



ISSN: 0975-833X

REVIEW ARTICLE

THE STATE'S RIGHT TO STAY IN INTERNATIONAL LAW OF HUMAN RIGHTS

***Prof. Dr. Suhail Hussein Al-Fatlawi**

Professor of International Law, Faculty of Law, University of Jerash, Jordan

ARTICLE INFO

Article History:

Received 29th November, 2015
Received in revised form
15th December, 2015
Accepted 23rd January, 2016
Published online 14th February, 2016

Key words:

EU - European Union
NATO - North Atlantic Treaty Organization
UN - United Nations
UNHCR - High Commissioner of the United
Nations for Refugees
USA - United States of America.

ABSTRACT

The modern International community witnesses a huge development in the principles of human rights, and the principle of interfering in the internal affairs of the States is not any more an obstacle for the control of human rights in the States. However, since the middle of the last century, the American States began to show interest in the rights and duties of the countries. In this regard, Montevideo Convention was held in 1933 to insure the rights and duties among these countries. In particular, the Treaty handled the State's right to stay, which later became an International tradition in which all countries shall comply. Since the title of this paper is the study of the State's right to stay based on the regulations of the International law, then our duty is to divide it into three themes: the first the concept of the state in the international law; the second is the right of the state's components to stay as stipulated in the international while the third theme examined the state's right to defend its existence in International Law. However, we found consistency between the International law with differences between them in other points. The paper ended with the most conclusions and recommendations.

Copyright © 2016 *Suhail Hussein Al-Fatlawi*. This is an open access article distributed under the Creative Commons Attribution License, which permits unrestricted use, distribution, and reproduction in any medium, provided the original work is properly cited.

Citation: Suhail Hussein Al-Fatlawi, 2016. "The state's right to stay in international law of human rights", *International Journal of Current Research*, 8, (02), 26277-26287.

INTRODUCTION

Struggle among countries had begun since the inception of more than one State in the human's history. The idea that dominates countries was based on the fact that the survival of the State requires eliminating its neighbors to insure the absence of any competitors. The one-pole is the basis of the International relations and the small countries shall be included under the umbrella of the stronger one. In this context, some of the American countries attempted to encounter the European occupation and to agree among each other to face the imperialist dangers, and could convene Montevideo in 1933. hence came the first attempt for the International plurality and this was followed by the term the State's right to stay. However, this concept retreated after the second world war as a consequence for the International disputes between the capitalism and communism block, and had their most of their influence on the Arab world.

Significance of the study: The development witnessed by humanity in the field of human rights is embodied in the

protection of man's right for individual and group lives. Since the State contains a group of people, then the protection of the State's right to stay, means protecting man's right to live. We can not demand for man's right to live without insuring the State's right to stay. Moreover, the Arab world witnesses a series of armed International and national struggles with the intervention and support of the countries that dominate the world, which resulted in damaging a number of the Arab countries and eliminating their existence, not to forget killing, expulsion and immigration of millions of their inhabitants. Accordingly, to insure the future of the Arab nation, can be achieved by insuring the State's right to stay.

Problem of the study: Despite the development of the world in the field of International relations, the countries who did not reach for an International agreement to insure their rights and duties, except the Montevideo in 1933, which was convened among the American countries, and that became an International tradition. This treaty contains some kind of ambiguity regarding the fact that the State who enjoys the right to stay should have full domination and sovereignty and acknowledged by the other countries. Although the UN Declaration stipulated and urged on non-threat by force in the

*Corresponding author: Prof. Dr. Suhail Hussein Al-Fatlawi,
Professor of International Law, Faculty of Law, University of Jerash, Jordan.

International relations and the protection and independence of the States, but the practice was in violation thereof; there are a number of countries that were damaged – especially some Arab countries- and devastation is still in progress.

Methodology: The importance of the study required first to study the rules of the International law, then to know. It is a descriptive, analytical, applied comparative study, where we relied on the Arabic and foreign resources.

Plan of the study: The study required to divide it into three important topics, namely: the International law and their perspectives towards the concept of the State, and this required from us to divide the study into three Interlocutor:

The Concept of the State in the International law

Scholars of International law had arguments about the concept of the State. We will explain the concept of the State and the right to stay based on the perspectives of the International law through the following two components:

First-The Concept of the State In International Law

State Elements In The International Law

The concept of State is one of the large topics for which this study will not be enough. However, we will handle the issue the State's right to stay. In this regard, the State, is considered the most important legal and International characters. The State is defined as: a group of people who live on a specific area/ region and subjected to a particular authority⁽¹⁾. In accordance with the UN declaration, the authorities of the States decide their (Self- Determination) and choose the suitable ruling regime which it deems appropriate⁽²⁾, without intervention of a foreign force that may occupy its lands and the government is free in managing its internal and external affairs without intervention of the others. The State is only subjected to the restrictions imposed by the public International law which come for the good management of the International relations. This right means non-intervention by foreign countries. This term is given to the independent State that has sovereignty⁽³⁾. In addition, such State enjoys political independence in taking its decisions⁽⁴⁾. The legal regulations vary from one country to another; some countries are simple while others are complex (a federal union). In addition, the three authorities and their relationships vary according to their constitutions⁽⁵⁾.

⁽¹⁾ Shaw, Malcolm Nathan (2003). *International law*. Cambridge University Press. p. 178. State definition: " Groups of people which have acquired international recognition as an independent country and which have a population, a common language and a defined and distinct territory". Review :Laiha (1969), Mohamed Kamel, political systems (the state government), Arab Alnatha Publishing House, Beirut, p. 25.

⁽²⁾ The second paragraph of Article (1) of the UN Charter Provided: To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace; "

⁽³⁾ Gerhard von Glahn, op. cit, p. 141.

⁽⁴⁾ United Nations General Assembly, decision No. 2625/25 of 24 / October / 1970.

⁽⁵⁾ Bealey, Frank, ed. (1999). "government". *The Blackwell dictionary of political science: a user's guide to its terms*. Wiley-Blackwell. p. 147.

The State consists of three aspects, namely: the government, the region and branches, but some scholar think that it is necessary to be recognized the State as a requirement for its existence so as to enjoy a legal and International character. This has been stipulated by Montevideo treaty of the year 1933, which is deemed among the most important documents for the rights and duties of the States. In making its rules, the treaty took its principles from the International custom⁽⁶⁾. The first article of the treaty decided the States that enjoy the rights and duties of the State whenever the four aspects exist including recognizing the State a character of the public International law. These four aspects are:

- a) Permanent population;
- b) A specific region;
- c) The government
- d) The ability to inter in relationships with other countries through (recognition). The treaty Stated that the State should have a political and legal authority recognized by the States⁽⁷⁾.

On the other hand, the Montevideo conference is the first in which a woman representing USA⁽⁸⁾. Some scholars view that recognizing the State is a legal and political act. The legal act is the presence of the first three components, whereas the political one is represented in the States' position towards this State⁽⁹⁾.

According to this perspective, the State that enjoys the right to stay is the one who is recognized by other States in addition to the first three components. During the middle of the last century, some scholars supported the aspect of recognition since it decides the establishment of the State⁽¹⁰⁾. Other scholars minimized the provision of recognition as a requirement to enjoy the right to stay; they proposed various aspects for recognition and any of them provides the State with the right to stay⁽¹¹⁾. Others see that recognizing uncovers the existence of the State, but does not decide its establishment and countries are deemed as existent once they practice their International relations⁽¹²⁾. Currently, many scholars support this perspective and confirm that the practice of external relations is a main requirement for the State's right to stay⁽¹³⁾. In addition, such a State bears International responsibility towards other countries⁽¹⁴⁾. However, there is a third attitudes imposed by the

⁽⁶⁾At the conference, US President Franklin Roosevelt, and Secretary of State Cordell Hull declared policy of good neighborliness, which opposed the US armed intervention in the American and African Affairs review :Hersch Lauterpacht (2012). *Recognition in International Law*. Cambridge University Press. p. 419.

