

Responsibility of States in the War against the Foreigners Residing

Omid Hossein beiki

Faculty of Law and Humanities - Department of Law Islamic Azad University of Chalous, Chalous, Iran

ABSTRACT: In many non-international armed conflicts or civil wars and revolutions, we had a lot of international crimes against foreigners residing in the country, have taken place. Governments in domestic wars and revolutions against resident aliens, rights and obligations, in case of violation of these obligations, will have international responsibilities. Resident aliens in a country in a civil war or domestic revolution, between the two sides: From on the one side the government troops and rebel forces on the other hand. Each party's are responsible for their rights and obligations. If the rebels in a civil war, revolution, commit a crime against resident aliens, who is responsible for the international responsibility? Are governments responsible for acts of insurgency against resident aliens? On the other hand, wars and revolutions are the domestic area of collision between the two armed forces. So in these wars and revolutions, heinous crimes and inhumane, the people and consequently foreign residents, including crime against humanity genocide and war crimes occur. This will be particularly involved with international criminal responsibility. This research seeks to explain the contents which are listed.

Keywords: international responsibility, civil war and revolution, resident aliens

Statement of the Problem

In the developed world, according to the basic measures and important developments that have occurred in the field of international law, the rights of aliens in different countries has been considered as one of the important utmost. The need to recognize the importance of valuing the rights of aliens in international law is much worth nowadays. Since in the UN Charter, live in peace, unity for protecting peace and to achieve economic and social progress shared goal was announced, till date, more than a hundred battles, whether they had international aspect or domestic wars which have occurred, not only create material losses and the destruction of millions of people, the peace and progress of the stump has been pulled. (Momtaz & Ranjbarian, 2004, Introduction). Among these, the domestic wars or armed conflicts are growing a record more than ever and caused that more attention in the international legal system given to it. (Momtaz & Ranjbarian, 1387, Introduction). On the other hand it should be noted that the consequences or damage of domestic wars and revolutions, not only citizens of those countries who have been stuck skirt, but also the fire of revolution and civil war in that countries have been stuck the resident aliens. Meanwhile, the international responsibility of the State in civil wars and revolutions against foreigners residing in their territory is very important. This article seeks to explain and clarify these responsibilities.

Research questions

RQ. Does the foreigners who residing in the territory have any rights assignments?

What factors do Principles of international responsibility depend on?

First, there is a specific international legal obligation between the two governments. Second, the fact that the act or omission that violates the covenant. And attributable to the state and finally the loss or damage caused by illegal action or leave the illegal act has occurred. The situation in a number of claims outstanding is explained, in proceedings relating to the Spanish region of Morocco, Judge Huber emphasized that "the responsibility for the result of the requirement for ore mining, all rights has international character entails international responsibility of international responsibility directly when asked that acts contrary to international law from organizations, employees and even the ordinary people of the country should be straight. International law Scientists based on the origin of international responsibility have expressed different views, there are two underlying theory in this regard. One or error theory and other theories of mental responsibility or liability risk objectively. However, the adoption of one of these two theories, new theories in international law is responsible for it; that's the responsibility for the actions of that theory is not prohibited under international law. Meanwhile, the international responsibility of the State in civil wars and revolutions against foreigners residing in their territory takes very high importance.

Rights of aliens

Requirements with international law

Most legal scholars believe that international law requires that the state to consider minimum wage for foreigners, and they say that, in general, and not always it can be consider a clear and comprehensive set of this minimum. This minimum is constantly changing and evolving with civilization and progress of human thought. But what can be said in general is that the outlined criteria and the minimum rights of foreign nationals, is as what civilized nations behave with them. In principle, no state is required to accept foreigners on its territory. But it was accepted that foreign state-owned land, should at least be made legal for him. But it was accepted that foreign state-owned land, should at least made some legal rights for him. There are two ways of thinking in the field of aliens:

1-Philosophical and moral thinking 2-The political thinking

In philosophical and moral way of thinking, the thinking is that, aliens and citizens of the interior, rights which are necessary for human life should be the same benefit, and essentially no difference should be available between foreign and domestic nationals. Of those countries in which the aliens are accorded the same rights that the legislator has identified for nationals, is Switzerland. In political thinking, largely considered the nation wants. In this system, the fundamental interest of the nation is above the interests of the people. And say the problem of determining the rights of aliens, in a given country cannot be merely a moral or legal issue, but this issue is friction with the fundamental interests of the nation. Government regulation in a timely manner about the rights of aliens should consider the triple of security, economic interests and the interest of the population. For example, in terms of security, the government should implement some security measures in a timely manner. So that they might be hurt from the aliens or at least some of them, from the side of number and position of danger for covering the life of the country.

