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The role of cadastre in general and private law

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Abstract---The thorough implementation of the cadastre and removal of the shortfalls existing therein and, especially, the creation of a legal mandate in favor of the proper cadastre system's execution would play a very effective role in compelling the veneration of citizenship rights in the private law within the urban community as well as human rights in the general law within the international community. Considering the fact that the exact placement of cadastre in the country and the delimitation of the counties' borders would seminally cause the discrepancies to be reduced to a minimum and, secondly, other individuals or governments would be prevented from abusing and invading the borders of the adjacent and neighboring persons and countries through the specification of a legal mandate in this regard.

Keywords---properties and deeds registration, cadastre, general law, private law.

Introduction

Statement of the Problem:

It is about a hundred years that property and deeds' registration has been performed completely traditionally and manually. Considering the current needs, the traditional registration of the properties and deeds would not feature the proper functioning, and the implementation of modern registration in its most significant sense would accelerate the affairs and enhance the transparency of the information on the properties and their deeds. The clearness of the information about the properties and deeds is one of the important pillars of citizenship rights' protection in both the domestic and foreign as well as international communities; it is also the primary basis of the fight against and prevention of land speculation, invasion of the boundaries, money laundry and economic crimes; the entire movable and immovable properties and the documents and deeds forged by a culprit or money launderers or economic criminals can be specified through a simple inquiry by a judicial authority.

Considering the daily increasing technological progress, the traditional method of registration cannot respond to society's needs. In Iran, as well, the comprehensive cadastre system has been stipulated with its implementation being handed based on article 156 of the properties and deeds registration law to the properties and deeds registration organization. But, due to the non-setting of the proper grounds, the aforesaid law was put into practice with some delays. Cadastre is a system that collects and stores the maps of the properties belonging to a country in correspondence to the technical standards and, having the update-ability, it provides the various users with their varying requirements. It was with the execution of the novel and modern system of citizenship rights, it was made clear that no contradiction would come about in terms of both ownership and also ownership limits, with the rights of each individual being completely securely reserved.

Does cadastre have an effect on the general and private laws? Since cadastre is a delimitation system and knowing that cadastre stores the legal information of the properties, the question is why we are faced in the general and private laws with such a phenomenon as land invasion, and how should a solution be devised? Is the problem in the registration of the information and exact demarcation? Does it mean that we lack the required tools, or are the human workforce's mistakes involved?

Importance and Necessity of the Research:

The objective of the present study is to assist the stabilization of the individuals' rights in the urban as well as the international society, and it is supposed to also have an effect in practice because there might be still spots wherein there are a lot of discrepancies, disputes and clashes due to the non-implementation of cadastre and the individuals' rights might have been consequently wasted.

Study Questions:

Primary Questions:

- 1) Why is such a phenomenon as land invasion confronted in the general and private laws, and how is the existing solution appreciated?
- 2) Are there not enough legal mandates in the cadastre system in the general laws?
- 3) Are there not enough legal mandates in the cadastre system in the privacy laws?

Primary Hypotheses:

- 1) If the limits and rights of every individual are specified and defined, we will not be faced with such a phenomenon as the abuse of the individuals' rights, including the private and the general ones.
- 2) It is by the application of cadastre and delimitation of the boundaries and granting of special legal mandates in the international community to the cadastre system that the invasion of the neighboring countries can be hugely prevented.
- 3) The existence of legal mandates inside the cadastre system for the urban communities and the exact implementation of the system can prevent the

occurrence of crimes like land speculation, money laundry, invasion of the adjacent limits and so forth as well as subjects like issuance of contradicting deeds and abuse of the neighboring properties.

Secondary Hypothesis:

- 1) It is via the observance and stabilization of the cadastre's limits, especially inside the countries' borders, that no invasion can surely take place and no army would be deployed for attacking the other countries, and this will save us from hearing the disputes and clashes every now and then about the disputes over the ownership of certain islands or borders such as in the case of Crimea and Russia, Palestine and Israel, some islands in Egypt and Saudi Arabia.
- 2) The Cadastre system's execution can also aid the stabilization and securing of the individuals' material interests.

Discussion and Analysis

With the advent of the UN charter, the new legal status of the use of force was clarified. According to the second paragraph of article 4 in the UN charter, states are warned for threatening one another or using force against each other. The evidence of such a forbiddance can be sought in two articles 42, and 51 of the same charter where there are two exceptions have been imposed on this forbiddance: the use of force firstly as permitted in the security council's resolutions and secondly as required for legitimate defense.

