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ABSTRACT

The conventional notion of state sovereignty, long associated with absolute territorial control and non-intervention, is being redefined in light of evolving international legal standards that prioritize human rights and global accountability. Since the mid-20th century, developments such as the Universal Declaration of Human Rights, the Responsibility to Protect (R2P), and legally binding human rights treaties have transformed sovereignty into a conditional principle—one grounded not merely in authority, but in the duty to protect populations from grave harm. This paper analyzes the transition from a state-centric to a human-centric model of sovereignty, highlighting how international legal obligations constrain state behavior and elevate individual rights within global governance. Through the growth of international criminal law and regional human rights systems, state actions are increasingly subject to external scrutiny and legal consequences. Institutions like the United Nations and regional courts play a central role in reinforcing this shift by embedding human dignity as a core element of sovereign legitimacy. At the same time, resistance from some states—particularly in the Global South—raises concerns about the politicization of human rights and the erosion of self-determination. The paper critically engages with these tensions while arguing that the normative trajectory of international law favors a model of sovereignty defined by responsibility rather than exclusion. Ultimately, the study concludes that the integration of human rights into the concept of sovereignty is not only a legal necessity but an ethical imperative in the 21st-century international order.

KEYWORDS

Sovereignty, Human Rights, International Law, Responsibility to Protect, Global Governance

I. INTRODUCTION

State sovereignty has historically stood as a foundational concept in international law, representing a state's supreme and exclusive control over its territory and domestic affairs.[1] Traditionally, it served as a legal and political safeguard against outside interference, deeply rooted in the Peace of Westphalia of 1648.[2] This understanding, which prioritized autonomy and non-intervention, was later codified in documents such as the Charter of the United Nations. However, the post-1945 global order has brought with it significant normative challenges to this traditional view. With the rise of international human rights law, global interconnectivity, and shared concerns like humanitarian crises and transboundary threats, the legal notion of sovereignty has come under increasing reassessment.[3]

One of the most notable developments in this reorientation is the shifting focus of international law from the state as its sole subject to the individual as a rights-bearing actor.[4] Instruments such as binding human rights treaties, the Responsibility to Protect (R2P), and the establishment of supranational institutions like the International Criminal Court (ICC) indicate a significant normative transformation.[5] In this emerging framework, sovereignty is no longer understood solely as control over a territory or population but increasingly as an obligation to protect the inherent dignity and rights of individuals within that state's jurisdiction.[6]

This evolving paradigm gives rise to the idea of a "human-centric" conception of the state. Under this model, state legitimacy is judged not only by its effective control and autonomy but also by

[1] Hugo Grotius, De Jure Belli ac Pacis (1625); see also Daniel Philpott, Revolutions in Sovereignty: How Ideas Shaped Modern International Relations 41–42 (2001).
[2] U.N. Charter art. 2, ¶ 7 ("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.").
[3] W. Michael Reisman, Sovereignty and Human Rights in Contemporary International Law, 84 Am. J. Int'l L. 866, 868 (1990).
[4] Douglass Cassel, A Framework of Norms: International Human-Rights Law and Sovereignty, 22 Harv. Int'l Rev. 60, 61 (2001).
[5] Rome Statute of the International Criminal Court art. 1, July 17, 1998, 2187 U.N.T.S. 3.
[6] Gareth Evans, The Responsibility to Protect: Ending Mass Atrocity Crimes Once and for All 35–39 (2008).

its compliance with international standards, particularly in human rights protection.[7] As a result, the international legal system now faces a dual challenge: upholding the sovereign equality of states while simultaneously ensuring their accountability to universally accepted norms. This paper explores how legal doctrines and institutional practices are redefining sovereignty along more normative and responsibility-oriented lines.

The discussion proceeds in eight sections. Following this introduction, Part II revisits the historical and legal roots of sovereignty in the Westphalian tradition. Part III traces the development of human rights law and examines how it has placed new limits on traditional notions of absolute sovereignty. Part IV focuses on the Responsibility to Protect (R2P) doctrine as a tool for reframing sovereignty as a protective duty. In Part V, the tension between treaty-based obligations and the principle of state consent is analyzed. Part VI investigates how both global and regional institutions contribute to enforcing human-centric legal obligations. Part VII offers a critical evaluation of the political, ethical, and institutional dilemmas involved in this shift. Finally, Part VIII concludes by proposing a recalibrated understanding of sovereignty that harmonizes international accountability with respect for human dignity.

