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# Transformations of the Concept of Sovereignty under the Contemporary International Order
# An Analytical Critical Study in Light of the Principle of International Protection

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***Abstract:***
*In light of the structural transformations that have affected the contemporary international order, the idea of "international protection," particularly in its institutional formulation "the responsibility to protect (R2P)," has emerged as a conceptual and practical framework that seeks to reconcile the state's obligations toward its people with the international community's collective responsibility to confront grave human-rights violations. However, this framework despite its ethical and legal ambition surrounded by fundamental problems related to its legitimacy and effectiveness. Does it truly constitute an effective legal system that balances the protection of human beings with respect for state sovereignty? Or does it remain a flexible instrument susceptible to politicization activated when it aligns with the interests of great powers and neglected when it does not?*

*Theoretically, the principle of international protection, in its optimal form, does not aim to undermine sovereignty, but to redefine it as a responsibility rather than a privilege an essential conceptual shift that reflects the development of the international legal order. Nonetheless, the selective application of this principle, outside a clear and fair legal framework, threatens to turn it into a pretext for*

*unilateral intervention, thereby reproducing the very contradiction it sought to overcome.*
*Accordingly, this study aims to deconstruct the dialectical relationship between the right/duty of international protection and the principle of sovereignty, in light of the shift from "humanitarian intervention" to "responsibility to protect," highlighting the legal challenges this transformation raises particularly with respect to violations of Articles 2(4) and 2(7) of the United Nations Charter, and the continuing tension between the prohibition on the use of force and non-intervention, on the one hand, and respect for state sovereignty and the protection of human rights, on the other.*

***Keywords**: sovereignty; international protection; international order; humanitarian intervention.*

## Transformations du concept de souveraineté dans l'ordre international contemporain
## Étude analytique et critique à la lumière du principe de protection internationale

***Résumé :***
*À la lumière des transformations structurelles qui ont affecté l'ordre international contemporain, l'idée de « protection internationale », et plus particulièrement sa formulation institutionnelle de « responsabilité de protéger » (R2P), s'est imposée comme un cadre conceptuel et pratique visant à concilier les obligations de l'État envers sa population et la responsabilité collective de la communauté internationale face aux violations graves des droits humains. Toutefois, malgré son ambition éthique et juridique, ce cadre se heurte à des problèmes fondamentaux liés à sa légitimité et à son efficacité. Constitue-t-il véritablement un système juridique efficace qui concilie la protection des êtres humains et le respect de la souveraineté des États ? Ou demeure-t-il un instrument flexible, susceptible d'être politisé, activé lorsqu'il sert les intérêts des grandes puissances et négligé dans le cas contraire ?*
*Théoriquement, le principe de protection internationale, dans sa forme optimale, ne vise pas à saper la souveraineté, mais à la redéfinir comme une responsabilité plutôt que comme un privilège – un changement conceptuel essentiel qui reflète l'évolution de l'ordre juridique international. Néanmoins, l'application sélective de ce principe, hors d'un cadre juridique clair et équitable, risque de le*

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*transformer en prétexte à une intervention unilatérale, reproduisant ainsi la contradiction même qu'il visait à surmonter.*
*En conséquence, cette étude vise à déconstruire la relation dialectique entre le droit et le devoir de protection internationale et le principe de souveraineté, à la lumière du passage de l'« intervention humanitaire » à la « responsabilité de protéger », en soulignant les défis juridiques que soulève cette transformation, notamment en ce qui concerne les violations des articles 2(4) et 2(7) de la Charte des Nations Unies, et la tension persistante entre l'interdiction du recours à la force et le principe de non-intervention, d'une part, et le respect de la souveraineté des États et la protection des droits humains, d'autre part.*

***Mots-clés :*** *souveraineté ; protection internationale ; ordre international ; intervention humanitaire.*

**Introduction:**

The application of the principle of humanitarian intervention in international relations has produced a number of legal problems due to political considerations and international interests that controlled the mechanisms for activating it and the extent of its effectiveness in realizing international peace and security. This led to deviation in its application and failure to achieve its goals a situation that raised questions about its legality and legitimacy on the one hand, and, on the other, pushed the United Nations, at the 2005 World Summit, to formulate the idea of international protection as an alternative principle to humanitarian intervention, which in turn impacted the principle of sovereignty and the concept of non-intervention in states' internal affairs.

Human rights were once matters within the reserved domain of states; yet they became a concern of the international community and subject to the protection of international human-rights law and international humanitarian law. Due to diverging views regarding the legality of humanitarian intervention, a new term appeared on the international scene responsibility to protect to replace the concept of humanitarian intervention as one of the prominent issues in contemporary international law that brings together national sovereignty, human rights, and international security.

In September 2005, the UN Member States agreed to adopt the principle of responsibility to protect, which comprises three principal commitments: the state's responsibility to protect/prevent, the responsibility to react, and the responsibility to rebuild. This produced areas of

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overlap, intertwinement, and intersection with other principles such as the principle of sovereignty and the principle of non-intervention in internal affairs provided for in Article 2(7) of the UN Charter. This transformation made the topic all the more vital for understanding the new international framework for the idea of humanitarian intervention and for reducing selective political uses of it.

The responsibility to protect is a newly introduced term in the international community, having evolved from several legal ideas especially humanitarian intervention to protect civilians and preserve humanitarian principles enshrined in international law. It is to be implemented without departing from legal legitimacy, through the international community's commitment to adopt intervention measures that may extend to military measures to achieve humanitarian protection. However, the principle of sovereignty, entrenched in the UN Charter through Article 2(1), sometimes encounters the right of humanitarian intervention in the event of humanitarian violations and the arising responsibility to protect humanity, given the supremacy of human-rights rules over state sovereignty, the goal being to preserve international peace and security which confirms the retreat of the concept of absolute sovereignty in the contemporary concept of the international order.

The supremacy of human-rights norms imposes a clear constraint on the state's internal legal order, setting rules and frameworks that the state may not transgress, even with respect to its own citizens; any infringement renders the right of international intervention legitimate. This was adopted by international and regional organizations and

even by states in their constitutions. Thus, there is a clear narrowing of the internal sphere and an encroachment upon human rights within the state, thereby restricting the concept of sovereignty and giving rise to the term relative sovereignty.[1]

From the foregoing, the great importance of this topic appears in several pivotal aspects:

**Jurisprudential and legal importance.**

The topic represents a vital intersection among three basic principles of international law contained in the UN Charter: the principle of sovereignty (Article 2/1), the principle of non-intervention in the internal affairs of states (Article 2/7), and the principle of protecting human rights and preventing grave international crimes (genocide, war crimes, ethnic cleansing, crimes against humanity). Studying the profound shift from the concept of "humanitarian intervention," often viewed as unilateral or lacking international codification, to responsibility to protect represents a qualitative evolution in the structure of contemporary international law.

