

## International responsibility of union forces in Iraq and occupying from international laws views

Mohammad Talebi Sary<sup>1</sup>, Fereshte Yadollahzadeh<sup>2</sup>

<sup>1</sup> Payam-E Noor University, Tehran, Iran, Email: [talebisary@yahoo.com](mailto:talebisary@yahoo.com)

<sup>2</sup> Islamic Azad University Shahre Rey Branch, Tehran- Iran, Email: [f.yadollahzadeh78@yahoo.com](mailto:f.yadollahzadeh78@yahoo.com)

**Abstract:** The subject of United States of America and its unions in invading to Iraqi regions cause changing the landscape in management of world problems and cause to fake the international laws regulations. Evaluation of invading to Iraq has been analyzing by researchers already and there is a point of hopping now which everybody believes that invading to Iraq was without the permission of security council and it is a criminal point of war and the American state breaks the international law and its regulations and some the officials of this country abuse the law of legitimate defeat for these reasons so in this position that united states was put in obedient position and the united states of America as the most powerful country tries to use these regulations as tools for its leadership of the world although it knows in international law there is a significant difference between the countries. Depending on power is beneficial for powerful states and in this course the weak countries are failure.

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### 1. Introduction

Analyzing the Iraq position and what is now happening in this country is significant and it has a fade affect on peace and security of the world also Iraq is in our neighborhood and it has some affects in our country too.

The new American situations lying on power and weakening the United Nations and leadership of the world are the same. Though this country by depending on the judicial interpretations tries to lead and manage other countries so casually it backs some countries know some other countries as enemy and invade them. Continuation of this position cause that no country feels security and they are in danger totally and the world society feels critics too. Because of these analyzing the intentional responsibility of United States and its unions in Iraq for making logical policies in same situations are important. So in eight parts it would be analyzed and concluded:

First part: International responsibility

The principle of International responsibility

Second part: Analyzing international responsibility from the point of non- use of force or non aggression.

Third part: Analyzing International law from the point of united nation forces and the court of crime council (UN & ICC)

The fourth part: Analyzing the attendance of human right and the union forces in Iraq

The fifth part: Analyzing the union forces in the framework of article 1441 Security Council of the United Nations.

The sixth part: Analyzing the international responsibility regarding to legitimate right of defense

The seventh part: Analyzing the International law regarding to union forces in Iraq and breaking the international laws and regulations.

The eighth part: Analyzing the International law regarding to the human right laws in Iraq and at last, Unit one: The principle of International responsibility (State responsibility).

#### A) Doctrine

The meaning of International state responsibility means that the government or its officials does something false which makes damages to a country or its residents.

The International responsibility means that ( the duty which dictate to a state to make it true which it was made by its action of disordering some rules and also for make it right. From the view point of international law for taking place of international responsibility we need four conditions that a state should do:

- 1) Violation of an international treaty by a state
- 2) Making damages for others
- 3) The relation between action of state and damage
- 4) The ability of concerning a damaging action to a state or its unions

#### B) International documents

In international documents it has been admitted that in the first paragraph of article 11 it has been suggested that the international court wrote about the international responsibility (The action of a person or a group of people had done by the deputy of state should

not recognized the action of state.)

Also the first line of article 14 writes about it (The action of a member of a riot group in the territory or any land under governing of that state should not recognized the action of state.)

Also in the drafts of article regarding the illegitimate actions of states the international commission of international law expressed (Any aggressive action of state cause international responsibility for the state) also article 26 corresponding to the forcing regulation expressed (no action of any state which resist the international regulations can not make responsibility for any state.) therefore the action of united states and its unions in invention to Iraq is clearly against international law and it can be chased.

### C) **Judicial procedure:**

The international court of justice regarding to the case of Automobile manufacture (Chorzow factory) admitted making damages of a state to the people compensation of damages obligatory. In Judicial procedure lawyers know three points important for state responsibility against people:

1. The state did not do any preventive actions for preventing these illegal actions.
2. After doing false, ignore the punishment of law breakers
3. The illegal action break one of the international principles or laws

Depending on the article 49 damaged governments can refer to the international court can just compensate the treaties. Line 3 of article 49 is regarding the line 2 article 72 of Vein treaty about the cataracts so the states should do interrelations.

