

Responsibility of international community for reconstruction of Failed States during the post-conflict period (with an emphasis on the role of the United Nations Organization)

Sepanta Mojtahedzade*

Assistant Professor, Faculty of law and Political Sciences, University of Mazandaran, Mazandaran, Iran.

sepantamojtahedzadeh@yahoo.com

Yasaman Shiri

M.A. in International Law, Faculty of Law and Political Sciences, University of Mazandaran, Mazandaran, Iran.

yasamanshiri70@gmail.com

Abstract:

Over the past seventy years of United Nations, many people have died in some countries due to government maladministration and lack of basic living conditions. In fact, such governments described as failed states that are not able to meet the basic needs of their inhabitants, they suffer from a severe lack of order and security, and are plagued by crises that jeopardize the security of other countries. United Nations, especially the United Nations Security Council, which has the primary responsibility for maintaining international peace and security in accordance with Charter, cannot be ignorant in the face of such disasters that have undeniable external effects and threaten international peace and security. Therefore, in view of adverse consequences of internal conflicts and evolution of security concept from a state-centered to individual-centered, support for failed states, in particular reconstruction of such countries after the end of conflicts in order to establish legitimacy and political stability and to prevent dissatisfaction which can easily re-arise internal conflicts should be at the center of international community's attention. Therefore, in the present article, we tried to prove the claim of responsibility of international community in the form of United Nations in protecting and rebuilding these countries, to present realistic ways and means to achieve this goal in order to resolve the failure issue which today has become one of the most important challenges and obstacles in the establishment of global security.

Key words: Failed State, Responsibility to Protect, Reconstruction, United Nations Organization, International Peace and Security.

Introduction

In this widespread world, governments are so caught up in extreme crises or internal hostilities that no longer have power to prevent or resolve their problems to the point where they can be collapsed. These governments called failed states that have not only failed to establish peace and security within their borders, they also jeopardize the peace and security of entire world, and because they are unable to bring civil peace in their societies, they usually both endanger neighbors and also involved in civil wars that may be internationalized, which will plunge their natural resources into hand of predators and fuel the population of their country as a prey.

Undoubtedly, failed states are considered as one of the most important factors of tension and insecurity in the world due to the factors that they are unable to do. These governments, who suffer from serious deficiencies in political, economic and social areas as compared to ideal government are an undeniable threat to global security, and since we live in a world in which International rules and norms depends on the effective cooperation of governments, so international community and United Nations, in particular, have a particular responsibility in dealing with internal crises. In the past two decades, many efforts have been made to arrange insecurity and applying rights Imposed in the course of internal conflicts and regional and global crises in particular within the framework of the United Nations.

The crisis of states failure that will described below has risen due to major changes in international relations including end of Cold War, acceleration of globalization process and events that followed the sudden collapse of colonialism in the world and today due to the horrible consequences that exist in international era has caused the growing attention of superpowers.

In this regard, the doctrine of responsibility to protect as an emerging concept which is the product of need for international community to respond quickly and decisively to human disasters caused by widespread violations of fundamental human rights as well as other threats to global peace and security could be effective in helping these countries to be able to get out from failure.

This concept deals with the violations of human rights in the territory of a country. Although the primary responsibility for protecting citizens' rights lies with their respective governments, however, in cases where the

ruling state declines to perform its primary duty, it will be transferred to the international community and will be divided into three phases of prevention, response and reconstruction within the Council that in this paper, we have tried to focus on the reconstruction phase and pass it to failure situation, appropriate restorative and reconstruction solutions in economic, political and social areas with a pragmatic and applied approach. Indeed, by reviewing the Security Council's previous efforts to rebuild failed states, and looking at the strengths and weaknesses of these efforts, we are working to help improve the process of rebuilding these countries in the future.

In this regard, it is necessary to familiarize with the concept of incapability, its causes, dimensions and characteristics and also study its international implications in order to find suitable solutions for reconstruction and how to apply appropriate measures to prevent the country from returning to its internal conflicts.

Indeed, after the supportive measures have been reached and the conflicts have ended, helping the central government to strengthen the physical infrastructure and creating political reforms to satisfy the citizens is essential, and examining how to help the government and strengthen its infrastructure is a topic that further details will be taken into account and we will see that it is imperative that international community seeks a comprehensive reconstruction of incapable country through providing financial and non-financial support to the central government to strengthen the physical infrastructure and political reforms.

1. A FAILED STATE IN INTERNATIONAL LAW

Terms such as the collapsed state, failed state, violation of human rights, irregularities and chaos that are being used today in international debates to explain a dangerous security situation have described different aspects of citizens lives including political, economic, and social in many parts of the world. Particularly the devastating events of September 11th have caused more attention to the global dimension of threat, because after this terrorist incident, developed countries and superpowers have more and more realized the global consequences of domestic conflicts.

Concept of failed state have not defined in any international documents, such as single or multilateral treaties and declarations and existing definitions are definitions given by international law scholars and institutions. For example, the Development Assistance Committee of Organization for Economic Co-operation and Development (OECD) in its 2008 report states that " government's weakness and inability are due to the fact that citizens' expectations of government and government's expectations of people are out of equilibrium and balance and government does not fulfill the expectation of its territory inhabitants. This imbalance can form suddenly or as a result of gradual deterioration. "¹

Professor Zartmann believes that failed state is a state that cannot perform the functions and tasks that a government in contemporary world is expected to do.²

Despite the diversity of definitions about failed state, all of them have two main elements: 1. A state is failed when it cannot or will not perform its duties. 2. These tasks include welfare, public services, law enforcement, and order and security.

