



**Balancing State Sovereignty and the Universality of Human Rights under
International Law**

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Abstract:

This study examines the enduring tension between state sovereignty and the universality of human rights—two foundational principles of international law that frequently conflict in both theory and practice. While sovereignty safeguards a state's authority and independence, the universality of human rights imposes moral and legal obligations that transcend borders. The research employs a qualitative doctrinal methodology to analyze treaties, United Nations resolutions, international judicial decisions, and key case studies such as Kosovo, Rwanda, and Libya. It explores how evolving doctrines—particularly humanitarian intervention and the Responsibility to Protect (R2P)—seek to reconcile this paradox by redefining sovereignty as a form of conditional responsibility rather than absolute authority. The findings reveal that although international law increasingly recognizes sovereignty as contingent upon the protection of populations, enforcement remains inconsistent and heavily influenced by political interests, especially within the UN Security Council. The study argues that achieving genuine balance requires reinterpreting sovereignty through the lens of accountability, enhancing preventive diplomacy, strengthening international and regional mechanisms, and limiting the politicization of humanitarian action. Ultimately, the paper contends that only by integrating human rights protection into the very concept of sovereignty can the international community establish a more just, equitable, and coherent global legal order.

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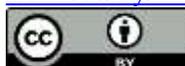
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الموازنة بين سيادة الدولة وعالمية حقوق الإنسان في القانون الدولي د. نيشتمان عثمان محمد¹

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الملخص:

تبحث هذه الدراسة في التوتر الدائم بين سيادة الدولة وعالمية حقوق الإنسان، وهما مبدآن أساسيان في القانون الدولي يتعارضان في كثير من الأحيان نظرياً وتطبيقياً. ففي حين أن السيادة تحمي سلطة الدولة واستقلالها، فإن عالمية حقوق الإنسان تفرض التزامات أخلاقية وقانونية تتجاوز الحدود. يعتمد البحث على منهجية فقهية نوعية لتحليل المعاهدات، وقرارات الأمم المتحدة، والأحكام القضائية الدولية، ودراسات حالة رئيسية مثل كوسوفو ورواندا وليبيا. ويستكشف البحث كيف تسعى العقائد الناشئة، وخاصة التدخل الإنساني ومسؤولية الحماية، إلى التوفيق بين هذه المفارقة من خلال إعادة تعريف السيادة كشكل من أشكال المسؤولية المشروطة بدلاً من السلطة المطلقة. وتكشف النتائج أنه على الرغم من اعتراف القانون الدولي المتزايد بأن السيادة مشروطة بحماية السكان، إلا أن إنفاذها لا يزال غير متسق ويتأثر بشدة بالمصالح السياسية، وخاصة داخل مجلس الأمن التابع للأمم المتحدة. تُجادل الدراسة بأن تحقيق توازن حقيقي يتطلب إعادة تفسير السيادة من منظور المساواة، وتعزيز الدبلوماسية الوقائية، وتقوية الآليات الدولية والإقليمية، والحد من تسييس العمل الإنساني. وفي نهاية المطاف، تؤكد الورقة أنه لا يمكن للمجتمع الدولي أن يُرسي نظاماً قانونياً عالمياً أكثر عدلاً وإنصافاً وتماسكاً إلا من خلال دمج حماية حقوق الإنسان في مفهوم السيادة ذاته.

الكلمات المفتاحية:

حقوق الإنسان؛ التدخل الإنساني؛ سيادة الدولة؛ مبدأ عدم التدخل؛ الأمم المتحدة؛ العلاقات الدولية؛ مجلس الأمن؛ مسؤولية الحماية.

المقدمة

Introduction

The concept of sovereignty lies at the heart of the modern international system. It represents the state's supreme authority over its territory, people, and political system, forming one of the three

essential pillars of statehood—the people, the territory, and the political authority that binds them under a sovereign order.⁽¹⁾ Sovereignty, in its traditional sense, signifies the highest authority within a political system, where the state exercises exclusive control over its internal affairs and resists external interference.⁽²⁾ Historically, sovereignty was viewed as the defining characteristic of statehood and the principal means by which states asserted their legal and political equality within the international community.⁽³⁾

Sovereignty has two interconnected dimensions: internally, it implies a state's supremacy within its territory and society, granting it full freedom to enact laws, enforce order, and maintain legitimate authority; externally, it denotes independence and equality among states, rejecting the existence of any higher authority beyond the state.⁽⁴⁾ However, this classical notion of sovereignty has evolved significantly over time. The development of international law, especially after the Peace of Westphalia in 1648, codified sovereignty as a principle ensuring non-interference and territorial integrity, thus institutionalizing state independence as the cornerstone of world order.⁽⁵⁾ The Peace of Westphalia also marked the recognition of states' rights to deal freely with their citizens, an idea that dominated political

(1) Muhammad Abd al-Aal al-Sinari, *Principles of Constitutional Law, Political Systems, and Constitutional Judiciary* (Egypt: Al-Isra Press, n.d.), 112.

(2) Tariq Ali Jamaaz, *International Relations* (Arab Open Academy in Denmark, n.d.), 8.

(3) Abd al-Rahman Muhammad al-Sukni, "The Idea of Sovereignty in Public International Law," *School of Strategic and International Studies* (Fall 2008), 2.

(4) Jamaaz, *International Relations*, 91–92.

(5) Alan J. Kuperman, "Humanitarian Intervention," in *Human Rights: Politics and Practice*, ed. Michael E. Goodhart (New York: Oxford University Press, 2009), 334–50.

thought until the emergence of international human rights law in the twentieth century.⁽¹⁾

At its core, sovereignty is not merely a political privilege but a legal criterion distinguishing states from other entities in international relations.⁽²⁾ The United Nations Charter codifies this principle in Article (1/2), which affirms the sovereign equality of all its members.⁽³⁾ Paragraph (7) of the same article stipulates that “nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state”.⁽⁴⁾ This principle was reinforced by numerous international declarations, such as the 1970 *Declaration on Principles of International Law Concerning Friendly Relations and Cooperation Among States*, which emphasized sovereign equality, non-interference, and respect for territorial integrity.⁽⁵⁾ These documents collectively established sovereignty as both a right and a duty — a right to independence and equality, and a duty to respect the sovereignty of others.

Nevertheless, the evolution of global interdependence, international norms, and human rights mechanisms has challenged the absoluteness of sovereignty. The rise of globalization and the expansion of transnational actors—multinational corporations, international organizations, and non-governmental entities—have eroded state control over economic and informational flows, thereby weakening the

(1) Hassan Al-Jadeed and Saadi Karim, *Humanitarian Intervention and the Problem of Sovereignty* (Oman Legal Network, n.d.), 1–3.

(2) Al-Sukni, “The Idea of Sovereignty in Public International Law,” 40.

(3) United Nations, *Charter of the United Nations*, art. 1(2), 1945.

(4) *Ibid.*, art. 2(7).

(5) United Nations General Assembly, *Declaration on Principles of International Law Concerning Friendly Relations and Cooperation Among States*, Res. 2625 (XXV), October 24, 1970.

Westphalian model of absolute sovereignty.⁽¹⁾ According to Dr. Saadi Karim Al-Jadeed, the increasing inability of states to monitor internal and cross-border developments highlights the decline of classical sovereignty in the face of global transformations.⁽²⁾ This transformation has prompted scholars to re-examine sovereignty not as an unrestrained authority but as a functional and conditional concept, one that operates within the framework of international obligations and global governance.⁽³⁾

In contemporary international relations, sovereignty and human rights often appear as competing principles. Sovereignty denotes independence and non-interference, whereas human rights affirm universal obligations transcending borders. The interaction between these two ideals forms a complex legal and moral dilemma: while sovereignty protects the state's autonomy, it can also serve as a shield for systemic human rights violations.⁽⁴⁾ The *Wimbledon* case of 1923 articulated a critical turning point by asserting that treaty obligations limiting a state's freedom are, in fact, expressions of its sovereignty, not contradictions of it.⁽⁵⁾ This reasoning illustrates that sovereignty and international commitments can coexist when viewed through a cooperative legal lens. The universality of human rights challenges the state-centric conception of international order by asserting that human dignity and equality are non-negotiable principles binding upon all nations. The UN Charter and the 1948 *Universal Declaration of Human Rights* (UDHR) established the moral and legal framework for

(1) Hank Brankhorst, "Human Rights and Sovereignty: A Dilemma," *Trivium Revue Franco-Human Sciences*, no. 3 (2009).