According to article 51 of the UN charter, governments are allowed when victimized by armed assaults to resort to war within the format of legitimate defense for repelling the assault. In the resolution in 1974, the invasion has been defined by the UN general assembly, similar to an armed attack, as a sort of assault perpetrated by one or several states against another one, but it has remained silent about the measures taken by the militia as well as about the invitation from a foreign power for intervening in the wars such as Iraq and Syria's invitation of the US for fighting with ISIS terrorists.

Playing a prominent role in rendering the international rights and rules transparent, the international court of justice (The Hague), as well, adopts a similar perspective. In its 70 years of activity, this court has faced four cases of use of force: military activities in Nicaragua (Nicaragua versus the US, 1984), oil platforms (Iran versus the US, 2003), the legitimization of the construction of supporting wall in the occupied territories (advisory opinion requested by the UN's general assembly, 2004) and armed activities in Congo (Congo versus Uganda, 2006).

As for the first and the fourth case, The Hague ordained that an armed attack is an assault performed by a given state against another one with a certain degree of intensity, enabling it to be distinguished from sporadic borderline clashes and similar cases. As for the second case (oil platforms), The Hague explicitly wrote that it could not inter alia for the same reason realize the US's attacks on Iran's oil platforms as being permissible within the format of legitimate defense and the US could not prove the attribution of the attacks on the American warships

present in the Persian Gulf to the Islamic Republic of Iran's government. In the third case, as well, while Israel was claiming that the construction of the supportive wall in the occupied lands was an intervention in line with the legitimate defense against terroristic attacks, the judges of the ICJ explicitly ordered that the armed attack meant "the attack by a state to another ... this is while Israel (itself) has not claimed that (the terroristic attacks) are ascribable to a foreign state".

It should not be forgotten that the axiom "forbiddance of use of force" is not a normal one in the international legal order rather, this axiom is among the indispensable rules of the international laws. (Alimova, A. I., et. al., 2020; Farooqi, M. R., et. al., 2019) It means that no procedures opposing these regulations can be allowed under any circumstances to add to the non-existing history thereof.

Now, according to what scale should each of these cases be calculated and with what system should an invasion, if being abusive, be prevented. These are gaps that should be immediately bridged among the countries and the international community.

Is The Hague enough for investigation?

Are the resolutions by the Security Council sufficient?

In case of answering yes, the existence of all these invasions and massacres is a sign of the current inhibitive system.

Which reasons permitting a crime and massacre should include the murdering of the Syrian Kurds by Turkey?

What about the murder of the people in Yemen by Saudi Arabia and, Russia's assault on Crimea and so forth?

Now, we should deal with cadastre and its solution and its role in human rights and international rights and laws.

Cadastre is a Greek word meaning writing down. Cadastre refers to a system the goal of which is the determination of the limits along with recording of the relevant legal information for every landlord.

Cadastre aims at providing a precise, simple, smooth and reliable system that is changeable in reaction to the changes of the time governing the countries' properties and lands affairs. Cadastre provides a regular data list of the land and properties (land segment) inside a given whole country or a part thereof, and it is prepared based on the mapping within the borders of the given country. Cadastre's operation summarily includes aerial photographing, digital transformation of the photos and ground-based operations such as mapping and editing and completing the land maps and surveys, the annexation of the registration information, delineation of maps, final control and launching of an information bank system.

Study and Information Gathering Methods:

Since the study's subject is about modern registration, money laundry and cadastre system, there was a need for gathering preliminary information about cadastre and the way it works; so, the author started the research using library

research. Then, knowing that the cadastre system is mainly applied in registration organization, the author consulted with friends and experts in the properties and deeds registration office about the effect of the cadastre system on the preservation of the individuals' rights and prevention of the land abuses by the land speculators and or invaders. Also, because modern registration methods have just recently drawn the attention of the officials in Iran's organization for the registration of properties and lands and knowing that the cadastre system has been implemented in this organization now for several years, no examination has been seriously and specifically performed about the effects of running modern registration systems and only a few articles have been published as figured out in the first, and the only scientifically specialized conference, held in November 2006, on the registration sciences under the title of "towards modern registration" within the hundred-year age of the country's organization for the registration of the properties and lands and deeds; most of the articles were found only explicating the position of the modern land and properties and deeds registration organization.