Political and strategic importance. The idea adopted by the United Nations at the 2005 World Summit R2P constitutes an attempt to legitimize intervention in a collective context through UN mechanisms (especially the Security Council), after the failures and transgressions associated with "humanitarian intervention" in the 1990s.

**Humanitarian and ethical importance.**

The topic raises profound ethical questions concerning the duty of the international community to protect

[1] - Cited in the Preamble of the United Nations Charter and in Articles (1, 39, 55, 56). https://www.un.org/ar/about-us/un-charter/full-text

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populations at risk and the balance between maintaining international order and state stability, on the one hand, and saving lives and protecting human dignity, on the other.

Practical and forward-looking importance. The study is necessary to evaluate the extent to which R2P has been successfully implemented and to identify the gaps, obstacles, and impediments that prevent its consistent and non-selective application.

In light of the above, **does the principle of international protection constitute a real and effective system for protecting human rights in the face of the rules and frameworks of the principle of sovereignty and non-intervention in internal affairs? Does the principle of responsibility to protect provide a legal-political consensus for the fundamental principles of international law to achieve human and international peace and security? Does the practical application of R2P reduce the scope of sovereignty? To what extent will the principle of sovereignty be curtailed vis-à-vis the protection of human rights whether under the banner of humanitarian intervention or the responsibility to protect?**

From the foregoing, this study aims to shed light on the extent to which the right or duty of international humanitarian intervention undermines the principle of state sovereignty from the perspective of the idea of international protection especially since it raises several legal problems and political disagreements regarding its legitimacy, as it violates the two most important principles on which international law rests, namely: the principle of sovereignty and the principle prohibiting recourse to the use of force in international relations, as stipulated in Article 2(4–7)

particularly in light of contemporary international practices by major powers which led to an attempt to replace it with a new term, "responsibility to protect," to confer legality and legitimacy upon it.

Through this research paper, we will try to answer the questions raised by addressing two main axes:

- **Axis One:** The conceptual framework of the principle of international protection "visions and approaches."
- **Axis Two:** The nature of the relationship between the principle of international protection and the principle of sovereignty "reshaping legal concepts."

## 1. The Conceptual Framework of the Principle of International Protection "Visions and Approaches".

The topic "Changes in the concept of humanitarian intervention under the influence of the idea of international protection" is one of the vital and controversial topics in the field of contemporary international law. Its importance can be highlighted through conceptual development and the shift away from the traditional principle: the concept of humanitarian intervention is no longer confined to the narrow, contentious frame that prevailed in the last century (i.e., intervention by a state or group of states to protect civilians in another state). Rather, this concept has been fundamentally influenced by the rise of the idea of international protection as an institutional principle, embodied in concepts such as the responsibility to protect, which the United Nations officially adopted in 2005. This shift from a "right to intervene" to a "responsibility to

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protect" represents a fundamental transformation in the philosophy and legal logic governing international relations. Accordingly, we will first attempt to define the principle and its historical development, then turn to the jurisprudential disagreement and political debate over the legality and legitimacy of the principle of international protection in international relations.

## 1.1 Defining the Principle of International Protection and Its Development.

The idea of international protection is based on states and international organizations protecting populations facing grave dangers and providing them with necessary assistance especially amid humanitarian crises and human-rights violations by building international awareness of the legitimacy of intervention when all lawful avenues have been exhausted to no avail (Branch One). With this transformation, the concept of "sovereignty as responsibility" began to take its first intellectual steps in legal scholarship and political thought, then entered the halls and conferences of international organizations due to developments in international relations (Branch Two).

### *1.1.1. Responsibility to Protect versus Humanitarian Intervention, A Critical Reading of Transformations in International Legitimacy.*

During the 1990s, the use of force to stop widespread violations of human rights was called the "right of humanitarian intervention." Today it is justified under the banner of "responsibility to provide protection," a formulation proposed in 2002 by a committee of experts

convened at the initiative of the Canadian government under the auspices of the International Commission on Intervention and State Sovereignty (ICISS).[1] This commission was formed at the height of the debate over the legality and legitimacy of NATO's intervention in Kosovo, and assumed the following task: building a reference framework that allows determination of "when it is appropriate for some states to take coercive measures particularly military ones against another state with the aim of protecting the civilian population inside that state.[2]" Here arises the question of how to define R2P and the difference between the principle of responsibility to protect and the right or duty of humanitarian intervention.[3]

From the perspective of ICISS, state sovereignty means responsibility for protecting nationals from crimes that constitute heinous acts and grave harms resulting from non-international armed conflicts. In its report, the Commission holds that if the state fails to provide protection to its nationals under its domestic legal system without international interference, in deference to the principles of sovereignty and non-intervention in the core of domestic jurisdiction or if the state's legitimate authorities are unable

[1] - International Commission on Intervention and State Sovereignty.

[2] - Dr. Ahmad Hasan al-Sharif, *Responsibility to Protect in International Law — A Study in Light of the Report of the International Commission on Intervention and State Sovereignty*, Dār al-Fikr al-Jāmiʿī, Alexandria, 2015, pp. 35–36; ʿAbd al-Hakim ʿAbidin, "The Principle of Responsibility to Protect and the Evolution of the Concept of Sovereignty in International Law," *Journal of Law and Economics*, Cairo University, no. 2, 2017, p. 112.

[3] - ʿUbaydi Muhammad, op. cit., pp. 14–16; Muhammad ʿIsa Mansur, *International Humanitarian Law and the Protection of Civilians*, Dar al-Hudā Publishing, Algeria, 2016, p. 120.

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or unwilling to provide the necessary protection, then responsibility shifts to the international community.[1]

In contrast, definitions of humanitarian intervention have varied. One prominent definition is: "the use of force to intervene in the internal affairs of another state without its consent for humanitarian purposes," including preventing serious human-rights violations or providing famine relief the key element being intent; a war waged for selfish aims (such as seizing territory or resources) that incidentally achieves a humanitarian purpose is not considered humanitarian intervention.[2]

Graham Evans and Jeffry Newnham define it as "coercive intervention in a state's internal affairs to protect human rights that are being violated on a wide scale," or, in other words, "the use of armed force by a state, a group of states, or an international organization, motivated by humanitarian considerations for the specific purpose of preventing or alleviating widespread suffering or death."[3] Others define it as "a voluntary and organized action undertaken by an international political unit (whether a state, a group of states, or a global or regional international organization) using coercive and pressure tools including all forms of political,

[1] - ʿUbaydi Muhammad, *Human Security in Light of the Principle of Responsibility to Protect*, PhD dissertation, Faculty of Law and Political Science, University of Mohamed Khider, Batna, 2016–2017, pp. 14–16; Husayn Hayat, "Responsibility to Protect: Reviving Humanitarian Intervention," *Journal of Judicial Ijtihad*, vol. 13, no. 3, pp. 141–164.

[2] - Fatima al-Zahra Qashi, *Humanitarian Intervention and the Responsibility to Protect in Contemporary International Law*, New University Publishing House, 2018, pp. 54–55.