Accordingly, and due to existing definitions, if we want to provide a comprehensive definition of failed state to be applied to the actual content of the research, it should be said that incapable government is a government that cannot or will not perform its duties which include provision of public services and at the top of them is to establish security, to create a living with welfare appropriate to resources of the country and to protect the dignity of all inhabitants of the country while at the same time adhering to international obligations.

1.1: Causes for the Emergence of Failed State

The inability of governments has many reasons, and it occurs in a variety of ways. Depending on these varieties, the appropriate strategy is different in dealing with each situation and requires unique reconstruction techniques. Some scholars attribute the cause of disability mainly to corrupt leadership and authoritarian rule. However, if we summarize the problem of inability in the government itself, we have presented a unilateral and incomplete explanation of the phenomenon affected by hundreds of national and international factors. The effect of governance way in the emergence and continuity of inability is undeniable, but if we want to have a radical vision, we will take external and historical factors. Therefore, in this section, we examine the root causes of emergence and occurrence of state failure.

¹ Report of Development Assistance Committee of Organization for Economic Co-operation and Development, 2008:7.

² William ZARTMAN, "Collapsed States the Disintegration and Restoration of Legitimate Authority" (1995) Boulder: Lynne Publisher, at 5.

The emergence of failed states dates back to the time when Europeans sought to occupy the colony with a deception flag and a phony slogan in Africa and Asia. Colonialists justified their colonialism by trampling on the responsibility of white people to establish law in Africa and bring civilization to these countries. In Africa, many pseudo-governments were artificial creatures of the European colonial system, whose sudden emancipation from post-World War II colonialism led to extreme weakness at the very beginning of independence. In fact, the root of failure of African states along with other factors was the way in which these countries were created. Because these new states were created by bringing together groups of people with different religious, ethnic, and political affiliations in order to forge a sense of solidarity.

Colonialists used repressive and violent practices against colonial peoples which became their own legacy for these newly-established countries, namely the emergence of dictatorial governments and the self-proclaimed methods of their rule from their former colonialists. More importantly, many autocratic rulers of failed states have come to power with the help of Western governments. In fact, the same superpowers who insist on the principles of human rights and democracy, dictated the leaders of the dictatorship to their economic interests in developing countries.

In addition, due to changes in international relations and government commitments, governments are more vulnerable in the world today. Changes that occurred in Europe from the seventeenth and eighteenth centuries and spread to the whole world have led many governments to fail to adapt themselves to the new order. In fact, what is happening under the heading of globalization in developing countries is a series of neoliberal economic reforms, commonly known as structural reform programs which include three key elements: the elimination of government role in economic development, privatization Economic activity and liberalization of trade and investment.³

Southern countries due to the long experience of domination and colonialism have been unable to adapt to such major changes that have taken place in the global economy and have no purpose other than to contribute to the expansion and survival of global capitalism through privatization, and have suffered more from backwardness. In addition, the end of Cold War also exacerbated these problems because during the Cold War, each superpower needed supporters and allies and provided significant assistance to the underdeveloped countries and prevented them from falling, but with the end of Cold War, these aides were suddenly cut off. On the other hand, Cold War events caused a degree of militarism that ultimately helped to ruin and weaken many countries, because instead of using their wealth and national resources for infrastructure issue such as economic, industrial, social, cultural and ... they are using it in the direction of militarism and production and purchase of weapons.

1.2: Failed State Indicators

Criteria that can be used to identify failed states are not low. Therefore, in a comprehensive study, it should deal with different political, economic, social and legal issues. For example, the lack of rule of law is one of the manifestations of failure. This means that there is no separation of real powers in these countries, and judicial pillar is an institution that is affiliated with the executive branch. As a result, the rights of citizens, especially if the complaint against the government and government officials is not possible by the courts and in addition to the fact that the branches of legislative and judicial branches are not independent from executive branch, military forces are also highly politicized, which means that instead of trying to secure citizens are only struggling with the interests of government and contributing to the survival of ruling system, even at the cost of suppressing protesting citizens.⁴

The complicated issue is that there are no legal norms in these countries, nor an independent judiciary that deals with these obvious violations. As a result, there will be no way of avoiding violations of the law by government and non-government actors for citizens. Although rule of law is not only an indispensable element of stability, but also it is clear that without such a measure, the government will quickly be dismantled. Because rule of law is one of the few strategies to reduce corruption and tyranny due to the concentration of power in the contemporary world. Under such conditions, applying rulers power has no limitations and do whatever they want to survive their rule. Violations of human rights and citizenship rights are widespread and human security that is at the forefront of public service hierarchy.

In addition, a government needs more powerful and efficient institutions to carry out its functions, something that failed state don't have it. In weak and failed state, many problems are directly related to the rise of

³.Mohammad NURRUZZAMAN, "Failed and Fragile States in International Relations: Revisiting Issues and Rethinking Options" (2008) Department of Political Science Okanagan College, at 8_9.

⁴.Robert ROTBERG, "Failed States, Collapsed States, Weak States: Causes and Indicators" (2003) Brooking Institution Press, at 6.7.

politicians who use their power to create institutions that merely benefit themselves, not to develop the country.⁵

This institutional weakness will lead to undesirable governance, misallocation of resources, and consequently severe class disagreements. Particularly, these governments spend a large amount of income for the supply of more troops to the country and provide a little one to public service. Because the leaders of these countries have always been afraid of internal and external threats, including international interference and internal turmoil of protesting and downtrodden strata which constitute the majority of country's population.

It is obvious that if the rulers lose political legitimacy, the country will suffer from chaos and widespread violence, this will lead to political instability which will have devastating effects not only on the population living in the country but in the entire region. For example, Somalia apparently has a cabinet or parliament, but in fact the cabinet does not have any organized support and does not provide any services to the people. In fact, the Cabinet lacks all the financial resources required to carry out its duties. In such a situation, the government only has names and the only service it offers is corruption and crime!