Of course, in 2011, coinciding with the 100th anniversary of the establishment of Iran's organization for properties and deeds registration, a number of other related works were published about the modern registration systems; but none has dealt as research or study with the modern registration and, especially, the effects of the delimitation in the modern registration systems on the other organs, including the judicial branch.

Cadastre in the General Laws:

Borders and limits are of great importance in the international community; hence borders have been demarcated since long ago.

The delimitation and setting of borders between the countries were first carried out in Europe and after WWI for preventing the countries' expansionism. Many wars have taken place before the borders of the countries were delimited and formed into what we are currently witnessing.

Definition of Border:

A Borderline is a nominal and conventional line that is specified for delimitation of a country on the planet earth through some bordering documents. The borderlines between the countries are sometimes determined by means of natural topography such as deep and steep places and peninsulas and occasionally by the use of hypothetical and conventional lines (such as a substantial part of the border between Canada and the US falling on 49° orbit).

Creation of Borders at the Beginning of the History:

In the past, concepts like the current borders between the people of the world were missing, and it was the great empires' borders that could be delimited. Since there were few empires in the world in the past, the borders were solely clear within the power realm of these emperors. The borders were constantly dislocated with the domination of one power over the other. For instance, the Achaemenid kingship incorporated twenty states during the reign of Darius, who ruled a huge

empire delimited within a vast area of land. Egypt, Palestine, Syria, Phoenician, Libya, Caucasus, Babylon, Medes, Pars and, in sum, the Iranian plateau, the Occident and Balkh, Sindh River and many of the others were inside a common territory.

Eastern Roma, as well, had its then vast borders. Following the attack by Alexander the great on Iran and the formation of the Seleucid government, the borders were changed, particularly in Iran. All of the abovementioned regions fell under the control of the Roman Empire. After the death of Alexander, the great, the realms were divided among his successors. Afterwards, we can bear witness to the emergence of borders between the countries, such as the parts of the Eastern Roma Empire and the lands controlled by the Western Roma Empire¹.

However, the stream of border delimitation came about in another way in the east. After the emergence of every emperor and dynasty, a not-so-exact border was demarcated between their territories and borders and these borders were constantly changed with the wars and domination of one tribe over the other. However, in general, the territory between the two empires of Iran and Roma can be specifically pointed out up to the early seventh century. At that time, the countries' borders were continuously changed on the maps with the emergence of wars and, of course, after that, with the advent of Islamic territory. The Arabs changed the borders of their realm rapidly and within a period of time less than 10 years and appeared at the gates of the Iranian and Roman empires. Afterwards, the borders between the countries were extremely changed with the emergence of the crusades. Even Spain, in Europe, and many of the African countries happened to fall within the borders of the Arabs and Muslims.

When did the Emergence of the Countries' Borders in their Today's Forms Start?

Westphalia is the first treaty that was signed in 1648 in the world for the formation and emergence of the countries' borders. This settlement, originally made between the Europeans, put an end to the 30 years of war between the protestants and catholic. In this treaty, the European countries called themselves French, German and English. Germany specified its states, and France, Spain and Portugal were officially recognized as independent states.

In 1789 and with the revolution in France, Napoleon decided to expand his borders and add to the limits of France but after being defeated by Russia, the occupied borders were again returned to the former owners. In fact, the four great powers of Europe were Prussia, Austria, England and Russia at that time, and, in the course of the delimitation of the borders between the countries, they could again take back the territories taken away by Napoleon and the borders were again restored to their prior state. It was at this time that colonialism was gradually replaced by expansionism.

The countries in the Middle East such as Syria, Iraq, Jordan, Palestine, Kuwait and Saudi Arabia, as well as territories like Samarqand and Bokhara and some other middle eastern countries and also huge parts of the African continent,

¹ Ja'afari Langarudi, Muhammad Ja'afar, (1997), "a general introduction to the science of law", Tehran, p.234

including Egypt, Libya, Tunisia, Sudan, Ethiopia, Somalia, Morocco (Maghreb), Mauritania and some others within the same border, belonged to Ottoman Empire until before 1924 and they were envisioned as Islamic countries.

In the end and during the upcoming years following WWII, every country specified its governmental and state borders based on the necessities of today's world and according to natural signs and natural delimitations. Many of the large countries were transformed into smaller and separate states².