[3] - Nawal Youssef, "Responsibility to Protect A Study in Light of International Law," *Journal of Legal and Political Studies*, University of Constantine, Algeria, no. 19, December 2017, pp. 113–114.

economic, diplomatic, and military pressure, or some of them to stop gross and systematic violations of fundamental human rights in a particular state, in cases where that state is unable or unwilling to protect its citizens (or residents), or where it treats them with cruelty and oppression in a manner inconsistent with humanitarian principles and laws."[1] With the evolution in concept from the classical form of humanitarian intervention to the responsibility to protect, the definition and content have changed, and the latter came to rest on a legal foundation following the 2005 UN World Summit and the resultant decisions that conferred legitimacy upon it.[2]

As for R2P, it is "a set of principles based on the idea that state sovereignty is not a privilege but a responsibility aiming to prevent grave human-rights violations and to reduce their occurrence by building international awareness of the legitimacy of resorting to force to protect civilians once all other means have been exhausted and proven ineffective."[3]

Some hold that the failure of the theory of humanitarian intervention to maintain international peace and security without provoking great controversy about it and its legality, whether in its application in Bosnia and Somalia or its non-application in Rwanda led to the necessity of finding a global consensus away from the contentious discourse of "humanitarian intervention," which in turn produced the responsibility to protect.

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[1] - Ahmad Hasan al-Sharif, op. cit., p. 23; ʿAbd al-Hakim ʿAbidin, "The Principle of Responsibility to Protect and the Evolution of the Concept of Sovereignty in International Law," *Journal of Law and Economics*, Cairo University, no. 2, 2017, p. 108.

[2] - Husayn Hayat, op. cit., pp. 151–152.

[3] - Fatima al-Zahra Qashi, ibid., p. 66; Ahmad Hasan al-Sharif, ibid., p. 41.

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Others view R2P as a major shift in the UN's approach to dealing with crises affecting human beings and their rights in the third millennium, particularly after the regulation of human rights moved from the reserved domain of the state to the international sphere, reconciling the modern concept of sovereignty with the theory of humanitarian intervention, in an attempt to harmonize with the rapid, successive developments and changes in international relations that bear upon the international legal order.[1]

### *1.1.2. The Development of the Principle of International Protection Transformations between International Legitimacy and Political Selectivity.*

The idea of sovereignty evolved from the traditional concept of absolute authority to a modern concept that links sovereignty to responsibility for protecting populations, as advocated by modern thinkers such as Rousseau and Locke, and then elaborated by scholars of contemporary international law. The concept of "sovereignty as responsibility" took its first intellectual steps through the notion advanced by the French thinker Bétati and politician Bernard Kouchner in the late 1980s, namely the "right to intervene," as they called for states' right and duty to intervene in order to ensure that victims receive humanitarian assistance, and emphasized the moral duty of humanitarian organizations to provide such assistance.

In reality, R2P was not introduced by a single legal scholar; it arose from a political-ethical initiative led by a multidisciplinary team, and later received support from politicians, diplomats, and international jurists who saw in it

[1] - Ahmad Hasan al-Sharif, op. cit., p. 39.

an ethical and legal way out of the impasse of "humanitarian intervention."

UN Secretary-General Kofi Annan reflected the nature of this international transformation in his 1999 annual report to the General Assembly: "The concept of state sovereignty, in its very essence and meaning, is undergoing a major process of change. States should now be seen as instruments at the service of their peoples, not the other way around." Annan used, for the first time, the expression "sovereignty of the individual (or human)," because traditional concepts of sovereignty i.e., state sovereignty no longer met peoples' aspirations for liberty. He notably called for a broad definition of intervention and requested that the Security Council rise to the challenge when military intervention becomes necessary; he also called for developing and expanding the concept of intervention to include protecting civilians from abuses and violations.[1]

In response, the Canadian government announced the establishment of the International Commission on Intervention and State Sovereignty (ICISS) in September 2000, which issued its report a year later titled "The Responsibility to Protect." The report included many new concepts and called for the shift from sovereignty as authority to sovereignty as responsibility, and considered that reflecting on sovereignty as responsibility means:[2]

The state's responsibility to protect its citizens, ensure their safety, and guarantee their welfare; Governments'

[1] - On the obstacles to the development and evolution of the "human" concept, see: Muhammad ʿUbaydi, ibid., pp. 25–26.

[2] - Salwa Ben Jadid, "From Humanitarian Intervention to Responsibility to Protect," *Algerian Journal of Security and Development*, vol. 3, no. 2, p. 200.

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accountability for the actions they take; Local authorities' responsibility toward their citizens domestically and toward the international community through the United Nations.

The principle of R2P is not limited to military intervention; rather, it rests on three fundamental pillars, agreed upon in the 2005 UN World Summit Outcome and later in the Secretary-General's 2009 report "Implementing the Responsibility to Protect" (A/63/677): prevention first, then peaceful response, and finally as a last resort coercive response.

In truth, accepting this concept sovereignty as responsibility means that if a state is unable or unwilling to protect its citizens, responsibility shifts to the international community, specifically to the Security Council. Accordingly, the Commission saw fit to replace the expression "the right to intervene" with "the responsibility to protect," which combines assistance, intervention, and post-conflict reconstruction. It thus posits responsibility in several forms: preventing deadly conflicts and other human-made disasters; reacting when preventive measures fail to resolve or contain a conflict; and rebuilding after military intervention, with a full commitment to building lasting peace, good governance, and sustainable development.

Muhammad al-Majdhub emphasizes that the third pillar is applied selectively, while the first two pillars are neglected, which causes the principle to lose its balance.

International reactions to the report varied: the United States, EU states, Eastern European states, and some African states supported it; many developing countries such as Nigeria, India, South Africa, and states in Latin America were more skeptical, conditioning implementation on

consultation and prior consent, and calling for broader representation of states in the Security Council, the body with authority to authorize intervention. Many Middle Eastern and Asian states, along with Russia and China, declared their opposition to any weakening of the principle of sovereignty in favor of human rights. Nevertheless, the UN Secretariat approved and adopted the report, and in most of his speeches the Secretary-General embraced the concept of sovereignty as responsibility.

At the fifty-fourth session of the UN General Assembly, following failures that accompanied the Organization's efforts to preserve international peace and security especially in Kosovo, Rwanda, and other conflict hotspots the Secretary-General declared the need to find common ground among Member States to face shared challenges and threats that cannot be addressed without joint international action directed toward implementing the purposes and principles of the UN Charter.

Subsequently, ICISS was established by Canadian Prime Minister Jean Chrétien in September 2000. The Commission described its mandate as building a broader understanding of reconciling intervention to protect human rights with sovereignty and, more specifically, as an attempt to develop global political consensus on how to move from wrangling and often paralysis toward action within the international system, especially through the United Nations. In September 2005, at the High-Level Plenary Meeting of the UN General Assembly, Member States agreed to adopt the responsibility to protect, with differences over some details, in the 2005 World Summit Outcome.[1]

[1] - 2005 World Summit Outcome Document, paragraphs (138–139), and their clarification in the Secretary-General's 2009 report.