⁽⁷⁾ Article (3) of the Montevideo Convention of 1933.

⁽⁸⁾She is Sophonisba (Preston Breckenridge) (1866-1948). Review: by George C. Herring, (2008) *From colony to superpower: U.S. foreign relations since 1776*, Oxford University Press, p. 499.

⁽⁹⁾Hand Kelsen, *Recognition in International Law, Theoretical Observations*, 35 *Am. J. Int' L.* 905 (1941), p. 605.

⁽¹⁰⁾Gerhard Von Glahn, *Law Among Nation. An Introduction to International Law*. 2ed. New York 1970, p. 90.

⁽¹¹⁾For example, the exchange of diplomatic and consular representation, and trade, and recognition by multilateral treaties, or bilateral, and international conferences, and mass recognition. Review: Yi-Chiang Chen, *The International Law of Recognition*, Oxford, 1951, p. 189-224.

⁽¹²⁾Geneina, Sami Mahmoud (1938), *public international law*, Arab Alnath Publishing House, Cairo, p. 102.

⁽¹³⁾Sir Hersch Lauterpacht(2013), *Recognition in International Law*, Cambridge University Madrid, , p. 26.

⁽¹⁴⁾ Review for the State's responsibility towards the violations committed against other countries in the international court decisions:

practical application, which stipulate that recognizing the State is a relative issue; the legal or real recognition between two States makes them encountering each other, but does not extend to other countries, as the case of recognition by China and Russia with north Korea, and so the case with the recognition of the Arab countries in Palestine as a State; other countries are not recognized without the legal or actual recognition.

Concept of the Right To Stay In The International Law

The State's right to stay is one of the rights of the countries. The International law defined the right to stay as: " each State has the right to do whatever insures its stay and continuity and to take all necessary means to defend any internal and external threats⁽¹⁵⁾. The State's right to stay means the components of which a State consists. The constitutional rules requires the independence of all of these authorities from each other. Moreover, the right to stay is the basis for all of the other rights, since the inability to continue its existence will result in the elimination of the legal character of any State. Some countries called this as: the self-protection. Existence is a basis feature of the States more than it is a right⁽¹⁶⁾. The right to stay is based on the fact that the State shall enjoy International immunity which prevent attacking it by any means and that it is away of being subjected to any authority or foreign courts in the civic and criminal lawsuits. A State shall enjoy- in all matters relating to it and properties- with immunity from the courts of another State⁽¹⁷⁾. The Montevideo treaty (1933)⁽¹⁸⁾ included the State's right to stay, and not to be violation by any other countries⁽¹⁹⁾. Among the disadvantages of this treaty is that it insured the right to stay for the recognized countries only, but guaranteed the rights of the minorities residing in those countries⁽²⁰⁾. Most of the delegations participating in the International conference of the American countries represent the independent States which were freed from the European colonialism. Those countries agreed on the standards that would make it easy for the States that gain limited sovereignty to have International recognition, with the exception of the restriction stipulated in article one of the treaty, which require full recognition of the State that enjoys the right to stay⁽²¹⁾. In addition, recognizing the State means recognizing the other State with the right to establish International relations with it.

Materials on the responsibility of states for Internationally wrongful acts, United Nations Legislative Series,(ST/LEG/SER B/25), p. (7-12-19).

⁽¹⁵⁾ Clifton E. Olmstead (1960), History of Religion in the United States, Prentice-Hall, Englewood Cliffs, N.J., pp. 9-10.

⁽¹⁶⁾ Gerhard van Glahn, op. Cit., P. 139.

⁽¹⁷⁾ Article (5) of the United Nations Convention on the Immunities of States and their property from the jurisdiction of 2004. Review of the state immunity in international law: Xiaodong Yang(2012), State Immunity in International Law, Cambridge University Press, London, p. 33-74.

⁽¹⁸⁾ "Convention on Rights and Duties of States". See the Convention: League of Nations Treaty Series, vol. 165, pp. 20-43 .

Signed the rights and duties of States in the Treaty of Montevideo, Uruguay, in December 26, 1933, during the Seventh International Conference of American States. Agreement was signed by 19 countries. Agreement came into force on December 26, 1934 and recorded in the Nations Treaty Collection on January 8, 1936.

⁽¹⁹⁾ Article (11) of the Montevideo Convention of 1933.

⁽²⁰⁾ Sundhya Pahuja(2005), The Postcoloniality of International Law, Harvard International Law Journal, Volume 46, Number 2, Summer, , page 5

⁽²¹⁾ Gerard Kreijen, (2004) Legal Lessons from the Decolonization of Sub-Saharan Africa, Published by Martinus Nijhoff, , page 110.

However, non-recognition does not mean its non-existence⁽²²⁾, but it is admissible to deal with it and establish International, commercial, economic and diplomatic relations.

In this regard, the Montevideo Convention rationalized the International regulations, and this treaty is not binding by the signatory States only, but it includes other countries since they represent the International custom⁽²³⁾. The European States, confirmed – officially- its recognition with the texts stipulated in this treaty⁽²⁴⁾ and currently, they have been stable in the International relations. Some Europeans oppose the need to recognize the State that enjoys the right to stay as well as the rights and duties of the States⁽²⁵⁾.

The Montevideo (1933) treaty proposed the principles of the State's right to stay, which are:

Keeping peace. This requires settlement of the International disputes regardless of their nature, by the recognized peaceful means.

- A. Keeping stability, their existence and eliminating any matters that may cause disturbance of security and internal stability, as well as International cooperation to achieve thereof;
- B. All States are equal in a legal perspective, as a one legal individual in accordance with the rules of the International law. In addition, all countries enjoy the same rights with the ability to practice their full rights as same as other States⁽²⁶⁾.
- C. The State's right to stay is one of the main rights in accordance with the International law, which shall not be affected by any means, and it should be preserved and kept⁽²⁷⁾.

Despite the fact that the rules stipulated in Montevideo Treaty (1933), which were passed by the European States and most of the world's countries, and which have become a binding International regulation, still, the world has witnessed – after years of this treaty- a disastrous war with millions of human victims. Accordingly, this confirms the desire to dominate and damage without borders or legal regulations and rules. Furthermore, although the UN Declaration did not State the term the State's right to stay, but the first objectives of the UN is to insure the State's right to stay based on the principle "keeping International peace and security"⁽²⁸⁾. This principle

⁽²²⁾ Article (6) of the 1933 Montevideo Convention on the recognition of the resulting impact, either explicitly or implicitly.

⁽²³⁾ Castellino, Joshua (2000). "International Law and Self-Determination: The Interplay of the Politics of Territorial Possession With Formulations of Post-Colonial National Identity". Martinus Nijhoff Publishers. p. 77.

⁽²⁴⁾ European Union and by the EU, had met conditions specified by the Council of Ministers of the European Community on December 16, 1991.

⁽²⁵⁾ from these countries, Switzerland, Iceland, Norway, Liechtenstein, Turkey, and Kosovo which are not a member of the European Union. Review:

Switzerland's Ministry of Foreign Affairs, DFA, Directorate of International Law: "Recognition of States and Governments," 2005.

⁽²⁶⁾ Philip Marshall Brown (1935), The Theory of the Independence and Equality of States The American Journal of International Law. Vol. 9, No. 2, pp. 305-335.

⁽²⁷⁾ Article (5) of the 1933 Montevideo Convention.

