

The Nature of the Turkish Military Interventions in Northern Iraq and the Resulting International Responsibility (Legal Analytical Study)

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Abstract

The international community has witnessed widespread interventions in many countries, under humanitarian, political and security headlines and justifications, and these interventions have reached the point of direct invasion of countries. It is no secret to say that the large number of military interventions, whether these interventions are legitimate, change course, or illegal, represent a blatant violation of the principles contained in the Charter of the United Nations, especially what was included in its preamble, which expressed humanity's rejection of the use of force in international relations, and despite the gains achieved by countries with the issuance of a decision by United Nations General Assembly No. 3314 in 1974, which included a definition of the crime of aggression, leading to the 2010 resolution at the Kampala Conference regarding amending the definition of aggression and including it within the jurisdiction of the International Criminal Court. However, this was not enough, as the stability of international peace and security was destabilized through many practices established by international action. The world witnessed its horror. Therefore, within the framework of these interventions, this presentation will focus on the Turkish military interventions in northern Iraq, which came under many pretexts, most of which are political rather than legal pretexts, such as: controlling the borders and protecting national security from Turkish The danger of armed groups present on the common border between the two countries and eliminate them completely. Despite these pretexts and arguments, The Turkish military interventions remain questionable in terms of their legitimacy and goals. Lawmen often focus on the legitimacy of the act of using military force if it is not in accordance with permissible legal standards, and they also focus on the legitimacy of the goal. Based on this, we will attempt to study the issue of adapting Turkish military interventions in light of the crime of aggression, while clarifying the extent to which Turkey can be held responsible for international civil responsibility as a result of its intervention.

Keywords: military intervention, aggression, Security Council, armed groups, international responsibility.

Introduction

Study subject:

The study of international violations of the rules of international law and the responsibility resulting from them came simultaneously with the state of continuous development that the world is witnessing, as the international situation has changed

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significantly, especially after the end of World War II, which has led to major developments in international law in its contemporary sense. Perhaps one of the most important developments witnessed in contemporary international law is the delegitimization of regional changes that arise or result from interference or the use of force, by establishing principles prohibiting interference in the internal affairs of states and the use of force or the threat thereof in international relations.

It is worth noting that these principles did not prohibit interference or the use of force absolutely, as there were exceptions to them. With regard to the prohibition of interference in the internal affairs of states, the second paragraph of Article Seven stipulated that despite this prohibition, it is permissible provided that the state does not violate the measures of repression mentioned in Chapter Seventh of the Charter. As for the principle of prohibiting the use of force, the Charter permitted the use of force legitimately in the case of legitimate defense in accordance with Article (51) of the Charter, or in the event that the United Nations takes collective security measures in accordance with Article (42) of the Charter.

The relations of states with each other are not always characterized by a peaceful nature. They may become otherwise when the state transitions to its use of military means. In order for this method - military - not to be absolute and without restrictions, the international community has created rules that limit the freedom of states during their use of military means; otherwise its action constitutes an act of armed aggression, and thus entails international responsibility.

Speaking about the Turkish military interventions in northern Iraq, it should be said that the Turkish military interventions in northern Iraq began in the 1980s and have continued until the present time, as Turkey was linked to the problem of the presence of the Kurdistan Workers' Party and its subsequent developments in northern Iraq, especially after the Second Gulf War in 1991. Considering that the presence of groups described as terrorist on the common border with Iraq is a major security problem for it, which prompted it to adopt a new policy towards Iraq that was characterized by increasing interference in its internal affairs and encroachment on its sovereignty and territory through repeated invasions.

Turkey's use of military force within the borders of the neighboring country (Iraq) on the pretext of the presence of groups described as terrorist present within Iraqi territory, without the approval of the Iraqi government or informing the Security Council of these operations, knowing that these groups have no direct connection with Iraq requires us to investigate the extent to which The nature of these interventions by legally adapting them based on the crime of aggression, and then studying the extent to which Turkey can be held responsible for international civil responsibility for those interventions.

Importance of Study:

The issue of Turkish military interventions in Iraqi territory is one of the important and controversial issues in international law because of its negative effects represented in the lack of respect for the principle of equality of sovereignty between countries, which is one of the basic principles of international law, so the importance of this study comes in knowing the nature of these interventions. The blatant crime by studying the crime of aggression and knowing the extent of its compatibility with aggressive action within the framework of international law, as well as clarifying the extent to which Turkey can be held internationally responsible by studying its interventions in light of the rules of international responsibility.

Problem of Study:

Public international law is based on a set of principles, according to which it grants rights to its individuals and imposes obligations on them in order to establish a legal system on

the basis of which all international relations are managed to ensure the achievement of international justice. Therefore, any violation of these principles will entail the consequence of international responsibility, and from here the problem centers. Study about: The extent to which Turkey can rely on the pretext of threats from organizations described as terrorist that affect its national security, and their use of force and violation of the sovereignty and territory of another country (Iraq). Several questions arise from this problem, including:

- 1- What is the legal status of Turkish military interventions in northern Iraq? Are they truly legitimate for Turkey for self-defense and combating terrorism, or are they an act of aggression in accordance with international law?
- 2- Did the military interventions come in accordance with the definition of the crime of aggression mentioned in General Assembly Resolution No. (3314) regarding the definition of the crime of aggression?
- 3- Does Turkey bear the consequences of international responsibility as a result of its violation of the principles of law of non-interference in the internal affairs of states and the prohibition of the use of force in international relations?
- 4- What are the forms of sanctions that must be implemented against the aggressor state (Turkey). Are they only civil penalties or can criminal penalties be imposed as well?