### **Second part: Investigation of international responsibility of union forces regarding to non use of force or nonaggression**

#### A) **Doctrine**

In peace conversions of Lahe 1899 – 1907 for the first time the principle of nonaggression was predicted the first article of convention number 3 of 1907 convection Lahe banned referring to force. In the first article of convention number 3 forcing in economical tasks is banned too. The United Nations treaty and Paris convention just decrease the martial ways.

#### B) **International documents and regulations regarding to nonaggression principle**

The base of nonaggression was based in article 2 of charter of United Nations, line 4 of that expressed about the nonaggression article: (members of United Nations should prevent any action or treating against territory or political independence of any country.) In the articles 33 & 34 of charter under the subject (Solving problems peacefully) it banned the state from any action threat peace and international security. The seventh part of charter of United Nations titled

(Treating and breaking peace, aggression activities) counted the subjects that Security Council can treat articles 39, 40, 41 and 42.)

### C) **Judicial view**

Archa one the judges of International court know it one the principles of international law. Hinsk: He knows it as the heart of United Nations charter.

Veldok knows it as the base of peace in United Nations. Lilich believes that it is not limited to this and it has backing of defending and human rights. Lilich is one of the writers who defend of United States interruption in local affairs of other countries.

### D) **International judicial procedure:**

The international court in its decision about the case of Nicaragua against America in the line of 206 its decision and the obligation of a country to other countries in martial or economical affairs in the way that country can not decide free about its tasks so it is a symbol of aggression. So depending on the principle of nonaggression and not applying force which it was mentioned in Doctrine, International documents and Judicial views the invasion of America cause the international responsibility. The International court in "Baslouna case" express some treaties general which it banned the biggest breaking human rights (In fact these treaties are coming from illegality of killing tribes and also some fundamental principles such backing against keeping slaves and differentiation of human races).

### **The third part: Analyzing International responsibility from the point of constitution of United Nations and International Court of Crime (ICC & UN)**

#### A) **United Nations and Iraqi critics:**

Article 2 put lots of principles, goals and procedures depending on which two lines of these articles have a direct relation to martial interruption and applying aggression. Article 4 shows that basically applying force in international relations was banned and lots of judicial knows banning war in international relations as certain and obey able regulations. Respecting countries rights needs each country should not apply force or treating in its international relations and this is not limited to martial acts also it contains political pressures and other tools that they are in the countries authority.

In article 7 of the chapter it is mentioned about (Countries' authorities) clearly such: (None of the articles of this charter does not let to the United Nations interrupt in the affairs which concern to national authorities of a country.) Therefore Interruption in local affairs of countries and any martial interruption threading or forcing in International law was banned otherwise in judicial frames «International security council of United Nation» which this has a position to discuss. Under

any circumstances any interruption in local affairs of countries is "Invasion" the subjects who are mentioned as invading in United Nations Charter are as the followings:

1. Invading to others countries territory and martial occupying
2. Bombardment of external territories
3. Besiege of ports or shores & etc.

By mentioning the invasion principles and the actions of America and its Unions, we can conclude that without any doubt was invasion. The principle of not interfering local and foreign affairs of countries which is concerning to national authorities is one of the new acts of United nations which was emphasizing regularly but United Nations have some exceptions about it. Could interruption in Iraqi affairs as exceptions of not interfering in other countries affairs? The subjects of not interfering judicial count such:

1. Legitimate defense
2. Acts of security Council for preserving Peace and Security
3. Demand of State of other state to interfere depending on bilateral or multilateral contract

#### 1. Legitimate defense

About the America case there was not any martial invasion directly or indirectly by Iraqi that it contains the article 51 of United Nations charter which indicate legitimate defense. Justification of some judicial dose United States on preventing attacks depends on the sprit of United Nations? Because by accepting the preventive attacking from other countries it make this riot.

#### 2. Actions on security Council decisions:

In the case of America – Iraqi, the Security Council gives its section to it which lastly it could admit the treaty 1441 and put some limitations for Iraqi government. But never permit to associative countries to invade Iraq and the actions of United States was by applying French veto right that this country could not reach to any permission to attack to Iraq.