International sources of international responsibility

About the sources of international responsibility, it is better to be said that the responsibility of the international law has customary basis. Because what has been done to increase the level of the measures in 1930 international law, in the Hague conference, had been failed.

The design of the international responsibility of the country began by International Law Commission since 1969, based on Professor Robert ego. Finally, in November 2001, the plan was approved by the Commission. The project has been in the form of an international treaty. Although total indicated develop international law liability. Materials about the international responsibility of the project have not yet entered into force. But in many cases filed with the International Court of Justice, the parties to the Commission's work have pointed out that the Court also pays attention to them. Therefore, we can design materials on the international responsibility of international responsibility is one of the sources of law.

Government rights against foreign inhabitants in Civil wars and revolutions of states

At the time of the Revolution of the most sensitive point of time for governments, the control of circumstances and return the situation to normal operation, the order and security of the domestic economy and the overall management of the country at this time of the most important issues for the government . In such cases certain expectations of their citizens believe that the state system and their followers in general. As well as foreigners who are resident in the country and in the country for any reason and an excuse that they are waiting for their co-operation and good behavior. As usual behavior of states towards aliens residing in that represents his dignity as human beings, and assign rights and privileges for him, and look to him as a new citizen. Resident alien is responsible to behave and actions as a citizen who tries to have deserve honest self-expression. In the event of war, internal revolution in any country may provide a misuse for everyone. Imagine aliens, whether natural or legal resident at the time, they want to exploit. For example, a person familiar with the outside world decides to act as a spy and sabotage acts and discloses the secrets of the country, Or attempting to engage in trade and smuggling of weapons and ammunition, and for parties involved in civil war, provide weapons and ammunition. According to the acquaintance, the opportunity to prepare and supply of arms and ammunition and explosives groups involved in the civil war and control the revolution. Imagine a foreign company to new countries entered and decided to work in that country, or to have branches in the world, because freedom of movement or entry and exit in different countries, and with given these circumstances, wish to state that the country is facing internal and revolutionary war to trade or trafficking in arms and ammunition and so on it.

Obeying the rules and regulations of the host government in the time of war and revolution

When an alien enters the country for any reason and an excuse and wants to stay temporarily or permanently, and in the categories of aliens living among one of the categories listed in the first part mentioned above, should obey the rules and regulations of the country where it enters, respect and comply with it. All countries in the world, from weak to strong, from poor to rich, civilized and uncivilized, to manage their internal

affairs are rules and laws. Also for entry and residence of aliens in the country's rules and laws. Aliens must not only comply with general rules. But certain rules that must be imposed on aliens also follow. But in a state of war that caused a civil war and revolution for the country. One of the most important issues that for any state in the internal affairs there, the public order. The government will focus its efforts to maintain the peace of our nation. One way to keep the peace is to maintain public order. Aliens who are residing in the host state should respect the rules and regulations which imposed by the government in order to maintain public order. In the particular situation of war and revolution of such rules, rules that governments have to control the situation and maintain public order situation are the rules of the assembly, the rules related to traffic day and night, plans blackouts and types and different kinds of regulations and revolutionary civil war, noted. Implementations of the rules for resident aliens are required.

***Obligations of States in wars and domestic revolutions against foreigners residing
Respect the human rights and respect the humanitarian law***