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After its adoption at the 2005 World Summit, the principle of R2P had to wait until 2006 to appear in the first Security Council resolution Resolution 1674 (2006) on the protection of civilians in armed conflict which is a profound turning point and a legal basis for later interventions, such as Resolution 1973 (2011) concerning Libya. However, Russia declared that it was premature to adopt R2P in Council documents and strongly objected, leading to the addition of a paragraph to the draft resolution emphasizing the need to respect states' political independence, sovereign equality, and territorial integrity, and to respect the sovereignty of all states. Nevertheless, the resolution clearly reaffirmed paragraphs 138 and 139 of the 2005 World Summit Outcome. Later, the Council incorporated R2P in resolutions on Darfur where the principle attained formal legal status under Resolution 1706 (2006) and subsequent resolutions on Darfur, Libya, and Mali.

In reality, despite the adoption of R2P, its application witnessed deviation from its specified goals and constraints, as occurred during its application in Libya (2011); moreover, the international community failed to apply R2P in Syria to stop grave human-rights violations since 2011 due to the absence of a common vision among Security Council members reflecting that application of R2P is subject to political considerations in the absence of legal constraints, raising questions regarding the future application of the principle.

## 1.2. The Legality and Legitimacy of the Principle of International Protection in International Relations

The principle of responsibility to protect entails more than intervention and more than military intervention in particular. It is a comprehensive principle built on preventing and addressing the causes of conflicts and crises before responding with coercive measures and the use of force (Branch One). Questions of human rights have long occupied a wide space in discussions among theorists of international relations, particularly after 1945; in our era with the rise of internal, regional, and international conflicts (the war in Ukraine, the conflict in Sudan, violations in Gaza, etc.) the idea of international protection has become a tool for the Security Council to intervene under Chapter VII of the UN Charter, raising profound issues regarding power balances among major states. The inconsistent application of R2P (Libya versus Syria) underscores the importance of studying these transformations to avoid systemic breakdown. Accordingly, legal and political thinkers differ over humanitarian intervention: between proponents seeking to justify it and opponents warning of its dangers (Branch Two).[1]

### *1.2.1. Foundations and Pillars of the Principle of International Protection A Critical Reading of the Development of International Practice.*

The subject of international protection and its intersections with the principle of non-intervention and the principle of sovereignty contributes to the development of

[1] - al-Majdhub, *Responsibility to Protect in International Law*, Dār al-Nahda al-ʿArabiyya, 2012, p. 147.

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international humanitarian law, linking the Geneva Conventions (1949) and their Additional Protocols with international mechanisms such as the International Criminal Court. The principle of international protection in international relations rests on the following foundations:

Responsibility to prevent: working on all the causes of direct and deep-rooted conflicts and disputes that may expose civilian populations to danger, including economic and social causes. Adopting pre-emptive prevention policies to confront emerging challenges and risks is the first line of defense in the system of international collective security. This also enshrines the idea of "sovereignty as responsibility," not an absolute right, and that the duty of protection begins with the state itself through building legal institutions and establishing effective preventive mechanisms. Included within this responsibility is the state's responsibility toward its citizens to protect them in accordance with international legal rules an obligation recognized and affirmed by states at the 2005 World Summit; states pledged to fulfill this responsibility, which represents a formal commitment announced at the summit level, adopted by the UN General Assembly, and confirmed by the Security Council without reservations.

Responsibility to react (the second responsibility): responding to situations in which humanity is being violated, with timely and appropriate measures, by peaceful means; the responsibility to react lies with the international community and the Security Council as an additional and residual responsibility in cases where states fail to fulfill their obligations to protect their citizens. Coercive force is

the last resort to halt violations, according to the principles of proportionality and necessity.

The international community also bears a duty to assist states in fulfilling their obligations to their citizens in accordance with international legal rules. Based on principles of solidarity, cooperation, and shared humanitarian concern, the international community must provide humanitarian protection to those in need among the citizens of other states who are exposed to serious rights violations. The international community thus bears the full responsibility of protection if states refuse or are unable to carry out their responsibilities toward their citizens.

Responsibility to rebuild: the full commitment of states that have intervened militarily to assist the concerned state in achieving humanitarian protection and building lasting peace after the end of military operations; to rebuild what has been destroyed; return refugees and preserve their rights and compensate them; achieve reconciliation and prevent a return to violence; apply transitional justice; and help the state rebuild its constitutional and legal institutions. In reality, this pillar is the most neglected; it is often overlooked in international interventions. It constitutes the greatest challenge in applying R2P and is what distinguishes R2P from traditional humanitarian intervention.

### *1.2.2. Responsibility to Protect and Its Implications for the Legitimacy of Humanitarian Intervention An Approach in Light of Theories of International Relations.*

Questions of human rights have occupied a wide space in legal, political, and juridical debates among theorists of international relations especially since 1945. In our time,

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with the escalation of internal, regional, and international conflicts (wars in Ukraine; conflict in Sudan; violations in Gaza, etc.), the idea of international protection has become a tool of the Security Council for intervention under Chapter VII of the UN Charter, raising a profound issue related to power balances among major states. The inconsistent application of R2P (Libya vs. Syria) highlights the importance of studying these transformations and tracking changes to avoid collapse in the international order. Based on this, legal and political thinkers differ over humanitarian intervention between supporters who seek to justify it and opponents who warn of its dangers as follows:

**First — Realist theory.**

Proponents of realism are among the most prominent opponents of humanitarian intervention. They consider the international system to be anarchic, and that states seek national interests and security, not the achievement of moral values such as human rights. Their most important objections are:

States do not intervene primarily for purely humanitarian reasons. Realists affirm that states consider only their national interests, and that it is unlikely that goals such as protecting human rights would constitute the sole principal driver of governments; adherence to ethical standards is linked to the shifting interests of states and governments.

States are not permitted to risk the lives of their soldiers on the altar of humanitarian interests. Realists consider that state leaders do not think in this way at all and that they do not possess the moral right to shed blood for the sake of

humanity. The state is responsible only for its nationals; its obligations and duties are confined to them and for them.

The problem of abusive intervention. Realists also maintain that intervention cannot be justified as an exception to the principle of the prohibition on the use of force in international relations (UN Charter Art. 2(4), 2(7)), because that would lead to abuse of force—especially in the absence of an impartial mechanism to determine the circumstances in which intervention for humanitarian purposes is permissible. States may follow the humanitarian motive as a pretext to justify pursuing their own national interests.

Selectivity in response. States always apply humanitarian intervention selectively, which leads to contradiction: states act according to what they deem their national interest; they will not intervene when they see that doing so would harm those interests.