⁽²⁸⁾ Article (1/2) of the Charter of the United Nations. To review details about the role of war in the end the existence of the state:

Professor Margaret MacMillan(2013), The War that Ended Peace: How

aims at preventing the countries through the means of prohibition, by using peaceful means to settle the International disputes⁽²⁹⁾, and not to use oppression means but to use the procedures taken by the UN Council against the Aggressor country⁽³⁰⁾. However, it approved the State's right to defend itself in groups and individuals⁽³¹⁾. Among the principles of the UN is to prohibit threatening by using force or using such means against the safety of the lands or the independence of any State⁽³²⁾.

Consequently, the State's right to stay is one of the human being rights that protects man to violate such rights, preserves the land on which man lives and supports the existence of an authority that insures man's rights.

The right of the state's components to stay in the international law

The three authorities mean: the executive, legislative and the judicial. Some call them as (the government). We will discuss the right of the State's authorities to stay as stipulated in the International law in the following branches:

First-The right of the three authorities to stay, as stipulated in the international law

The State consists of three authorities: the executive, legislative and the judicial. Some call them as (the government). The government is the body in charge for the management of the State, to represent it abroad, while the legislative authority regulates the laws and the judicial one handles the application of laws. The government is defined as one of the forms to practice power in the communities. The word "government" is usually given to the public government, the nation's government, or a State, or province, a city or a village⁽³³⁾. According to the legislations of the States, governments take various types⁽³⁴⁾. The government is established/ based on the following principles:

- A. Rules that regulate behavior and control the lives of people.
- B. Enjoys sovereignty with the power to use force within its borders.
- C. Characterized by legitimacy as the people accepts it in accordance with the constitution of the State.
- D. Submission for its powers by all people residing on its lands.
- E. The ability to enforce laws issued by the legislative authority.
- F. The ability to protect its people and provide security, stability and services.
- G. Independence in managing its internal and external affairs⁽³⁵⁾.

In this regard, it is vital to differentiate between non-recognition of the State and the case of non-recognition of the government; non-recognition of the State means that its existence is basically illegal. No recognition about its authority, borders nor peoples. As for the non-recognition of the government, it means that the government's existence is illegal, but with a recognition of the State. This is not a legal topic, but a political one resulting in legal effects. The American government applied Jefferson's theory (1792) by non-recognition of any government that is not established in accordance with the nation's desire. In addition, the government of Washington worked based on this theory until the end of the 19th century when it recognized governments that were a result for overthrows claiming that such governments enjoy actual authority and can satisfy their International obligations⁽³⁶⁾. The government is the party who provides the means for survival through the way it deems appropriate; it has the right to regulate laws to insure its existence; decided the powers and duties it enjoys; manages its services and establishes the courts that are deemed necessary to preserve its stay⁽³⁷⁾. This perspective relies on the existence of the political, legislative and judicial authority which leads the State and insures rights to defend itself, without intervention in the internal and external affairs of other countries. However, non-recognition of the government means its non-existence and therefore, it does not enjoy the right to stay. The International community used not to recognize the government or revolution unless after recognition by other States (which is called: Topar's Theory)⁽³⁸⁾. However, the International community applied the opposite, starting with the July revolution in Egypt (1952), the Iraqi revolution (1958), the overthrow in Syria (1963 and the Egyptian overthrow in 2014 by Sessi. Those military overthrows were recognized by other States. Still, recognition of the government influences the International

Europe abandoned peace for the First World War, Profile Books, p. 73.
Bosultan, Mamed(1993). Maintain Security And Peace In The World Through Legal Texts. The Work of the New World Order Forum and the Interests of Third World countries, University of Blida, p p. 225-246.

⁽²⁹⁾ Review Chapter VI of the Charter of the United Nations, material (33-38).
For details see :

SEUSE, Salvator(1990) Droit à La Paix et La Paix et Droit de L'homme, Les Droits de L'homme Universalité et Renouveau, Aijd, L'harmattan, p.195.

⁽³⁰⁾ Review Chapter (VII) of the Charter of the United Nations, Articles: (39-51).

⁽³¹⁾ Article 51 of the Charter of the UN.

⁽³²⁾ Paragraph (4) of Article (2) of the Charter of the UN. on the following:

All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations".

⁽³³⁾Bealey, Frank, ed. (1999). "government". The Blackwell dictionary of political science: a user's guide to its terms. Wiley-Blackwell. p. 147.

⁽³⁴⁾Governments types vary according to the constitutions of states. The types of governments: a certain state government appointed by the President-elect, and the government of the majority, and a transitional government, and the government of national unity, and the military government and the caretaker government. There are ownership and the governments of the Republic and the Emirate and the Sultanate and socialism and capitalism. Review:

Jeffrey Kopstein, Mark Lichbach(2005),Comparative politics : interests, identities, and institutions in a changing global order, 2nd ed, Cambridge University Press, , p. 4.

⁽³⁵⁾Bealey, Frank, ed. op.cit. p. 147.

⁽³⁶⁾ Jefferson, one of the founders of the United States of America and he was third president.

⁽³⁷⁾ Article (8) of the 1933 Montevideo Convention.

⁽³⁸⁾The Tobar Doctrine was incorporated in two agreements concluded by Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua in December 1907 and November 1923. The agreements stipulated that the signatories would withhold recognition from a government established in any of the five republics as a result of a coup d'état or revolution. The USA, although itrefrained from signing the agreements, nevertheless freely invoked them in the pursuit of its policies during the first half of the20th century. Opposed this theory (Estrada) Foreign Minister of Mexico and the government sees the recognition that comes through coup. See ;Shehab (1974), Mofed Mahmoud, public international law, Arab Alnahtha Publishing House, Cairo, p. 180.

relations even if this was not made clear by the International jurisdiction, or within the scope of International relations. The non-recognized government, in specific, is not desired by the dominating countries; it is not accepted as a member in UN, and no International relations are established with it, not to forget the absence of commercial, economic or political dealings, even if such State enjoys the aspects of the State, such as Palestine, north Korea, Germany and the alliances of the 2nd World War. These States were not accepted as members in UN until being recognized. This means that the issue of real or official recognition deprives such State from survival and are threatened to decay at any time. If no State mentions it, then it will stay an un-recognized entity and thus nothing to say about the State's right to stay.

Since 1990 after the elapse of the Soviet Union, we witnessed various International interventions to change the governments, regardless of the nature of such regimes (old or new). Governments of States were changed and were recognized by all States. As an example: the change of the regime in Iraq in 2003. in this context, George Bush the son assigned Paul Preimer as a civil governor for the period from 9/4/2003 until 28/6/2004. Preimer canceled the legislations and replaced it with (the Law of State Management), canceled the executive, legislative and judicial authorities, disassembled the Iraqi army and the governing party. After that, an Iraqi government chosen by the American occupation was established (28/6/2004). Elections were held (under the occupation) for the years 2005, 2010 and 2014. many States recognized this State and diplomatic relations were established under the occupation. At the end of 2012, the American troops withdrew from Iraq. This left a national war, that is still taking place until now. In 2011, the NATO Forces (under the name of UN)⁽³⁹⁾, hit Libya from the air, killed president Mo'ammr Qaddafi, established a new government, canceled the army and issued the law of political block⁽⁴⁰⁾. In 2012, Ali Abdulla Saleh, the Yemeni president was forced to abandon power (he is the Yemeni elected president), and his deputy Abd Rabbo Mansour Hadi was appointed as a president for Yemen "though he is not elected"⁽⁴¹⁾. After the army and Hotti made an overthrow, the Gulf States interfered by a military campaign called (Al-Hazm Storm), to re-appoint Hadi as a president for Yemen⁽⁴²⁾. Regardless of the nature of the political regimes of these governments, they are members of the UN and recognized by other States, even by the States that hit and occupied it. In this regard, recognition or non-recognition of the government is not anymore an obstacle to eliminate the existence of the State. In most cases, UN participates in eliminating its member States in order to achieve the interests of the strong governments. This means that the government's right to stay is based on the International interests (the great States).