Methodology of Study:

This study is based on the analytical and descriptive approach, which is often adopted in legal studies, including the study of the phenomenon of Turkish military intervention in northern Iraq, by describing and analyzing the nature of those interventions accurately, in a legal and objective manner, and arriving at a treatment of the issue of international responsibility.

Study plan:

Regarding the study plan, we decided to divide it into two sections. The first section will address the legal nature of the Turkish military interventions in northern Iraq, while the second section will address the international civil responsibility resulting from it.

The first topic

Legal adaptation of Turkish military interventions in northern Iraq

That Issue conditioning Interventions Military Turkish H Northern Iraq Under the pretext of confronting terrorist organizations, One of the topics shrouded in mystery, And that Due to developments in legal systems International Such as Violating international legitimacy by some countries and authorizing it Intervention Military to purpose anti-terrorism Which turns its military intervention into an act of aggression against the state on whose territory terrorist groups are alleged to be present, especially if that state has no connection to terrorist groups. Therefore, a question has been raised about the nature of these interventions and their legal compatibility. Accordingly, this section was divided Research to Two demands. As follows:

The requirement the first

Definition of the crime of aggression

The international community faces many international crimes whose effects extend beyond borders, leading to a threat to peace and security at the national, regional and international levels alike. And It is considered a crime of aggression One of the most important international crimes through which all other names of crimes are investigated As crimes: genocide, war, and crimes against humanity).

It is worth noting that the term aggression is not new, as it was used early in the history of international relations, and even before the emergence of the League of Nations, as it was mentioned in the international alliance treaties in the nineteenth century, such as the secret defense alliance concluded between Britain, France, and Austria in 1816. However, the use of this term in that period did not have any meaning from a legal standpoint, and there is no doubt that finding a clear legal standard for this term was necessary. An important given the consolidation and confirmation of the principle of legitimacy, in order to be able to resolve mutual accusations between countries that arise in the event of disputes that arise between them.

The attempts have begun to strip international status of aggression at the San Francisco Conference in 1945. However, it was not successful due to the reason in the opinion of some that that definition leads to restricting the powers of the Security Council when evaluating an action whether it falls within the framework of aggression or not, which leads to the benefit of some countries, especially the great powers. However, due to the importance of defining aggression, it was lost. I tried the General Assembly by defining it. This task was entrusted to the International Law Commission. The definition went through many stages until the General Assembly was able, on December 14, 1974, to issue Resolution No. (3314) on the definition of aggression. And before the statement the definition in accordance with the aforementioned resolution, we will clarify international opinions regarding establishing a definition of aggression.

Two different trends have emerged regarding the definition of aggression, one they are opposed while the other supports it. As for the opposing trend, it was led by the United States, the United Kingdom, India, Pakistan, China, and Japan, and they rely on many arguments, including :

- Finding a fixed definition of aggression means ossification and stagnation, and this is not compatible with the idea of continuous growth and development of international law.
- Creating a definition of aggression makes the aggressor aware of it, creating other arguments that are not included in the definition. In addition, this definition cannot cover all forms of aggression as a result of the advanced scientific increase in the field of weapons.

As for the trend in favor of defining aggression, it is the trend led by the countries of the former Soviet Union, the countries of Latin America, and most European countries and (Fro-Asian). They rely on many arguments:

- Establishing a definition of aggression emphasizes adherence to the principle of legality in the field of international law. Because it helps to determine the content of aggressive war objectively, which increases its clarity and specificity, and prevents conflicting states from tampering with its interpretation.
- Establishing a specific definition of the crime of aggression would serve as a warning for those who do it, and impose punishment on him. Which makes it intend to those who decide to commit a crime must think carefully before committing it, which facilitates the maintenance of international peace and security.

As for the role of the United Nations in identifying aggression after the adoption of the United Nations Charter in 1945, which established a prohibition rule on the use of force in international relations? In the fourth paragraph of Article Two, it is noted that he did not define aggression. The reason is due to the opinion of some that any definition of aggression implies the possibility of controlling it, with or else, it may restrict or expand the scope of actions that may be considered aggression, which may benefit the aggressor.

But this statement did not make the United Nations inactive in the face of the urgent need to develop a definition of aggression, as its efforts began to confront aggression,

especially after the Korean crisis in 1950 revealed the extent of the turmoil that could afflict the United Nations due to the absence of a definition of aggression.). So the situation of the Soviet Union the previous The first official proposal to define aggression was submitted to the United Nations General Assembly and referred in turn to the International Law Commission, then the Union Project was followed. Former Soviet Several proposals were submitted by countries to the International Law Commission, and were met with That Proposals many of Difficulties and developments, and in On December 14, 1974, the United Nations General Assembly reached a resolution The general body of the United Nations, which includes all its members situation Resolution No. (3314) in which Pala Collective definition of aggression, as an international crime and one of the means of using armed force that constitutes a violation of the rules of international law and entails international responsibility. Article 1 of the above-mentioned resolution provided a definition of aggression and limited it to armed aggression only, knowing that this is not the definition. R The only form of aggression, but there are other forms such as economic, ideological, intellectual, etc... Article 1 defines armed aggression as: “the use of armed force by a state against the sovereignty, territorial integrity, or political independence of another state, or in any other manner inconsistent with the Charter of the United Nations”.