In the failed states, which have no power to establish security and provide other public services due to instability and conflicts, one of the most important challenges facing the majority of society is economic disaster. Especially in light of evolution that has occurred in the concept of security.

However, occurrence of civil disputes and even riots and chaos and ongoing controversy are predictable in these countries due to economic and social problems. Essentially, incapability is not understood without the presence of government's opposition groups, and instability of domestic security is clearly obvious. And because of structural weaknesses, the government does not have the power to apply authority over all parts of its territory. Indeed, due to internal conflicts which are an undeniable feature of these countries, it would be impossible to control all of the land sectors for the government. For example, in Afghanistan, al-Qaeda managed to find shelter by using the weaknesses and inability of government in areas where there was no desirable governance and territorial control.⁶

Another hallmark of failed states is the massive human rights violations committed by government and non-government actors, including assault, imprisonment, unfair executions, sexual violence, and in cases of more serious war crimes and genocide. For example, human rights institutions in Sudan have acknowledged that government has clearly participated in human rights violations. Indeed, ruling system in these countries often finds no choice but to crack down on the opponents and systematic violations of human rights in order to maintain its strength, in order to maintain its survival in conditions where its legitimacy is hardly questionable.⁷

It seems that all indicators and characteristics of failed states that we are examining are affected, and it would be normal if there were acute economic problems and widespread poverty of cultural crises and ethnic divisions. The fact that corruption and illegitimacy of ruling system will also spark the economic crisis, and the sum of these factors leads to the state failure.

1.3: International Consequences of State Failure

After Cold War, as well as the September 11th terrorist attacks, failed states became almost the most important threat to global security. In these countries, terrorist groups by using lack of rule of law can find a good opportunity to pursue illegal economic activity and obtain the necessary capital to buy weapons. For example, in Afghanistan, terrorist organizations such as al-Qaeda use the government's inability to provide weapons and troops and training camps.⁸

Moreover, since inalienable qualities of all failed states are controversy and ongoing conflicts between protest groups and militants, so likelihood of conflicts spread to other countries in the region and internationalization of civil wars is high. They are also in a position that in most cases cannot be able to fulfill their international obligations and violate many of their treaties or conventions against one or more countries or their obligations to the international

⁵Pederson ENGBERG, *Fragile States on the International Agenda*, (Copenhagen: Danish Institute of International Development, 2007), at 11.

⁶Vallings CLAIN and Moreno Torres MAGUI, "Drivers of Fragility: What Makes States Fragile" (2005) Department for International Development Working Paper 7, at 14.

⁷William SCHABAS, *Genocide in International Law the Crime of the Crimes*, (New York: Cambridge University Press, 2009), at 10_11.

⁸Stewart PATRICK, "United States Policy Toward Fragile States: An Integrated Approach to Security and Development" (2011) the White House and the World, at 37.

community as a whole. Prevention of extensive environmental pollution and provision of basic human rights are among these obligations.⁹

Living problems in such countries will revive the thought of immigration and escape from the conditions in the minds of inhabitants of these lands. As a result, failed states create a flood of displaced people at international borders, which not only imposes high costs and responsibilities on countries that welcome these immigrants, but also immeasurable imminent losses for refugees, especially children and women. These displaced people, who are forced to flee their national strife will face new life problems in these countries, if they can save themselves from the misery of road and are constantly threatened by expulsion and return to hell from which they came.

2. Reconstructing Failed States in the Post-Conflict Period

With all the consequences of state failure to international peace and security and discussed in the previous issue, the need for a solution to this problem is indisputable. In this regard, international community's support for these countries is essential for the emergence of inability. These supports are governed by the Doctrine of Responsibility to Protect, and responsibility to protect is an idea that accepted in the 2005 Summit final document, which is referred to as the emerging international custom.

What has been posed in this doctrine is the basis for its formation, it is based on the responsibility of central government to protect the public against genocide, war crimes, ethnic cleansing and crimes against humanity, but when a government is unable to protect from fundamental human rights, international community is obligated to help this government fail to carry out its functions in order to prevent the occurrence of such crimes as genocide and, if necessary, even the responsibility to protect of such violated rights is giving to international community. But if government does not carry out its duties towards the nation, it will in any way create or sustain the status quo and have direct participation in continuation of existing situation, the international community will intervene through the Security Council. Intervention can be political, economic or social, and in fact, peaceful and humanitarian. In the event of failure of these measures, military action will be permitted as the last resort and only with the permission of Security Council and under certain conditions.

This concept which raised in response to human suffering and human rights is applied in three areas of prevention, respond and reconstruction within the framework of Security Council. Even after preventive measures and ending internal conflicts, the responsibility of international community does not end because ending the conflict and internal conflicts do not result in escape from failure, but it is necessary to continue to improve livelihoods of remedial measures including conditional provision and targeted, financial assistance, anti-corruption programs, training authorities, reforming security structures and monitoring elections to prevent the reopening of disputes caused by dissatisfaction and restoring legitimacy through the establishment of rule of law in the government.

Important thing is to prevent the tragedy of genocide that the failed states provides a suitable basis for its creation and political, economic and cultural support for empowering government and ending the conflict is not guarantee the permanent establishment of peace and security in such lands and the need to rebuild the infrastructure of country is indisputable. In fact, after ending the conflict, failed state should get help to restore security by repairing the damage and improve its functions and prevent the re-emergence of a conflict that is unavoidable if the incapability persists.