The Universal Declaration of Human Rights, rights related to the dignity of human dignity, regardless of affiliation, ethnic, territorial, religious, sexual, as they are raised. Article One of the Declaration in fact is the basic theoretical and asks, pointing to the universality and says all human beings are born free and equal in dignity and rights. The principle of non-discrimination set out in Article 2 of the Universal Declaration of Human Rights is no more the same principle. The matter in the light of the introduction foregoing statement that recognized the inherent dignity and equal and inalienable all members of the human family as the foundation of freedom, justice and peace in the world recognizes, meaning universal and culturally takes . Declaration of the right to life, liberty and security of person, prohibition of torture, prohibition of slavery, prohibition of detention and deportation arbitrarily, the right to judicial protection, freedoms, such as freedom of thought, religion, conscience, expression, movement and travel, assembly and peaceful assembly, political participation, the right to freedom of employment, marriage, education and the right to health, right to life and the necessary minimum social security as a universal human right to know. We can say that all people in any country, or generally at any point of the globe they are and by whatever name they are either refugees, stateless, refugees, displaced people and citizens of the original interior, with human rights and fundamental rights, and this phenomenon is universal. But in case of civil war, revolution, whether foreigners residing in the country have had the same human rights in peace times? In response, it should be said, with reference to the Charter of Human Rights, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, the right to expression, and it is conditioned in the peacetime. The Universal Declaration of Human Rights, this means that recognizes the rights and freedoms stated, it is not absolute. Thus it allows the government to pass laws that limit the implementation of these rights. Provided that the purpose of these rules, merely securing due to recognition and respect for the rights and freedoms of others and comply with ethical requirements and public order and the general welfare.

Humanitarian law

Human rights law in time of war conduit (justin Bello). Use of force under Article 2 (4) of the UN Charter prohibited. Governments can only inherent in the exercise of the right to self-defense, individually or collectively (Article 51) or within the military actions of the Security Council (Articles 43-39) are in force. The far past and the past centuries, human rights and rule by the most power in such a small though it was run. For example, we can mention the following:

The origin of some of the rules under which restrictions on the conduct of war, war tools and their application was imposed in ancient times can be found.

The Sumerians considered the situation that is ruled by law and by declaring war, beginning with peace treaty ends. War was subject to certain rules, including security guarantees that negotiators enemy.

Hammurabi, king of Babylon (1686-1728) BC "Code of Hammurabi" in order to protect the poor against oppression upon his hands and ordered that the hostages be released upon payment of a ransom.

In the seventh century BC, the first Kourosh, king of Persia ordered the Koldanies injured, including wounded soldiers treated him. And additional examples can be found in abundance on.

What is intended is that the rules of humanitarian law in a historical process with respect to human progress and civilization it progressed and has come in to its present form. There's still a lot of progress. Although in some cases we have even seen the opposite. Humanitarian law, international and non-international armed conflict is workable. But the civil war and revolution in the category of non-international armed conflict are now two documents. Explicitly apply in the internal armed conflict. Additional Protocol II to 1977, the more detailed the internal armed conflict has been developed to run on. Additional Protocol II to 1977, except in two cases not beyond common Article 3. The first related to non-international conflict Common Article 3, which is located on the territory of a High Contracting Parties to the Protocol will be applied. It seems Protocol II only in the Civil War (city) is fully implemented. The second is that Protocol II is rule to the conflict between the government and rebel movements.

But aliens resident in a local Revolutionary War following a few basic conditions are met:

1. Resident aliens from the central government and its armed forces are under attack.
2. Resident aliens of the group or groups of rebel fighters attacked invasion are revolutionary.
3. Resident aliens in a revolutionary war to attract domestic government forces and rebel groups fighting government support.
4. Resident aliens, in a revolutionary war and to support and protect the internal absorption rebel forces or rebel groups fighting the government.
5. Resident aliens in a civil revolutionary war attacked the two sides involved in the civil war, revolution, government forces and the rebel forces are under attack.

In the debate over the administration's commitment to the case, it is possible for resident aliens attacked by government forces and rebel groups against the government or resident aliens into war, the mind is conceivable. In each of these cases, the observance of human rights for resident aliens, is legally binding. Implementation of the provisions of the State of the International Criminal Court is also legally binding. Governments, relevant conventions and treaties have been ratified and are often required to run it.

Commitment to support the resident aliens and their victims

Starting with this fundamental question we face is whether rebel forces and the revolutionary war and revolutionary civil or general internal armed conflict, in support of foreign residents and their victims and helping them, commitments, or just subject to the obligations of government and government troops? With a little searching in Article 3 common to the four Geneva Conventions, Additional Protocol II in 1977, to the fact that it follows all the rules of international law on the title of "internal conflict parties", stressed.