(2) Al-Jadeed and Karim, *Humanitarian Intervention*, 65.

(3) Muhammad Ali Muhtasimah, "Sovereignty in Light of International Variables," *Journal of Sharia and Law* 34 (2008): 168.

(4) Robert Jackson, *Sovereignty: Evolution of an Idea* (Cornwall: Polity Press, 2007), 115.

(5) The Wimbledon Case, Permanent Court of International Justice, 1923.

global human rights protection.⁽¹⁾ These instruments declared that all individuals, irrespective of nationality, are entitled to basic freedoms and protections, thus introducing a universal standard that transcends cultural and political particularities.⁽²⁾ However, tensions arise when states invoke sovereignty to resist external scrutiny or humanitarian intervention in cases of mass atrocities or gross rights violations.⁽³⁾

The modern debate on balancing sovereignty and universality intensified with the emergence of the R2P doctrine in the early twenty-first century. The R2P reframes sovereignty as both a right and a responsibility—asserting that states must protect their citizens from genocide, war crimes, ethnic cleansing, and crimes against humanity.⁽⁴⁾ When a state fails to fulfill this duty, the responsibility shifts to the international community, which may intervene through collective measures, including force under UN authorization.⁽⁵⁾ This normative shift redefines sovereignty from absolute control to accountable governance, aligning it with the moral imperatives of human rights and humanitarian protection.⁽⁶⁾

Nevertheless, balancing these principles remains politically and ethically contentious. As Jackson observes, sovereignty and human rights are “not incompatible but in constant competition,” reflecting the struggle between state autonomy and global moral order.⁽⁷⁾ Scholars

(1) United Nations, *Universal Declaration of Human Rights*, 1948.

(2) Jack Donnelly, *Universal Human Rights in Theory and Practice* (Cornwall: Cornell University Press, 2013), 21.

(3) Rebecca Adami, “Reconciling Universality and Particularity through a Cosmopolitan Outlook on Human Rights,” *Cosmopolitan Civil Societies Journal* 4, no. 2 (2012): 25–26.

(4) International Commission on Intervention and State Sovereignty (ICISS), *The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty* (Ottawa: IDRC, 2001), 13.

(5) *Ibid.*, 18.

(6) Kofi Annan, “Two Concepts of Sovereignty,” *The Economist*, September 18, 1999, 49–50.

(7) Jackson, *Sovereignty*, 115.

such as Kuperman emphasize that since Westphalia, sovereignty evolved as a system of non-interference that lasted three centuries before being challenged by international human rights norms.⁽¹⁾ In the current era, globalization, humanitarian crises, and international legal developments necessitate redefining sovereignty in light of universality, where state power is conditioned by obligations to humanity as a whole.

The relationship between sovereignty and universality is neither static nor binary. It reflects an evolving discourse shaped by historical experience, legal development, and moral necessity. The state's right to sovereignty remains a cornerstone of international law, but its legitimacy increasingly depends on its adherence to universal human rights principles. Balancing sovereignty and universality thus entails reconciling state independence with global moral responsibility—a process that continues to redefine the meaning of authority, legitimacy, and justice in the modern world.⁽²⁾

This study is significant because it explores one of the most fundamental and persistent dilemmas in international law—the tension between state sovereignty and the universality of human rights. In an era where global interdependence and international accountability are increasingly emphasized, understanding how these two principles interact has become essential. The research contributes to the ongoing debate by examining whether respect for sovereignty can coexist with the international community's duty to uphold human rights. It sheds light on how the concept of sovereignty has evolved from an absolute right of non-interference to a conditional notion based on state responsibility toward its citizens.

(1) Kuperman, “Humanitarian Intervention,” 335.

(2) Chris Brown, “Universal Human Rights: A Critique,” *The International Journal of Human Rights* 1, no. 2 (1997): 45.

The main objective of this research is to analyze how international law seeks to balance state sovereignty with the protection of universal human rights. Specifically, it aims to: examine the historical and legal development of sovereignty and human rights norms; identify the key international mechanisms designed to address violations of human rights within sovereign states; evaluate the effectiveness and limitations of doctrines such as humanitarian intervention and the R2P; and provide recommendations for improving international accountability while preserving legitimate state authority. Through these objectives, the study seeks to offer a deeper understanding of how sovereignty can be redefined as a responsibility rather than an obstacle to human rights enforcement.

The central problem addressed in this study is the tension between state sovereignty and the universality of human rights. Sovereignty grants states the authority to govern their internal affairs without external interference, while the universality of human rights obliges all states to respect and protect fundamental rights regardless of national boundaries. This tension raises complex legal and ethical questions: to what extent can international actors intervene in domestic matters to prevent or stop human rights violations, and when does such intervention become a breach of sovereignty? The challenge lies in reconciling these two essential principles of international law in a way that ensures both respect for state independence and effective protection of human dignity.

This study employs a qualitative, analytical, and doctrinal approach grounded in international legal research. Primary sources include international treaties, United Nations Charter provisions, Security Council resolutions, and judgments of international courts. Secondary sources—comprising scholarly books, journal articles, and reports from human rights organizations—are used to interpret and critique the evolution of relevant legal principles. The research also

adopts a comparative case study method, analyzing examples to illustrate how the international community has responded to crises involving human rights violations and claims of sovereignty. Through this methodology, the study aims to assess both the theoretical framework and the practical implications of balancing sovereignty with universal human rights in the contemporary international system.

I. The Concept and Evolution of Sovereignty

I.A. The Concept of Sovereignty

Sovereignty is a legal and political concept as old as the state itself. The idea can be traced back to ancient philosophers, including Aristotle, who examined the organization of political communities in *Politics*.⁽¹⁾ However, sovereignty in its modern sense is relatively recent, emerging around the fifteenth and sixteenth centuries, particularly during the consolidation of power by the French monarchy. During this period, the monarchy sought both external stability in relation to the Emperor and the Pope and internal dominance over feudal lords.⁽²⁾

The French thinker Jean Bodin played a seminal role in shaping the modern understanding of sovereignty. In his *Six Books of the Commonwealth* (1576), Bodin distinguished sovereignty from the ruler, making it a fundamental element in the formation of the state.⁽³⁾ His work liberated the concept of sovereignty from theological constraints, allowing it to be analyzed independently and incorporated into constitutional and political theory. The emergence of the sovereign state was closely tied to the rise of the nation-state after the Treaty of

(1) Aristotle, *Politics*, 2nd ed., trans. Carnes Lord (Chicago: University of Chicago Press, 2013), 87.

(2) Andrew Heywood, *Politics*, 5th ed. (London: Macmillan Education UK, 2019), 72.

(3) Jean Bodin, *Bodin: On Sovereignty*, ed. Julian H. Franklin (Cambridge: Cambridge University Press, 1992), 54.

Westphalia (1648), which established the principle of state sovereignty as central to international relations.⁽¹⁾ Since then, sovereignty has been considered a cornerstone of the modern state, granting it exclusive authority over the instruments of power—coercion, legislation, and enforcement—within its territorial borders and over all individuals residing therein.

Sovereignty is an essential attribute of state authority, and alongside territory and population, constitutes one of the core pillars of statehood. It may be held by individuals, as suggested by the theory of popular sovereignty, or by the nation as a collective entity, according to the theory of national sovereignty.⁽²⁾

Sovereignty manifests in two dimensions: internal and external. Internal sovereignty refers to the state's supreme authority over its territory and population, granting it the exclusive right to regulate internal affairs, exercise legislative and judicial powers, and maintain public order. External sovereignty, in contrast, signifies the state's independence from any external authority, ensuring equality with other states in international relations.⁽³⁾

State sovereignty possesses several defining characteristics. It is original, deriving from no higher authority; continuous, persisting despite changes in government; and supreme, with no competing internal authority capable of overriding it. Yet, sovereignty is not absolute: it must coexist with the rule of law, respect for individual rights, and principles of non-intervention in other states' affairs. Misuse of sovereignty can lead to domestic despotism or provide a pretext for

(1) Stephen D. Krasner, *Sovereignty: Organized Hypocrisy* (Princeton: Princeton University Press, 1999), 15.

