TITLE

Failure of the Westphalian Nation-State System Theory to Protect Human Rights

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Abstract

The modern state theory or "nation-state theory" is relatively new to human history, which emerged after the Renaissance and Reformation. The idea behind this kind of state systems particularly is associated to the throwing off of kings and breaking up of emperors and especially the emergence of modern and bureaucratic system of states which usually refer to the "Westphalian system".[1]

In recent years, critics against what the nation-state did and pretended as an absolute sovereignty regime within its borders has been increasingly increased,[2] especially where there is different minorities (ethnic, language, religious, etc.) in the country, but they feel the ruling party and governors do not respect and represent their interests as a part of population. Following these critics, International wars, civil wars, racial discrimination and genocide among and between national groups within states has led us to believe that nation-state theory is failing to protect basic human rights.

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[1] - C., Gopinath, Globalization: A Multidimensional System, Sage Publication Inc., 2008, p. 79
[2] - According to the former Secretary-General, Boutros Boutros Ghali, "The time of absolute and exclusive sovereignty … has passed; its theory was never matched by reality." Report of the UN Secretary General: "Agenda for Peace", Council on Foreign Relations, Available at: http://www.cfr.org/peacekeeping/report-un-secretary-general-agenda-peace/p23439, Last Visited: 2016-12-19

This paper argues that the nation-state sovereignty because of its nature and characteristics from the time it is created, - particularly in the Middle East - almost always violated the main propositions about respect for human rights, domestic justice and rule of law which are necessary foundations for any state. One of the main challenges of nation-states system especially in Middle East countries is that they are unable to fully respect the human rights of members of those national minorities living within it and this is what makes lots of problems in today Middle East area.

Therefore, as the experience and even actual situation of the nation-state shows this kind of state sovereignty is incompatible with the adequate recognition of human rights of national minorities. This paper pretends that nation-state is an old fashioned sovereignty system which is unable to guarantee the fundamental human rights of the people living within it, including the right of its peoples to national self-determination; therefore a new theory for states in the area need to be developed under international law.

However, we don't want in this paper to develop a system which can be generalized to all countries or states of the world. Instead the focus of this study is "Rethinking the Nation-State theory"[3] and to present an empirical solution that could prevent the Middle East area from more conflicts and wars in the future which also might be applicable in other similar cases.

Keywords: Nation-State- Human Rights- Right to Privacy- Living under the Law

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[3] - Rethinking the Middle East" is the name an article which written by British-American historian Bernard Lewis and published in the 1992 issue of the CFR's publication, 'Foreign Affairs'. In this article Lewis describes the future of the Middle East which is going to face conflicts and instabilities.
Lewis, B., Rethinking the Middle East, Foreign Affairs, Vol. 71, No. 4, Fall 1992,