And at the time of wars and revolutions of the Interior, failing to inform, crimes against humanity them, or sometimes when informed of the rules of humanitarian law in armed conflict internal to the lack of information cited, war crimes, crimes of genocide, crimes against humanity are committed. Is this lack of information can cause them or excuse them as they come out from under the burden?

In response to said rules of humanitarian law, the parties commit to observe and control the internal armed conflict. However, in conclusion it can be said: all rules of humanitarian law in internal armed conflicts with the full support of resident aliens mentioned by the government, the government had to do it.

CONCLUSION

The researcher believes that, the root causes of civil wars and revolutions in this search and investigation has been concluded as:

The government even in cases concerning violations of human rights respect the international humanitarian law, the protection of foreign residents and their victims, helping them, the rebel and revolutionary, the international responsibility, if the country of a system of governance based on democracy and the dictatorship of the administration is not entitled. In these countries due to the lack of power transfer through the legal bases and no referendum, people often resulting in the formation of rebel groups and revolutionary and war through, revolution domestic, forced to change the regime.

REFERENCES

- Akehurst, M. A modern introduction to international law. Boston : London Unwin Hyman, 1987 [3]. Akindemowo, O. Information Technology Law in Australia. Sydney : LBC, 1998
- Akehurst, M. Custom as a Source of International Law. British Journal of International Law, 47, 1, (1974 - 1975) , 1 - 53
- Australia Electronic Commerce Expert Group. Electronic commerce : building the legal framework / report of the Electronic Commerce Expert Group to the Attorney General. Canberra: Attorney-General's Department, 1998
- Bainbridge, D. I. Introduction to Computer Law. Harlow : Longman, 2000
- Byers, M. Custom, Power and the Power of Rules. International Relations and Customary International Law. Cambridge : Cambridge University Press, 1999
- Cheng, B. United Nations Resolutions on Outer Space: "Instant" International Customary law? Indian Journal of International Law, 5, 23, (1965)
- D'Amato, A. A. The concept of custom in international law. Michigan : UMI Information Dissertation Service, 1969
- D'Amato, A. International Law: Process and Prospect. New York : Transnational Publishers, Inc, 1987
- Danilenko, G. M. Law-Making in the International Community. Dordrecht, Boston, London : Martinus Nijhoff Publishers, 1983
- De Ly, F. International Business Law and Lex Mercatoria. Amsterdam, London, New York, Tokyo : T.M.C. ASSER INSTITUUT - THE HAGUE, 1992
- Goldman, B. Frontieres du droit et lex mercatoria. Archives de philosophie du droit, IX, (1964) , 177
- Goldman, B. Lex Mercatoria. Forum international, No.3, (1983) , 24
- Goldstajn, A. International conventions and standard contracts as means of escaping from the application of municipal law - 1, The sources of the law of international trade with special reference to East-West Trade., Schmitthoff, C. M. ed., London : Stevens & Sons, 1964
- Goldstajn, A. Reflections on the Structure of the Modern Law of International Trade, International Contracts and Conflicts of Laws. A collection of essays., Sarcevic, P. ed., London : Graham & Trotman / Martinus Nijhoff, 1990
- Gringras, C. The Laws of the Internet. London : Butterworths, 1997
- Judge Tanaka Continental Shelf cases. Dissenting opinion of Judge Tanaka, I.C.J. Reports 1969

- Kelman, M. C. A. Electronic commerce law and practice. London : Sweet and Maxwell, 1999
- Kontou, N. The Termination and Revision of Treaties in the Light of New Customary International Law. New York : Oxford University Press Inc., 1994
- Kopelmanas, L. International conventions and standard contracts as means of escaping from the application of municipal law - 2, The sources of the law of international trade with special reference to East-West Trade., Schmitthoff, C. M. ed., London : Stevens & Sons, 1964
- Lagarde, P. Approche critique de la lex mercatoria. le Droit des relations economics internationals, Etudes offertes a Berthold Goldman, LITEC, (1983) , 125
- LIBA. Proposed directive on certain legal aspects of electronic commerce. A Memorandum on the Common Position by the London Investment Banking Association (LIBA).London Investment Banking Association, 2000
- Lilian Edwards and Waelde, C., eds. Law & the Internet. Oxford : Hart Publishing, 2000 [24]. Lloyd, I. Information Technology Law. London : Butterworths, 1997