(2) Heywood, *Politics*, 74.

(3) Malcolm N. Shaw, *International Law*, 8th ed. (Cambridge: Cambridge University Press, 2017), 102.

foreign intervention, emphasizing the need for careful and precise exercise of this power.⁽¹⁾

I.B. Issues in the Concept of Sovereignty

The concept of sovereignty has historically been viewed in its absolute form, granting states complete and unrestricted authority over their territory, population, and internal affairs. Traditional sovereignty allowed states to determine their constitutional, political, economic, and cultural systems independently of external influence.⁽²⁾ However, the modern international system has challenged this notion, giving rise to limited or conditional sovereignty, where states must adhere to international norms, treaties, and human rights obligations.⁽³⁾

The evolution of sovereignty can be traced through three stages in relation to human rights. The first stage emerged during decolonization, when peoples demanded independence and sovereignty. The second stage occurred after independence, where sovereignty protected newly formed states from external interference. The third stage reflects contemporary limitations on sovereignty, particularly the requirement to respect human rights, effectively placing certain norms beyond the reach of absolute state authority.⁽⁴⁾

Sovereignty in international law is based on the principle of legal equality, meaning that all states are equal before international law and enjoy the same rights and obligations.⁽⁵⁾ This principle underpins the functioning of international organizations such as the United Nations.

(1) Krasner, *Sovereignty*, 18.

(2) Heywood, *Politics*, 77.

(3) Krasner, *Sovereignty*, 30.

(4) Basil Youssef Basil, *State Sovereignty in Light of the International Protection of Human Rights*, 1st ed. (Abu Dhabi: Emirates Center for Strategic Studies and Research, 2001), 88.

(5) Shaw, *International Law*, 102; Mohammed Al-Majzoub, *Public International Law*, 1st ed. (Beirut: Al-Helabi Legal Publications, 2002), 214.

However, political reality often diverges from legal theory. Powerful states exert disproportionate influence over international affairs through military, economic, and political leverage, while weaker states often have limited capacity to assert their sovereignty in practice.⁽¹⁾

This inequality is exemplified in the United Nations Security Council, where five permanent members possess veto power, creating a direct imbalance in political authority despite the formal principle of sovereign equality.⁽²⁾ Such disparities highlight the tension between the legal equality of states and the factual inequalities that dominate contemporary international relations.

Globalization has further complicated the traditional notion of sovereignty. States increasingly face constraints from transnational economic systems, supranational institutions, international human rights obligations, and global media influence. As a result, states are no longer fully insulated from external pressures, which challenges their ability to exercise autonomous control over domestic policies.⁽³⁾

The future of national sovereignty, therefore, lies in balancing traditional authority with international responsibilities, acknowledging that sovereignty entails not only rights but also duties toward both the domestic population and the global community.⁽⁴⁾ The careful exercise of sovereignty is essential to prevent abuse, domestic despotism, or unjustified interference in the internal affairs of other states.

(1) Heywood, *Politics*, 78.

(2) Shaw, *International Law*, 105.

(3) Krasner, *Sovereignty*, 33.

(4) Heywood, *Politics*, 79.

II. Sovereignty and Its Legal Boundaries

II.A. Protection of State Sovereignty

Internal sovereignty refers to the state's supreme authority within its own territory, encompassing domestic governance, legislation, and self-determination. It represents the preserved scope of state sovereignty, where a state maintains the exclusive right to regulate its internal affairs free from external interference. International law defines this domain as the area "which is not subject to the activity of other states, and its competences are bound by international law" (International Law Institute, 1954). This understanding is reinforced in Article 2(7) of the UN Charter, which prohibits the United Nations from intervening in matters essentially within the domestic jurisdiction of any state.⁽¹⁾

While the preserved scope strengthens the state's authority, it simultaneously binds it to international law. Consequently, domestic sovereignty and respect for international norms—especially human rights—are interdependent, shaping the balance between national self-determination and global accountability.⁽²⁾

State immunity is a key legal instrument protecting sovereignty by shielding a state from the jurisdiction of foreign courts or the enforcement of its property abroad. State immunity operates in two main forms:

1. Judicial immunity, which protects a state's sovereign acts from foreign judicial proceedings.
2. Immunity from enforcement, which prevents the seizure or compulsory execution of a state's assets.

(1) UN, *Charter*, art. 2(7).

(2) Shaw, *International Law*, 100.

However, state immunity does not extend to commercial activities (*acta jure gestionis*). For instance, in the *Arbitration Clause Case* between France and a U.S. company, the court held that commercial transactions by a state do not enjoy immunity, reflecting the modern limitation of state immunity in international law.⁽¹⁾

In sum, internal sovereignty and state immunity collectively secure the state's authority over its territory and functions, while simultaneously defining the interface between domestic law and international obligations.

II.B. The Principle of Non-Intervention and the Right of Intervention

The connection between the internal and external manifestations of sovereignty in its traditional sense is reflected in the principle of non-intervention, as it guides international relations. On the other hand, the right to intervene is one of the concepts developed by international law in its continuous evolution to keep pace with the development of international relations, which have come to be based on the concept of limited sovereignty.

II.B.1. The Principle of Non-Intervention

Most international law scholars have traditionally distinguished between two types of non-intervention:

1. The non-intervention of states in the internal affairs of other states.
2. The non-intervention of the United Nations in matters considered to fall within the core of the internal sovereignty of its member states.⁽²⁾

(1) *Ibid.*, 103.

(2) Al-Majzoub, *Public International Law*, 311; Abdel Fattah Abdel Razzaq Mohammed, *General Theory of Intervention in International Law*, 1st ed. (Baghdad: Dar Dijlah, 2009), 145–48.

Some scholars distinguish between broad and narrow senses of non-intervention. In the broad sense, it encompasses both the prohibition on states interfering in the internal affairs of other states and the restriction on the United Nations from intervening in matters central to a member state's sovereignty. In the narrow sense, non-intervention refers specifically to military or physical coercion, which constitutes only one form of intervention within the broader understanding. The legal foundation of this principle is enshrined in Article 2(4) of the UN Charter, which obliges all members to refrain from the threat or use of force against the territorial integrity or political independence of any state. This principle has been reinforced through multiple UN General Assembly resolutions, including the 1965 Declaration on the Inadmissibility of Intervention (Res. 2131), the 1965 Declaration on Principles of International Law concerning Friendly Relations (Res. 1970), the 1974 Charter of Economic Rights and Duties of States (Res. 3281), and the 1981 Special Declaration on Non-Intervention (Res. 36/103), which specifically prohibits exploiting human rights issues as a pretext for interference. Crucially, non-intervention extends beyond military force to include political, economic, and financial pressures that may undermine sovereignty.⁽¹⁾ The International Court of Justice has affirmed this principle in cases such as the Corfu Channel dispute and the U.S. intervention in Nicaragua, ruling that the use of force cannot be justified under the guise of protecting human rights. These developments highlight the ongoing tension between respecting state sovereignty and addressing international human rights, emphasizing the need to assess modern, non-military forms of intervention critically.⁽²⁾

Its basis is found in paragraph 7 of Article 2 of the United Nations Charter, which states:

(1) Basil, *State Sovereignty*, 99.

(2) *Ibid.*, 101.

"Nothing in the Charter authorizes the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state, nor shall the Organization submit such matters to settlement under the provisions of this Charter."