International community has adopted many contradictory methods in dealing with this problem. Once a group of countries by using military force tried to stop the effects of inability of governments in international arena or their regional interests. These actions were not carried out within the framework of Security Council, but one of the great powers such as United States had the military and economic power necessary for its allies. But as documented in the responsibility to protect and widely shared by international community, these actions should be taken within the framework of UN Security Council which is responsible for primary maintenance of peace and security.

State-building is an international intervention to cure a failed states by strengthening and restoring existing state institutions and creating new institutions. Goal of these efforts is to create a desirable and effective government, and as a result, the consolidation of social order through the establishment of physical and economic security for the citizens.

When intervention takes place in a country, the ruling state has been incapacitated or disabled. Even if intervention is responding to a powerful dictatorship needs reconstruction and assistance to replace and equip an eligible state after the intervention and the elimination of that sovereignty. However, the real peace comes when former armed opposition act at the hands of others in rebuilding their community and creating the right living conditions.

⁹Chiara GIORGETTY, "Why Should International Law be Concerned about State Failure?" (2005) University of Richmond School of Law, 16(2), at 469.

Reconstruction is one of the most difficult responsibilities that governments and United Nations can take. There is no secret and general formula for this. There is no definite solution that applies in the same way in all cases. Its success requires high attention and accountability in relation to the internal state of the country and coordination and organization and institutionalization of adoptive measures. Success of reconstruction efforts undertaken within the framework of Security Council, such as reconstruction of Germany and Japan after the Second World War are proof of this claim.¹⁰

In fact, reconstruction involves measures that should be monitored by the United Nations in cooperation with the members of international community and sovereignty and legal institutions of the country after decision of military intervention such as establishment of peace and sustainable security, reconstruction of destroyed sites and streets and prosecution of offenders. For example, in Darfur, Sudan, after government dealt with ethnic cleansing by sending troops and militias killing tens of thousands of people over the course of several months and changing the location of more than two million people because of insurgency and internal disputes, Security Council In 2004 issued a resolution 1556 and states its concern about the situation in Darfur and the resolution obliged the Government of Sudan in six paragraph to disarm militias and prosecute the leaders and perpetrators of those killings. Also, paragraph 12 of resolution 1564 requested the Secretary-General of United Nations to convene a United Nations International Investigation Commission in Darfur. In its final report, the commission considered the Sudan government responsible for crimes against humanity and a war crime that was like a genocide, and finally the Security Council referred Darfur situation to the International Criminal Court.

Past efforts to rebuild failed states through United Nations led to a variety of outcomes. Sometimes we have seen success and sometimes failure of these efforts. The cases of Bosnia, Mozambique and Sierra Leone are stories of the success of United Nations in equipping political and economic resources to the success of reconstruction efforts.¹¹

Also, more powerful groups were able to turn their raw and illegitimate power into a legitimate authority over the nation in Ethiopia and Uganda. In these countries, the reconstruction process was based on local and regional realities and in line with internal conditions and necessarily did not follow the Western strategy of creating governmental institutions in line with the liberal view and its success was the same.

The important point here is that reconstruction process depends on our understanding of failure. The prevailing belief in early years of the emergence of failed state concept was that all states were failed in one form and only the degree and severity of inability may vary in different countries, but today according to the criteria of inability, we know that governments depend on which functions they have more serious problems, their disabilities are different and as a result of their reconstruction, they need a different and specific solution. In fact, different states are failed in various ways. Therefore, in order to understand different kind of inability, it is necessary to consider governance with a number of complementary aspects: legitimacy, security, prosperity and capacity. Governments may fall in each of these areas and consequently, their inability will be different. For example, what Iraq needed in 2006 to overcome its critical situation is different from what Syria needs today. One of the points that should be considered in the process of rebuilding these countries in order to accelerate the development process is to focus on the aspect in which decline of relevant government is more acute and sensitive. We will continue to examine these dimensions and steps in the process of reconstruction and assistance to governments in the post-conflict period.

2.1: Providing Security and Basic Human Needs

Central government is not able to provide the basic needs of citizens in failed states which security is at the top of them. One of the signs of inability is deep economic problems. Generally speaking, state failure is a major economic problem which makes them live in poverty, unemployment and difficult livelihood. Because economics overshadows the political and cultural dimensions of human life as the basis of social relations. If basic human needs such as food and clothing are not provided for safe living, any other effort to establish democracy and human rights is simply a waste of time and money. As a result, one of the most fundamental duties of United Nations and the supporting states is to provide the primary security of all citizens regardless of ethnicity and their relation to previous sources of power in the region. For example, in Sudan, in accordance with UN Security Council Resolution 1706, the United Nations Joint Force and the African Union have agreed to formally support the Sudanese government in order to help rebuild the country and provide the necessary support and relevant steps in two phases of light and heavy support packages.

The problems have doubled in Afghanistan because of black market and poppy smuggling. Because the bulk of Afghan economy provides poppy smuggling and revenue from it finds its way into the pockets of state

¹⁰ Paul MILLER, “Why and How to Fix Failed States? The Case for Nation Building” (2010) Prism, 3(1), at 70.