Through the aforementioned definition of the crime of aggression in the United Nations General Assembly resolution, it can be said that this definition It was not a collector, and it grew Example On the Military workers, wa The Security Council is the one who decides whether the... a Whether or not actions constitute aggression in accordance with the Charter Fadl That this definition does not include anything that may be interpreted as expanding or narrowing the scope of the Charter.

A crime issue was discussed Aggression in the Statute of the International Criminal Court. It should be noted that when the International Criminal Court was established in 1998, the crime of aggression was included in the list of the most serious crimes and the subject of attention by the international community It was included within the jurisdiction of the Criminal Court under Article Five, but it did not provide a general definition of the crime, and it considered that the definition mentioned in the definition decision has a political nature and is not consistent with the nature of the court's work. However, it from During the 2010 review conference held in "Kampala" The capital of Uganda, and based on the procedures that must be followed and based on Resolution (3314) issued by the United Nations General Assembly, the thirteenth meeting dated June 11, 2010 issued a definition of aggression, and it was agreed upon in Article Eight of the Rome Statute after making an amendment, namely the abolition The second paragraph of Article Five)). It is known as the crime of aggression In accordance with Article Eight of the Statute of the International Criminal Court It is: “the fact that a person in a position to effectively control or direct the political or military action of a State plans, prepares, initiates or carries out an act of aggression that, by its character, gravity and scope, constitutes a clear violation of the Charter of the United Nations.”.

Based on Article Three of the resolution Definition of aggression no(3314) The following acts were described in describing an aggressive act, regardless of whether war was declared or not, noting that they were not mentioned exclusively, but rather as a guideline, which is what was confirmed in Article Four of the same resolution. Therefore, the Security Council may consider the act to be aggression even if no form is mentioned: This aggression is as mentioned above in Article Three.). Some of these actions include: He comes :

□ The armed forces of a state invade or attack the territory of another state, or any military occupation, even if temporary, resulting from such an invasion or attack, or any annexation. no The territory of another country or part of it using force.

- The armed forces of one country bombing the territory of another country or using any weapons against the territory of another country.
- C- Laying siege on the ports of one country or on its coasts by the armed forces of another country.
- D- The use of armed force by a country against the armed forces of land, sea, or air, or the commercial sea and air fleets of another country.
- The use by a state of its armed forces within the territory of another state with the consent of the host state in a manner inconsistent with the conditions stipulated in the agreement, or any extension of its presence in the aforementioned territory until After the end of the agreement.
- The consent of a state to use its territory, which it has placed at the disposal of another state, to commit acts of aggression by the latter against a third state.
- G- Sending armed groups, irregular forces, mercenaries, or gangs by a state or on its behalf to carry out an act of armed force against another state, equivalent to the gravity of the acts previously referred to in the General Assembly resolution. It is considered a form of indirect aggression.

The requirement the second

Turkish military intervention is consistent with aggression in international law

building! Based on the aforementioned definition of the crime of aggression And show their picturesIt can be said that the Turkish Armed Forces' establishment of fixed military bases inside Iraqi territory and their continued bombing operations under the pretext of combating terrorist elements represented by the Kurdistan Workers' Party (PKK) and regulation ISIS terroristIt is considered, without a doubt, an act of armed aggression, and the definition mentioned in United Nations General Assembly Resolution No. (3314) in 1974 applies to it.

That interventionatMilitaryHTurkishAnd its use of force in Iraqi territory under the pretext of protection Turkish national securityFrom the attacks of terrorist organizations, it has comeTSimilar to the events of September 11, 2001Use of force under the pretext of preventive defense againstinternational terrorism)). However, for this justification to be legitimate, it must be in accordance with specific standards. A state that is a victim of armed terrorist operations may not use force against another state, undermine its security, or violate its sovereignty under the pretext of legitimate defense without obtaining a license for that right from the Security Council. In addition to the need to prove that these terrorist organizations operate in the name of the state and for its account. And to prove its involvement in supporting groups Anophobic). This is what Türkiye did not do.

Thus the Turkish verb can be adapted asA state of aggression TFall outside the legitimate cases foraUse of force, thatOfParagraphs (A-B-E) of Article Three of Definition Resolution No. (3314), as follows:

A- Air conditioningParagraph (a) of Article ThreeFrom the decision to define aggression against Turkish intervention, through the establishment of TürkiyeThrough Turkey using military force against a sovereign state, under the pretext of protecting its national security and confronting terrorist organizations, it established fixed military bases and did not respond to the government's demands to withdraw them, which resulted in a partial invasion.Y. So that Turkey in fact Didn't pay attention The real purpose of The tripartite treaty concluded between the two countries in 1926The represented BDemarcation of the borderFinally, the dispute resulting from it will be resolved. This treaty proves Turkey's explicit recognition of the dependency of the Mosul Province and the areas adjacent to it to Iraq.And then thatHe did itInterventionalIt is considered a partial invasion of Iraqi territory.