The principle of non-intervention in both its forms holds significant importance within the UN Charter, as it constitutes a fundamental guiding principle for the Organization's activities and for regulating international relations. While the first type focuses on prohibiting the use of force by one state against another—even under the pretext of ensuring respect for human rights—the second type initially rests on the understanding that human rights are primarily within the domestic jurisdiction of states. This implies that the United Nations cannot legitimately intervene in order to protect these rights.⁽¹⁾

This distinction reveals a tension in international law between state sovereignty and the promotion of human rights. While the first type addresses coercive state actions, the second highlights the UN's restraint, reflecting a historical view that human rights were predominantly internal matters. Modern developments, including doctrines such as the R2P, challenge this traditional stance, raising questions about whether the UN's non-intervention in domestic affairs remains absolute when severe human rights violations occur. This tension underscores the evolving nature of sovereignty in international law, balancing respect for state autonomy with the international community's moral and legal obligations.

However, with the evolution of international relations and international law, the United Nations began to view human rights violations as extending beyond the traditional concept of a state's domestic jurisdiction. A notable early example occurred in 1967, when the UN Human Rights Commission adopted a resolution on human

(1) United Nations, *Official Records of the General Assembly*, 18th Sess., 1963, regarding Iraq's treatment of the Kurds.

rights violations in South Africa. In this case, the argument based on Article 2(7) of the UN Charter was rejected, on the grounds that colonialism constituted a denial of human rights, thereby removing the issue from the realm of purely domestic jurisdiction.

Subsequently, the standard of human rights violations shifted from colonial powers to independent states. In 1977, the Human Rights Commission adopted a resolution regarding the situation in Chile following the military coup, again disregarding the objection under Article 2(7) of the Charter. The 1975 Helsinki Final Act further contributed to placing human rights issues outside the exclusive domain of domestic jurisdiction, signaling a trend where political interpretations of the Charter increasingly took precedence over purely legal readings.⁽¹⁾

These developments triggered concern among authoritarian regimes, as the invocation of national sovereignty could no longer justify repressive practices against populations. Consequently, international relations entered a phase in which the notion of the right to intervene increasingly challenged the traditional principle of non-intervention.

This historical trajectory illustrates the tension between state sovereignty and the international community's emerging responsibility to protect human rights. While Article 2(7) initially shielded states from external scrutiny, the recognition that human rights abuses—especially systematic or egregious ones—cannot be contained within domestic jurisdiction reflects a normative evolution in international law. It also lays the conceptual groundwork for modern doctrines such as the R2P, highlighting that non-intervention is no longer an absolute principle when faced with severe human rights violations.

(1) Basil, *State Sovereignty*, 108.

II.B.2. The Right of Intervention

The principle of non-intervention rests on a solid foundation, serving as a defense of the principle of sovereignty. Proponents of sovereignty do not view it as a license for committing abuses or repressive acts within the state, but rather as a safeguard protecting individuals and groups from external domination. A sovereign state, as Hobbes asserts, is one that ensures the security of its citizens and their property; for Locke and Mill, it is the guardian of their rights; and for Rousseau, it embodies their collective will.⁽¹⁾

However, critics of sovereignty and non-intervention reject the notion that sovereignty possesses absolute moral value. While sovereignty indeed plays an essential role in protecting peoples from foreign oppression or arbitrary interference, a state that invokes sovereignty deserves respect only so long as it upholds the fundamental rights of its citizens. Sovereignty, therefore, is not an inherent entitlement but a derivative authority drawn from the rights of the people. Once a state violates those rights, its claim to sovereignty becomes morally and legally questionable.⁽²⁾

This perspective gains even greater relevance under modern conditions, where ethical imperatives and global interdependence demand the subordination of sovereignty to higher humanitarian considerations. In a world increasingly vulnerable to internal conflicts that rapidly transcend borders, the right—or duty—of humanitarian intervention emerges as a moral counterbalance to absolute sovereignty. From a critical standpoint, this development reflects the evolution of international law from a system centered on state autonomy to one that recognizes individual human security as a

(1) Stanley Hoffmann, "The Politics and Ethics of Military Intervention," *Survival* 37, no. 4 (1995): 42.

(2) *Ibid.*, 42–44.

legitimate international concern. Yet, it also raises profound dilemmas: Who determines when intervention is justified, and how can humanitarian motives be distinguished from political or strategic interests?

Thus, the “right to intervene” embodies the paradox of modern sovereignty—a necessary tension between respecting state independence and fulfilling the moral responsibility to protect humanity from atrocity.

In the 1990s, international developments intersected with a noticeable shift away from the strict principle of non-intervention, as individual states or coalitions increasingly intervened in the internal affairs of other states for human rights-related reasons. During this period, the right to intervene began to acquire a legal basis, linking human rights violations to threats to international peace and security, thereby enabling the UN Security Council to exercise its powers under Chapters VI and VII of the UN Charter.

Article 34 of the Charter makes it clear that a dispute between two states is not a prerequisite for the Council to consider a matter as a threat to global peace (Thaer); the mere occurrence of serious human rights violations can constitute such a threat. This principle was reaffirmed in 1992 at a summit of the Security Council at the presidential level, where the final statement explicitly addressed human rights as an integral component of international peace and security, thereby justifying the Security Council’s authority to act under Chapter VII.⁽¹⁾

This evolution represents a significant reinterpretation of sovereignty: the traditional shield against external interference was

(1) Mohammed Yaqoub Abdul Rahman, *Humanitarian Intervention in International Relations*, 1st ed. (Abu Dhabi: Emirates Center for Strategic Studies and Research, 2004), 98–102.

increasingly conditioned on a state's treatment of its own citizens. It reflects the emergence of a normative link between human rights and global security, highlighting that the international community may no longer remain passive in the face of grave internal abuses. Yet, this development also raises critical questions about selectivity, legitimacy, and the potential politicization of intervention. While human rights provide a moral justification, the enforcement of this right often depends on the geopolitical interests of powerful states, which complicates its ethical and legal consistency.

In essence, the 1990s marked a turning point where humanitarian considerations began to intersect with international legal mechanisms, establishing a precedent for interventions justified on the grounds of protecting fundamental human rights while challenging the traditional understanding of absolute sovereignty.

III. The Relationship Between Sovereignty and Human Rights

III.A. State Sovereignty and Human Rights

State sovereignty has historically been understood as absolute authority within territorial boundaries, a principle codified in classical international law and championed by theorists such as Jean Bodin and Thomas Hobbes. The Peace of Westphalia (1648) institutionalized the idea that states are supreme within their own territories, free from external interference.⁽¹⁾ This absolutist model positioned sovereignty as a shield against international scrutiny, prioritizing state autonomy over the protection of individual rights.

The post-World War II international legal framework, however, initiated a significant transformation. The adoption of the United Nations Charter (1945) and the Universal Declaration of Human Rights

(1) Donnelly, *Universal Human Rights*, 2.

(1948) signaled a new understanding: sovereignty is inseparable from responsibility. States are now expected to protect human rights within their borders, with legitimacy increasingly measured by compliance with these norms.⁽¹⁾ Mary Ann Glendon emphasizes that modern sovereignty is not diminished but redefined: states are accountable to their citizens, to individuals within their jurisdiction, and to the wider international community.⁽²⁾

This evolution reflects a shift from a state-centered to an individual-centered paradigm. Whereas classical sovereignty prioritized non-interference, modern conceptions integrate human rights as normative constraints on state authority. International mechanisms have influenced domestic laws in democratic states, demonstrating that sovereignty can coexist with accountability⁽³⁾. The requirement for exhaustion of domestic remedies before accessing international human rights bodies illustrates this balance, simultaneously recognizing state authority and fostering compliance with global norms.

The doctrine of R2P crystallizes this shift. Formulated by the International Commission on Intervention and State Sovereignty (ICISS), R2P reconceptualizes sovereignty as a conditional responsibility: states must protect their populations from genocide, war crimes, ethnic cleansing, and crimes against humanity, failing which the international community may intervene.⁽⁴⁾ Gareth Evans and Mohamed Sahnoun note that R2P operationalizes sovereignty by

(1) Ibid.; Mary Ann Glendon, *A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights* (New York: Random House Trade Paperbacks, 2002), 59–60.

(2) Glendon, *A World Made New*, 59–60.

(3) Claude-Albert Colliard, *Institutions des relations internationales* (Paris: Dalloz, 1974), 108.