¹¹ Marina OTTAWA, “Rebuilding State Institutions in Collapsed States” (2002) Development and Change Wiley, 33(5) at 1009_1010.

officials and state leaders. Certainly, continuation of this trade is at the expense of the country and the reconstruction process.¹²

Another important issue to be planned for the security sector is the exit strategy for interventionist forces. The Security Council has drawn attention to this issue in several resolutions that have been issued on the reconstruction of failed states. Resolution 1483 which was issued in 2003 after the overthrow of Saddam Hussein's regime in Iraq and the end of internal conflicts that highlighted the urgency of US and British military forces withdrawal from Iraq and called them "occupation forces". This is important because it prevents potential misuse and reduces the occupancy time for forces that see their interests in continuance of occupy. The ultimate responsibility of interventionist forces in the peace process should be to encourage economic growth, market rebuilding and sustainable development. Therefore, interventionists should provide conditions that put an end to sanctions. But another important issue is the prompt but at the same time a perfect transfer of responsibility for the development and implementation of programs to native management.¹³

The first thing that must be done after ending and stopping armed violence is the disarmament of armed forces and reconciliation with ordinary life in society. At the very least, what is to be done is the accumulation of heavy weapons and ending of the military alliance and coalition by providing a normal life to militarism for the former armed forces. These people need more job opportunities than other social groups because they seem to have become accustomed to violence and have learned how to make money. The events in Liberia and Sierra Leone showed that exchange of materials and formation of criminal gangs are among the ways that these people use to make money. In this regard, the actions of United Nations agents and groups are significant within the framework of Security Council resolution 1245 on Sierra Leone.¹⁴

Despite the consensus reached by international community about the need to rebuild governments in the post-conflict era, it is still not easy to do with political will. Reconstruction of country's infrastructure, roads, bridges, hospitals and public services is part of the first step to meet the basic human needs and in such cases we are witnessed International financial aid, since the central government is unable to do so. For example, the Security Council in paragraph 8 of resolution 1483 on the reconstruction of Iraq after the conflict directed the special representative of the United Nations in Iraq to provide assistance to specialized agencies and other organs and non-governmental organizations as well as governments such as the United Kingdom and the United States in the pursuit of humanitarian action and restoration of Iraq's physical infrastructure and to provide a sustainable development environment.

International development agencies such as the World Bank, the United Nations Agency for International Development and the United Kingdom Department for International Development which announced poverty reduction and achievement of the Millennium Development Goals set by the United Nations in 2000 are also plays an important role in the process of rebuilding and economic assistance to such governments. The World Bank and developed countries are trying to help them through the provision of conditional loans to weak and failed states to carry out their functions and improve their domestic situation. In this case, lending depends on whether the country concerned has the will to implement and apply structural reforms in its economy. Neither the World Bank nor the powerful states have the political and social consequences of economic reforms that are a condition for the issuance of loans in developing countries which is why these countries today pay a great deal for these reforms.

Protecting and managing optimal economic resources is probably the most important part of a failed state's reconstruction. In fact, any useful economic action that is taken will provide the basis and raw materials needed for sustainable development. But one has to pay attention to the fact that mere provision of financial assistance is a superficial measure when the government does not have the capacity to use it effectively. Indeed, the inability of such governments to properly and efficiently use and benefit from the donations is a major challenge facing the United Nations.

Excessive financial assistance is provided to the failed states, and inadequacy of government in using them causes them to wane, government dependence, central government's role is diminished, and the role of supportive government becomes full. But we must not forget that economic development and security is just one step in the reconstruction process. We will continue to look at reforming and institutionalizing institutional reform efforts and helping to establish democracy in these countries.

2.2: Institutional Development and Establishment of Democracy

While the economic dimension of reconstruction seeks to minimize state power through regulation of economy and creation of free markets, the political dimension of reconstruction is focused on strengthening state institutions such as the national army, the police, the parliament and the judiciary in order to safeguard the

¹²Astri SUHRKE, "Limits of State Building: The Role of International Assistance in Afghanistan" (2006) International Studies Association Annual Meeting, at: 5.

¹³Report of the International Commission on Intervention and State Sovereignty, the Responsibility to Protect, 2001: 42_43.

¹⁴Peter RADA, "Rebuilding of Failed States" (2007) Budapest, at: 7_8.

rule of law. It is necessary to first restore the lost legitimacy of the government to rebuild a post-conflict state. In this regard, it plays a very important role in contributing to fair elections and participation of people in determining their own destiny, reducing inequalities and discrimination and increasing the accountability of the government. In addition, improved public service delivery will have a significant effect on legitimizing the government in the minds of nation. In this regard, the strongest and most important measure of legitimacy for the government is the establishment of democracy. Therefore, in order to achieve legitimacy, the international community needs the relevant government to help them achieve these goals.

In Iraq, the Security Council under various resolutions emphasized the need for a democratic government and the mandate of United Nations Special Representative to assist and advise on the establishment of a legitimate government in accordance with international law. Basically, the United Nations has repeatedly emphasized the need for democracy and free elections and the elimination of dictatorship in various situations. The Security Council, for example, recommended that Haiti take any necessary measures to eliminate dictatorship and restore the elected president. The General Assembly also acknowledged in many cases that the power of governance is based on the will of people as evidenced by periodic fair elections. The United Nations has made such statements in its rebuilding efforts in countries like Iraq, Afghanistan and Sudan.

However, these efforts have not yet yielded a compelling result which continue till today by the United Nations and its affiliated members, because in Iraq, the United States is at the head of the rebuilding efforts and attempts to impose the idea of a government and establish a Western Democracy in this country, while the political and strategic interests as well as the control of its oil resources have attracted US attention. While these actions have reversed the outcome of continuing insecurity and economic and military problems in Iraq.

Also, actions of the United States did not coincide with the United Nations rebuilding efforts in Afghanistan. Indeed, these actions focused on the UN's role in establishing the security of Afghanistan through strengthening and supporting the central government on the basis of a comprehensive development plan, but in practice, the United States which took the bulk of spending, but did not fully meet the goals of the United Nations, while the UN's focus was on fundamental principles such as establishing democracy, creating a parliamentary system, strengthening the institutions of government and creating self-governing institutions, protecting the rights of women and children, gender equality, Participation of different parties in politics and helping to create job opportunities in Afghanistan to prevent Afghan immigration. But the United States has taken solely steps to combat terrorism and destruction of Taliban to prevent the spread of conflict and insecurity to other countries, and to this end they have deployed their troops to Afghanistan on a massive scale that leading to a high degree of militarism and insecurity and become an obstacle to achieving the United Nations goals.¹⁵

Other major issues in the face of a weak and post-conflict state is to solve the problem of a lack of security that results in lack of legitimacy and political instability. The creation of security for armed forces includes a classic disarmament triangle, the elimination of public mobilization and reunification. Establishing security also applies to economic issues.