The problem of selectivity emerges when commonly recognized moral principles are at risk in more than one situation but national interest dictates different responses. Selectivity thus means failure to treat two highly similar cases with the same degree or mode of response.

Disagreement over the principles governing the right of intervention. The problem lies in how to achieve consensus on principles governing a methodology for intervention for humanitarian purposes: how can we agree on what constitutes a breach of human rights that warrants armed intervention to stop it, and on the intervention mechanism? The issue remains thorny in practice and, in the realist view, risks undermining the global order.

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**Second — The English School.**

Supporters of the English School's theory of an international society with solidarist leanings who posit a trusteeship for human rights and a moral obligation to undertake coercive intervention in exceptional cases involving human suffering advance several claims:

Protecting human rights. Supporters argue that a core purpose of the United Nations is to preserve international peace and security, and they link human rights to peace and security, which must move in parallel. They cite the Preamble of the UN Charter "We the peoples of the United Nations…" and Articles 1–3 ("to achieve international cooperation… on humanitarian grounds and to promote and encourage respect for human rights and for fundamental freedoms for all"), as well as Article 55 (Security Council measures necessary to maintain international peace and security consistent with its powers and continuous responsibilities under the Charter).

A customary right of humanitarian intervention. Based on customary international law, which proponents believe has recognized and permitted intervention for humanitarian purposes in accordance with the legality of public international law. The incorporation of human-rights principles in the global community and the development of institutions such as Amnesty International represent a significant positive change in our moral sense though caution is needed regarding challenges facing "human-rights diplomacy."

Individuals as subjects of international law and members of international society. International law has expanded beyond the exclusive rights of sovereign states to recognize

the rights of all individuals by virtue of their humanity. This modern outlook strengthens the legal personality of the individual, in contrast to the classical view of public international law.

The English School thus focuses on ordinary individuals as subjects of international law and members of the international community consistent with the objectivist school regarding the individual's status in international law which views the individual as the true addressee of all legal rules, whether domestic or international. In reality, the individual is the only conceivable legal person in any legal system; the state is merely a legal instrument for managing the collective interests of a given people.

## 2. The Nature of the Relationship between the Principle of International Protection and the Principle of Sovereignty "Reshaping Legal Concepts".

The relationship between the principle of sovereignty and the principle of international protection constitutes one of the most prominent axes of transformation in contemporary international legal thought. In the face of escalating grave human-rights violations and the emergence of the concept of R2P, sovereignty is no longer understood as absolute immunity, but as a responsibility borne by the state toward its citizens and the international community. This transformation has reshaped traditional legal concepts and rebalanced the right of states to sovereign autonomy with the duty of the international community to intervene to prevent humanitarian catastrophes. It is therefore necessary to analyze the intricate nature of this relationship and to explore how the international legal discourse has redefined

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sovereignty in light of the requirements of international protection.

The concept of sovereignty and human rights has been significantly reformulated. In the proposal put forward by UN Secretary-General Kofi Annan to the 54th session of the General Assembly in 1999, he considered that sovereignty no longer pertains exclusively to the nation-state, which is considered the foundation of international relations, but that it also concerns individuals themselves. He called for the need to protect the human existence of individuals not the rulers who violate those rights. The aim is not to reach consensus on condemning human-rights violations.[1]

### 2.1. Transformations in Humanitarian Intervention , The Legal Implications of the Idea of International Protection for Sovereignty.

The shift from traditional humanitarian intervention to R2P as a principle removed the negative connotation associated with the former: dividing the world into powerful states entitled to intervene and other states upon which intervention is exercised under various normative pretexts; and viewing human-rights norms as general standards rather than binding obligations (Branch One).

The recurrence of atrocity crimes shifted attention not to states' sovereignty, but to their responsibilities toward their citizens and toward the international community i.e., the

[1] - Muhammad al-Majdhub, *Responsibility to Protect in International Law: A Critical Study*, Emirates Center for Strategic Studies and Research, Abu Dhabi, 2012, pp. 87–92; ʿAbd Allah bin Khamis, "Protection of Civilians in Armed Conflicts: A Study in Light of International Humanitarian Law and the Practices of the Security Council," *Journal of Naif Arab University for Security Sciences*, no. 45, 2013, pp. 128–132;

responsibility to protect that falls upon every state when it comes to widespread human-rights violations such as genocide and ethnic cleansing, amid the increasing need to realize human security (Branch Two).

### *2.1.1. The Problematic Relationship between Sovereignty and Protection Between Weakening and Complementarity.*

Part of international legal doctrine points to the decline of the state's traditional role and even holds that, in many cases, the state may be the source of the crisis, not its solution, as it is pulled between two contradictory functions: at times a protector of human rights, at times a violator of those rights. However, this functional contradiction does not logically entail weakening its status as a fundamental sovereign entity in the system of human security. On the contrary, there is a noticeable increase in recognizing the necessity for the international community to assume responsibility for protecting individuals especially when the state defaults on its duty due to inability or unwillingness to protect its citizens from grave violations while the state remains the principal entity legally and morally entrusted with this task. [1]

Accordingly, the principle of R2P is not seen as a substitute for sovereignty, but as a complement to it: sovereignty is understood as "responsibility," not "privilege," requiring states to undertake protective duties toward their populations, not as constraints on sovereignty,

[1] - Muhammad ʿUbaydi, *Human Security in Light of the Principle of Responsibility to Protect*, PhD dissertation, Faculty of Law and Political Science, University of Mohamed Khider, Batna, 2016–2017, pp. 70–78.

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but as a means to enhance its legitimacy and effectiveness in the international system.

Human rights are no longer among those matters falling within the domestic jurisdiction of states into which intervention is prohibited; nor is the regulation of human-rights issues confined to constitutions and domestic laws. Rather, they are regulated by international law, and international organizations and courts supervise their application, respect, and non-violation. States therefore cannot hide behind their domestic jurisdiction and claim that human-rights issues are a purely domestic matter into which intervention is impermissible. However, one must bear in mind that the principles of sovereignty and non-intervention are among the lofty principles upon which international law rests, and any infringement upon them constitutes an unlawful act and a violation of international law especially the UN Charter. Such infringement occurs through armed intervention conducted outside the framework of the United Nations and international legitimacy, even under the pretext of protecting human rights.[1]

From this integrated perspective, international attention to human rights must be directed within a framework that respects state sovereignty, thereby building a relationship of cooperation and complementarity, not collision or unilateral intervention. Legal rules whether stipulated in international human-rights instruments or in domestic legislation affirm that respect for human rights is inseparable from the international community's commitment to respect states'

[1] - Samia Khudayr, *The Security Council and the Protection of Human Rights in Armed Conflicts*, Dār al-Nahda al-ʿArabiyya, Cairo, 2015, pp. 142–146.

sovereignty and non-interference in their internal affairs. International peace and security form the necessary foundation for individuals to enjoy their fundamental rights; effective protection of rights and freedoms cannot be achieved in the presence of a fragile state or the erosion of its sovereignty and independence.[1]

Indeed, the erosion of national sovereignty particularly through violations of international law (both international human-rights law and international humanitarian law) deepens international disorder and weakens states' ability to fulfill their obligations toward their peoples, thereby causing direct harm to the individual, who is the ultimate object of protection under international law.