(4) ICISS, *The Responsibility to Protect*, 17–18, 19–29, 29–39, 39–47.

linking legitimacy to human protection, moving beyond theoretical discussions to concrete obligations.⁽¹⁾

Yet the state-human rights nexus remains paradoxical. Andrew Vincent observes that states are both the principal guarantors and primary violators of human rights, illustrating the dialectical tension in contemporary international law. Hannah Arendt's concept of "the right to have rights" underscores the essential role of the state in providing legal instruments while simultaneously possessing the capacity to infringe upon those rights.⁽²⁾ In this sense, sovereignty functions as both a shield and a framework for accountability, creating a dynamic interplay between authority and obligation.

III.B. The Clash Between Sovereignty and Universality

Despite this normative evolution, the tension between sovereignty and the universality of human rights remains central to international law. Classical international law enshrined non-interference as a core principle, reflected in Article 2(7) of the UN Charter, which prohibits intervention in matters essentially within a state's domestic jurisdiction, while allowing enforcement under Chapter VII.⁽³⁾ Shaw observes that the scope of domestic jurisdiction has been progressively narrowed, permitting UN engagement in internal state affairs, especially where gross human rights violations occur.⁽⁴⁾ Nevertheless, states such as those cited by Abiew continue to

(1) Gareth Evans and Mohamed Sahnoun, "The Responsibility to Protect," *Foreign Affairs* 81, no. 6 (2002): 102.

(2) Andrew Vincent, *The Politics of Human Rights*, 1st ed. (Cambridge: Cambridge University Press, 2010), 45–47; Hannah Arendt, *The Origins of Totalitarianism* (New York: Harcourt, 1951), 296.

(3) Malcolm N. Shaw, *International Law*, 5th ed. (Cambridge: Cambridge University Press, 2003), 575.

(4) *Ibid.*, 575, 1039.

advocate for strict non-intervention, illustrating persistent resistance to the erosion of classical sovereignty.⁽¹⁾

The International Court of Justice, in its 1986 *Nicaragua* judgment, reaffirmed non-intervention as a rule of customary international law, emphasizing that political integrity and domestic autonomy remain core elements of sovereignty.⁽²⁾ Yet, human rights concerns increasingly justify international scrutiny. When grave violations occur, the principle of non-interference is often subordinated to moral and legal imperatives, revealing a tension between sovereignty as protection and sovereignty as responsibility.⁽³⁾

R2P represents the most systematic attempt to reconcile this tension. By reframing sovereignty as an obligation, R2P prioritizes prevention of mass atrocities while retaining the state's primary responsibility. The doctrine encompasses three pillars: the duty of the state to protect its populations, the role of the international community in assisting states, and the authority to intervene when states fail in their duties.⁽⁴⁾ Prevention is emphasized as more effective and consistent with UN Charter provisions (Articles 55 and 99), while intervention under strict conditions—just cause, last resort, right authority, proportionality, and reasonable prospects of success—aligns with just war principles within a legal framework.⁽⁵⁾

Critically, while R2P operationalizes the universality of human rights, its application exposes political and ethical limitations.

(1) Francis Kofi Abiew, *The Evolution of the Doctrine and Practice of Humanitarian Intervention* (The Hague: Kluwer Law International, 1999), 68, 72.

(2) International Court of Justice, *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)*, Merits, judgment of June 27, 1986, I.C.J. Reports 1986, 14.

(3) Shaw, *International Law*, 1039.

(4) United Nations Secretary-General, *Implementing the Responsibility to Protect: Report of the Secretary-General (A/63/677, 2009)*, 1–8, 15–21, 22–27.

(5) ICISS, *The Responsibility to Protect*, 19–39.

Selectivity, double standards, and instrumentalization by powerful states compromise its credibility. Kofi Annan argued that consistent and fair application is essential for legitimacy, yet political will often depends on strategic interests.⁽¹⁾ The Libyan intervention of 2011 illustrates both the promise and the peril of R2P: NATO's expansive interpretation sparked concerns about the conflation of humanitarian protection and geopolitical objectives.⁽²⁾

The broader lesson is that sovereignty and universality are not inherently oppositional but exist in a dynamic, sometimes contradictory relationship. Sovereignty provides a structure for state authority and autonomy, yet legitimacy increasingly derives from adherence to universal human rights standards. R2P exemplifies this dual nature: it reconfigures sovereignty as responsibility, advancing human rights while exposing enduring tensions in international practice. The reconciliation of these principles remains a central challenge in global governance, requiring a balance between legal obligations, ethical imperatives, and geopolitical realities.

III. Humanitarian Intervention and the Responsibility to Protect

III.A. The Concept of Humanitarian Intervention

Humanitarian intervention lacks a universally accepted definition, reflecting the complex interplay of international law, political science, morality, and international relations. As Chesterman notes, the term “only emerged in the nineteenth century as a possible exception to (...) rule of non-intervention, but its meaning was far from

(1) Mohammed Ayoob, “Humanitarian Intervention and State Sovereignty,” *The International Journal of Human Rights* 6, no. 1 (2002): 85–86; Donnelly, *Universal Human Rights*, 179.

(2) J. L. Holzgrefe and Robert Owen Keohane, eds., *Humanitarian Intervention: Ethical, Legal, and Political Dilemmas* (Cambridge: Cambridge University Press, 2003), 18.

clear: some writers held it to be a legal right; others confidently rejected it; a third group held that international law could or should have little to say about the matter.”⁽¹⁾ Indeed, neither publicist writings nor state practice establish a coherent, universally recognized legal meaning.

Despite definitional ambiguity, scholars converge on certain characteristics. Teson defines humanitarian intervention as “proportionate help, including forcible help, provided by governments (individually or in alliances) to individuals in another state who are victims of severe tyranny or anarchy.”⁽²⁾ Holzgrefe refines this, emphasizing cross-border force aimed at ending grave violations of fundamental human rights without the target state’s consent.⁽³⁾ Rukinder similarly underscores that humanitarian intervention involves forcible action to prevent gross violations against non-nationals, with or without UN authorization.⁽⁴⁾

Three core features emerge from these definitions. First, the use of military force is central; while some scholars consider non-coercive measures as part of humanitarian intervention, the majority restrict the concept to actions involving forcible measures. Second, interventions are characterized by a lack of target-state consent, which differentiates them from peacekeeping operations or voluntary humanitarian assistance. Finally, the primary purpose of such interventions is the protection of non-nationals. Unlike self-defense measures, these actions

(1) Simon Chesterman, *Just War or Just Peace? Humanitarian Intervention and International Law* (Oxford: Oxford University Press, 2001), 3.

(2) Fernando R. Tesón, *Humanitarian Intervention: An Inquiry into Law and Morality* (New York: Transnational Publishers, 2005), 6.

(3) Holzgrefe, “The Humanitarian Intervention Debate,” in *Humanitarian Intervention*, ed. Holzgrefe and Keohane, 18.

(4) Rukinder Kaur, “Human Rights, Their Violation and Humanitarian Intervention,” *International Journal of Research and Analytical Reviews* 3, no. 1 (2018): 19.

aim specifically to safeguard individuals who fall outside the jurisdiction of the intervening state.

The threshold for intervention generally encompasses widespread and systematic human rights violations, particularly genocide, crimes against humanity, and serious breaches of international humanitarian law.⁽¹⁾ Notably, the responsible agent may not be a state but could be an organized group exercising de facto territorial control, reflecting modern complexities in statehood and authority. International organizations, such as the UN, and regional arrangements like NATO, are increasingly recognized as legitimate actors in such interventions.

III.B. umanitarian Intervention vs. Responsibility to Protect

While humanitarian intervention is often associated with unilateral or collective military action, the R2P reframes intervention as an obligation rather than a right. Developed in response to atrocities in Rwanda, Srebrenica, and Kosovo, R2P emerged from the work of the International Commission on Intervention and State Sovereignty.⁽²⁾ It aims to reconcile state sovereignty with moral and legal obligations to protect populations from mass atrocity crimes.

R2P is founded on the principle that sovereignty entails responsibility, not merely privilege. When states fail to protect citizens from genocide, war crimes, crimes against humanity, or ethnic cleansing, that responsibility transfers to the international community.⁽³⁾ The R2P operates across three interconnected dimensions. The first, the Responsibility to Prevent, focuses on addressing the root causes and proximate triggers of internal conflicts or human-made crises. The

(1) Edward Newman, "Review Article – Humanitarian Intervention: Legality and Legitimacy," *The International Journal of Human Rights* 6, no. 4 (2002): 118.