Today, establishing democracy is a means of mitigating ethnic conflicts, social tensions, and facilitating economic development and it is seen as a cure for inability. Obviously, democracy requires the presence of democratic politicians. Indeed, in the area of institutional development, justice, peace and democracy are the first priority in establishing a just and non-corruption justice system. In this regard, the Intervention and Governance Commission proposes a package of justice in which criminal law standards are respected. This package of justice is very useful for cases where there is no applicable law and the urgent need for minority support is felt.¹⁶

One of the important steps in the reconstruction process is to create self-sufficient and efficient institutions. Because these institutions are as the executive arm of the government and framework for economic development and improvement of social relations. These measures are beyond mere peace. Apart from the proper administration of the country, institution-building is the establishment of the rule of law, the development of civil society and a step towards economic stability.

It can be implemented in three phases. First, in addition to the country's management, it is necessary to create a mechanism for political participation. Participation and civil society intervention at the national and local levels are essential. In the second phase, it is necessary to create a definite political framework and separate the powers and finally, in the third phase of civil society, one must be able to use these institutions in the direction of self-affirmation.

In these three phases, intergovernmental powers within the UN framework can provide massive assistance to empower the community through various programs. In this regard, NGOs can help the United Nations. Establishing good governance, anti-corruption programs, training authorities, reforming the security structure

¹⁵Nuruzzaman, opcit: 14_17.

¹⁶ Report of the International Commission on Intervention and State Sovereignty, the Responsibility to Protect, 2001: 41_42.

and monitoring elections are the most important things that nongovernmental organizations and international organizations, such as the World Bank, can effectively contribute to helping the failed state.

In order to achieve sustainable development, the sense of trust and loyalty of civil society to the ruling institutions should be created through the application of principles democracy. Creation of legal norms based on the standards of global justice and protection of cultural heritage of the country are among the contributions in this regard. An illustrative example of the success of these activities and contributing to the effective reconstruction of these countries was the United States' actions in Germany and Japan after World War II.¹⁷

Security cannot be achieved regardless of development. Because the government itself plays a pivotal role in creating stability, and it is the institution that will work the most. Other governments have a supportive role, so this government must be empowered first. Therefore, before trying to achieve any short-term goal, it is necessary to pay attention to the necessity of stabilizing the country and empowering the government.

For example, the United States of America in Afghanistan was looking for security because the September 11th incident clearly revealed the relevance and effect of international security on domestic security. The United States aimed at eliminating international terrorist networks and the Taliban which find a shelter to develop in a failed state like Afghanistan. In fact, the United States placed security at its heart and launched a war on terrorism, while neglecting the support of Afghan government and the creation of a stable government. The main problem in defeating its actions in this country was the lack of attention to the root causes of the conflict. While the international community should not seek to achieve the impossible, such as the creation of Western liberal democracy in such countries, it is necessary to set up a committee to help achieve this goal in the long term and all actions with the participation of local and regional forces and within the framework of the United Nations and institutionalized.

State-building is not an easy work to do. Rescuing a state that is at the edge of abyss is an attempt and destruction or a disaster such as genocide, it is difficult even with an international coalition. In Afghanistan, where the United States intended to overthrow the insurgent forces, although it could have removed the Taliban from power for a while, but the central government in Kabul could not have the ability to establish democracy, it did not seem realistic from the beginning. Indeed, the international community needed to help the central government to extend its jurisdiction and authority to all areas of tension.¹⁸

The most important challenge and problem in this regard was that the plan and model intended to help the government did not adapt to the attitudes and needs of Afghan society. These policies are in line with the government's vision of seeking security and respect for human rights and liberal democracy and the free market economy in a country like Afghanistan. While the framework and social structure of this country put it in complete contradiction with Weber's Western idea. In this way, the sudden, inevitable, and inescapable imposition of a Western liberal democratic government in Afghanistan was initially condemned to failure. In fact, it should be noted that today's democratic governments have been created after years of bloody conflict and the opportunity was given to them instead of a problem. Therefore, it is unrealistic to expect that a country that has been dictatorial for many years will easily achieve democracy through the incentives of foreign actors.

Anyway, all the economic and political advancement and political progress of countries without the participation of civil society and social solidarity will not succeed much in escape from incapability, hence, we address the role of United Nations and supportive governments in create national unity.

2.3: Nation-Building and Social Solidarity

Sustainable development or sustainable democracy without social solidarity is not possible. To the extent that the greatest obstacle to the development of country is the lack of solidarity and unity of its people. But the question is: what should be done about this, and how can such a unified nation be created in the failed state. As we know, one of the characteristics of failed state is the lack of solidarity and identity conflicts among different ethnic groups in society.

Failed states as they say are legacies of colonial times and therefore, they are deeply diverse in ethnic, racial, religious, and cultural terms, and there is no sense of solidarity among the people of European countries. Indeed, post-colonial states have been severely affected by disputes due to many conflicts.

In order to solve this problem, it is important to note that the issue of nation-building is similar to the question about chicken and egg. Because an efficient government that can establish lasting order and stability comes from the heart of the nation. At the same time, a successful unelected national unity and the establishment of a responsible and efficient government will not be achieved.