⁽³⁹⁾Radio Free Europe/Radio Liberty, Death toll rising in latest Yemen protest violence, 16 October 2011, available at: <http://www.unhcr.org/refworld/docid/4eaaa8072d.html> [accessed 27 December 2012].

⁽⁴⁰⁾<http://www.alarabiya.net/ar/saudi-today/2015/03/28/>

⁽⁴¹⁾Radio Free Europe/Radio Liberty, Death toll rising in latest Yemen protest violence, 16 October 2011, available at: <http://www.unhcr.org/refworld/docid/4eaaa8072d.html> [accessed 27 December 2012].

⁽⁴²⁾<http://www.alarabiya.net/ar/saudi-today/2015/03/28/>

Second -The peoples' right to stay in international law

We will discuss the peoples' right to stay in accordance with the International law, through the following:

The concept of people in international law

According to the International law, people are the second component of the State. In law, sociology and politics, the term people indicates to a group of individual or peoples who live within one frame of cultures and habits in one community on a piece of land⁽⁴³⁾. The concept of people includes the nationals who enjoy political and legal rights and the foreigners who live in the State⁽⁴⁴⁾. It is not necessary that the people talk with one language or many languages or from one nation or various nations, but the most important is: they are subject to the authority of the State. In this regard, if the internal law insures the individual's right to live, prohibits attacking him, decides protection since birth to death, gives him the right to use force to defend his existence, then the International Human Rights' Law insures the right of the people to stay within the three components of the State; the State's right to stay in addition as a legal and International law, it is considered an ethical right that is based on the fact that: man has the right to live in peace and safety, and shall not be exposed to elimination or damage. The concept of the right for live had recently developed, as countries began to discuss subjects regarding man's right to live within the borders of other States⁽⁴⁵⁾, which is more than the right of the State to stay. There are various declarations and International treaties against unjustly killing, with the cancellation of the capital punishment⁽⁴⁶⁾, prohibiting the use of Armed Force, banning abortion⁽⁴⁷⁾, euthanasia⁽⁴⁸⁾, the justified Homicide and prohibiting environment pollution (where man lives)⁽⁴⁹⁾. The right for peace is a universal one relating to the survival of humanity, which took its position among man's rights in the modern world⁽⁵⁰⁾. The General Assembly of the UN approved the peoples' right in the national unity and any attempt to make partial or total division thereof, is considered against the objectives and principles of the UN⁽⁵¹⁾. It is not admissible to use, recruit, fund or train mercenaries

⁽⁴³⁾Bassiouni, Abdullah, Abdul Ghani (1990), Political Systems, the Foundations of the Political Organization, Knowledge House, Alexandria, p. 19.

⁽⁴⁴⁾Hartl, Daniel (2007). Principles of Population Genetics. Sinauer Associates. p. 95.

⁽⁴⁵⁾K.M. Cassidy(1990). "Right to Life." In Dictionary of Christianity in America, Coordinating Editor, Daniel G. Reid. Downers Grove, Illinois: Inter Varsity Press, p. 1017.

⁽⁴⁶⁾Alshltaoy, Mohammed Abdullah (1990), The Death Penalty in the Opinion of Amnesty, Journal of Public Security, Cairo, No. 130 July, p. 16.

Reviewing: Amnesty Campaign Against the Death Penalty, Doc. No. (act 2005 006/50. 5 april 2005).

⁽⁴⁷⁾Abortion (2000) ", The Associated Press Stylebook and Briefing on Media Law. Norm Goldstein, editor. Perseus Publishing, p. 4.

⁽⁴⁸⁾Jennifer M. Scherer(1999), Rita James Simon, Euthanasia and the Right to Die: A Comparative View, Page 27.

⁽⁴⁹⁾M. Scherer, Rita James Simon(1999), Euthanasia and the Right to Die: A Comparative View, Page 27.Roswitha Fischer(1998), Lexical Change in Present-day English, page 126.

⁽⁵⁰⁾Seuse, Salvator(1990),Droit à la paix et la paix et droit de l'homme, les droits de l'homme, Universalité et renouveau.- AIJD, L'Harmattan, p. 201.

⁽⁵¹⁾United Nations General Assembly Resolution (1514 on 14 December 1960 the fifteenth session) official documents Supplement No. (4684 EG 16. p.187)

as a means to eliminate or kill the peoples⁽⁵²⁾. Since the State includes a large group of individuals, then the International law insures the rights of those people to live, as they are human beings who enjoy the right to stay and the right to provide them with the means that insure their stay and protection mainly the land on which they live, with the need to have an authority the provides the requirements of protection. The State's right to stay insures the lives of the persons who are subject to the State and that the right authority and land to stay, which are only found for the stay the people. The people without an authority will cause chaos and elimination, while people without a region would negate their existence and displaces them and thus, they are not considered as people.

The concept of the peoples' right to stay in international law

The State has the right to deal with all inhabitants including nationals and foreigners. All enjoy their right to State and the State has to provide all means of protection to stay including the minorities⁽⁵³⁾. In addition, the State shall insure that all enjoy human rights the same as with the other members of the community. Moreover, it should put all guarantees to confirm the rights of all men and women⁽⁵⁴⁾. In this regard, various agreements insured the peoples' right to stay. Among these treaties and agreements:

- The International Declarations of Human Rights (1947), which States: man has the right to live⁽⁵⁵⁾, it is not admissible to expose him for torture nor the severe or non-human treatment or those which show lack of dignity⁽⁵⁶⁾. It should be acknowledged that each man has the right for living and peace in everywhere⁽⁵⁷⁾, with the right to have and enjoy a legal character⁽⁵⁸⁾;
- The agreement of punishing the genocide 1948: which means that any acts committed for the purpose of total or partial damage for a national or ethnic group, or for religious or discrimination reasons, or killing members of a group, and inflicting serious body or soul damage against the members of the group, and exposing the group – intentionally for living conditions aiming at total or partial damage, with imposing precautions that result in non-birth

of children within the group or taking and transferring their children by force to another group⁽⁵⁹⁾.

- The International Treaty for Political and Civic Rights (1965): this treaty required the protection of man's right to live; it is not admissible to deprive his life by force or issue a verdict to execute him, and prohibiting genocide crimes⁽⁶⁰⁾. In addition, it put limits for all armed or oppression crimes that target non-independent peoples, until they can practice – in peace and freedom- their rights in full independence and insure their right to live⁽⁶¹⁾.

In this regard, people a basic aspect for the State; insuring the people's lives is a guarantee for the States' stay. With that, the International law linked including man's right to live with the State's right to stay; the cancellation or elimination of one of them means the elimination of the other. From a practical perspective, many peoples are exposed to genocide due to the national and International wars, such as Burma, Iraq, Syria, Yemen, Lybia and other countries. This resulted in the death and displacement of millions of people. From a legal perspective, it is difficult to cancel all people while the government and regional government exists; the foreign occupation can cause the failure of a government and occupy a region, but it can not eliminate the whole people, nor to kill or displace large numbers of them; from a real perspective, this can not be imagined.

