

Concepts and Terms

Trusteeship

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Definition

The concept of trusteeship refers to the exercise of responsibility over a territory by a trustee for a limited period of time. This includes responsibility for the physical security and civil administration of the population, with the aim of promoting their eventual self-governance or independence.¹

Background

The system of trusteeship was originally set up by the United Nations to help promote development for non-self-governing territories.² A Trusteeship Council was established as the main organ of the UN whose responsibility was to supervise the administration of trust territories, most of which were former mandates or territories occupied before and during WWII.

Originally, the UN trusteeship system focused on post-colonial transition.³ However, towards the end of the 20th century, problems of collapse of governance within existing territories led to the revival of a trusteeship-like system.

Thus, contemporary trusteeships have been established either for temporary reinforcement and conservation of "failed states"⁴ or for state-building in "nascent states".⁵

Goals of Trusteeships

The basic goal of a trusteeship is the establishment or the restoration of a legitimate, functioning state that is capable of managing the tasks of government. These include providing for security of the population, economic stability, and societal well-being.

¹ The legal relationship in a trusteeship is based on that of common trust law. In common law legal systems, a trust is a relationship in which a person or entity (the trustee) holds legal title to certain property (the trust property), but is bound by a fiduciary duty to exercise that legal control for the benefit of one or more individuals or organizations.

² The UN trusteeship system was specified in Chapters XI, XII, XIII of the UN Charter, and was a natural evolution of the League of Nations mandate system.

³ The Trusteeship Council suspended operation on November 1, 1994, with the independence of Palau, the last remaining United Nations trust territory.

⁴ A failed state is defined as a weak state in which the central government can no longer perform its basic security and administrative functions and has little practical control over its territory. (See also: [Crisis Research Center, London School of Economics](#)).

⁵ The Reut Institute defines a nascent state as a political entity, which aspires to political independence and recognition of its status of statehood. Its future status of statehood has been recognized by the relevant members and organs of the international community, primarily the UN, although this status of statehood has not yet been fully realized.

Recent trusteeships include Bosnia, Kosovo, East Timor, and Afghanistan⁶. In 2003, the former US ambassador to Israel, Martin Indyk, suggested a trusteeship system as a mechanism for state building in the Palestinian territories in order to promote a viable two-state solution for the Israeli-Palestinian conflict.⁷

Legitimacy

The main criticism of the trusteeship system is that it infringes upon the right to self-determination and essentially violates the sovereignty of the state. Therefore, in order to create a viable trusteeship, it is important to establish a large degree of internal and external legitimacy.

Under international custom and law, legitimacy to create a trusteeship has been based upon voluntary assumption of the trusteeship,⁸ situations where state disintegration has threatened the peace, and when humanitarian threats to the population have been involved.

Additional Sources

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Langford, Tonya, "Things Fall Apart: State Failure and the Politics of Intervention," **International Studies Review**, Vol. 1, No. 1, Spring, 1999.

Perritt, Henry, "Structures and Standards For Political Trusteeship," **UCLA Journal of International Law and Foreign Affairs**, Fall/Winter 2003.

Shaw, Malcolm N., **International Law**, (5th ed.), Cambridge University Press, 2003.

End.

⁶ The cases of Bosnia, Kosovo, and East Timor constitute expanded trusteeships under UN jurisdiction.

In Afghanistan, post-war arrangements gave the UN less authority than in Kosovo and East Timor. Nevertheless, a trusteeship was established where the trustee responsibilities were divided between the UN and indigenous institutions.

⁷ See: [Martin Indyk, "A Trusteeship for Palestine?," Foreign Affairs, May 2003.](#)

⁸ This situation involves the consent of the trusteeship by the failed or nascent state. The difficulty here lies in distinguishing who is authorized to give consent.