B- Air conditioning Paragraph (B) of Article Three From the decision to define aggression against Turkish intervention, through Turkey carrying out many aggressive operations inside Iraqi territory, including its bombing operations in 2022. By means of artillery shells (155), targeted by it (Barkh resort) near the governorate Dohuk On the Iraqi-Turkish border, which resulted in the death of nine innocent victims and one injury Approaching (33) of innocent citizens, causing damage to facilities Civilian., All of this falls within the framework of paragraph (b).

C- Air conditioning Paragraph (H) of Article Three From the decision to define aggression on the Turkish intervention, this paragraph can also be adapted to the Turkish action by saying that Turkey, although it relied on an international agreement to justify its military interventions in the eighties of the last century to pursue armed groups (pkk) stationed on the common border and in coordination with the then Iraqi government However, its continuation of these interventions was not compatible with the conditions stipulated in the agreement, namely the existence of a specific deadline for its expiration.

The second topic

Turkish military interventions in light of the rules of international civil liability

Operate International responsibility is of great importance in international law as it is.. An essential part of the international legal system, which is also considered an essential part of the international legal system Legal systems Others impose obligations International On his people And It also stipulates rights, and the obligations imposed by the legal system are enforceable, whether their source is a contractual or customary ruling or a general principle of law. If the international legal person fails to fulfill his obligation, his failure necessarily entails bearing the consequences of international responsibility. In examining Turkish military interventions in light of the rules of international responsibility, we divided this into two demands, The requirement the first We spread it out To study international civil liability Its pillars fell on the Turkish military interventions, As for The second requirement To study the effects of the Turkish military intervention. As follows:

The first requirement

International civil responsibility and its elements

Jurists differed in their definitions of international responsibility, and were divided into two groups regarding their definition of responsibility:

- The traditional team: This is the team that limited international responsibility to states only, in line with the traditional concept, which considers the state to be the only person subject to the provisions of international law. One of the supporters of this team is Charles Rousseau, who defined international responsibility as: “a legal situation under which the states accused of committing an act commits themselves.” It is unlawful according to international law to compensate the state against which this action occurs.”
- The modern team: It believes that international responsibility is not based only on actions taken by states, but rather on all persons addressed by the provisions of international law, such as international organizations and individuals who have sometimes become subjects of international accountability, and one of the supporters of this team is “Pele,” who said: “ International responsibility is a multi-faceted concept, as the traditional definition of international responsibility cannot be accepted after the decline of the opinion that the state is accountable to the exclusion of other persons in public international law.”

The United Nations did the same on Consolidating the system of international responsibility through the preparation of a report by its International Law Commission in 1953 on Ha, And The committee completed its work in 1957 by preparing a draft law related to international responsibility, and in 2001 it reached the establishment of rules regulating international responsibility for illegal acts. Internationally It was stated in the

first article from Draft Articles on State Responsibility for Unlawful Acts Internationally: "Every illegal act committed by a state entails its international responsibility."

International judiciary has also contributed to consecrating the system of international responsibility, as the Permanent Court of International Justice issued its ruling in the "Chorzow Factory" case in 1927 between Germany and Poland, which included: "One of the principles of international law is that every breach by a state of one of its obligations entails its obligation to make appropriate compensation, and this Compensation is something that is associated with failure to fulfill the undertaking, and the obligation to do so exists on its own without the need for it to be stipulated in the agreement of which the breach occurs."

Based on the above, we can develop a definition of international responsibility, by saying ((International responsibility means an obligation arising from a person under international law because of his performance of an act or omission that causes harm, whether this action or omission is lawful or unlawful and entails compensation for it).

That Establishing responsibility on a state as a result of its actions Internationally unlawful acts are not an easy matter. According to the rules of international responsibility, the state is not responsible unless it achieves Q The pillars of international responsibility for its action, which are that there is an unlawful act and that this act is attributed to an international person. As for the damage that could befall the state as a result of the unlawful act, it has sparked disagreement about it. Some believe that it is not a basic pillar of international responsibility on the basis of every unlawful act clearly results in harm. This is what the Special Rapporteur of the International Law Commission said: "An internationally wrongful act is a necessary and sufficient condition for the existence of international responsibility," as he stressed that the damage resulting from a state's wrongful behavior is no longer a necessary condition for the existence of a wrongful act, although it may be useful in determining its consequences in the context of the scope of appropriate compensation.). Others believe that international responsibility does not result from the behavior of a violating state its obligations unless there is another element, especially "harm" to a country Other. In our opinion, we support the trend the last one.

For the purpose of triggering international responsibility for the Turkish military intervention in northern Iraq, we will discuss: The pillars of international responsibility and then projecting them onto Turkish intervention.

First: The existence of an internationally wrongful act.