(2) ICISS, *The Responsibility to Protect*, chaps. 3–5, 7, 15.

(3) Gareth Evans, *The Responsibility to Protect: Ending Mass Atrocity Crimes Once and for All* (Washington, DC: Brookings Institution Press, 2008), 708.

second, the Responsibility to React, involves the use of measures, including coercive actions, but only after non-military options have been exhausted. Finally, the Responsibility to Rebuild emphasizes post-intervention efforts, ensuring recovery, reconciliation, and reconstruction in affected communities.⁽¹⁾

The ICISS report emphasizes prevention as the primary obligation, asserting that less intrusive measures must be considered before resorting to force.⁽²⁾ Five criteria are commonly identified for legitimate military intervention. The first, just cause, requires that the intervention address serious and irreparable harm or an imminent large-scale loss of life. Second, the right intention mandates that the primary purpose of the intervention be the protection of human beings. Third, the principle of last resort dictates that all non-military options must be exhausted before force is used. Fourth, proportional means ensure that any military action employs only the minimal force necessary to achieve its objectives. Finally, reasonable prospects require a realistic likelihood of success without exacerbating the situation.⁽³⁾

Unlike traditional humanitarian intervention, which can be unilateral and applied broadly, R2P prioritizes multilateral action and is limited to the four atrocity crimes, reflecting a narrower, ethically justified scope. Gareth Evans emphasizes that R2P shifts the discourse from a “right to intervene” to a responsibility to protect, transforming sovereignty into a framework of accountability rather than unfettered authority.⁽⁴⁾

The 2005 UN World Summit Outcome Document codified R2P in paragraphs 138–139, establishing global consensus on the duty of states and the international community to protect populations.

(1) ICISS, *The Responsibility to Protect*, chaps. 3–5, 7, 15.

(2) Ibid.

(3) ICISS, *The Responsibility to Protect*, XII; Evans, *Responsibility to Protect*, 710

(4) Evans, *Responsibility to Protect*, 708–710.

Subsequent UNSC resolutions, including Resolution 1674 (2006), reinforced this principle, formalizing obligations while leaving unresolved the issue of unilateral intervention in cases of UNSC deadlock.⁽¹⁾

Humanitarian intervention is far from a modern innovation; its roots trace back to ancient civilizations. Abiew notes early examples such as the 480 BC intervention by the prince of Syracuse to prevent child sacrifice by Carthaginians.⁽²⁾ The principle evolved through classical international law, informed by natural law and just war theory. Grotius justified intervention against sovereigns who maltreated subjects, while Vattel recognized the right to assist oppressed peoples who requested help.⁽³⁾

European powers frequently invoked humanitarian motives to protect religious minorities from the Reformation through the 18th and 19th centuries.⁽⁴⁾ Philosophers of political liberalism increasingly linked intervention to human rights, gradually treating it as an exception to the non-intervention principle. By the 19th century, interventions in the Ottoman Empire, for instance, aimed at protecting Christian populations, were recognized in both state practice and legal discourse, although largely justified on moral rather than strictly legal grounds.⁽⁵⁾

In the post-World War II era, the UN Charter (1945) imposed legal constraints on the use of force, limiting intervention to threats to

(1) United Nations General Assembly, *2005 World Summit Outcome: Resolution*, A/RES/60/1, October 24, 2005, paras. 138–139.

(2) Abiew, *The Evolution of the Doctrine*, 22.

(3) *Ibid.*, 35–36.

(4) Tonny Brems Knudsen, *The History of Humanitarian Intervention: The Rule or the Exception* (paper, University of Aarhus, Denmark, 2009), 4–7.

(5) Knudsen, *The History of Humanitarian Intervention*, 4–7; Ian Brownlie, *International Law and the Use of Force by States* (Oxford: Oxford University Press, 1963), 338.

international peace and security, and authorizing action only through the UNSC. Cold War geopolitics constrained the UNSC's effectiveness, leaving some states to act unilaterally, as in India's intervention in East Pakistan, Tanzania in Uganda, and Vietnam in Kampuchea.⁽¹⁾

After the Cold War, the proliferation of internal conflicts and state disintegration prompted a resurgence of humanitarian intervention under UNSC authorization, such as in Somalia, Rwanda, and Bosnia. Some interventions, like NATO's Kosovo campaign (1998–1999), occurred without explicit UNSC approval, reflecting ongoing tension between sovereignty and humanitarian imperatives.⁽²⁾

Humanitarian intervention and R2P illustrate the dynamic tension between state sovereignty and universal human rights norms. Traditional intervention often prioritized state interests, raising questions about legitimacy and selectivity. R2P attempts to systematize intervention through ethical and legal frameworks, emphasizing prevention, multilateral action, and limited scope. Despite its framework, R2P and humanitarian intervention face significant challenges. Selectivity and political will remain major obstacles, as states often choose to intervene based on strategic interests rather than the consistent application of humanitarian principles. Instrumentalization is another concern, with powerful states potentially exploiting humanitarian rhetoric to advance geopolitical objectives. Additionally, legal ambiguity persists: while R2P provides guidance, its enforcement depends on the consensus of the United Nations Security Council, which is frequently constrained by veto politics.

(1) Saban Kardas, "Humanitarian Intervention: The Evolution of the Idea and Practice," *Journal of International Affairs* VI, no. 2 (2001): 3.

(2) Kardas, "Humanitarian Intervention," 3; Richard Lillich, *The Role of the UN Security Council in Protecting Human Rights in Crisis Situations: UN Humanitarian Intervention in the Post-Cold War World* (1995), 5.

Despite these challenges, R2P represents a normative shift, reframing sovereignty as responsibility and embedding human rights obligations into international law. It highlights the evolving understanding of sovereignty: no longer absolute, it is contingent on a state's capacity and willingness to protect its population, and, if it fails, the international community bears the burden of action.⁽¹⁾

III.C. Preventive Humanitarian Intervention: Sovereignty vs. Universality

The tension between state sovereignty and the universality of human rights has long been a central challenge in international law. Traditionally, sovereignty implied absolute control over internal affairs, granting states immunity from external interference. The classical Westphalian framework emphasized non-intervention as a cornerstone of international relations. However, the evolution of human rights norms and the increasing global awareness of mass atrocities have gradually challenged the rigid conception of sovereignty, creating space for preventive and humanitarian interventions.

III.C.1. From “Right to Intervene” to “Responsibility to Protect”

Historically, humanitarian intervention was framed as a discretionary “right to intervene” exercised by states or coalitions to prevent or halt gross human rights violations within another state.⁽²⁾ This framework, however, often faced criticism for ambiguity, selectivity, and susceptibility to political abuse, allowing powerful

(1) Evans, *Responsibility to Protect*, 708–710; ICISS, *The Responsibility to Protect*, 7.15.

(2) Chesterman, *Just War or Just Peace?*, 3.

states to justify interventions for strategic or geopolitical purposes rather than purely humanitarian ones.⁽¹⁾

In response, the International Commission on Intervention and State Sovereignty proposed the R2P doctrine, fundamentally shifting the paradigm. Under R2P, sovereignty is not a privilege but a responsibility, emphasizing that states have a primary duty to protect their populations from genocide, war crimes, ethnic cleansing, and crimes against humanity.⁽²⁾ If a state is unwilling or unable to fulfill this duty, the international community assumes a subsidiary responsibility to intervene using diplomatic, humanitarian, or, as a last resort, military measures.⁽³⁾

R2P thus transforms intervention from a unilateral “right” to a collective moral and legal obligation, balancing the principles of sovereignty with the universality of human rights.