II. THE CLASSICAL DOCTRINE OF SOVEREIGNTY

The foundational concept of sovereignty in international law emerged during the early development of the modern state system. It was originally conceived as the ultimate and indivisible power exercised by a state within its defined borders, without being subjected to external political or legal authority.[8] Although international law has undergone substantial changes since then, this classical model of sovereignty continues to influence the way state authority is conceptualized and exercised.

A. Westphalian Origins

The Peace of Westphalia, signed in 1648, marked a turning point in the structuring of European political order and gave rise to the principles that continue to define traditional state sovereignty.[9] This landmark agreement, which concluded decades of devastating conflict in Europe, entrenched key norms such as the

[7] Jack Donnelly, State Sovereignty and International Human Rights, 28 Ethics & Int'l Aff. 225, 228–29 (2014).
[8] Jean Bodin, Six Books of the Commonwealth (1576); see also Stephen D. Krasner, Sovereignty: Organized Hypocrisy 9 (1999).
[9] Leo Gross, The Peace of Westphalia, 1648–1948, 42 Am. J. Int'l L. 20, 28–30 (1948).

territorial independence of states, the principle of non-interference, and sovereign equality.[10] It formalized a state-centric system in which governments held exclusive jurisdiction over their internal matters, protected from the oversight or intervention of external actors.

Legal theorists widely regard the Westphalian settlement as the basis of a decentralized, horizontal international legal structure—one where states are the primary actors, each wielding authority in isolation from others.[11] In this framework, sovereignty was equated more with political autonomy and exclusive jurisdiction than with legal responsibility or accountability. The emphasis was on safeguarding independence rather than promoting internal human rights obligations.

B. Sovereignty and the Principle of Non-Intervention

The classical understanding of sovereignty was reasserted in the post-World War II order through the establishment of the United Nations. Article 2(7) of the U.N. Charter explicitly protects a state's internal affairs from outside interference by affirming that "[n]othing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state."[12] Though aimed at fostering cooperation and preventing aggression, this provision also reinforced the longstanding idea that sovereignty is synonymous with legal insulation from external critique.

In practice, this interpretation allowed states to govern without significant accountability to international norms, even in cases involving severe domestic human rights violations.[13] Non-intervention was frequently invoked as a justification for shielding governments from international scrutiny. While humanitarian law developed to regulate conduct during war, its reach remained limited in peacetime contexts, allowing sovereign discretion to remain largely unchecked.

The legacy of the Westphalian model was a global system in which state behavior was regulated primarily through bilateral or multilateral relations, rather than through obligations owed to

[10] Daniel Philpott, Revolutions in Sovereignty: How Ideas Shaped Modern International Relations 45–47 (2001).
[11] See Anne-Marie Slaughter, A New World Order 64–67 (2004) (discussing the classical horizontal structure of international law based on sovereign equality).
[12] U.N. Charter art. 2, 7.
[13] Jack Donnelly, Universal Human Rights in Theory and Practice 33 (3d ed. 2013).

individuals within those states.[14] Consequently, sovereignty was treated as a shield rather than a responsibility. However, the horrific abuses of the twentieth century—and the inadequacy of existing legal frameworks to prevent or address them—ultimately set the stage for a significant rethinking of sovereignty's legal and ethical foundations.

III. INTERNATIONAL LEGAL DEVELOPMENTS: A CHALLENGE TO ABSOLUTISM

The post-1945 evolution of international law has significantly redefined the traditional understanding of sovereignty. Once considered a shield against external judgment, the notion of absolute sovereign authority has been steadily reshaped by emerging legal norms centered on human dignity and international accountability. This shift has occurred primarily through three interlinked legal developments: the proliferation of international human rights frameworks, the institutionalization of international criminal justice, and the recognition of universal, non-derogable norms of customary law.