Third-The Territory's Right to Stay in The International Law

We will examine the **territory's** right to stay as stipulated in the International law, within the following to subtitles: As per the International law, the territory is the third aspect of the State and the absence of the territory means the non-existence of the people and the government. Accordingly, the territory is an important aspect in the State' The territory is defined as: that aspect of the State, where people stay and where the government initiates its internal and external policies and employs it laws on the people who are residing in that territory (including nationals and foreigners). A territory is also defined as: the material framework in which the State practices all of its tasks⁽⁶²⁾. Among the features of the territory are (fixed, specific, legality, dry land inside the borders of the State, which include valleys, mountains, rivers, lakes, gulf and regional waters located on a distance of 12 sea miles, not to forget air space to the limit where the State can protect as well as the lands under its authority⁽⁶³⁾. After the two World Wars during which millions of peoples were lost, the UN Declaration prohibited affecting the three aspects of the State (namely: the territory, the people and the government). The rules of the International regulations stipulated in Montevideo (1933) embodies these rules and confirmed the protection of humanity from International and national wars that threaten the extinction

⁽⁵²⁾Doc of the General Assembly of the United Nations: No. (AK / 47/433 and the doc No. (AK / 47/659)

⁽⁵³⁾ Article (9) of the Montevideo Convention 1933. "Adopts the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, the text of which is annexed to the present resolution". Article (1) of Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. General Assembly (A/RES/47/135) 1992.

⁽⁵⁴⁾ See recommendation 15: General recommendation No. 32 The meaning and scope of special measures in the International Convention On The Elimination Of All Forms Racial Discrimination, Committee On The Elimination Of Racial Discrimination Seventy-Fifth Session, 3 - 28 August 2009, CERD/C/GC/32, 24 September 2009.

⁽⁵⁵⁾ Article (3) of the Universal Declaration of Human Rights 1948 Provided: "Everyone has the right to life, liberty and security of person"

⁽⁵⁶⁾ Article (5) of the Universal Declaration of Human Rights 1948, Provided: " No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment".

⁽⁵⁷⁾ Seuse, Salvator(1990), op. Cit, p. 201.

⁽⁵⁸⁾ Article (6) of the Universal Declaration of Human Rights 1948.

⁽⁵⁹⁾ Article(2) Convention on the Prevention and Punishment of the Crime of Genocide 1948. Entry into force: 12 January 1951.

⁽⁶⁰⁾ Article 6 of the International Covenant on Civil and Political Rights in 1966.

⁽⁶¹⁾ Algesh, Hussein Ali (1967), self-determination, a comparative study, Dar Alktab Al- Arab. Aden p. 105.

⁽⁶²⁾ Paul Reuter, Institutions Internationales. Arbichon, Paris,1972. P. 109.

⁽⁶³⁾ Charles Rousseau (1982), Public International Law, the Arabization Shker Abedalha Khalifa, Aldar Alhlia for publishing and distribution, Beirut 1982, p 137

of the humanity by damaging. These rules were mentioned in the sixth and seventh chapters of the UN Declaration. Therefore, it is not admissible to occupy a State whether totally or partially, or the total or partial weakness of the national or regional unity⁽⁶⁴⁾. The main purpose of this principle is to put an end for the colonialism and give the peoples their full independence⁽⁶⁵⁾. In addition, this intends to give individual and group countries the right to resist colonialism, discrimination and end occupation and domination⁽⁶⁶⁾. The International law acknowledged man's right to stay in a territory and move from it, which is considered one of the human rights; it is the government's duty to protect the land and its environment⁽⁶⁷⁾. The protection of the environment is one of the priorities that concern the International community, since it relates to man's right to live. The International community seeks to satisfy all of the human basic needs, without affecting the needs of the future generations, with the need to divide the natural resources fairly and give each individual the right to live and work in a healthy environment, respect and preserving all shapes of live⁽⁶⁸⁾. It is clear and evident that the State's right to stay means in the first grade the inhabitants' right to live in the State, as well as the stay of the territory and government. This State's right to stay is insured by the International law; the State may not decide to end the existence of another State. Moreover, the International law recognized that every one has the right to choose the place of his stay and the freedom to move within the borders of his State. In addition, everyone has the right to leave and depart to any State, including his State and to return home whenever he deems appropriate⁽⁶⁹⁾. It is not admissible to subject any territory – by other States- for any dangers, with the need for full commitment of non-recognizing the occupation of a State for a territory of another State. In addition, it is not admissible to acknowledge any advantage gained by the occupying State when it occupies the lands of another, nor to attack the diplomatic missions or take any obligatory actions against the land of another. Military occupation of any part of a State is not allowed, nor to affect the sovereignty of a State by direct or indirect means, regardless of the motive thereof⁽⁷⁰⁾. The land's right to stay

means the humans' right for living and stability; a man without land to stay on, insures no stability nor guarantees his live. the ground (above and underground), rivers and seas from pollution.

The State's Right to Defend Its Existence in International Law

The for defense is a legal one that is stipulated in the International and internal laws,. This theme examines the right for legal defense as stipulated by the International law.

First -The State's Right To Defend Its Existence in International Law

A State has the right to defend its existence by using armed force. Despite that, some States do not have the force that enable it to encounter the attacking State, and therefore, the application of this principle witnessed various violations that relate to the State's right to stay. Consequently, we will handle the concept of the State's right to defend its existence, then the practical violations of the State's right to stay as well as the exclusions that respond to this right, which will come in the following three components:

The Concept of The Right to Defend Existence in International Law

The State's right to defend itself is one of the stable principles in the International law, which is called (the right for self-defense). This is a wide topic that can not be covered in this paper. However, we will study the relationship of legal self-defense and the State's right to stay. War has been the main means to settle International disputes and was justified by various reasons⁽⁷¹⁾. At the beginning of the last century, various calls emerged to prohibit war, and was embodied through numerous International treaties including Versay treaties (in Paris , 1919) that resulted in the UN League and the treaty to Kellogg Briand Pact (1928)⁽⁷²⁾ that promised to face illegal war with the legal one by the legal self- defense⁽⁷³⁾.

On the other hand, the right for legal defense is among the stable rules in the International customs that expand the right for legal self- defense. This right was even given to the colonial State when there are entities that threaten its interests in the occupied State. In 1837, the settlers of Canada made a revolution against the British occupation, as the USA took a neutral position from this revolution, but the American supporters helped the revolutors with men and supply which were carried on a deck called (Caroline). As a reaction, a British force arrested (Caroline) and burnt it⁽⁷⁴⁾. In the 2nd

⁽⁶⁴⁾Review: Declaration on Principles of International Law concerning Friendly Relations between the action taken by the General Assembly of the United Nations resolution No. 2625/25 of 24 October 1975 states. doc. (A / 80/8).1975.

⁽⁶⁵⁾Paragraph (1 / d) of the decisions of the Bandung Conference in 1955.

⁽⁶⁶⁾ General Assembly Resolution (3281 / D / 29) issued on January 15, 1975.

⁽⁶⁷⁾ International Law did not care to protect the Earth's environment, but too late. Modern conventions that ensure: The Convention on protection of the environment and Washington in 1977 in the framework of the International Labour Organization, on the protection of workers from occupational hazards arising in the work of air pollution and noise and vibration environment; World Charter for Nature 1980; the United Nations Conventions on the Law of the Sea 1982; Vienna Convention (1982) on the Protection of the Ozone; 1986 International Convention on Mutual Assistance in the Case of a Nuclear Accident; protocol Tyuko 1998 which commits developed countries to reducing Economic activities. Declaration of Earth Summit the Rio in 1992.

⁽⁶⁸⁾ Blackman, A.(2008), Can Voluntary Environmental Regulation Work in Developing Countries? Lessons from Case Studies. Policy Studies Journal, 2008. 36(1): p. 119-141.

⁽⁶⁹⁾Article (13) of the Universal Declaration of Human Rights on the following:
1-Everyone has the right to freedom of movement and residence within the borders of each state.
2- Everyone has the right to leave any country, including his own, and to return to his country".

⁽⁷⁰⁾ Article (3) of the 1933 Montevideo Convention.