III.C.2. Reconceptualizing Sovereignty as Responsibility

Under R2P, sovereignty becomes conditional and accountable. States are measured by their ability and willingness to protect their citizens, rather than by their territorial authority alone. As Gareth Evans observes, this evolution aligns with lessons from Rwanda, Srebrenica, and Kosovo, where failures to act resulted in catastrophic humanitarian outcomes.⁽⁴⁾

A key feature of R2P is its preventive dimension, emphasizing early measures to address structural and proximate causes of conflict—poverty, repression, inequality—before they escalate to large-scale

(1) Holzgrefe and Keohane, *Humanitarian Intervention*, 18.

(2) ICISS, *The Responsibility to Protect*, 17–18.

(3) *Ibid.*, 29–39.

(4) Evans, *Responsibility to Protect*, 708–710.

atrocities.⁽¹⁾ By integrating prevention, reaction, and rebuilding, R2P demonstrates that sovereignty and universality can be mutually reinforcing when states embrace responsibility as an intrinsic element of legitimacy.

III.C.3. Historical Evolution of Humanitarian Intervention

Humanitarian intervention has deep historical roots. Early examples include the 480 BCE intervention by the prince of Syracuse, who demanded the cessation of child sacrifice by Carthaginians, and practices in Greek city-states and the Roman Empire.⁽²⁾ Classical writers, including Grotius and Vattel, grounded humanitarian intervention in natural law and just war theory. Grotius argued that maltreatment of subjects justified external intervention, while Vattel allowed intervention at the request of oppressed populations.⁽³⁾

During the 16th–19th centuries, European powers frequently intervened to protect religious minorities, and later, liberal philosophers connected intervention with human rights protection.⁽⁴⁾ By the late 19th century, humanitarian intervention became widely discussed in international law, particularly regarding the Ottoman Empire's treatment of Christians in Greece and Lebanon-Syria.⁽⁵⁾

Following World War II, the UN Charter imposed restrictions on the use of force, authorizing intervention only to address threats to international peace and security. Nevertheless, post-Cold War practice saw humanitarian interventions, sometimes without Security Council authorization, including India in East Pakistan, Tanzania in Uganda,

(1) ICISS, *The Responsibility to Protect*, 19–29.

(2) Abiew, *The Evolution of the Doctrine*, 22–23.

(3) Chesterman, *Just War or Just Peace?*, 35–36.

(4) Knudsen, *The History of Humanitarian Intervention*, 4–7.

(5) Brownlie, *International Law and the Use of Force*, 338.

Vietnam in Kampuchea, and NATO in Kosovo.⁽¹⁾ These interventions highlighted the tension between legal norms, ethical imperatives, and state sovereignty.

III.C.4. Preventive Humanitarian Intervention in Practice

The concept of preventive intervention emerged from the UN's preventive diplomacy initiatives in 1992, supported by France and international humanitarian organizations, aiming to protect individuals from harm. Under Secretary-General Boutros Boutros-Ghali, an early warning system was established involving UN bodies like the Human Rights Commission, committees of the Economic and Social Council, the Fact-Finding Commission, and organizations such as the Red Cross, Médecins Sans Frontières, and Amnesty International. This system monitored risks like natural disasters, ethnic cleansing, genocide, mass displacement, epidemics, famine, and crimes against humanity, while supporting urgent actions such as deploying UN peacekeepers and promoting democratic interventions. After September 11, 2001, its scope expanded to counterterrorism and crises threatening international peace and human security.⁽²⁾

Now called "preventive humanitarian intervention," the approach allows preemptive action, including military force, prioritizing human rights over sovereignty. Western states generally support it, while Russia, China, and many developing countries oppose it, citing legality, legitimacy, feasibility, and authority concerns. Critics argue such interventions often serve strategic interests, especially those of the U.S., rather than humanitarian objectives.⁽³⁾

(1) Kardas, "Humanitarian Intervention," 3–6.

(2) Mario Bettati, *Le Droit D'ingérence* (Paris: Odile Jacob, 1996), 254–260.

(3) Adnan Al-Sayyid Hussein, *Theory of International Relations* (Beirut: Seiko Press, 2003), 211.

The September 11 attacks focused attention on security, targeting al-Qaeda and the Taliban. UN resolutions recognized the U.S.'s right to self-defense, enabling the "war on terror" and operations in Afghanistan, which led to the Taliban's overthrow. Some experts note strategic interests, including Afghanistan's proximity to oil-rich regions, influenced U.S. actions.⁽¹⁾ Counterterrorism shifted toward direct military intervention, sometimes with UN legitimacy (Afghanistan) and sometimes without (Iraq), raising legal and humanitarian concerns.⁽²⁾

The Iraq War highlighted challenges in humanitarian intervention. Justified by alleged WMDs, al-Qaeda links, and security threats, the invasion faced criticism from the EU, Russia, China, and developing countries. It caused massive humanitarian, social, and economic damage, violated sovereignty, and undermined UN authority.⁽³⁾ Widespread abuses, including torture and unlawful executions, were documented, while critics argue the war aimed at strategic dominance and oil control.⁽⁴⁾

The Libyan intervention after Gaddafi illustrated similar issues. The Security Council authorized action due to terrorism and weak state control, but instability fueled regional terrorism, as seen in Mali.⁽⁵⁾ Cases in Kosovo, Bosnia, Afghanistan, Iraq, and Libya show interventions often exceed mandates, fail to protect civilians, and raise

(1) Fred Halliday, *Two Hours that Shook the World: September 11, 2001 – Causes and Consequences* (Beirut: Dar Al Saqi, 2002), 10–11.

(2) Issam Suleiman, "War on Terror and International Humanitarian Law," *Defense National, Al-Yarza*, no. 52 (April 2005): 19–25.

(3) Gidon Gotlied, *The Impact on International Law* (London: Oxford University Press, Feb. 2004), 24–25; International Institute for Strategic Studies, *Arab Future* (Beirut: October 2002), 195; Ghassan Al-Azzi, "International Scene after the Iraq War," *Middle East Affairs* (Beirut, 2003), 125; Suleiman, "War on Terror," 35.

(4) Kofi Annan, "Illegality of the War," *Al-Hayat*, London, April 17, 2004.

(5) Mohamed Hassanein Heikal, *The American Empire and the Iraq Raid* (Cairo: Al-Ahram Center for Translation and Publishing, 2003), 119.

legitimacy concerns, with major powers pursuing strategic goals and smaller states viewing them as sovereignty violations.⁽¹⁾

International discourse increasingly emphasizes human security, proposing UN-led, time-limited, and legally authorized interventions for severe human rights violations. The 2005 UN Secretary-General's report highlighted clear principles for the use of force, Security Council oversight, and endorsed the R2P, where states have primary responsibility, with international action only if they fail.⁽²⁾

This study shows humanitarian intervention remains contested, reflecting the tension between protecting human security and respecting sovereignty. Political selectivity, legal ambiguity, and operational limits challenge its credibility. While R2P provides a principled framework, preventive humanitarian interventions often reflect strategic interests, as seen in Iraq and Afghanistan, contrasting with more coordinated UN-led operations in Kosovo and Bosnia. These experiences underscore the ongoing complexity of balancing human rights protection with state sovereignty.

IIII. The UN Framework for the Protection of Human Rights

IIII.A. The Evolution of Human Rights and Sovereignty

The founding of the United Nations and the adoption of the UDHR mark the decisive legal and normative turn from a system in which sovereignty was principally understood as non-interference toward one in which the protection of individuals became central to the international order. The UDHR and the UN Charter enshrined the idea that states exercise authority subject to moral and legal obligations to

(1) Al-Sayyid Hussein, *Theory of International Relations*, 210–212.

(2) Bettati, *Le Droit D'ingérence*, 66–69.

respect basic human rights; this normative shift is reflected in contemporary scholarship that treats R2P and related doctrines as operational expressions of that reorientation.⁽¹⁾ The later adoption of the twin 1966 covenants (ICCPR and ICESCR) and a battery of specialized conventions (on racial discrimination, slavery, and the rights of the child) institutionalized an increasingly dense legal architecture that circumscribed the formerly absolute domain of domestic law.