A. The Emergence of International Human Rights Law

The adoption of the Universal Declaration of Human Rights (UDHR) in 1948 marked a turning point in international legal history.[15] For the first time, the internal affairs of states—specifically, their treatment of individuals—became a matter of legitimate global concern. Though the UDHR itself is not a treaty and thus not legally binding, it laid the foundation for a robust normative framework that would materialize in binding instruments such as the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).[16]

These legal texts, coupled with the creation of monitoring bodies, affirmed a new understanding of sovereignty—one constrained by the duty to uphold basic rights and freedoms.[17] No longer could states invoke sovereignty to justify systemic rights violations without attracting international scrutiny. As international human rights doctrine developed, the individual began to be recognized not only as the object of legal protection but, in some contexts, as

[14] Douglass Cassel, A Framework of Norms: International Human-Rights Law and Sovereignty, 22 Harv. Int'l Rev. 60, 60–61 (2001).
[15] G.A. Res. 217 (III) A, Universal Declaration of Human Rights (Dec. 10, 1948).
[16] International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171 [hereinafter ICCPR]; International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, 993 U.N.T.S. 3 [hereinafter ICESCR].
[17] See Douglass Cassel, A Framework of Norms: International Human-Rights Law and Sovereignty, 22 Harv. Int'l Rev. 60, 61–62 (2001).

a subject of international law.

This recalibration of sovereignty was aptly summarized by Judge Antonio Cassese, who noted that individuals now occupy a central place in international law, no longer relegated to the margins.[18]

B. The Rise of International Criminal Accountability

The development of international criminal justice mechanisms represents a direct legal challenge to the traditional insulation offered by sovereignty. The Nuremberg and Tokyo tribunals established the foundational principle that individuals, including high-ranking state officials, can be held criminally responsible under international law.[19] These early efforts were expanded through the creation of the International Criminal Tribunals for the former Yugoslavia (ICTY) and Rwanda (ICTR), and ultimately culminated in the adoption of the Rome Statute, which created the International Criminal Court (ICC).[20]

The ICC's establishment signified a permanent shift toward global accountability for grave crimes, such as genocide, war crimes, crimes against humanity, and the crime of aggression.[21] Its complementarity principle allows it to intervene when national legal systems fail to act, thereby piercing the veil of sovereign discretion.[22]

Crucially, the ICC's jurisdiction is not negated by a defendant's official status.[23] By holding individuals personally liable regardless of their governmental position, the Court affirms that sovereignty does not excuse egregious violations of international norms. This development significantly curtails the protective cloak that sovereignty once provided to state actors.

C. The Entrenchment of Jus Cogens and Customary International Norms

Alongside treaty law and institutional innovation, customary international law has also played a crucial role in redefining sovereignty. Certain principles—such as the prohibitions against

[18] Antonio Cassese, International Law 73 (2d ed. 2005).
[19] Charter of the International Military Tribunal, annexed to the London Agreement, Aug. 8, 1945, 82 U.N.T.S. 279.
[20] Statute of the International Criminal Tribunal for the Former Yugoslavia, U.N. Doc. S/RES/827 (1993); Statute of the International Criminal Tribunal for Rwanda, U.N. Doc. S/RES/955 (1994).
[21] Rome Statute of the International Criminal Court art. 1, July 17, 1998, 2187 U.N.T.S. 3 [hereinafter Rome Statute].
[22] Id. art. 17.
[23] Id. art. 27.

genocide, torture, slavery, and wars of aggression—have attained the status of jus cogens, or peremptory norms.[24] These obligations bind all states irrespective of their consent and cannot be derogated from under any circumstances.[25]

Both the International Law Commission (ILC) and Article 53 of the Vienna Convention on the Law of Treaties (VCLT) recognize the overriding authority of jus cogens norms.[26] This framework signals a departure from the voluntarist model of sovereignty, under which states are only bound by rules they have explicitly agreed to.

In this emerging legal order, even absent specific treaty commitments, states are still subject to binding obligations rooted in universally recognized human dignity. Violations of such norms expose states and individuals to legal consequences regardless of their sovereign claims. This reinforces the view that sovereignty is conditioned, not absolute—legitimate only when exercised in conformity with fundamental international standards.

