Civilization and the Mandate System under the League of Nations as Origin of Trusteeship

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I. The Origin of Trusteeship Concepts in International Law: Introduction

The Trusteeship System of the United Nations as established by Chapter XII and XIII of the UN Charter was designed as a mechanism to safeguard stability in a territory's transitional process of attaining self-governance. The importance of stability in state-building and nation-building processes\(^1\) and the fundamental difficulties experienced when attempting to compel a Western understanding of democracy on societies with a distinct history, different cultural values and religious beliefs is \textit{inter alia} reflected by the present situations in Afghanistan and Iraq.

Despite long years of struggle to establish self-government and democracy either in states in which the former government was overthrown by armed conflict or in territories that were former colonies, the UN Trusteeship System is to some extent a victim of its own success. With the independence of Palau, the last UN Trust Territory, on 1 October 1994 the Trusteeship Council suspended operation a month later.\(^2\) One of the recommendations made by the High-level Panel on Threats, Challenges and Change in its report on the reform of collective security and the UN proposes the deletion of Chapter XIII, i.e. the final and formal abolition of the Trusteeship Council.\(^3\) As the reason for this recommendation the High-level Panel states that the Trusteeship Council assisted with ending the era of colonialism and steered many successful cases of decolonization, but that it was time for the United Nations to formally turn its back on any references to colonialism and

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1. Although often used interchangeably in legal and political writing on the issue, state-building and nation-building differ according to their relevant objects, their purposes and the means employed to achieve the relevant aims. See the contribution by A. von Bogdandy et al., in this Volume.

2. This, however, does not mean that colonialism in the broader sense of foreign authority over non-self-governing territories had ended completely. Yet, in contrast to the era of colonialism the circumstances as well as international perception of such administration are different, particularly because of the general recognition of a right to self-determination for all peoples, and cases of foreign administration are considerably fewer.