The emergence of the borders in the former Soviet Union caused the post-soviet countries, i.e., 15 states, to become independent. If these 15 states are classified into specific regional and geographical sets, they will include the Baltic countries, Estonia, Lithuania and Latvia, states in eastern-central Europe like Belarus, Moldova and Ukraine; southern Caucasus countries: Armenia, Azerbaijan republic and Georgia; Central Asia's countries, Kazakhstan, Kirghizstan, Tajikistan, Turkmenistan and Uzbekistan and, of course, the great Russian country. Most of these countries were separated from the Soviet Union in 1991 and specified their borders during the later years.

Colonialists were the main reason for the border demarcation in the African continent. As an example, Churchill states the following words about the delimitation of the Jordan border: "I delimited Jordan's borders within several hours and created the current country of Jordan!" In case of taking a look at the borders in Africa, many of the borders will be seen in the form of a straight line that demarcates the border limits between the countries. Many things can be said about the borders and method of their emergence between the countries. In the world and for specifying the places of the borderlines, various kinds of terrestrial lines have been created. Marine lines have also been created to form marine borders. Terms like aerial border and ground resources borders can also be pointed out in this regard. When the borders fall on the rivers and lakes, certain regulations are created for the categorization and emergence of the countries' borders. The lands that fall at the side of the limits of the borderline are called border lands that are carefully monitored by many of the countries for preventing the illegal migrations³.

The Role of Cadastre and its Shortfalls in the General Laws:

After defining the border and presenting related explanations, it becomes clear that cadastre plays a considerable role in the demarcation of the countries borders.

- A) Mistakes in the delimitation of the borders reach zero for the later generations.
- B) Invasion of the neighboring countries with such an excuse as the ownership of some internal lands would be minimized to nearly zero.

The most important of the cadastre's shortfalls is the absence of a hefty penal or civil mandate.

² Adamiat, Fereydun, (1978), "the mindset of progress and governance of law", Asr-e-Sepahsalar, Tehran, p.271

³ Ibid, p.273

It is quite possible that no country allows itself not to make the least invasion, including marine, aerial, terrestrial and so forth, to the land, water and sky of any other country if a heavy legal mandate is stipulated by the international community and this may save us from bearing witness to such a heinous phenomenon as invasion in future.

The missing legal mandate is tangibly sensed in the investigation of the recent attacks such as Russia's invasion of Ukraine and Yemen's invasion by Saudi Arabia

Cadastre in Private Law: Ownership Right Conceptualized:

Literally, ownership means possessing and owning something. In law terminology, ownership has been defined as "an individual's right over something in which s/he can make any occupation and change except what has been otherwise specified in the law." The right of using and taking advantage of and transferring something in any manner unless otherwise has been stipulated in the law. In Iran's civil law, ownership has not just been used for the objectively specified items. In jurisprudential terms, any legal domination is called ownership, with it being a feature used for a person's possession of something. Thus, ownership has been used for the possession of a house, right of fencing, possession of interests and so forth. Based on this definition, ownership is a concept meaning that a person has the right to use, take advantage and transfer property, and the only thing that can limit this right is the law. Of course, in the laws, ownership is not solely used for properties. The forthcoming section deals with the ownership right⁴.

Kinds of Ownership Rights: Complete Ownership Right:

It is a right by which a person owns a specific objective property and its interests, such as a customer's right in the sale contracts.

Right of an Exactly Specified Property:

The individual only takes possession of a specific property.

Right of Interests' Ownership:

In this kind of ownership, the specified property is originally possessed by another person, and the owner only allows an individual to take possession of the interests without being the owner of the specified property as supported by the law. Of course, the ownership of the interests only holds true for the properties, the use of which is possible with the persistence of the exact property (such as rent).

Enjoyment Right:

Unlike the right of interest ownership, no possession right is given to the interested party rather the individual only has the right to take advantage of the interests of the property. In fact, the main difference between the ownership of the

⁴ Hashemi, Muhammad, (1996), "Islamic Republic of Iran's constitutional rights and laws", v.2, Qom, p.81

interest and the enjoyment right lies in the existence or nonexistence of ownership and they are both identical in terms of being indispensable, non-returnable and transferable.

Permission for Enjoyment:

Permission for enjoyment is a weaker degree of the enjoyment right; in this kind of possession, the interested party is not given any right; rather s/he is allowed to use a given property. Thus, unlike the transfer right, it is returnable by the permitting party, but it is not transferable, and it is annulled by the death or incapacitation of the interested party.