⁽⁷¹⁾Many of the justifications for the war have emerged over the past centuries. In the Middle Ages the legitimacy of resorting to force in international law and the theory of just war theory, preventive war and other justifications emerged. Review:

Leo Van den hole(200), Anticipatory Self-Defence Under International Law, American University International Law Review, Volume 19 | Issue 1 , p. 70.

⁽⁷²⁾ Roberto Ago(1983), Addendum to the 8th Report on State Responsibility , 2 Y.B. Int'l L. Comm'n 52, para. 83.

⁽⁷³⁾ Leo Van den hole, op. cit, p. 72.

⁽⁷⁴⁾ Nichols, Thomas (2008). The Coming Age of Preventive War. University of Pennsylvania Press. p. 2.

World War, the court of Normburgh adopted this attitude when Germany invaded Norway and Denmark⁽⁷⁵⁾. This attitude has become a fixed International rule and the States used this right in the proactive war by attacking the troops of another State, claiming they threaten their existence (happened more than 250 times)⁽⁷⁶⁾. After some States were exposed to mass destruction due to the 2nd World War, which resulted in the death of millions of people⁽⁷⁷⁾, the UN Charter prohibited the State use the force in the International relations. But the UN Charter authorized the State to use their force in a situation where the State is exposed to external aggression⁽⁷⁸⁾, to defend itself and its existence⁽⁷⁹⁾. The Security Council has the right to observe that to keep International peace and security, and to take – when necessary- the procedures Stated in chapter seven of the Declaration (against the attacking country)⁽⁸⁰⁾. The International law gave the State (individuals and groups) the right to resist colonialism and discrimination, the new colonialism and to end occupation and domination. This right is necessary for the State's right to stay⁽⁸¹⁾. Furthermore, the Arab League conducted an agreement for mutual Arab Defense and Economic Cooperation, where the Arab countries are committed to defend the attacked Arab State. Although the UN Declaration did not consider the urgent State for the right to stay, but the strong States use the proactive as a means to defend its existence prior to being exposed or subjected to a real attack, and thus it allowed itself to attack the troops of another State based on the rule (the urgent necessity) once it believes that there is a nearing attack against it.⁽⁸²⁾ Just in case there is a suspicion that there are armed organizations on the lands of another, it justifies for itself a reasons to attack those organizations without a permission from the State⁽⁸³⁾. This is really what happened when the US and other States hit various locations, during the International campaign that was called the

(International campaign against terrorism)⁽⁸⁴⁾, by hitting sites for Al-Qa'ida in Afghanistan, Pakistan, Yemen, Iraq and Syria. The current International law for (self- defense) is one of the States' rights. The State has the right to defend itself⁽⁸⁵⁾. This right is based on the requirements of the right for existence, or the right to stay⁽⁸⁶⁾. This has been considered by all laws of the States (giving the individual the right to defend himself and the right to inflict damage against the attacking party. On the other hand, the right for legal defense is a reasonable result for the State's right to stay. It is impossible for the State to continue its existence unless given the necessary means to preserve this existence. Among the first means for self- defense is the legal right for self- defense. This legal right is one of the legal regulations taken from the internal laws, which State that the countries have the right for self- defense and inflict damage to the attacking party. Moreover, this right gives the State the right to use all possible means including armed force in order to dismiss the danger that threatens it. It is also allowed to commit acts – that are considered during ordinary circumstances as illegal- such as the use of force against a specific State or an organization that attempts to inflict damage to the attacked State, as long as this act comes under the umbrella of defending the existence of the State. With that, the State has the right to stop the illegal act, with similar one which becomes legal, since it comes within the framework of self – defense. This gives it the right to have a strong army to defend it.

Exclusions to the states right to stay

The State's right to stay is not a sole one; the existence of a State may be terminated under various cases that affect the components of the State. This comes under political or legal reasons such is inclusion or division. The most aspect for which the International law is concerned is man's right to live, by insuring the individuals existence alive. However, in some cases, the existence of a State may be terminated without affecting the right to stay. Among these cases:

- A. Joining another State, which will change the land's map and population, if occurred with the consent of the two States. As for the government, the governments of both States may change and a new one will emerge⁽⁸⁷⁾, or a State's government may stay while the other elapses⁽⁸⁸⁾.
- B. Dividing the State into different ones; here, the legal character of the original State disappear, and other States with independent characters will emerge. This is followed by the division of the people, region and the elapse of the public authority⁽⁸⁹⁾.

⁽⁸⁴⁾ Duffy, Helen (2005). The 'War on Terror' and the Framework of International Law. Cambridge University Press. p. 157.

⁽⁸⁵⁾ For details of the right of self-defense review: Gerhard van Glahn, op. Cit., P. 146.

⁽⁸⁶⁾ Gerhard van Glahn, op. Cit., P. 139.

⁽⁸⁷⁾ For example: the Union of Egypt and Syria in the United State Arab Republic in 1958, and the accession southern Yemen to the North Yemen in 1990 was established with a new government and the end of the previous two governments.

⁽⁸⁸⁾ When the East Germany joined in the Federal Republic of Germany in 1989, the collapse of the Berlin Wall, ended the government of East Germany and West Germany continued government.

⁽⁸⁹⁾ As an example: the division of Germany in 1945 into western and eastern Germany; the division of India (Baharta) into two states, namely: India and

⁽⁷⁵⁾ Olaoluwa, Olusanya (2006). Identifying the Aggressor Under International Law: A Principles Approach. Peter Lang Pub Inc. p. 105.

⁽⁷⁶⁾ Nichols, Thomas op cit. p. 2.

⁽⁷⁷⁾ World War was the deadliest military conflict in history, in absolute terms of the total death toll. More than 60 million people have died, and they represent about 3% of the world's population 1940. The review for the victims of the Second World War: Förster, Stig; Gessler, Myriam (2005). "The Ultimate Horror: Reflections on Total War and Genocide". In Roger Chickering, Stig Förster and Bernd Greiner, eds., A World at Total War: Global Conflict and the Politics of Destruction, 1937–1945. Cambridge: Cambridge University Press, pp. 53–68.

For definition of the aggression see the Resolution No. 3314/ 1974 United Nations General Assembly. for details see:

GILL, T.D.(1995) Limitations U.N. Enforcement Powers.- Neherands Y.I.L.,- p.p. 99-198.

⁽⁷⁹⁾ Article 51 of the UN Charter Provided: "Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security"

⁽⁸⁰⁾ Mohammed Bosultan (1995), the effectiveness of international Views, Office of University Publications, Algeria, p 0.209.

⁽⁸¹⁾ United Nations General Assembly Resolution (3281 / D / 29) issued on January 15, 1975.

⁽⁸²⁾ May, Larry (2007). War Crimes and Just War. Cambridge University Press. p. 206.

⁽⁸³⁾ Daniel Bethlehem, Principles relevant to the scope of a state's right of self-defense against an imminent or actual armed attack by non state actors. the American Journal of International Law , vol. 106, 2012. p.2-6.

C. An independence of a State from another: the original government keeps existing, while a new one emerges for the independent region⁽⁹⁰⁾.

Violations of the state's right to stay

The practical application of the principle of the State's right to stay came contrary to the content of the International treaties and the UN Declaration. The world witnesses a number of devastating wars including the wars in Vietnam, Cambodia, Haiti, Nicaragua and a number of the African States. On the other hand, the Arab world witnessed local and International devastating wars, such as the difficulties that has been facing the Palestinians since 1947⁽⁹¹⁾, the war against the Algerians⁽⁹²⁾, and the International and national wars on Iraq in 1991 by resolutions from the UN Council⁽⁹³⁾ and in(2003), which came under the leadership of the USA⁽⁹⁴⁾. Furthermore, we should not forget the wars against Syria (2011)⁽⁹⁵⁾, and Libya based on resolutions from the UN Council under the leadership of NATO troops (2012)⁽⁹⁶⁾; the national was in Yemen and the

military interference in the Gulf under a campaign titled (Firm Storm) (2015)⁽⁹⁷⁾. Consequently, these wars resulted in ending the existence of Palestine, Iraq, Libya, Yemen and Syria, not to forget the consequences of the national wars (due to terrorism) in Somalia, Egypt, Tunisia and Lebanon which caused the death, injury and displacement of millions of people. This refers to the domination of one State, namely: the USA, which made the State's right to stay and human rights, are subject to the interests of the State that dominate the world. Currently, the International community witnesses a mass refugees movements from the Arab and African States to the west due to the tense of the armed struggles which made life impossible in those countries. In this regard, it is worth stating that there millions of internal and International displaced peoples⁽⁹⁸⁾.