The majority of jurisprudence uses the term "unlawful conduct" as a result of a person violating an obligation imposed on him under international law under the rules of international law. The origin of the obligation does not matter, whether it is a conventional or customary rule or a general legal principle. What is meant by an illegal act is a violation of an international legal rule through behavior that violates international legal obligations.). Article 12 of the final draft of the International Law Commission affirmed: "A state breaches a legal obligation whenever its act does not conform to what the obligation requires of it, regardless of the origin or nature of the obligation.". Regarding the Turkish military intervention and dropping the element of illegal action on it, we find that although both countries are members of the United Nations, (Turkey) has mobilized its military forces to launch direct and multiple attacks on the neighboring country (Iraq) under the pretext of combating terrorism, and this in itself. It constitutes a clear violation of the rules of public international law and the goals of the United Nations, which stipulate non-interference in the affairs of states, respect for their sovereignty, and respect for the principle of good neighborliness based on a state's commitment to tolerance and coexistence with other states in peace, in addition to its violation of the

principles of international humanitarian law, such as the principle of distinction and proportionality, which.. It entails its international responsibility. According to the rules of international law, aggression is considered the highest degree of violation of international legality, and is related to the unlawful act resulting from the use or threat of force against another country.

Second: Attributing illegal behavior to an international legal person.

“Attribution” means: the attribution of an event giving rise to international responsibility to a person in public international law, such as a state or an organization. And in international responsibility towards states, you can say In order for the act to be described as illegal, it must be attributed to the state, as the latter is described as a legal entity incapable of acting on its own, which requires that its action, represented by an act or abstention from action, must involve a person or a group of persons whom the state has authorized, pursuant to its internal law, to carry out the administration, or persons it has employed. Its armed forces carry out certain activities for themselves, such as private military companies and mercenaries. The state is also responsible for all actions committed by its official agencies or individuals it has authorized to work on its behalf, even if they exceed the limits of the authority granted to them. States cannot evade their responsibility by relying on the provisions of their internal law. This is confirmed by Article (91) of the First Additional Protocol of 1977 attached to the Geneva Conventions of 1949: “A party to a conflict.. shall be responsible for all actions carried out by persons forming part of its armed forces.”. The state is also responsible for all violations committed by groups operating under its direction or under its control. In this context, the Court of Justice stated in the military or paramilitary activities case in 1986 that the United States is responsible for violations of international humanitarian law committed by the “Contras.” In Nicaragua if it had effective control over the military or paramilitary operations in the context of which the violations occurred. Likewise, responsibility is attributed to the state for actions that the state does not carry out, but rather recognizes and adopts, regardless of whether the perpetrator of the act represents an apparatus affiliated with the state or a commander in its armed forces, or whether he is not connected to it. This is what the International Criminal Court stated in the “Tadic case” in 1999, saying: The state is responsible for the actions of persons or groups that are not organized in a military manner if the illegal acts are publicly approved by the state in accordance with the status quo.

Dropping the pillar of attribution to the Turkish military intervention in northern Iraq, it is worth saying that Turkey, as a leading country in the contemporary world and a member of the United Nations, has committed internationally illegal acts in its invasion of Iraqi territory under the pretext of (fighting terrorist groups), based on directives and plans. A decree issued by its superiors to Turkish commanders and soldiers The Turkish governments in the past and until now, with the presence of their military forces inside Iraqi territory, have begun to eliminate the terrorist Kurdistan Workers’ Party camps on the Iraqi-Turkish border, in coordination with the Iraqi government. However, in reality, it is not logical for any country to accept an attack on its territory simply because of the presence of armed groups that have no connection to it. The Ministry stated Iraqi Foreign Ministry That Military operations in Iraqi territory Prepare “A blatant violation of Iraq’s sovereignty and a threat to its territorial integrity due to the terror and harm caused by the operations to safe Iraqi citizens”. Hence, the (Turkish) military intervention is considered a fully-fledged aggressive act in the jurisprudence of public international law, with the aim of invading and controlling the northern parts of Iraq. Military intervention, even if it is in its general sense a manifestation of the use of force, involves rules regulating it, but sometimes countries deliberately strike the rules regulating the use of force, which constitutes their action as aggression, meaning that there is a clear difference between military intervention and aggression, and what Turkey did falls within Frame the aggression clearly and explicitly.

Third: The damage and its link to the Turkish act: Despite the disagreement about the damage and the extent to which it is considered a pillar of international responsibility, jurisprudence and jurisprudence have settled that the damageDamage is one of the pillars of international responsibilityIf there is no damage, there is no liability.Harm can be defined as: "an infringement on the right or legitimate interest of a person in public international law."). Damage may arise as a result of performing an act, such as a state violating an international obligation, or as a result of abstaining from performing an act, such as a state not implementing an international obligation. The damage may also be material or moral, and material damage is damage that affects an interest or a right of an international person. Either Moral injury includes an attack on the value or status of an international person, such as insulting the dignity of its representatives, its president, or its flag.The damage must be realised, so the potential damage does not matter. With regard to adapting the element of harm to the (Turkish) act, we have no doubt in saying that Iraq has witnessed great harm from the illegal actions issued by Turkey. Among the harms that Iraq has witnessed is the violation of its sovereignty, the invasion of its lands, and the destruction of its properties (infrastructure), including the Barkh resort, Sulaymaniyah Civil Airport, and areas Many others. In addition to the killings of unarmed civilians in some villages, such as the village of "Kurtak" and "Zarkli", as well as the bombing by Turkish aircraft of villages near the Kurdistan Workers' Party camps, up to the "Qara Hanjir" district in Kirkuk, in addition to the displacement and displacement of the civilian population in the northern regions. To other areas in search of shelter.