Conceded Enjoyment:

Conceded enjoyment, as well, is apparently a weaker degree of permission for enjoyment, and it unlikely includes using the interests of a permissible property without any need for granted permission. In terms of the attributes, it has the same features of permission for enjoyment⁵.

Registration, Border and Cadastre Mapping:

One of the legal duties of the country's organization for registering the properties and deeds is gaining thorough insight about the real limits of the constructed works, landed properties and lands inside the country so that a basis can be provided for the stabilization and establishment of the landlords' legitimate ownership and the amounts of the urban utilized land, barren and wastelands and abandoned lands and endowed lands and properties and, to do so, there is a need for a system having the comprehensive geometrical information about the entire properties and lands inside the country (properties' maps) along with the code of every property, specifications of the owner and the right limits of the owner in a complete manner so that the continuous revision of the information system can be readily possible and the assigned duties can be precisely and accurately accomplished. This system is termed cadastre according to the existing definitions.

Properties' Contradiction, Interference or Abuse:

Contradiction, interference and abuse are amongst the most common words heard in property disputes; therefore, the decision has been made in this article to explain each of the aforementioned terms and the differences between them.

Contradiction: it means the issuance of two ownership deeds for a property or a part thereof. For instance, imagine that a part of the property you are living in has been inserted in your and your neighbor's ownership deed; in this case, it is stated that a sort of contradiction has occurred. Two deeds can be even issued for a unit property in this sort of contradiction.

Interference or Abuse: in fact, both interference and contradiction point to a single concept, and that is that a part of a property is mentioned in the ownership deed of a neighbor. As a specimen, imagine that a part of your property is within the limit of your deed as well as within the limit of an adjacent property but not

⁵ Ibid, p.82

inserted in the deed of the adjacent property. It is stated in this case that the property of your neighbor has been abused or invaded, or interfered with your property⁶.

Difference between Contradiction, Interference and Abuse:

Contradiction is a registration mistake made by the registration offices but not by the owners. Factors like a mistake in introducing the limits of the property and mistake in introducing to the representative and surveyor as well as mistakes like exercising insufficient care by the representative and the surveyor, inconsistency in the limits of the property with those of the adjacent properties and non-perfect investigation of the registration files of the neighboring landlords can be involved in the creation of this set of mistakes. However, interference and abuse are non-registration mistakes that come about during the calculation of the property's limits.

The other difference between these terms is that both of the landlords possess the deed of a given property in contradiction, and the occupied limit has been stated in both of the deeds, but, in interference and abuse, the occupied limit has been solely mentioned in the deed of the owner to whose property an abuse has been done.

Which Authority is Responsible for the Investigation of this Set of Disputes?

There is a bill in the collection of the registration regulations that is called the bill for investigating the deeds of the contradictory ownerships, and it has been attributed to the subject and quality of such disputes. The investigation of these disputes, as well, is the duty of the corresponding registration unit, the general registration office of the province, the supervision committee, the supreme registration council and, eventually and in case of non-resolving of the case, the judicial authority of the place wherein the properties are located.

Adverse Transaction, Adverse Deeds:

Adverse Transaction:

One of the transgressions publicized in the media is the sale of a property like an automobile or a house to several persons. Commonly, such a crime is called fraud. However, in the courts, the perpetrator of such a transgression is tried with such an accusation as the adverse transacting party, which is different from the fraudulent party. As for the adverse transaction, it should be known that the precedent or the first transaction is always envisioned as legal, and the subsequent transactions are recognized as illegal⁷. In other words, the subsequent transactions are considered illegal for the reason that the seller has been deprived of ownership by means of the sale to the first person. Therefore, the non-validity of the subsequent transactions is due to the reason that the seller is not the owner of the property in the second and more transactions and the later transactions performed by him or her are devoid of legal validity.

⁶ Kamyar, Gholam Reza, (2007), "urban and urbanization rights", 2nd ed., Majd Publication Institute, p.49

⁷ Ibid, p.49

However, the significant point is that the first transaction might have been made ordinarily or formally according to article 117 of the law on the properties and deeds registration but in order for such a crime to take place, the second transaction should be definitely formally endorsed.