Conclusion

Despite the development of the International community in the International field of human rights, and the issue of protecting man has become one of the most important in the International law, and that the International work is still linking the requirement of recognizing the State, so as to enjoy the right to stay, even if not said clearly, the State is not recognized the States that dominate the world, does not enjoy the right to stay, while the UN Declaration in the International Fiqh (jurisdiction), does not require recognizing the State so as to enjoy the right to stay, except in the practical application that witnesses various violations against the State's right to stay. The States that are unrecognized by the dominating States have worked to eliminate some States, completely with the knowledge and consent of the UN. As examples for that: terminating the existence of Palestine in 1948, damaging Iraq by the International alliance in 2003, igniting the national war in Syria through direct intervention, damaging Libya in 2011, Yemen by the Gulf States in 2015. the elimination of those States resulted in damaging millions of their peoples between a dead, injured, displacement and mass immigration. In addition to that, such acts resulted in threatening a number of other States to be eliminated such as north Korea, Cuba and Sudan. Those States were not accepted by the USA, and to damage them applies on damaging their peoples. On the other hand, the race of armament among the States, and continuing to create damaging weapons means that the whole humanity is waiting devastation, damaging and extinction. Therefore, it is necessary to create an International legal procedure that protects man's right to live regardless of the acts of the State, or whether it is accepted or rejected by other dominating States. For these reasons, we would recommend the following:

- 1- To amend the UN Declaration so as to prohibit UN and other States from interfering in the internal affairs of the

Pakistan in 1947; the collapse of the Soviet Union in 1991 and division into various states; the collapse of Yugoslavia in 1991 and transferring it into a number of republics such as: Serbia, the Black Mountains, Posnia, Herzog and Croatia as well as the emergence of new governments. Refer to:

Dejan Jovic (2007). Yugoslavia: a state that withered away. Purdue University Press, p. 15.

⁽⁹⁰⁾Example: the independence of Eastern Timor from Indonesia (2002) by a poll under the UN; the Independence of South Sudan from Sudan in 2011 as the government stayed and a new one emerged from the independent state.

⁽⁹¹⁾ Benny Morris (2008). 1948: a history of the first Arab-Israeli war. Yale University Press, p. 47.

Memorandum on the Palestine Refugee Problem, 4 May 1949, FRUS, 1949, p. 984.

⁽⁹²⁾For details about the French occupation crimes in the killing of Algerians see: Mohamed Hassanein Heikal (1992), Suez Files: Thirty Years' War, Cairo: Al-Ahram Center, p. 431.

⁽⁹³⁾ Security Council resolutions against Iraq: S / RES / 660 (1990S / RES / 661 (1990S / RES / 665 (1990), S / RES / 669 (1990), S / RES / 670 (1990), S / RES / 676 (1990), S / RES / 677 (1990), S / RES / 686 (1991), S / RES / 687 (1991), S / RES / 689 (1991).

Review: The impact of the US blockade and aggression on the health situation in Iraq, the journal of Am Al-Mark , No. 16, October 1998, the Research Center of Am Mark, Baghdad, 1998, p. 169. also review:

UNICEF (1993) Children and Women in Iraq, A Situation Analysis, UNICEF, Baghdad 1992.

⁽⁹⁴⁾In 2003, The international coalition to destroy Iraq. They were destruction of the state of Iraq , resolve the government , deletion of Military, the destruction of all state institutions. US appointed Bremer was civil governor in Iraq, review:

Review for Abu Ghraib crimes: d. Fatlawi, Suhail Hussein (2008) Human rights in Abu Ghraib prison, Dar Arab vanguard, Oman, p. 12. It features an Abu Ghraib prisoner 7490. Review

General (Dept. of the Army), Inspector (2004). Detainee Operations Inspection. DIANE Publishing. pp. 23-24.

Graham, Bradley (7 April 2003). "U.S. Airlifts Iraqi Exile Force For Duties Near Nasiriyah". Washington Post. Retrieved 13 September 2009.

"Plans For Iraq Attack Began On 9/11". CBS News. 4 September 2002. Archived from the original on 25 May 2006. Retrieved 26 May 2006.

⁽⁹⁵⁾Civil war in Syria start in 2011 the intervention of foreign, particularly Western intervention. Review:

.S. weapons reaching Syrian rebels". Washington Post. September 11, 2013.

Russia, and Iran, stood by the Syrian government. Review:

Both Iran and Russia backed the Syrian government

Weiss, Michael. "Russia Puts Boots on the Ground in Syria". The Daily Beast. Retrieved 3 September 2015.

⁽⁹⁶⁾On 19 March 2011, the NATO intervention in Libya was to disband the army and the issuance of political isolation law and an end the regime in Libya. Review:

Slobodan Letic. "Secretary-General says NATO has taken sole control of air operations over Libya". Star Tribune. Retrieved 5 April 2011.

⁽⁹⁷⁾ Mazzetti, Mark; Kirkpatrick, David D. (2015). "Saudi Arabia Begins Air Assault in Yemen". The New York Times. Retrieved 25 March 2015.

⁽⁹⁸⁾ Millions of Syrians migrated to Europe, escape from the civil war in Syria.

This immigration had created problems to Europe. Review:

UNHCR Syria Regional Refugee Response/Total Persons of Concern". UNHCR. 29 August 2015. Retrieved 21 March 2015.

Iraqi emigration, review:

Lischer, Sarah Kenyon (Fall 2008). "Security and Displacement in Iraq: Responding to the Forced Migration Crisis". International Security 33 (2): 95-115.

- States, especially, not to fund the national wars with money and weapons.
- 2- Not to use the seventh chapter except in the cases where a State attacks another actually, and here, the task of the State is to remove danger;
 - 3- Confirm the non-use of any armed forces against another State without the consent of UN. It is not admissible to delegate a State of an alliance to achieve thereof;
 - 4- Activate Geneva agreements (1949) in the cases of International and national wars, and that all States shall comply with these agreements;
 - 5- Conduct International agreements that prohibit or limit the use of traditional or modern weapons, with the need to put controls on weapon production except to protect the State;
 - 6- Make the hot zones, or those witnessing armed disputes, disarmed from all kinds of weapons, and prohibiting the States from help any of the disputing States;
 - 7- Full International cooperation to protect the displaced and refugees due to International and national wars;
 - 8- The UN shall observe the hot zones all over the world, and shall take the necessary action to prevent any exaggeration of the regional disputes.