[2]Finally, the principle of sovereignty appears to achieve international stability, alongside respect for human rights, which ensures international peace and security. Therefore, human rights must be preserved by strengthening the sovereignty of states rather than the sovereignty of governments, through the following points:

The idea of international protection is based on the transfer of the duty and mechanisms of protection from a state that is unable to protect its nationals under its domestic legal system to the international community.The principle of international protection rests on a set of concepts and foundations that transformed sovereignty from a state attribute into a responsibility aimed at preventing grave human-rights violations.

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[1] - Fatima al-Zahra Bouazizi, "The Role of the Security Council in the Protection of Civilians: A Study in Light of Resolution 1674 (2006)," *Journal of International Law and International Organizations*, pp. 50–58.

[2] - Hassan Mahmoud Jaber, *The Principle of Responsibility to Protect*; Muhammad Husayn Haykal, *International Relations: Theories and Concepts*, Dār al-Nahda al-ʿArabiyya, Cairo, 4th ed., 2018, pp. 112–116.

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The failure of the theory of humanitarian intervention to maintain international peace and security and the intense debate over its nature, limits, and effects made it necessary to build a global consensus on a new concept, especially after the regulation of human rights moved from the domestic to the international domain.Activating the principle of protection is linked to the consent of the concerned state, unlike humanitarian intervention. With R2P, there is a shift from sovereignty as control to sovereignty as responsibility, across a set of internal and external functions.

The principle of international protection is an exception to the principle of non-intervention in internal affairs which itself is one of the pillars of the United Nations and one of the legal guarantees of respect for a state's independence and the foundation of international relations.

International experiences in achieving human security (interventions in Sudan, Côte d'Ivoire, Libya, Syria, …) have shown misuse of the principle, selectivity in its application, double standards, and two-tiered treatment, with adverse outcomes: deterioration of human-rights conditions and refugee flows.

The Libyan conflict is one of the most significant cases in which the principle was activated and the result was contrary to the objective.

The principle of international protection has not been freed from the debate and controversy that surrounded humanitarian intervention.

Jurists and politicians split into two directions: a skeptical trend that regards the principle as a reproduction of humanitarian intervention in a new and refined form; and a

second trend that sees it as entirely different because it rests on preventive measures as a foundation before military intervention. Separation must be maintained between political/strategic and economic considerations and humanitarian concerns in order to preserve international peace and security. Reasons for the shift from humanitarian intervention to the idea of protection include the practical obstacles to implementing the former and the emergence of sovereignty as responsibility.[1]

### *2.1.2. Complementarity and Balance between the Idea of International Protection and the Principle of Sovereignty*

The idea of international protection stands on fundamental pillars: the state's legal responsibility to protect its people from grave human-rights violations as the sovereign authority (genocide, war crimes, crimes against humanity, ethnic cleansing) and then the international community's responsibility to respond and assist during conflict and after it by seeking to rebuild the collapsed state.

Based on established principles of international law especially those relating to sovereignty, international peace and security, and protection of human rights in armed conflicts the International Commission on Intervention and State Sovereignty issued its 2001 report "The Responsibility

[1] - ʿAli Dib, *Theories of International Relations: A Critical Reading*, Arab Center for Research and Policy Studies, Doha, 2016, pp. 189–194; Muhammad al-Majdhub, op. cit., pp. 45–50; ʿAbd Allah Muhammad al-Shami, "The English School in International Relations and the Question of Humanitarian Intervention," *Journal of Damascus University for Human Sciences*, vol. 28, no. 3, 2012, pp. 245–275; ʿAbd al-Wahhab al-Kayyali, *International Relations: Theories and Applications*, Dār al-Taliʿa for Printing and Publishing, 4th ed., 2010, pp. 145–147.

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to Protect." The report affirmed that sovereignty is not understood merely as a bundle of absolute rights, but fundamentally entails core responsibilities borne by the state toward its people chief among them the protection of the population from grave human-rights violations (genocide, war crimes, ethnic cleansing, crimes against humanity). The report went on to state that in cases where the state is "unable or unwilling" to undertake this responsibility, the duty shifts to the international community, which must take appropriate measures in accordance with international law and the UN Charter to fill this protective vacuum.[1]

Thus, the principle of R2P is not considered a threat to sovereignty, but rather an expression of a conceptual evolution that redefines sovereignty as a "means, not an end in itself," the true end being the preservation of human dignity and the guarantee of fundamental rights. Accordingly, R2P is not an entirely novel idea, but a logical inference from the modern concept of sovereignty and a complement to it within the contemporary international legal system.

In reality, R2P seeks to establish a legal formula that brings together respect for state sovereignty and state responsibility to protect its population. A set of points has been agreed to activate this goal:

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[1] - Bouazza Fatima al-Zahra, op. cit., pp. 102–107; Hisham ʿAbd Allah al-Husayni, *Humanitarian Intervention and Sovereignty in Contemporary International Law*, Zahraʾ Publishing & Distribution, Amman, 2013, pp. 147–156.
Sami Jassim al-Zeidi, "Responsibility to Protect in International Law: Between Principle and Practice," *University of Baghdad Journal of Political Science*, no. 12, 2016, pp. 73–80.

States may not harm their citizens. If states cannot protect their citizens, the international community assumes the tasks of protection. The principle of R2P is victim-centered, not intervener-centered; the international community's concern focuses on the victims.

R2P comprises two elements: the responsibility to prevent which means exercising all options before resorting to military measures and the responsibility to rebuild, i.e., post-conflict reconstruction. According to the ICISS report, the principle aligns with respect for sovereignty insofar as sovereignty has become the state's responsibility to protect its nationals, and is not a pretext for violating their rights.[1]

## 2.2. The Supremacy of Human-Rights Norms over State Sovereignty from the Perspective of International Protection.

The human community applies three legal systems: national law, international law, and humanitarian law. Humanitarian law is considered the highest law because it addresses the conditions of the human community as a whole, which are more closely connected to human nature. Humanitarian law is based on human solidarity grounded in the recognition by states that they cannot live alone and exercise independence and freedom in all that they do within their borders, but are rather members of the international community (Branch One).

Accordingly, the judicial and doctrinal view of the balance between human rights and sovereignty, from the

[1] - Layla Nicola al-Rahbani, *International Intervention: A Concept in the Process of Change*, first edition, al-Halabi Legal Publications, Beirut, Lebanon, 2011, p. 21.

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perspective of international protection, generally proceeds in one direction: the rule of the priority of human-rights norms over sovereignty not as hierarchical supremacy but as giving precedence to the protection of humanitarian principles (Branch Two).