The second requirement

Implementing international responsibility arising from the Turkish military interventions in northern Iraq

The rules of international law give states the ability to guarantee their rights against any violations or violations of international obligations carried out by other states or individuals belonging to them. Therefore, the implementation of international responsibility for these violations is through common mechanisms between the general rules of international law (the Charter of the United Nations) and the rules of responsibility. International law codified by the International Law Commission, as well as the rules related to international humanitarian law, which established the principle of obligating states that commit aggressive acts to compensate for the damages that resulted from their armed forces violating the rights of groups protected under this law.

With regard to the topic of our research, and in implementation of the international responsibility arising from Turkey's illegal use of force within the Iraqi borders, the Security Council is supposed to take a positive step towards the invasion and aggression operations launched by the Turkish military forces, although the features of the crime of aggression were clear in the positions of The Special Representative of the Secretary of the United Nations, Jeanine Hennis-Plasschaert, repeatedly called for an end to the violations that lead to the weakening of the Iraqi state, but the position of the Security Council, as was clear in the meeting held regarding the investigation into the aggression against Dohuk Governorate, has been repeated.It came within the context of public condemnation and no conviction was madeTurkish side,sodid notThe Security Council attributes this in the speeches of delegates of member statesattacktoTürkiye,Unlike Iraq, which he stressed that"aggression"Turkish. Or is this what violates the legal and moral duty of the Security Council, as one of the basic duties of the UN Security Council is to maintain international peace and security or restore it to normal, and therefore it must work to achieve that mission and confront the Turkish aggression, even if Iraq does not submit a complaint to it, given that the issue itself is considered.. A direct threat to international peace and security.

It should be noted that if there are obstacles to taking measures against Turkey before the Security Council, in its capacity as a member of the international coalition prepared by the United States to combat terrorist organizations, and that the United States is a supporter of Turkish intervention in eliminating elements (PKK) as a terrorist organization in addition to the terrorist organization ISIS, and given that the United States is a permanent member of the Council, it can use its veto power. -Veto-Against any measure requiring the use of force to deter (Turkish) aggression, this matter can be resolved in two cases: The first case: Transferring the issue of aggression and (Turkish) invasion to the General Assembly based on the decision of (Uniting for Peace), which is an issue that requires obtaining a majority in the General Assembly to take action. Extra-Council measures and US influence. As for the second case: taking measures in accordance with (public interest claims) away from the claims of the affected state, as a result of serious violations of international obligations, whether against a state, a group of states, or the international community as a whole. This fully applies to the case of Turkish military intervention in Iraq, as Turkey, with its violations, goes beyond the security nature against terrorist elements, and carries expansionist political goals through which it aims to control the lands neighboring it and outside the borders of its map.

The international responsibility that falls on states was and remains an international civil responsibility, due to the unacceptability of the principle of state criminal responsibility compared to the international criminal responsibility of natural persons. It is noted that some jurists, including Dr. Ali Sadiq Abu Haif, say: "The establishment of legal responsibility before the state results in its obligation to repair the damage it has caused or caused to occur, in addition to the moral satisfaction it provides the state that complains of this damage." This means that raising the responsibility of states is only for the purpose of obtaining compensation for the victims, and this is within the framework of international civil responsibility, while criminal liability is not necessary in order to obtain compensation. While some believe that the ordinary individual is the one who carries out the international crime on behalf of the state and is therefore subject to freedom-restricting penalties such as (imprisonment) on behalf of the state. As for the state, some penalties may be imposed on it such as a fine, as the professor believes: Pellet "Talking about an international crime committed by a state does not mean that this state will be imprisoned, and if the matter again here is merely a matter of phrases, it is sufficient to change these phrases." Since international crimes often occur with the knowledge of the state, and it is natural for this state to bear international responsibility, criminal penalties may be imposed on it, even though the state's responsibility is primarily a civil responsibility.

In order to establish criminal liability against the aggressor state (Turkey), there must be sanctions imposed on it, and these sanctions must be characterized by punishment, such as dropping its membership from an international organization, or imposing economic sanctions, and this type of sanctions is achieved through an international organization such as United Nations Organization. One of the purposes of that organization is to maintain international peace and security, and in order to achieve this, it must take joint and effective measures to prevent causes that threaten international peace and security, and to suppress acts of aggression and other breaches of the peace.

Based on the above, the sanctions that are supposed to be imposed on the aggressor country (Turkey) are divided into civil sanctions and international criminal sanctions:

First: Civil penalties.

In all international systems, some civil legal penalties are imposed as a result of violating an international rule, and the most important of these penalties, which are widely accepted, is repairing the damage through full compensation for the loss resulting from the act of aggression, as well as ceasing the violation and not repeating it.

1- Repairing the damage: The damage is essentially a penalty stipulated in Article (31) of the draft of the International Law Commission regarding the responsibility of states for internationally wrongful acts. According to this article, Turkey is responsible for committing to full reparation for the loss resulting from its wrongful act, which includes: Loss is any material or moral damage resulting from it. This principle has been approved in many international precedents, including in the “Chorzów Factory” case by the Permanent Court of International Justice. The court came by saying: “One of the principles of international law is that any breach of an undertaking raises an obligation to make reparation.” damage in an appropriate manner, and therefore reparation is an indispensable complementary element in the absence of application of any agreement and there is no need to stipulate it in the agreement itself.” This principle has also been applied by the Security Council on several occasions when aggression occurred. Similar to the case of South Africa’s aggression against Angola, the Council affirmed the principle of reparation in Resolution No. (546). In 1984. It is noted that the wording of the text of Article (31) of the draft International Law Commission was in a way that considers the obligation to reparation a logical consequence of the state’s responsibility for its violations. Repairing damage takes several forms. It may be done through restitution, compensation, or satisfaction.

