. If the crime results in a permanent disability or results in death, the penalty shall be death.
Crimes of financing terrorism and providing assistance or advice for this purpose	Chapter 4-218 of Law 03.03	For natural persons from 5 to 20 years, a fine of 500 thousand to two million dirhams, and total or partial confiscation of persons, and a fine of one million to five million dirhams.	The prison sentence is increased from 10 to 30 years and the fine to double when it is combined with one of the aggravating circumstances: when it is committed within the framework of an organized gang, a case of recidivism, when it is committed using the facilities provided by the practice of a professional activity.
Intentionally providing any type of assistance to the perpetrators of a terrorist act, whether they are the original perpetrators, contributors, or participants.	Chapter 6-218 of Law 03.03	Imprisonment from 10 to 20 years	It is permissible to exempt relatives and in-laws of the perpetrator up to the fourth degree if they provide him with housing or personal means of subsistence only
The crime of not reporting a terrorist crime	Chapter 8-218 of Law 03.03	Normal person: from 5 to 10 years Legal person: a fine of 100 million dirhams	It is permissible to exempt relatives and in-laws of the perpetrator up to the fourth degree
The crime of persuasion and incitement to commit a terrorist crime	Chapter 5-218 of Law 03.03	Total confiscation of objects, tools and property that were used or were to be used in committing the crime and the proceeds derived from it.	The Moroccan legislator emphasized mere persuasion in this crime, unlike ordinary crimes

### Second paragraph: Additional penalties:

The additional penalty shall be in accordance with Article 14 of the Moroccan Code when it is not justifiable to rule alone, or when it results from the ruling of an original penalty, except for the newness that the legislator introduced at the level of Law No. 03.03 relating to combating terrorism, especially with regard to Articles 40 and 44 of the law. Criminal, and these additional penalties in relation to a terrorist crime can be limited to two matters:

1. Temporary deprivation from exercising some national, civil, or family rights, as it stipulates that the courts may, in legally prescribed cases, if they rule for a misdemeanor penalty, deprive the convict for a period ranging between one and ten years from exercising one or several national, civil, or civil rights. If the matter is related to a terrorist crime, the same previous requirements apply if the court rules a misdemeanor penalty.
2. Partial confiscation of items owned by the convict, as Article 1-44 of the law stipulates that the court may order the confiscation of the convict's property or some of it if the matter is related to a terrorist crime.

Confiscation must always be imposed in a terrorist crime, even if the matter is related to acts considered misdemeanors or violations.

### Paragraph Three: Temporary Measures:

Given the importance of these measures, we find that the Moroccan legislator took them into account, and devoted special legal requirements to them, especially Articles 62-2 of Law 03.03, related to combating terrorism, and even stipulated that they must be activated when prosecuted for an act that constitutes a terrorist crime. These measures are:

Type of preventive measure	The legal framework	The punishment	note
Being forced to reside in a specific place	Chapter 70 of Article 03.03	Residence in specific places or circles from which it is not permissible to leave without a permit for the duration of the sentence imposed, provided that it does not exceed 5 years. If the matter is related to a terrorist crime, the period increases to 10 years.	In the case of a terrorist crime, the compulsion to reside in a specific place increases from 5 years to 10 years
Residence ban	Chapter 72 of Code 03.03	A ban may be issued in the case of issuing a penalty for a felony, but it is not permissible in a misdemeanor.	In the case of a terrorist crime, the measure of residence ban may always be imposed regardless of whether the matter relates to a felony or misdemeanor or whether the original sentence has been served.
Ineligibility to perform all public jobs or services	Chapter 86 of Code 03.03	Ineligibility to perform all public jobs or services if the matter is related to a terrorist crime	

**The second requirement: Provisions regarding the penalty for terrorist crimes:**

If deterrence is common in confronting crime in general, and terrorist crimes in particular, then a parallel policy approach aimed at encouraging cooperation with the authorities by establishing a reward for this behavior, represented by exemptions from punishment or reducing it by force of law, will undoubtedly contribute to containing terrorist crimes. .

From the above, it is clear that legal excuses are approved by a special text to prevent or mitigate punishment for some people who plan to commit terrorist crimes, and then change their mind before filing a lawsuit by informing them of these crimes as a result of circumstances and factors specific to the perpetrator. For this reason, we find that the legislator has implicitly referred to the possibility Provide the criminal with mitigating circumstances.

The competent court in this type of case has the possibility of exempting the criminal from punishment when it has evidence that there is an excuse in his favor that prevents the punishment prescribed by the law. It can also grant the offender the mitigating conditions stipulated in the same law.