Adverse Deeds:

It is worth mentioning that the adverse transaction should not be mistaken with the adverse ownership deeds subjects of paragraph 5 in article 25 of the law on the properties and deeds registration and the trial procedures of the adverse ownership deeds (that are initially tried by the supervision council of the registration organization) with the explanation being that mistakes are made in the registration operation due to exercising insufficient care by some of the employees, and this per se causes an increase in the work volume of the registration offices and leads to the emergence of certain problems for the landlords. Put differently; the adverse ownership deed is defined in the following words: it is a deed that incorporates the ownership of a part of the whole of a property with it being inserted within the limits of the two ownership deeds. In other words, all or part of a property that is inserted in a subsequent ownership deed does not externally exist, and it is the very part or whole mentioned in the previously issued ownership deed meaning that in case an ownership deed is issued twice for the whole or part of a property or if there is contradiction in the endowed rights, the lately issued ownership deed is called an adversary of the previously issued ownership deed and it is deemed as adverse ownership deed as far as a final verdict has not been issued about its accuracy.

Elimination of Contradiction:

According to the note 5 to the article 25 of the law on the properties and deeds registration, the trial of the contradiction in the ownership deeds is wholly or partially the duty of the supervision committee whether be it about the whole property or about part or interests thereof. To resolve the disputes on the contradictory deeds, the investigation of the registration history and records and the precedence and subsequence of the ownership deeds' issuance should be carried out⁸.

Registration Duties:

In this regard, the registration offices are obliged to inform the corresponding notary public offices in the related district in written form as soon as getting aware of the issuance of the adverse deeds, the existence of adverse ownership deeds (lately registered) and, also, previously registered ownership deed and send a report thereof for the adoption of the proper decision to the supervision committee. Of course, the registration office may itself notice the issuance of the ownership deed or the possessor of the previously or lately issued ownership deed may inform the subject; this way, and after it has been informed, the registration organization's representative and surveyor are dispatched to the locality and, considering the limits inserted in the registration file and the limits of the adjacent plates, a map is drawn for the place, and the amount of contradiction would be specified in the delineated map.

⁸ Ibid, p.50

However, it should be pointed out that the exact implementation of the cadastre and the precise locating of the properties and the careful specification of the properties and granting an appropriate legal mandate to the cadastre system would save us from witnessing adverse deeds and/or adverse transactions.

Punishment for Abuse of another Person's Property:

According to the advisory opinion by the general legal office of the judicature, opinion no.10/16/2014-7/93/2198, the single article in the legal bill on the elimination of the abuses and compensation of the losses to the properties as stipulated on 12th of December, 1980, pertains to the lawsuits about the elimination of land abuse and destruction of the unpermitted buildings and constructed works in the adjacent lands as well as compensation of the losses to the properties ... the execution of this single article includes the cases in which a lawsuit is filed and, based on the contents of the aforesaid article, the legal court takes the required actions. However, article 690 of the Islamic penal code of law, passed in 1997, incorporates the criminal matters and, accordingly, each should be applied in its right place. Resultantly, the abovementioned single article is to be indispensably put into practice. If a person intentionally occupies another person's property, s/he should be dispossessed of the property (meaning that the property should be brought out of his/her possession and returned to the original owner). If the land abuser is found having made changes in the property or the property has been seminally a land, but s/he is found having constructed a building thereon, the court rules the destruction of the building and restoring the property to its prior state.

However, if the land abuse is found unintentional and trivial, the land abuser is obliged to pay the price of the land and make full compensation. In the end, the court would order the correction of the ownership deeds and the highest price of the land from the time of land abuse to the time of the sentence issuance by the court would be the scale⁹

Discussion and Analysis

With the advent of the UN charter, the new legal status of the resort to force was clarified. According to paragraph 2 of article 4 in the UN charter, governments have been inhibited from using threats or force against one another. The evidence of this forbiddance can be sought in two articles, namely 42 and 51, of the same charter, where two exceptions have been specified for such forbiddance: firstly, use of force according to a resolution by the Security Council and, secondly, legitimate defense.

According to article 51 of the UN Charter, states are allowed to resort to war within the format of legitimate defense upon being victimized by the armed attack and in line with the repelling thereof. In the resolution on the "definition of invasion" that was approved in 1996 by the UN's general assembly, as well the armed attack is an assault performed by one or several states against one or several others; however, the resolution is silent about the ability to generalize the

⁹ Ibid, p.51

above definition to the measures taken by militias as well as the invitation of foreign powers for intervening in the battles such as Iraq and Syria's invitation of the US for fighting with ISIS terrorists.

