THE ARCHITECTURE OF EUROPEAN HUMAN RIGHTS

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European states are born out of an international pact of non-aggression, the most famous one being the Treaty of Westphalia. Europe was then divided into sovereign states to prevent further religious wars and to promote social homogeneity within nation states. The legal foundation of nation states is an International treaty that brings together all the people of Europe. A nation state, as a consequence, is only justified so long that it fulfills its mission of achieving peace and stability, but loses its point when peace and stability are upset, as they were during WW1 and WW2.

The sovereignty of European nation states has its origin in an international pact and international treaties define today its scope and limits. The EU and the Council of Europe are the most glaring examples of International or Supranational Institutions that limit the reach of national sovereignty in many different ways. Sovereignty is not altogether defunct, but it has precise moral and legal limits.

There are several institutions at the supranational and international level that straitjacket nation states into behaving in a way that is compatible with European Human Rights (ECHR and now ECJ) and higher norms guaranteeing that common interests can be pooled together (EU). The question is not so much whether these institutions bind or not the nation states, but in which way are they bound together.

Human rights are a specific illustration of the kind of institutional obligations that member states have to respect at the international level. Human rights are the most egregious limit to international sovereignty, and this limitation need to be studied in order to determine exactly in what it consists.

My research proposal attempts to develop a general theory of European Human Rights as entailing a limitation of national sovereignty and the imposition of obligations that the states have vis-à-vis individuals whether or not they are member of the national community.