**The first paragraph: Legal excuses exempting from punishment in a terrorist crime:**

To encourage perpetrators to withdraw from their terrorist projects and plans, the Moroccan legislator approved in the Anti-Terrorism Law provisions aimed at providing the criminal with an excuse that exempts him from punishment or reduces it if the conditions for that are met. These excuses are characterized by characteristics, the most important of which are:

- Legal excuses for a terrorist crime result in exemption from being subject to the punitive penalty. The legally exempt excuse for a terrorist crime benefits both the original perpetrator and the contributor or participant, and his relatives and in-laws up to the fourth degree can also benefit from it.

-The legal excuses for a terrorist crime range from permissible to obligatory (9-218)

Provided that we list these legal excuses that exempt people from punishment under Article 03.03, as follows:

<b>For a terrorist act</b>	<b>The legal framework</b>	<b>The beneficiary of the legal excuse exempted from punishment</b>	<b>The nature of the excuse exempt from punishment</b>	<b>Reasons for exemption</b>
Providing housing or personal means of livelihood only to the perpetrator, contributor, or participant in the terrorist crime	The last paragraph of Chapter 6-218 of Law No. 03.03	Relatives and in-laws of the perpetrator of the terrorist crime or the contributor or participant in it up to the fourth degree	permissible	Maintaining family ties and respecting their privacy
Failure to report a crime by	The second	Relatives and in-	permissible	Maintaining family

anyone who was aware of a plan or actions aimed at committing acts punishable as a terrorist crime and did not immediately report it as soon as he became aware of it.	paragraph of Chapter 8-218 of Law No. 03.03	laws of the perpetrator of the terrorist crime or the contributor or participant in it up to the fourth degree		ties and respecting their privacy
Detecting the existence of a criminal agreement or a gang to commit a terrorist crime before it is committed and before filing a public lawsuit	Chapter 9-218 of Law No. 03.03	The original perpetrator, contributor, or participant in the terrorist crime who intends, before anyone else, to report its plan to the judicial, security, administrative, or military authorities.	permissible	Motivating the perpetrator, contributor, or participant in the terrorist crime to withdraw from implementing his plan before the crime occurs

### **The second paragraph: Extenuating judicial circumstances in a terrorist crime:**

The Moroccan legislator touched on one case in which the penalty due for a terrorist crime is reduced, and the matter relates to Chapter 9-218 of Law No. 03.03, which stipulates that if the acts mentioned in the first paragraph of the aforementioned chapter are reported after the crime is committed, the penalty is reduced by half in proportion to For the perpetrator, contributor or participant, or who automatically presents himself to the aforementioned authorities, or who reports the contributors or participants in the crime.

According to the last paragraph of the above-mentioned chapter, if the penalty prescribed for a terrorist crime is continuous imprisonment, the penalty shall be reduced to 20-30 years.

Thus, the legislator has given the perpetrators an opportunity to reduce their punishment even after they have committed the terrorist crime, provided that they present themselves automatically without any resistance.

### **Paragraph Three: The court competent to apply the penalty for a terrorist crime:**

The Moroccan legislator hastened to issue Law No. 03.03, to confront cases of terrorism that are alien to Moroccan society, which disturb the comfort of citizens, and destroy the prosperity of the country's economy. This law included several procedures to prosecute those involved in the crime of terrorism.

Regarding the court competent for terrorist cases, the Moroccan legislator granted jurisdiction, regardless of the rules of jurisdiction established in the Code of Criminal Procedure or in other texts, to the Rabat Court of Appeal to follow up, investigate and judge terrorist crimes, in accordance with the requirements of the Terrorism Law, as the aforementioned court may, for exceptional reasons related to public security. It may hold its sessions exceptionally at the headquarters of any other court.

**Discussion :**

The research highlights the importance of addressing terrorism at both the international and national levels. After the September 11, 2001 attacks in the United States, governments around the world recognized the seriousness of terrorism and took measures to enhance their counterterrorism capabilities(30). These measures included granting expanded powers to pursue and prosecute suspected terrorists, as well as improving international cooperation in the fight against terrorism.

At the national level, the research specifically focuses on Morocco and its response to terrorism. In the aftermath of the tragic events that occurred in Casablanca in May 2003, the Moroccan legislature enacted a new law to combat terrorist crimes(31). This law, known as Law No. 03.03, included an independent section dedicated to terrorism within the country's criminal law.

The inclusion of a separate section on terrorism within the criminal law demonstrates the seriousness with which Morocco addresses this issue(32). It signifies the recognition that terrorism poses unique challenges and requires specific legal measures to effectively combat it. By establishing a legal framework specifically tailored to address terrorism, Morocco aims to enhance its ability to prevent and respond to terrorist activities.