¹⁷Francis FUKUYAMA, *State Building: Governance and World Order in the 21st Century*, (Ithaca Cornell University Press, 2004), at: 23.29.

¹⁸Antonio GIUSTOZZI, "Afghanistan Transition without End an Analytical Narrative on State Making" (2008) London School of Economics Crisis States Research Center Working Papers, Series 2(40) at 46.

Therefore, the durable process of nation-building requires the creation of a simultaneous nation-state. Government is an entity that provides goods and services to the public and the nation as a legal and social idea. State-building focuses on the creation of efficient state institutions. The precise definition of state-building is institutional support, capacity-building, strengthened management structure, military assistance and, above all, security. In fact, state-building refers to institution-building, establishment of democracy and economic development, while nation-building is the issue of creating solidarity between people. A member of a nation contains two characters or factors that are legal and psychological. Legal criteria are, in fact, political participation in a process that provides public services and provides for the achievement of common goals. The psychological criteria are also an emotional boost mechanism that has a sense of commitment, connotation and loyalty.

Nation-building is not a new idea, because it comes from nineteenth-century nationalism. The United Nations has good experience in this regard, as in the case of Germany and Japan. But according to the narrow definition of nation-building, it is clear that the nations of these two countries existed before the actions of international community. Nation-building projects both tried to turn these communities into more modern and democratic societies, but did not seek to create commonalities among the people on the domestic level, because the people of these two countries had a strong cultural and ethnic community, and essentially no nation needed it. Therefore, nation building in these countries was successful. Other measures, such as establishing democracy and economic reconstruction have resulted in a lot of shame and cover. On the other hand, these actions had an effect on strengthening national solidarity. In fact, German and Japanese communities had a favorable position to achieve the goals of these processes.

Benchmark and optimal model for rebuilding a post-conflict state is the pre-conflict state. Establishment of law, establishment of order and peace and security in the country are necessary for the formation of a level of unity. Increasing the level of education, economic development and the advancement of civil society in general can contribute to the continuation of alliance. Psychosocial factors such as prejudice and dogma can inhibit the actions of foreign agents and delay the development process. For example, in the process of reconstruction and assistance to the government in Afghanistan and Iraq, the existence of different values among different ethnic and religious groups has led to many challenges. Today, especially in Afghanistan, the existence of different ethnic groups is one of the causes of United Nations failure in rebuilding measures in other areas.

It is seen in some failed states that financial instruments and conditions for establishment of unity and development of the country are available such as Iraq, Angola, Sierra Leone and Sudan. They have oil, diamonds and other natural resources that can be a good basis for nation-building, but these resources not only do not help but create and sustain civil wars. This is also the phenomenon of resources curse, that is, it is sometimes problematic in resource-rich countries as there will be widespread disputes over resources, embezzlement and smuggling due to the lack of management resources and misallocation of these wealth.¹⁹

Communities that have deep identity differences and find common ground among them is almost impossible, but the United Nations should pay attention to the importance of pre-existing ethnic identities and recognize that there are chances of nation-building through the use of efficient strategies to create ethnic solidarity.

However, if we say that international community wants to wait until failed state finds a self-sufficient solution to the domestic problems and finds a way to adapt itself to the modern world and the principles of globalization in today's world is extremely naive. Because the characteristics and constituents of such governments essentially require them to be internationally supported.

This process, especially due to globalization and modernism is more complicated than it is based solely on internal factors. Therefore, a level of partnership between civil society, government and foreign sponsors in the form of United Nations is needed to stabilize in a variety of dimensions.

Conclusion

Today, international community has come to the consensus that instead of eradicate the problem and escape the problem, we should solve the problem of inability through the support provided by government. Indeed, in view of dilemmas and implicit consequences of government's inability to maintain international peace and security and according to this point that mere prevention of catastrophes such as genocide by which failed states provide a suitable basis for its creation and ending the internal conflicts of these countries which does not guarantee the permanent establishment of peace and security in such territories. Therefore, the necessity of reconstruction of country's infrastructure and its damage caused by internal conflicts and political, economic and cultural support is indispensable for the empowerment of relative government.

¹⁹Michael IGNATIEFF, "Intervention and State Failure" (2002) *Dissent*, 49(1), at 304.

Therefore, an international intervention is needed to cure the failed states by strengthening and restoring existing state institutions and creating new institutions. The goal of these efforts is to create a desirable and effective government and as a result of consolidation of social order through the establishment of physical and economic security for the citizens. Of course, these remedial measures are a complex and difficult process and should be done in a variety of ways.

It is clear with a short history of these countries that what is needed before any other action is public disarmament and withdrawal of interventional troops from the territory of relative country after the fire of conflict is shut down. Because only after establishment of peace and disarmament of the armed forces and reconciliation of people with ordinary life can be sought in the attempt to reconstruct the destroyed infrastructure including schools, hospitals and communication paths through conditional and targeted Donations.

After the establishment of peace, it should also be sought after economic development of the country, because the economy has always overshadowed other human relations during history as the basis of human life and any useful economic action is provided the basis for the raw materials needed for sustainable development in all aspects of human being living.

We can find from what is being done as the procedure of United Nations in this regard, especially in the context of actions taken in Afghanistan that donations from the United Nations, as well as the World Bank and the International Monetary Fund should not be unconditional, but donations should be provided with complete supervision to ensure that does not dependence of central government and deterioration of the situation. Historically, it has been proven that unconditional assistance to failed states and societies damaged by internal conflicts has created an affiliated government. This is exactly what we see in Afghanistan. Ninety-two percent of Afghanistan's total budget in 2004 and 2005 was funded by foreign capital. The procedure was the same for three years after the start of state-building efforts with only eight percent of the budget being funded by domestic resources. Similar financial statistics that show Afghanistan's budget today also indicate a highly dependent state in the country. This means that Afghanistan government is fully dependent on foreign aid for survival, while internal conflicts in the country is continue and these aid programs have not resulted in permanent disputes. (Giustozzi,2008: 33).