□ Response: This method usually takes place with the agreement of the state responsible for its illegal action to return the rights to their owners, in accordance with what it pledged to do in accordance with its international obligations. In the event of the (Turkish) invasion of Iraqi territory by committing aggressive acts and obstructing relations in the territory of the neighboring country The (Turkish) state is here subject to accountability, and it cannot evade that accountability by simply paying money as financial compensation. Rather, it has an obligation to restore the situation to what it was before the attacks or interventions that are described as illegal occurred. One of the previous judicial applications in this manner was what the International Court of Justice adopted in the case of the “Preah Phear Temple” between Cambodia and Thailand in 1962, when the aforementioned court ordered the Thai government to withdraw its army occupying the temple and return all objects that might have been taken or removed from the temple by Thai authorities since the occupation of the temple in 1954.

□ Financial compensation: This means that the aggressor state (Turkey) is obligated to pay a certain amount of money as compensation when it is unable to repair the damage by restoring the situation to what it was, or when there are damages for which in-kind compensation alone is not sufficient to repair, so financial compensation becomes a complement to it. The general rule stipulates that the compensation be equal to the damage, and no ruling should be made for less than the damage so that this does not result in enriching the injured person without an acceptable reason from reality and the law. Compensation must also be based on the actual loss, so that the compensation for the residents of the occupied territory or the country in which the aggression was committed includes all the property, money, rights and interests owned by the citizens, in addition to compensating them for physical and moral damages such as killing, torture, etc., and it must also be Compensation includes direct and indirect damages. An example of this picture is what was issued by the UN Security Council Resolution No. (705) in 1991, which imposed financial sanctions on Iraq as a result of the Iraqi forces’ occupation of Kuwait in 1990, allocating 30% of the oil exported from Iraq as compensation to Kuwait, which was later transferred in 2003. up to 5%.

□ Satisfaction: which means the aggressor state’s commitment (Turkey) to repair the damage that befell the neighboring state (Iraq), which is represented by moral damage, for which a financial compensation cannot be determined except in an approximate theoretical way, or to compensate for losses that are not valued financially and which may reach the degree of insult to the state. And from Pictures of

consolation Submit an official apology or memorandum Drdiplomacy in which the state committing the wrongful act admits its mistake)). One of the previous judicial applications regarding this issue is the Soviet submarine incident (Whiskey137) And resorting to an apology as an appropriate method to redress the damage, as in 1981 the military submarine penetrated Swedish territorial waters and anchored completely in its waters without the knowledge or permission of the Swedish government. The latter denounced that penetration and considered it an illegal act and an infringement on Swedish sovereignty. It also sent a strong protest. According to a diplomatic note to the Soviet government, which accepted it and presented an official apology to Sweden, the conflict ended to this point.

2- Cessation and non-repetition: This is the second effect that the aggressor state (Turkey) is held accountable for the internationally wrongful act, as Article (30) of the draft International Law Commission states: “The responsible state is obligated to cease the act if it continues and to provide assurances.” “And appropriate guarantees of non-recurrence if circumstances so require.”. It is worth noting that desistance and non-repetition are two sides of the same coin, which is to repair the damage and restore the international legal relationship that was affected by the breach. Desistance is the negative side of performance in the future and is related to ensuring the cessation of illegal behavior, while assurances and guarantees are the positive side, which is a preventive function that enhances positive performance. In the future, the continued enforcement of the obligation is an important matter in both cases, because if it stops, there is no room to talk about cessation and guarantees.

Second: UN criminal sanctions.

The Security Council, as the executive body of the United Nations, has the authority to apply measures towards member states that commit an internationally wrongful act in order to limit its development and continuation. We mention the following:

1- Temporary Measures: Article 40 in Chapter Seven of the United Nations Charter stipulates: “In order to prevent the situation from aggravating, before it submits its recommendations or takes the measures stipulated in Article 39, the Security Council may call on the disputing parties to take whatever temporary measures it deems necessary or advisable, without prejudice to these measures.” Temporary rights of the disputants, their demands, or their status, and the Security Council must take into account the disputants’ failure to take these temporary measures.”.

Meaning temporary measures It is a set of procedures that He takes it Security Council To limit of the deterioration or increase of the conflict that would threaten international peace and security, and these measures are many and varied and can be issued pursuant to recommendations or binding decisions as the case may be.). It is worth noting that these measures have sparked controversy in the jurisprudence of international law, and the reason is that they do not contain specific criteria in order to distinguish them from others. Examples include a ceasefire, a cessation of military actions, or an order to withdraw military forces, and other cases that are not mentioned exclusively, given that the Security Council is the one who assesses their suitability to the conflict before it to prevent deterioration or aggravation of the situation between the parties. One of the applications of these measures is the Security Council’s issuance of Resolution No. (660) in 1990, when it called on both Iraq and Kuwait to begin negotiations in order to reach a solution to the existing differences between the two countries. It also called on Iraq to withdraw its forces from the region.