Overall, the research suggests that countries affected by terrorism, including Morocco, have taken significant steps to combat this global threat. By enacting comprehensive counterterrorism(34) laws and strengthening international cooperation, countries strive to mitigate the negative impacts of terrorism and protect the security and well-being of their citizens

The research discusses the phenomenon of terrorism and its global and local impact. Terrorism is defined as a serious crime that threatens the security of communities and causes disruption and chaos. According to the Arab Agreement on Combating Terrorism(35), terrorism is defined as any act of violence or threat thereof, regardless of its causes or consequences, aimed at spreading terror or intimidating people, causing harm to public and private property and facilities, and endangering the lives, freedom, and safety of individuals.

Based on the negative effects of terrorist crimes and the social unrest they cause, countries threatened by terrorism have studied this crime from all aspects and established a legal framework to combat and reduce its danger.

At the international level, governments were granted expanded powers after the September 11, 2001 attacks in the United States to pursue and prosecute suspected terrorists(36), and countries were warned about the seriousness of this phenomenon.

At the national level, the Moroccan legislature enacted a new law to combat terrorist crimes following the tragic events that occurred in Casablanca in May 2003. The criminal law was amended to include an independent section on terrorism under Law No. 03.03

**References:**

1. **The Arab Convention to Combat Terrorism, signed in the Egyptian capital, Cairo, on April 22, 1988, ratified by Morocco, and published in the Official Gazette pursuant to Royal Decree No. 1.99.240, issued on Ramadan 6 (November 22, 2001).**



2. **The word terrorism (TERRORESIME)**, which is now used in most languages of Latin origin, is in its current form modern and dates back to the days of the Jacobin rule led by Robespierre in France during the French Revolution in 1789.
3. **Law No. 03.03 related to combating terrorism** issued by Royal Decree No. 1.03.140 dated 26 Rabi' al-Awwal 1424 (May 28, 2003), Official Gazette No. 5112 dated 27 Rabi' al-Awwal 1424 (May 29, 2003), p. 1755.
4. **Law No. 86.14 amending and supplementing some provisions of the Criminal Code and the Code of Criminal Procedure related to combating terrorism**, issued by Royal Decree No. 1.15.53 dated Shaaban 1, 1436 (May 20, 2015), Official Gazette No. 6365, dated Shaaban 13, 1436 (June 1, 2015). p. 5490.
5. **Abdel Wahid Al-Alami**, "Explanation of Moroccan Criminal Law", fifth edition 1434-2013, page: 82
6. **Professor Jaafar Al-Alawi**, "General Criminal Law", Part Two, without indicating the year of publication, prepared for students of the Faculty of Law in Fez, p. 37.
7. **Which was amended and supplemented pursuant to Law No. 86.14**, issued in implementation by Royal Decree No. 1.15.53 dated Shaaban 1, 1436 (May 20, 2015), Official Gazette No. 6365, dated Shaaban 13, 1436 (June 1, 2015), p. 5490.
8. **Jumada al-Akhira 1434 (May 2, 2013). p. 3614.** Chapter 4-218 above was amended and supplemented in accordance with Article 1 of Law No. 145.12 issued by Royal Decree No. 1.13.54 dated 21 Jumada al-Akhira 1434 (May 2, 2013), Official Gazette No. 6148 dated 21 Jumada al-Akhira 1434 (May 2, 2013). p. 3614.
9. Youssef Ben Basser: "Terrorist crime in Morocco and legal combat mechanisms," Part One, a periodical series concerned with legal and judicial affairs, issue six, 2003 edition, p. 34.
10. **Law No. 86/1020 of 1986, quoted by Muhammad Aziz Shukri**, "International Terrorism, a Critical Legal Study," Dar Al-Ilm Lil-Malayan, Beirut, 1992, p. 51.
11. **Examples of organized crime include:** money laundering, illegal trade in some things such as drugs, people, immigration, etc., criminal gangs.
12. **Essam Abdel Fattah Abdel Samie**, "The Rain of Terrorist Crime," New University Publishing House, Egypt, 2005, p. 58, quoted by Youssef Goran, "The Crime of Terrorism and the Responsibility Resulting from It in Domestic and International Criminal Law," publications of the Kurdistan Center for Strategic Studies, Sulaymaniyah, Iraq. 2007, p. 71.
13. **Youssef Kuran**, "The Crime of Terrorism and the Responsibility Resulting from It in Domestic and International Criminal Law," Kurdistan Center for Strategic Studies Publications, Sulaymaniyah - Iraq, 2007, p. 72, adapted.
14. **Youssef Kuran**, "The Crime of Terrorism and the Responsibility Resulting from It in Domestic and International Criminal Law," *ibid.*, p. 73.
15. **Our professor Jaafar Al-Alawi** stated in one of his lectures that money is the backbone of terrorism, and he said that finances must be monitored, as is the case with some European countries.
16. **Abdel Nasser Hariz**, "Political Terrorism, an Analytical Study," Madbouly Library, Egypt, 1996, p. 84, quoted from Youssef Goran, "The Crime of Terrorism and the Responsibility Resulting from It in Domestic and International Criminal Law," previous reference, p. 65.
17. **Youssef Kuran**, "The Crime of Terrorism and the Responsibility Resulting from It in Domestic and International Criminal Law," *op. cit.*, p. 68.