REFERENCES

1. Abortion 2000. The Associated Press Stylebook and Briefing on Media Law. Norm Goldstein, editor. Perseus Publishing.
2. Algesh, Hussein Ali 1967. Self-determination, a comparative study, Dar Alkitab Al- Arab. Aden.
3. Alshltaoy, Mohammed Abdullah 1990. The Death Penalty in the Opinion of Amnesty, *Journal of Public Security*, Cairo, No. 130 July.
4. Bassiouni, Abdullah, Abdul Ghani 1990. Political Systems, the Foundations of the Political Organization, Knowledge House, Alexandria.
5. Bealey, Frank, ed. 1999. "Government". The Blackwell dictionary of political science: a user's guide to its terms. Wiley-Blackwell.
6. Bealey, Frank, ed. 1999. "Government". The Blackwell dictionary of political science: a user's guide to its terms. Wiley-Blackwell.
7. Benny Morris 2008. 1948: a history of the first Arab-Israeli war. Yale University Press.
8. Blackman, A. 2008. Can Voluntary Environmental Regulation Work in Developing Countries? Lessons from Case Studies. *Policy Studies Journal*, 2008.
9. Bosultan, Mamed 1993. Maintain Security And Peace In The World Through Legal Texts. The Work of the New World Order Forum and the Interests of Third World countries, University of Blida.
10. Castellino, Joshua 2000. "International Law and Self-Determination: The Interplay of the Politics of Territorial Possession With Formulations of Post-Colonial National Identity". Martinus Nijhoff Publishers.
11. Charles Rousseau 1982. Public International Law, the Arabization Shker Abedalha Khalifa, Aldar Alhlia for publishing and distribution, Beirut 1982.
12. Daniel Bethlehem, 2012. Principles relevant to the scope of a state's right of self-defense against an imminent or actual armed attack by non state actors. *The American Journal of International Law*, vol. 106.
13. Dejan Jovic 2007. Yugoslavia: a state that withered away. Purdue University Press
14. Duffy, Helen 2005. The 'War on Terror' and the Framework of International Law. Cambridge University Press.
15. European Union and by the EU, had met conditions specified by the Council of Ministers of the European Community on December 16, 1991.
16. Fatlawi, Suhail Hussein 2008. Human rights in Abu Ghraib prison, Dar Arab vanguard, Amman.
17. Förster, Stig; Gessler, Myriam 2005. "The Ultimate Horror: Reflections on Total War and Genocide". In Roger Chickering, Stig Förster and Bernd Greiner, eds., *A World at Total War: Global Conflict and the Politics of Destruction, 1937–1945*. Cambridge: Cambridge University Press.
18. Geneina, Sami Mahmoud 1938. Public international law, Arab Alnath Publishing House, Cairo.
19. Gerard Kreijen, 2004. Legal Lessons from the Decolonization of Sub-Saharan Africa, Published by Martinus Nijhoff.
20. Gerhard Von Glahn, *Law Among Nation. An Introduction to International Law*. 2ed. New York 1970.
21. Graham, Bradley 7 April 2003. "U.S. Airlifts Iraqi Exile Force For Duties Near Nasiriyah". Washington Post. Retrieved 13 September 2009.
22. Hand Kelsen 1941. Recognition in International Law, Theoretical Observations, 35 Am. J. Int' L. 905.
23. Hartl, Daniel 2007. Principles of Population Genetics. Sinauer Associates.
24. Hersch Lauterpacht 2012. Recognition in International Law. Cambridge University Press.
25. Jeffrey Kopstein, Mark Lichbach 2005. Comparative politics : interests, identities, and institutions in a changing global order, 2nd ed, Cambridge University Press.
26. Jennifer M. Scherer 1999. Rita James Simon, Euthanasia and the Right to Die: A Comparative View, Page 27.
27. K.M. Cassidy 1990. "Right to Life." In Dictionary of Christianity in America, Coordinating Editor, Daniel G. Reid. Downers Grove, Illinois: Inter Varsity Press,.
28. Laiah 1969. Mohamed Kamel, political systems (the state government), Arab Alnatha Publishing House, Beirut.
29. Leo Van den hole 2000. Anticipatory Self-Defence Under International Law, *American University International Law Review*, Volume 19 | Issue 1.
30. Lischer, Sarah Kenyon Fall 2008. "Security and Displacement in Iraq: Responding to the Forced Migration Crisis". *International Security* 33 (2).
31. M. Scherer, Rita James Simon 1999. Euthanasia and the Right to Die: A Comparative View.
32. Margaret MacMillan 2013. The War that Ended Peace: How Europe abandoned peace for the First World War, Profile Books.
33. May, Larry 2007. War Crimes and Just War. Cambridge University Press.
34. Mazzetti, Mark; Kirkpatrick, David D. 2015. "Saudi Arabia Begins Air Assault in Yemen". The New York Times. Retrieved 25 March 2015.

35. Mohamed Hassanein Heikal 1992. Suez Files: Thirty Years' War, Cairo: Al-Ahram Center.
36. Mohammed Bosultan 1995. the effectiveness of international Views, Office of University Publications, Algeria.
37. Nichols, Thomas 2008. The Coming Age of Preventive War. University of Pennsylvania Press.
38. Olaoluwa, Olusanya 2006. Identifying the Aggressor Under International Law: A Principles Approach. Peter Lang Pub Inc.
39. Paul Reuter, Institutions Internationales. Arbichon, Paris, 1972.
40. Philip Marshall Brown 1935. The Theory of the Independence and Equality of States The American Journal of International Law. Vol. 9, No. 305-335.
41. Roberto Ago 1983. Addendum to the 8th Report on State Responsibility, 2 Y.B. Int'l L. Comm'n 52.
42. Roswitha Fischer 1998. Lexical Change in Present-day English.
43. SEUSE, Salvator 1990. Droit à La Paix et La Paix et Droit de L'homme, Les Droits de L'homme Universalité et Renouveau, Aijd, L'harmattan.
44. Seuse, Salvator 1990. Droit à la paix et la paix et droit de l'homme, les droits de l'homme, Universalité et renouveau.- AIJD, L'Harmattan Shaw, Malcolm Nathan 2003. International law. Cambridge University Press.
45. Shehab 1974. Mofed Mahmoud, public international law, Arab Alnahtha Publishing House, Cairo.
46. Sir Hersch Laurerpacht 2013. Recognition in International Law, Cambridge University Madrid, p. 26.
47. Sundhya Pahuja 2005. The Postcoloniality of International Law, *Harvard International Law Journal*, Volume 46, Number 2, Summer.
48. Xiaodong Yang 2012. State Immunity in International Law, Cambridge University Press, London.
49. Yi-Chiang Chen 1951. The International Law of Recognition, Oxford.
50. Convention on Rights and Duties of States Nations Treaty Series, vol. 165.
51. Convention on the Prevention and Punishment of the Crime of Genocide 1948.
52. Declaration of Earth Summit the Rio in 1992.
53. Declaration on Principles of International Law concerning Friendly Relations between the action taken by the General Assembly of the United Nations resolution No. 2625/25 of 24 October 1975 states. doc. (A / 80/8).1975.
54. Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. General Assembly (A/RES/47/135) 1992.
55. International Convention On The Elimination Of All Forms Racial Discrimination, Committee On The Elimination Of Racial Discrimination Seventy-Fifth Session, 3 - 28 August 2009, CERD/C/GC/32, 24 September 2009.
56. International Covenant on Civil and Political Rights in 1966.
57. Montevideo Convention of 1933.
58. Security Council resolutions against Iraq: S / RES / 660 (1990S / RES / 661 (1990'S / RES / 665 (1990), S / RES / 669 (1990), S / RES / 670 (1990), S / RES / 676 (1990), S / RES / 677 (1990), S / RES / 686 (1991), S / RES / 687 (1991), S / RES / 689 (1991).
59. Treaty of Montevideo, Uruguay, in December 26, 1933, during the Seventh International Conference of American States. Agreement was signed by 19 countries.
60. UNHCR Syria Regional Refugee Response/Total Persons of Concern". UNHCR. 29 August 2015. Retrieved 21 March 2015.
61. UNICIEF (1993) Children and Women in Iraq, A Situation Analysis, UNICEF, Baghdad 1992.
62. United Nations Convention on the Immunities of States and their property from
63. Universal Declaration of Human Rights 1948