#### 3. There is no place of Iraqi government for asking martial Irruption:

Because in the contemporary history of Iraq-America relations, after invading Iraq to Kuwait the relations of America and Iraq was not in normal position that this country ask for martial interruption. So all the three conditions about Iraqi invasion is dismissed and there is no International permission for Iraqi invasion and this is an invasion from the view of International law. As the act of America and its unions known invasion and from the international law there was not any permission for attacking Iraq, does it chase able by the states? Is it possible to execute the American state accused of killing tribes, war crimes, etc? From the point of International law, are not

internationally responsible association states in evaluation «Invasion»? Which organizations are responsible to judge in these situations?

#### B) International court of crime and Iraqi war:

In the first article of this chapter comes that this court is responsible to judge about the important and heavy crimes. In the article 5 the crimes which are concerning about this court brings which they are such: Genocide, crime against humanity, War crimes, the crime of invasion in internati0nal law, crime against peace is one the international crimes. Crime against peace is such: «Breaking any international treaty which is against peace like: «Prohibition of invasion» which is one the international crimes and it should be judged by international court. Therefore the international court has enough authority to judge about martial faults, crime against peace and the crime of invasion. One the most important problems in doing the procedure about the case of America-Iraqi war was the limitation of authority because depending on the article 12 of the charter it is authorized just about the countries that admitted the charter of international court or the crime committed in a country which it accepted the charter of the court. The America did not admit the court but England admitted it so the court is authorized to judge the martial crimes of England in Iraq.

#### The fourth part: Investigation of International responsibility of union forces in Iraq about breaking human rights:

##### A) Volition of human rights:

Volition of human rights when is the crime that international criminal law calls it crime (Such: killing cumulative, war crimes, crime against humanity and invasion in the charter of international court) which they are all the breaking laws and human rights could be chased and end to international responsibility. Volition of some parts of human rights which is obeyed in the right of humanity such predicting the rights of guilty or principles of lawful crime or the other right which are mentioned in the charter of international court?

##### B) Responsible of violation human rights

About some of the human rights which were predicted in charter of crime council, the international crime is regarding to «Real people» such plusive killing or crime against humanity and in other cases the responsibility is regarding to countries.

The following people can claim for volition of human rights:

- 1) Countries and international organizations in the framework of their authorities
- 2) The ordinary people whom were directed victims or indirectly by diplomatic supports
- 3) Any country against volition of any commanding international laws

**C) Affects of volition about human rights:**

- 1) In the constitution of international crime council: committing to judge (Article77), Compensate of damages of victims(Article75) and at last giving the mortgage(Article85)
- 2) In the responsibility laws (non criminal)

Compensate to last position Restitution (Article35), Satisfaction of victim (Article37), Actions of reflection Countermeasures (Article49-54), Compensation (Articles 36, 38, 39) totally none of the mentioned articles does not hold giving compensation.

**The fifth part: Investigation of international responsibility of union forces in the framework of volition treaty 1441 of Security Council of United Nations:**

The mentioned treaty can be searched in two parts. First part about the volition of previous treaties of Security Council particularly 678 & 687 which have some requisites like making outgunned and fighting against terrorism and express that Iraq violate the international treaties clearly.

Second part: This treaty makes some courses which make Iraq outgunned and giving its reportage to the inspectors just during 30 days. America and England at last expressed that Iraq did not help the agency officials well.

**Viewpoints about the treaty 1441 of Security Council:****A) Views of Germany, France and Russia**

It tells that if Iraq does not obey this treaty any decision or act is in the authorities of Security Council. Therefore not only applying the force is not rejected by this treaty but also for any operation depends on decision of Security Council.

**B) Views of America and England:**

It is mentioning that the treaty is obey full from the time of Kuwait invasion and the treaty was admitted about Iraq so the operation was forcefully. They believed that it was coming the voice of treaty on the other hand the treaty of 678 Of Security Council about Kuwait occupying was against Iraq which was expressing: So the United Nations Security Council can refer to its previous treaties and it was forcing to Iraq.