18. **For example, Chapters: 4-2 and 5-218**, of the Criminal Code amended by Law No. 03.03 relating to combating terrorism.
19. **Youssef Kuran**, “The Crime of Terrorism and the Responsibility Resulting from It in Domestic and International Criminal Law,” op. cit., p. 69, adapted.
20. **Chapter 7-218 of the Anti-Terrorism Law.**
21. - **Article 62 of the Q.S.C.**, regarding the time to start searching and inspecting homes, since if the matter is related to a terrorist crime, homes may be searched outside the legal time, that is, before six in the morning and after nine at night.- Article 66 of the Q.S.C., with regard to the procedures for being placed under theoretical guard in the event of a flagrante delicto, as the duration of theoretical guard is 96 hours, which can be extended twice.- Article 79 of the Q.S.C., with regard to carrying out searches and seizures in a person’s home, his consent is not required to enter his home.- Article 80 of the Q.M.C., with regard to the procedure for placing someone under guard during the preliminary investigation stage, the duration of guard is also 96 hours, which can be extended twice, exceptionally, before the accused is presented to the Public Prosecution. Article 102 of the Q.S.C., with regard to the inspection during the preparatory investigation stage, where the investigating judge may conduct it outside the times stipulated in Article 62 of the Q.S.C., or assign for this purpose a judge or one or more judicial police officers in the presence of Representative of the Public Prosecution.
22. **It means the Salé annex of the Rabat Court of Appeal**, which specializes in adjudicating terrorist crimes.
23. **Abdel Wahed Al-Alami**, “Explanation of Moroccan Criminal Law,” fifth edition 1434-2013, page: 83.
24. **Chapter 3 of the Q.C. stipulates:** “It is not permissible to hold anyone accountable for an act that is not clearly considered a crime by law, nor to punish him with penalties that are not prescribed by law.”Chapter 10 of the Constitution stipulates: “No one shall be arrested or punished except in the circumstances and in accordance with the procedures stipulated in the law.”
25. **Chapter 124 of the Criminal Code states:** “There is no felony, misdemeanor, or violation in the following cases: If the act was required by law and ordered by the legitimate authority.If the perpetrator was physically forced to commit the crime, or was in a situation where it was physically impossible for him to avoid it, due to an external reason that he was unable to resist. If the crime was necessitated by a legitimate necessity to defend the perpetrator or someone else’s person or his property or the property of others, provided that the defense is proportional to the seriousness of the attack.
26. **The rule regarding the material element** of a crime is that it consists of three elements: criminal behavior, criminal consequence and causal relationship.
27. **According to Chapter 1-218 of the Q.C., which states:** “The following crimes are considered terrorist acts if they are intentionally related to an individual or collective project that aims to seriously harm public order through intimidation, intimidation, or violence.”
28. **Chapter 2 of the Q.C. states:** “No one may excuse ignorance of criminal legislation.”
29. **The substantive criminal policy of the Moroccan legislator in confronting terrorist crimes, the subject of a master’s research thesis in private law**, published in the Journal of Law and Business 11/17/2015.
30. **Bjørge, T., & Horgan, J. (Eds.). (2009).** Leaving Terrorism Behind: Individual and Collective Disengagement. Routledge.

31. **Hoffman, B. (2006).** Inside Terrorism. Columbia University Press.
32. **Pape, R. A. (2005).** Dying to Win: The Strategic Logic of Suicide Terrorism. Random House
33. **Sageman, M. (2008).** Leaderless Jihad: Terror Networks in the Twenty-First Century. University of Pennsylvania Press.
34. **Silke, A. (Ed.). (2004).** Research on Terrorism: Trends, Achievements and Failures. Routledge.
35. **Stern, J., & Berger, J. M. (2015).** ISIS: The State of Terror. HarperCollins.
36. **United Nations Security Council. (2006).** United Nations Global Counter-Terrorism Strategy