At the same time, economic assistance that is granted conditionally to failed states, sometimes also brings problems. Because these countries cannot easily adapt themselves to the new economic policies, free market system and liberal economy. Because there are no institutional foundations and legal framework for economic reforms yet.

Therefore, it seems that the United Nations and the international community, especially the powerful governments in providing financial assistance to these countries should be more cautious and grant loans while being conditionally supervised by the Security Council and the oversight bodies. They will also comply with the relevant conditions in line with international realities and relevant government. Management, planning, allocation and distribution of assistance in the various sectors and dimensions are a key priority of reconstruction process, but at the same time investment and assistance in improving domestic industrial infrastructure is a key factor in the country's sustainable development. This suggests that supportive system should be such as to enable the government to achieve development through autonomous human capital and gain autonomy.

For example, investing in domestic natural resources along with agricultural reforms has the potential to save the country from illegal trade in poppy in Afghanistan, and thus Afghans will be able to work within the country to reduce both the flood of migrants and to rebuild the country. They have an effective role to accelerate economic development. Successful implementation of these projects requires foreign support, a strong leadership in Kabul supported by the international community and an effective program to implement along with capacity building strategies.

Establishing good governance, providing anti-corruption programs, training authorities, reforming the security structure and monitoring elections are the most important things that nongovernmental organizations and international organizations, such as the World Bank can effectively contribute to the failed state. In addition, the most important point in rebuilding the physical infrastructure and the political reforms that it seeks out is the rapid transfer of responsibilities for the development and implementation of programs to native management.

Ultimately, the international community should pay attention to the fact that the ideal benchmark and model for the reconstruction of a post-conflict government is a reinforced form of government in the pre-conflict era, not a modern Western government!

The relevant assistance varies from one country to another. Therefore, global institutions and powerful governments need to consider the internal conditions and biological conditions to help failed states before disasters in these countries and rely on reconstruction rather than on the basis of desirable livelihoods in their own countries.

The attitude that an failed states only needs a stimulus and then the international community must wait for relevant government to adapt itself to the developed and modern world is completely wrong. Globalization has made economic development harder than that we can solve economic problems of these governments by internal

factors. Therefore, the international community must maintain the necessary balance in its support in order not to make the relevant government dependence, but simply to facilitate the development process. This requires the development of domestic trade and the creation of a balanced exchange rate for international trade. Considering this is also necessary that high rate of inflation will also be a barrier to development, so building or strengthening the banking system and financial management is essential to meet the needs of society in the early stages of reconstruction.

References

Books:

- Francis FUKUYAMA, *State Building: Governance and World Order in the 21st Century*, (Ithaca Cornell University Press, 2004), at 23.
- Pederson ENGBERG, *Fragile States on the International Agenda*, (Copenhagen: Danish Institute of International Studies, 2007), at 11.
- William SCHABAS, *Genocide in International Law the Crime of the Crimes*, (New York: Cambridge University Press, 2009), at 10.

Articles:

- Antonio GIUSTOZZI, “Afghanistan Transition without End an Analytical Narrative on State Making” (2008) London School of Economics Crisis States Research Center Working Papers, Series 2(40)
- Astri SUHRKE, “Limits of State Building: The Role of International Assistance in Afghanistan” (2006) International Studies Association Annual Meeting, at 1_32.
- Brian DUBE and Proceed MANASTA, “Failed State Discourse under International Law: the Place Attributes and Implications” (2013) International Journal of Political and Good Governance, 4(4), at 1_23.
- Chiara GIORGETTY, “Why Should International Law be Concerned about State Failure?” (2005) University of Richmond School of Law, 16(2), at 469_487.
- Marina OTTAWA, “Rebuilding State Institutions in Collapsed States” (2002) Development and Change Wiley, 33(5) at 1001_1023.
- Michael IGNATIEFF, “Intervention and State Failure” (2002) Disent, 49(1), at 115_124.
- Mohammad NURRUZZAMAN, “Failed and Fragile States in International Relations: Revisiting Issues and Rethinking Options” (2008) Department of Political Science Okanagan College, at 1_26.
- Paul MILLER, “Why and How to Fix Failed States? The Case for Nation Building” (2010) Prism, 3(1), at 63_74.
- Peter RADA, “Rebuilding of Failed States” (2007) Budapest, at 1_22.
- Robert ROTBERG, “Failed States, Collapsed States, Weak States: Causes and Indicators” (2003) Brookings Institution Press, at 1_25.
- Stewart PATRICK, “United States Policy Toward Fragile States: An Integrated Approach to Security and Development” (2011) the White House and the World, at 327_353.
- Vallings CLAIN and Moreno Torres MAGUI, “Drivers of Fragility: What Makes States Fragile” (2005) Department for International Development Policy Working Paper7, at 2_29.
- William ZARTMAN, “Collapsed States the Disintegration and Restoration of Legitimate Authority” (1995) Boulder: Lynne Publisher, at 235_249.

Documents:

- Report of Development Assistance Committee of Organization for Economic Co-operation and Development (2008).
- Report of the International Commission on Intervention and State Sovereignty, (2001) the Responsibility to Protect, Ottawa: IDRC.
- Report of the Secretary General Boutros Ghali: Towards 21 Century International law as a language for International Relations, (1995) United Nations Congress on Public International Law.
- Resolution Adopted by the UN General Assembly: World Summit Outcome Document, (2005). New York, 60 /1 UN Doc A/RES/60/1