Playing a prominent role in rendering the international rights and rules transparent, the international court of justice (The Hague), as well, adopts a similar perspective. In its 70 years of activity, this court has faced four cases of use of force: military activities in Nicaragua (Nicaragua versus the US, 1984), oil platforms (Iran versus the US, 2003), the legitimization of the construction of supporting wall in the occupied territories (advisory opinion requested by the UN's general assembly, 2004) and armed activities in Congo (Congo versus Uganda, 2006).

As for the first and the fourth case, The Hague ordained that armed attack is an assault performed by a given state against another one with a certain degree of intensity, enabling it to be distinguished from sporadic borderline clashes and similar cases¹⁰. As for the second case (oil platforms), The Hague explicitly wrote that it could not inter alia for the same reason realize the US's attacks on Iran's oil platforms as being permissible within the format of legitimate defense, and the US could not prove the attribution of the attacks on the American warships present in the Persian Gulf to the Islamic Republic of Iran's government.

In the third case, as well, while Israel was claiming that the construction of the supportive wall in the occupied lands was an intervention in line with the legitimate defense against terroristic attacks, the judges of the ICJ explicitly ordered that the armed attack meant "the attack by a state to another ... this is while Israel (itself) has not claimed that (the terroristic attacks) are ascribable to a foreign state".

It should not be forgotten that the axiom "forbiddance of use of force" is not a normal one in the international legal order; rather, this axiom is among the indispensable rules of the international laws. It means that no procedures opposing these regulations can be allowed under any circumstances to add to the non-existing history thereof.

Now, according to what scale should each of these cases be calculated and with what system should an invasion, if being abusive, be prevented. These are gaps that should be immediately bridged among the countries and the international community. It should not be forgotten that the axiom "forbiddance of use of force" is not a normal one in the international legal order rather, this axiom is among the indispensable rules of the international laws. It means that no procedures opposing these regulations can be allowed under any circumstances to add to the non-existing history thereof.

Now, according to what scale should each of these cases be calculated and with what system should an invasion, if being abusive, be prevented. These are gaps that should be immediately bridged among the countries and the international community.

¹⁰ Ibid, p.53

Is The Hague enough for trial?

Are the resolutions by the UN's Security Council enough?

If answering yes, the existence of all these abuses and massacres is reflective of the weakness in the current inhibitive system.

Which reasons permitting a crime and massacre should include the murdering of the Syrian Kurds by Turkey?

What about the murder of the people in Yemen by Saudi Arabia and the, Russia's assault on Crimea and so forth?

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Cadastre aims at providing a precise, simple, smooth and reliable system that is changeable in reaction to the changes of the time governing the countries' properties and lands affairs. Cadastre provides a regular data list of the land and properties (land segment) inside a given whole country or a part thereof, and it is prepared based on the mapping within the borders of the given country. Cadastre's operation summarily includes aerial photographing, digital transformation of the photos and ground-based operations such as mapping and editing and completing the land maps and surveys, the annexation of the registration information, delineation of maps, final control and launching of an information bank system¹¹.

Conclusion and Suggestion

Cadastre aims at providing a precise, simple, smooth and reliable system that is changeable in reaction to the changes of the time governing the countries' properties and lands affairs. Cadastre provides a regular data list of the land and properties (land segment) inside a given whole country or a part thereof, and it is prepared based on the mapping within the borders of the given country. Since the current legal mandates do not encompass the cadastre system and they pertain to other rules and regulations, and if a legal mandate is defined for the violations of the limits in the cadastre system, an increasing number of the current lawsuits and/or countries' invasion of the other ones might be prevented, and this is per se envisioned as a sort of crime prevention. The complete implementation of Cadastre and elimination of the shortfalls existing therein, especially the creation of legal mandate in the Cadastre system, plays a very significant role in eliciting respect for the citizenship rights in the urban community in the privacy laws and human rights as well as in the international community in the general laws with the explanation being that the exact placement of cadastre system inside the country and the precise delimitation of the countries' borders would enable the lowering of the discrepancies and disputes to the minimum amount and, secondly, by the stipulation of a legal mandate, the countries and the individuals may no longer allow themselves to abuse to or invade the borders of the others.

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¹¹ Kamyar, p.54

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