### *2.2.1. Undermining Sovereignty — A Study in the Development of "Responsible Sovereignty".*

Globalization has significantly affected the concept of sovereignty in its absolute form, which is no longer acceptable in the modern era, given that states have recognized common needs and the necessity of cooperation to find effective solutions, through the conclusion of treaties and the establishment of international organizations whose founding charters contain provisions that restrict sovereignty while at the same time enshrining and preserving it by setting forth the principle of sovereignty and many related and derivative principles that serve it, such as the principle of non-intervention stipulated in Article 2(7) of the UN Charter, which constitutes a general constraint on all the Organization's organs and various activities in defense of sovereignty in its traditional form.

However, the change that affected the principle also affected the derivative rule: non-intervention came to be interpreted flexibly rather than rigidly, and the reserved domain of states shrunk progressively in favor of the international order, opening the way for UN interventions in the internal affairs of Member States through broad interpretations of the provisions on its competence applying the principle of the effectiveness of international organizations.

In traditional international law, sovereignty meant the state's absolute right to full control over its entire territory, and the obligation of other states to respect that right: the state had authority over its population and territory without any external constraints. This led some regimes to despotism, oppression of their peoples, and violations of their rights and freedoms, without anyone being able to intervene to stop it.[1]

But the development and intertwinement of international relations due to global advances in the political, economic, social, and cultural spheres, and the eruption of many non-international conflicts that witnessed unprecedented atrocities (genocide, war crimes, crimes against humanity) led to the emergence of a set of peremptory norms (jus cogens) that create obligations upon sovereign states omnes. With the increase in law-making treaties on human rights and international humanitarian law, which focus on the human person as the object and on states' responsibility to ensure protection and welfare, the traditional concept of sovereignty began to retreat. States' exercise of sovereignty changed, and preservation of sovereignty came to depend on respecting the human being and his rights.

New ideas of great importance emerged such as distinguishing between a people and the regime governing them so that governments are internationally required to respect the rights of individuals they claim to represent at the international level and derive their legitimacy from their

[1] - ʿAbd al-Razzaq al-Mansuri, *The United Nations and the Security Council: A Critical Study in Hegemony and Double Standards*, Dār al-Amān, Rabat, 2011, pp. 178–185; Muhammad ʿAbid al-Jabiri, "The Crisis of Legitimacy in the UN Security Council," *Al-Mustaqbal al-ʿArabi*, Center for Arab Unity Studies, no. 420, 2014, pp. 45–58.

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will. There is near consensus that governments bear the primary responsibility for protecting their citizens.

The motivation for seeking new mechanisms to protect civilians especially from acts of genocide witnessed in Somalia, Rwanda, Bosnia, and Kosovo, and the disputes over the legality of humanitarian intervention played a major role in crystallizing the principle of R2P, which the International Commission on Intervention and State Sovereignty developed after a year of consultation and meetings, together with international institutions and NGOs active in the field of human rights. The Commission's report, titled "The Responsibility to Protect," dated 03/12/2001, called for the shift from sovereignty as authority to sovereignty as responsibility; the principle was adopted at the 2005 High-Level World Summit of the UN General Assembly.

R2P proceeds from the conclusion that the state is not solely responsible for implementing humanitarian protection; rather, the international community is required to achieve it when the state is unable, refuses, or neglects to do so. The international community must seek other means to achieve the requisite protection.

Thus, every state bears an original responsibility to protect its citizens from genocide, war crimes, and crimes against humanity by employing appropriate and necessary means. There is also a residual responsibility borne by the international community through the United Nations and regional international organizations when national authorities are unable or unwilling to address situations, or are themselves responsible for them in one way or another.

### 2.2.2. *Factors in the Transformation of Sovereignty from Absoluteness to Constraint under the Influence of International Protection.*

The idea of international protection remains relatively modern in the field of human rights. The concept first appeared with respect to the protection of minorities in the Peace of Westphalia (1648), was mentioned in the Protocol of the Congress of Vienna (1815), and later in other agreements signed successively, such as the 1816 Treaty of Cession between Sardinia and Switzerland (Article 12), and the Treaty of Berlin (1878), which obligated Bulgaria, Montenegro, Serbia, Romania, and Turkey to respect religious freedoms and rights of their citizens.

International organization has sought to protect fundamental rights within states, such that respecting those rights is no longer solely a matter of internal affairs monopolized by states. The concept of international protection was thus the product of international and regional circumstances marked by national and international interests, which affected the effectiveness of protection itself. Today it represents a tangible reality, and embodies the field through which international law moved from a law of a society of states to a law of the international community the principle of universality. Whereas the relationship between a state and its nationals once bore no relation to international relations, and human rights were considered within the competence of each state, the recognition of general, abstract human rights means that this state competence may become subject to international law a matter not typically raised except in cases of flagrant violations of human rights; here, international intervention intersects with the principle of sovereignty.

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The problem thus lies in the intersection of protection and sovereignty. Every state has internal affairs into which other states may not intervene, as they touch on sovereignty. No matter is more apt to raise the question of sovereignty than rights; states try to shield these from external interference, invoking the UN Charter (1945), whose Article 2(7) provides: "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…"

In reality, the state remains the primary unit of the international order and bears the first responsibility for protecting and respecting the rights and freedoms of individuals. Nevertheless, the development of the international community has imposed on the state as part of this order obligations that have reduced the sphere of absolute sovereignty and transformed it into constrained sovereignty. Even so, the issue of human rights remains linked to the system of governance, which decides whether to recognize or deny those rights and whether to permit their exercise or bar them evidenced by the requirement to exhaust domestic remedies before individuals can activate international protection.[1]

There is no value in rights and freedoms that their holders cannot enjoy or that are inapplicable, remaining trapped on paper. The principal domestic problems facing international protection include: the extent of states' commitment to implementing international protection agreements, and the

[1] - ʿAbd al-Karim Hass al-Dilaymi, *Activating the Jurisdiction of the International Criminal Court: A Study in Jurisdiction and Legal Foundations*, Dār al-Thaqāfa for Publishing and Distribution, Amman, 2014, pp. 132–141.

relationship between the rules of international protection and domestic legal orders, given that the rules of international protection are superior to domestic law.

Indeed, the subject of international protection remains a source of many theories and doctrinal opinions in international law and a focus of political controversy and disagreement among states, as it involves a state or group of states exceeding their jurisdictional limits and entering into the jurisdiction of others. In many cases, a mere declaration by a state or a decision by an international body regarding human rights in a state is considered a form of intervention that the state rejects, invoking sovereignty. International protection of human rights comprises a set of measures taken by international bodies that make those rights the subject of their activity or one of the fields they address. Thus, it is not part of organized international protection when states undertake activities, pressures, or (punitive) practices toward other states in the name of protecting human rights. Proper rules of international conduct require that any state that sees in another state's conduct a violation of human rights guaranteed by international instruments should refer the matter to competent international organizations and draw their attention to the violation of the relevant treaty provisions to which the violating state is a party.[1]

Since the United Nations represents the governments of states collectively, it is presumed to be an authority higher

[1] - Muhammad Nasr al-Din ʿAllam, *Theory in International Relations*, Dār al-Nahda al-ʿArabiyya, 2nd ed., 2008, pp. 212–215; Muhammad al-Saʿid al-ʿArian, *Theoretical Schools in International Relations*, Al-Ahram Center for Political and Strategic Studies, Cairo, 2005, pp. 182–185.