It can be told that the Security Council makes a procedure that whenever it wants so it can apply all the facilities on the other hand the treaty 1441 does not apply this facility. So the mentioned treaty does not know the activities legitimate so the problems in this case should refer to the Security Council so the American action is breaking article 2 lines 4 of United Nation's charter.

**The sixth part: Investigation international responsibility of union forces of Iraq from violet defense view:**

Depending on the article 51 there are two

exceptions which applying force becomes legitimate:

1. The legitimate defense against the gun invasions till security council act in this case
2. Applying force by the security council depending on the seventh chapter for reforming security and international peace and invading by gun or preventing the upcoming invasions or missing the enemy invasion

The question is now does it take place gun invasion? Or basically it was cooperation with terrorism or having the mass killing guns or spreading them as an invasion? Therefore thesis of a country cannot end to a war depending on the imaginations of a country about preventing attacks cannot make it legitimate. This subject has been proving in the case of Nicaragua so in the reason of defending the peace we cannot express war and it is not legitimate or legal political action. The Security Council also fails the preventive attack and the invasion of Israel to nuclear sites and paying attention of Israel to this is one of the samples. Does the Security Council know the act of Israel volition of international regulations? Nowadays some concepts such preventive attack does not have any legal position in international laws. Depending on the article 2 of charter the definition of invasion was admitted. Preventing a state in applying the martial forces for the purpose of preventive attack is a kind of invasion in the charter.

**The seventh part: Investigation international responsibility from the volition of international regulations and laws****Most important of them****A) Volition of nonaggression principle:**

The important documents of United Nations about not applying force or threading which the mentioned principle proved basically in international law, without any doubt American invasion to Iraq not only is the violation of this basically principle but also this war depending on the chapter approved as invasion too and also depending on the charter of international crime court it is invasion and depending on the article 2 line 5 of this charter invasion is a crime against peace and it cause international responsibility and needs to compensate the damages of war too.

**B) Volition of non interruption in local affairs**

Democracy and liberty are some of the point that America depending to them demolishes Iraqi government. Unduly today international law accepted the independence of states but it support martially of this subject. From the point of international law depending on democracy we cannot demolish governments and interrupt their local affairs. The principle of non interruption is one of the most important principles which pay attention in the charter of United Nations and also about the decision about Korfour bay in the court and the case of Nicaragua it is

appreciated the most.

**The eighth part: Investigation international responsibility about the union forces in Iraq from the point of volition of human rights**

**A) Investigation of occupier treatments and the principle**

One of the basically principles in international disputes we have got a principal as quality and during the convention of 1907 and the documents attached to it depending on the fourth conventions of Geneva they can select the tools for making release the government.

**B) Investigation of treatments of occupiers:**

This subject was in the fourth subject of the convention and the international court for the atomic weapons and also there were a principle about the fighting and war in this course and hurting the non martial people and the women and children is illegitimate and they are forbidden in the gun disputes.

**C) Investigation of martial forces and the principle of military**

The requisite of martial groups makes a requisite one of the basically principles in international disputes we have got a principal as quality and during the convention of 1907 and the documents attached to it depending on the fourth conventions of Geneva they can select the tools for making release the government.

**Conclusion**

- 1- Nowadays in international law some regulations are current from most of the countries regarding to human rights and these can affect by the international community members. They apply some tools of hostility.
- 2- The regulations of international United Nations interpret by the America for justifications of its faults and these were all because of the periods of two international word wars and again the power is used of authority.
- 3- Without any doubt no country can judge about the fault flairs of future damages and certainly any prediction about the right of deciding about the destiny of any country make it far from the invasion and the international responsibility depending during its affairs.
- 4- Now the America depend on the theory of power and the prevention of attacking and basically it is

defending for preventive aggression before it take place and again it is used as the invasion in the international law

- 5- The basically right of freedom is one of the rights that always the people of a country and in this concern no country can change its political regime and its solutions are cooperating with security council for obeying the principals of international charter of united nations.
- 6- The security council is the merely organization which can provide peace and international security and for reaching to this goal all the other countries should associate too and they can the role of United nations more colorful and they can omit the disobeying state.

**Corresponding Author:**

Mohammad Talebi Sary

Payam-E Noor University, Tehran, Iran

Email: [talebisary@yahoo.com](mailto:talebisary@yahoo.com)

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