Yet this juridical expansion also produced palpable tensions. While treaty commitments remove particular subject-matter from the purely domestic remit of states, they do not automatically generate uniform compliance; enforcement remains political and episodic. The ICISS report and subsequent Secretary-General reports reframed sovereignty as responsibility — a necessary conceptual evolution — but they also highlighted that the normative acceptance of responsibility does not eliminate the practical and political obstacles to its implementation.⁽²⁾ Critics therefore rightly emphasize that R2P's rhetorical power can exceed its operational feasibility: the doctrine prescribes thresholds and principles (prevention, last resort, proportionality), yet leaves enforcement to institutions whose decision-making is heavily influenced by great-power politics.⁽³⁾ This gap between normative evolution and political practice is the essential contradiction of modern sovereignty: rights-based norms constrain state action in theory, but normative gains are fragile without credible, depoliticized mechanisms of coercion and accountability.⁽⁴⁾

(1) Glendon, *A World Made New*, 59–60; Evans and Sahnoun, “The Responsibility to Protect,” 102.

(2) ICISS, *The Responsibility to Protect*, 17–18; Ban Ki-moon, *Report of the Secretary-General: Implementing the Responsibility to Protect* (UN Doc. A/63/677, January 12, 2009), 1–8.

(3) ICISS, *The Responsibility to Protect*, 29–39; Donnelly, *Universal Human Rights*, 257; Jackson, *Sovereignty*, 131.

(4) Ayoob, “Humanitarian Intervention and State Sovereignty,” 85–86; Donnelly, *Universal Human Rights*, 179.

IIII.B. Mechanisms for Implementing International Human Rights

The UN system deploys a multi-layered set of institutions intended to translate norm-setting into protection: the General Assembly (UNGA) acts as the principal norm-generator and forum for global condemnation; ECOSOC and its subsidiary bodies historically created investigatory procedures (e.g., the former UN Commission on Human Rights empowered under Res. 1235 (1967) and Res. 1503 (1970)) to receive complaints and investigate patterns of abuse; and the Security Council (UNSC) retains coercive tools—sanctions, Chapter VII authorizations, and, at minimum in theory, the power to legitimize forcible measures when mass atrocities threaten international peace.⁽¹⁾ The post-2006 Human Rights Council added a political chamber for periodic reviews and country mandates, yet its mixed membership and politicized voting mean the Council often trades technical capacity for political bargaining.

In practice, the tools available—sanctions, diplomatic isolation, targeted asset freezes, travel bans, public “naming and shaming,” criminal prosecutions, truth commissions, and reparations—operate unevenly. Sanctions and diplomatic pressures can change state behavior but may also disproportionately harm civilians and be selectively applied; legal accountability (domestic prosecutions, universal jurisdiction cases, and international tribunals) creates principled

(1) United Nations Economic and Social Council, Resolution 1235 (XLII), *Question of the Violation of Human Rights and Fundamental Freedoms*, 42 U.N. ESCOR Supp. (No. 1) at 17, U.N. Doc. E/4393 (1967), <https://hrlibrary.umn.edu/procedures/1235.html>; United Nations Economic and Social Council, Resolution 1503 (XLVIII), *Procedure for Dealing with Communications Relating to Violations of Human Rights and Fundamental Freedoms*, 48 U.N. ESCOR (No. 1A) at 8, U.N. Doc. E/4832/Add.1 (1970), <https://hrlibrary.umn.edu/procedures/1503.html>; Carrie Booth Walling, “Human Rights Norms, State Sovereignty, and Humanitarian Intervention,” *Human Rights Quarterly* 37, no. 2 (2015): 395–407.

pathways for justice but depends on political willingness to cooperate, on evidence-gathering capacity, and on impartiality.⁽¹⁾ A critical assessment therefore underlines a structural problem: the UN's and regional bodies' remedial capacity is bottlenecked by member-state politics. Where decisional authority is concentrated (especially in the UNSC), power politics frequently determine whether mechanisms are used — or withheld — turning legal frameworks into instruments of selective enforcement rather than universal protection.⁽²⁾

IIII.C. The UN and the Institutionalization of Human Rights after World War II

The institutionalization of human rights after 1945 produced a remarkable normative superstructure — treaties, monitoring bodies, special procedures, and courts — that shifted expectations about the limits of state behaviour and the rights of individuals. The UDHR and the covenants created a common language of entitlements; bodies such as treaty committees, special rapporteurs, and (later) the ICC and regional courts gave institutional shape to those claims.⁽³⁾ Yet the central paradox remains: the normative density of the system has outpaced its enforcement architecture. Failures in Rwanda and Srebrenica, the uneven responses to Kosovo, Somalia, and Darfur, and controversies around Libya and later conflicts exposed the limits of goodwill and legalism when confronted with geopolitics.⁽⁴⁾

Consequently, the post-war institutional edifice is best read as a set of contested instruments: powerful when member states converge around moral or strategic interests, weak when consensus collapses. The lesson for scholars and policymakers is not simply technical (more treaties) but institutional and political: durable protection requires

(1) Walling, "Human Rights Norms," 383–413.

(2) Holzgrefe and Keohane, *Humanitarian Intervention*, 18.

(3) Glendon, *A World Made New*, 59–60.

(4) Walling, "Human Rights Norms," 399–409.

mechanisms that combine legal clarity with credible enforcement, insulated to the greatest feasible extent from zero-sum great-power bargaining. Without reforms to reduce the politicization of enforcement venues, the institutional gains of 1945–1966 risk being subverted into instruments of selectivity — thereby undermining the universalism they were meant to protect.⁽¹⁾

Conclusion

The findings of this research reveal that the relationship between state sovereignty and the universality of human rights is complex and continually evolving. Traditionally, sovereignty was viewed as an absolute principle guaranteeing a state's independence and non-interference in its internal affairs. However, the rise of international human rights law, particularly after the establishment of the United Nations and the adoption of the UDHRs, has transformed this understanding. Sovereignty is no longer conceived as an unrestricted right but as a responsibility that carries moral and legal obligations toward the protection of citizens. This shift is most evident in doctrines such as humanitarian intervention and the R2P, which redefine sovereignty as a duty to prevent and address grave human rights violations, including genocide, war crimes, ethnic cleansing, and crimes against humanity.

Although the universality of human rights is now a cornerstone of international law, its enforcement remains inconsistent and politically driven. The selective application of R2P and humanitarian intervention, as seen in Kosovo, Rwanda, and Libya, reveals the ongoing dominance of great-power politics within the United Nations Security Council. The use of veto power often obstructs collective action, leading to double standards and the politicization of humanitarian principles. Nevertheless, the research demonstrates that

(1) Donnelly, *Universal Human Rights*, 179.

sovereignty and human rights are not inherently opposed; they can coexist when sovereignty is interpreted as an obligation to protect rather than a privilege to dominate. Preventive diplomacy, capacity-building, and early intervention mechanisms prove more effective and legitimate than unilateral or coercive actions carried out under humanitarian pretexts.

Ultimately, the tension between sovereignty and universality reflects a broader struggle within international law to reconcile respect for state independence with the duty to safeguard human dignity. Achieving this balance requires redefining sovereignty in terms of responsibility and ensuring that international authority is exercised according to human rights norms. A just and sustainable global order depends on embedding the protection of human rights within the very concept of sovereignty, transforming it into a framework of accountability and shared moral responsibility.

Recommendations

Building on these findings, the study proposes the following recommendations to strengthen the balance between state sovereignty and the universality of human rights under international law:

1. States, regional organizations, and the United Nations should reaffirm that sovereignty entails legal and moral duties to protect populations, not merely the right to non-interference.
2. Introduce restrictions on the use of veto power in cases involving mass atrocities or crimes against humanity to prevent political obstruction of humanitarian action.
3. The United Nations and regional bodies should strengthen monitoring, mediation, and rapid-response systems to identify and address risks before they escalate into large-scale violence.

4. The Responsibility to Protect must be applied uniformly, regardless of political alliances or strategic interests, ensuring its moral and legal credibility.
5. Assist states in developing judicial independence, democratic governance, and human rights education, thereby reducing the need for external intervention.
6. Strengthen mechanisms such as the International Criminal Court (ICC), independent fact-finding missions, and transparent reporting to ensure justice for violations and to enhance global trust.
7. Encourage educational initiatives and intergovernmental research on sovereignty and human rights to promote a shared understanding of collective global responsibility.

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