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than individual states; custom has established that the regulation of a domestic matter in international agreements moves it from the national to the international sphere, which has in turn contracted the principle of absolute sovereignty so that the violation of individuals' rights becomes a violation of an international obligation. This thesis does not apply absolutely, however; protection remains subject, above all, to international climates and their fluctuations, which are governed by international interests, given the contradictory interests that structure the international community and its complex relationships—all of which have eroded confidence in the existence of effective international protection of human rights.

With the exacerbation of non-international armed conflicts, which developed from situations of tension and internal division into organized armed conflicts, grave violations of human rights and international humanitarian law have intensified, necessitating a reconsideration of the traditional relationship between the principle of sovereignty and the principle of responsibility to protect. Consequently, clinging to absolute sovereignty is no longer acceptable; rather, it has become necessary to establish a delicate balance that takes into account the state's obligations toward its people and toward the international community. From this context, the following can be inferred:

The deepening interaction among members of the international community within multilateral regional and international frameworks has led to the emergence of the concept of "relative sovereignty," which recognizes that the exercise of sovereignty is conditioned upon respecting international obligations, especially in the fields of human

rights and peace and security.The development and practical activation of the concept of R2P stems primarily from the need to confront grave human-rights violations, not from a desire to undermine national sovereignty.The required balance between the principle of sovereignty and human rights must, in exceptional cases that threaten human dignity and existence, prioritize the protection of individuals, who are the ultimate end of the international legal system.

Accordingly, the following is proposed at the level of legal and institutional mechanisms:

Activate the jurisdiction of the International Criminal Court in accordance with the principles of legality and justice whenever there is evidence of crimes within its jurisdiction (genocide, war crimes, crimes against humanity).

The Security Council must adhere to the principle of sovereign equality when characterizing situations that constitute a threat to international peace and security, which calls for reforming its structure especially by reviewing its current composition and the representation of permanent members to reflect contemporary geopolitical and political balances.

Uphold the fair and uniform application of the rules of international law and avoid double standards, which undermine the credibility of the international legal system and rob protection mechanisms of their effectiveness and legitimacy.[1]

[1] - Jasim Muhammad Zakariya, *The Concept of Universality in the Contemporary International Organization*, first edition, al-Halabi Legal Publications, Beirut, 2006, p. 57 .

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## Conclusion:

The topic of "Transformations of sovereignty within the contemporary international order" as a bridge between law and politics opens, academically, the door to comparative studies between historical and contemporary cases, which helps build new theories about "responsible sovereignty." Practically, it helps formulate recommendations for international organizations such as strengthening early-warning mechanisms and it influences states' decisions on military alliances in light of current global challenges, such as the COVID-19 pandemic, which exposed gaps in international protection, making the subject more urgent in order to ensure a more just and more secure world.

In fact, the importance of the topic, legally and politically, lies in that it represents a fundamental transformation in contemporary international law: we have moved from the "principle of constrained sovereignty" to the concept of "sovereignty as responsibility." It also reflects the ongoing tension between two foundational principles: non-intervention in internal affairs and the protection of human rights. On the other hand, it raises a deep philosophical problem concerning the legitimacy of intervention and its legal limits. Practically and empirically, it is linked to current international events that have affected international peace and security (Syria, Libya, Rwanda, the former Yugoslavia, Ukraine, Gaza, …).

A major political dimension has also emerged: criticisms of the selectivity of humanitarian intervention (double standards), as well as the exploitation of this concept by some great powers to achieve geopolitical interests. It has

also produced challenges for developing countries in preserving their sovereignty. The topic touches the heart of the dilemmas of the current international order and interacts with its latest developments, namely:

The balance between national sovereignty and international protection: Where does state sovereignty end and where does the international community's responsibility to protect individuals and peoples begin?

Sovereignty as part of the problem: Today, sovereignty still constitutes a large part of the problem limiting the international protection of human rights. States cling tightly to their sovereignty in the face of international action even at the cost of violations against their citizens overlooking that complying with the protection rules established by treaties is, in essence, an affirmation of sovereignty: states accepted those treaties of their own free will, and compliance with them stems indirectly from that will. There is, therefore, no inherent contradiction between protecting human rights under international conventions and the principle of sovereignty. Protection mechanisms and their non-binding nature: International protection whether within the UN framework or at the regional level relies on a set of procedures that vary with the treaties themselves (reporting, fact-finding missions, individual complaints, inter-state complaints, monitoring teams or experts, etc.). But none of these mechanisms is binding, which empties international protection of much of its substance.

Legitimacy of using force: Who has the legitimacy to decide on military intervention under a humanitarian pretext? What are the legal and procedural safeguards that prevent misuse of this principle for political ends?

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A concept still maturing: International protection is a relatively new concept in international practice still in a formative stage and not yet crystallized as a fully-fledged principle with sound foundations and clear contours. Its maturation will both influence and be influenced by its international environment.

The implementation gap and selectivity: Why is protection applied in some crises and stalled in others? This raises a deep question about the fairness and effectiveness of the current international system.

Multiple contradictions, and the intersecting and colliding interests in international relations, have hindered the smooth functioning of international protection foremost among them the intrusion of political considerations into the protection–sovereignty equation; the resort to reservations on protection treaties to narrow their scope; and the prospect that these treaties may or may not be applied domestically. States have not lacked ingenuity in finding pretexts to circumvent international protection agreements and avoid implementing them.

Invoking national sovereignty has formed a barrier to the international community's will. Responsibility for protecting human rights must be shared between the international bodies that adopt the rules and monitor compliance, and the national authorities that respect and implement them. There is also a need to encourage and strengthen the individual complaint system, which is one of the best tools for protecting human rights. Hence the necessity of convening a global international conference under UN auspices to urge and require states to incorporate the provisions of international human-rights treaties into their national

legislation and to implement their international commitments and obligations.

In light of the above, the topic offers a wealth of sources, doctrinal trends, and judicial practice from debates in the UN General Assembly to the Secretary-General's reports, the jurisprudence of the International Court of Justice, and the views of leading scholars, who are divided between those who support intervention as a moral and legal duty and those who view it as a serious violation of the UN Charter.

The subject remains highly sensitive politically and legally, given the ongoing conflicts and humanitarian crises in many states (Yemen, Syria, Ukraine, Palestine, Sudan). It is not purely academic; rather, it contributes critical and constructive insights that can help develop international mechanisms for preventing crimes and protecting civilians. It is closely tied to practical reality and contemporary crises.[1]

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