It is worth noting that there is a possibility of applying these measures also to Turkey, and if it does not respond to these measures, the Security Council can resort to other more decisive measures in Article 41.

2- Non-military measures: In addition to the temporary measures taken by the Security Council, it can take non-military measures against the aggressor state. Article 41 of the United Nations Charter stipulates: "The Security Council may decide what measures must be taken that do not require the use of armed forces to implement its decisions, and it may request the members of the United Nations to implement these measures, which may include stopping transportation." Economic, rail, sea, air, postal, telegraphic, wireless, and other means of transportation shall be completely or partially halted and diplomatic relations shall be severed." This text suggests to us the following:

First: It is no secret to anyone who reads this text that it includes measures of a punitive nature, even if that punishment does not reach the level of the use of armed force. It is also noted that the aforementioned measures were not mentioned exclusively as evidence of the use of the phrase "and it may be among them." This formula of subordination tells us however, these measures are some of the punitive measures that can be taken without the need to use armed force.

Second: The measures contained in Article (41) are considered binding on the countries to which they are addressed. This is because the phrase "the Security Council may decide" was used in the aforementioned article, which differs from the wording that was used in other texts, as it stated "to recommend." The difference between both phrases is Mandatory characteristic.

Among the applications of these measures are the economic sanctions that were also applied to Libya in the "Lockerbie" case for causing the crash of a plane taking off from Frankfurt Airport in Germany towards New York in 1988, as the Security Council adopted Resolution No. (883) in 1993 after allegedly exerting pressure from the permanent member states. Among them is that Libya committed terrorist acts, and this decision included a ban on providing Libya by all countries with any type of equipment and supplies, as well as freezing Libyan financial resources, and prohibiting the entry of aircraft, operating them, or providing them with equipment that improves their manufacture, or developing its airports, whether civil or military.

The Security Council also has the authority to use military measures as a penalty against aggressor countries in accordance with the United Nations Charter in Articles (42-47). In some cases, the Security Council finds itself in a situation where it is necessary to use force to prevent a threat to international peace and security or to suppress aggression. Then the provisions of the Charter in Articles (40 and 41) give it the authority to use force to confront the threat to international peace and security or to suppress aggression.

Regarding the case under study, it is worth saying that despite Turkey's resort to the use of force and aggression against the neighboring country (Iraq), it is not possible to imagine the possibility of going to the dimension of using military measures by the Security Council against Turkey, given that the aggression The Turkish government came in gradual stages under the pretext of the international coalition to combat terrorism, in addition to other supports that Turkey exploited in a pragmatic and realistic manner to implement its goals.

Conclusion

After completing this research, we reached many results and recommendations that we will try to summarize as follows:

Results:

1- got engaged Türkiye With the neighboring country Iraq The problem of the existence of the Kurdistan Workers' Party On the border areas since the 1980s, in addition to the subsequent emergence of the terrorist organization ISIS, which.. This prompted it to

adopt a policy towards Iraq that was characterized by increasing interference in its internal affairs and encroachment on its sovereignty and territory through repeated invasions. Under the pretext of having legal grounds that authorize it to intervene to combat groups classified as terrorists in order to protect its national security from danger.

2- The repeated Turkish invasion and hot pursuit of elements classified as terrorists have now confirmed the Turkish government's intention to extend its geographical influence beyond the borders of its map.

3- The Turkish military interventions in northern Iraq are considered aggression without a doubt, through their legal adaptation in accordance with Resolution No. 3314 regarding the definition of aggression issued by the United Nations General Assembly.

4- The principles of the prohibition of interference in the internal affairs of states, as well as the prohibition of the use of force or the threat of its use in international relations, were violated, especially in the case of the Turkish aggression against Iraq, as Turkey did not observe the rules regulating the use of force in its military operations inside Iraq.

5- In the Turkish attack on Iraq, the Security Council is the body responsible for maintaining international peace and security, but it did not issue its recommendations and did not take any decisive decision towards the aggressor, even though what happened was in violation of the United Nations Charter.

6- Military intervention shall be in accordance with the United Nations Charter, in light of the provisions of Chapter Seven, and under the supervision and implementation of the UN Security Council, whether by authorizing an organization or establishing an international force to practice military intervention in accordance with the provisions of Chapter Seven. Otherwise, it is an act of aggression.

7- Turkey is considered internationally responsible because what it did violated its international obligations, the principles of international law and the United Nations Charter, especially the principle of non-interference in internal affairs, the principle of prohibiting the use of force in international relations, and the principle of good neighbourliness.

Recommendations:

1- We hope that the international community, including the United Nations, will pay attention to the Turkish aggression inside Iraqi territory and take all legal measures, including establishing individual international and criminal responsibility for that aggression.

2- We call for encouraging countries that support military intervention to exercise caution and comply with international laws related to respect for sovereign countries.

3- The policies for dealing with groups of terrorists negatively affected the sovereignty of states, and this calls for the necessity of separating the requirements of combating terrorism from the basic principles of state sovereignty and territorial integrity.

4- We hope to restore the neutral role of the United Nations in leading any international action to combat terrorism, and this depends mainly on the major countries respecting the rules of international law and avoiding individual combat against the phenomenon.

5- We hope to enhance international awareness of the laws of conflict and aggression and work to enhance commitment to the principles of prohibiting aggression and avoiding military escalation.

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