IV. THE HUMAN-CENTRIC STATE AND THE RESPONSIBILITY TO PROTECT (R2P)

The traditional doctrine of sovereignty, grounded in the notion of exclusive state authority over internal matters, has increasingly been supplanted by an evolving understanding that links sovereignty with responsibility. The most explicit articulation of this reconceptualization is embodied in the principle of the Responsibility to Protect (R2P), which redefines sovereignty in legal and moral terms as the obligation to shield populations from atrocity crimes.[27] Under this framework, a state's legitimacy hinges on its ability and willingness to prevent grave human rights abuses. If it fails, the international community inherits a secondary duty to act.

A. Sovereignty Reimagined: From Authority to Accountability

R2P emerged against the backdrop of humanitarian catastrophes in the 1990s, particularly the genocides in Rwanda and the

[24] See Restatement (Third) of the Foreign Relations Law of the United States § 702 (1987); see also Ian Brownlie, Principles of Public International Law 511–15 (7th ed. 2008).
[25] See Prosecutor v. Furundžija, Case No. IT-95-17/1-T, Judgment, 153 (Int'l Crim. Trib. for the Former Yugoslavia Dec. 10, 1998) (recognizing the prohibition on torture as jus cogens).
[26] Vienna Convention on the Law of Treaties art. 53, May 23, 1969, 1155 U.N.T.S. 331.
[27] Gareth Evans, The Responsibility to Protect: Ending Mass Atrocity Crimes Once and for All 41–43 (2008).

massacre in Srebrenica.[28] These failures prompted renewed discourse on the limits of non-intervention and gave rise to a comprehensive articulation of R2P in 2001 by the International Commission on Intervention and State Sovereignty (ICISS).[29] The Commission proposed that sovereignty should be understood not solely as control over territory, but as an obligation to protect citizens from mass atrocity crimes—namely, genocide, war crimes, ethnic cleansing, and crimes against humanity.

This concept received political endorsement at the 2005 World Summit, where the United Nations General Assembly recognized in Paragraphs 138 and 139 that each state carries the primary burden of protecting its population.[30] Where national authorities fail, the international community is mandated to engage, preferably through peaceful means but, where necessary, through coercive measures sanctioned by the Security Council.[31]

This evolution in doctrine indicates a shift in how sovereignty is conceived. It signals the erosion of the once-absolute barrier that shielded states from external scrutiny. Kofi Annan encapsulated this dilemma by asking whether the world could remain idle in the face of atrocities, simply to preserve outdated notions of sovereignty.[32] R2P thus reframes state authority as a trust held on behalf of the people, not as a license to act with impunity.

B. R2P in Practice: Libya, Syria, and the Double-Edged Sword of Selectivity

The NATO-led intervention in Libya in 2011 stands as the first concrete example of the Security Council acting under R2P principles.[33] Pursuant to Resolution 1973, the Council authorized "all necessary measures" to protect civilians from state violence, effectively legitimizing military intervention under Chapter VII of the UN Charter.[34] Initially, this action was lauded as a successful implementation of R2P. However, the mission's evolution from civilian protection to regime change provoked widespread concern

[28] Report of the Independent Inquiry into the Actions of the United Nations during the 1994 Genocide in Rwanda, U.N. Doc. S/1999/1257 (Dec. 15, 1999); see also U.N. Secretary-General, The Fall of Srebrenica, U.N. Doc. A/54/549 (Nov. 15, 1999).
[29] Int'l Comm'n on Intervention & State Sovereignty, The Responsibility to Protect XI–XIII (2001).
[30] 2005 World Summit Outcome, G.A. Res. 60/1, 138–39, U.N. Doc. A/RES/60/1 (Oct. 24, 2005).
[31] Id.
[32] Kofi A. Annan, Two Concepts of Sovereignty, Economist (Sept. 18, 1999), https://www.economist.com/international/1999/09/18/two-concepts-of-sovereignty.
[33] S.C. Res. 1973, 4–8, U.N. Doc. S/RES/1973 (Mar. 17, 2011).
[34] Id. 4 (authorizing "all necessary measures… to protect civilians").

over the overreach of international mandates.[35]

By contrast, the conflict in Syria demonstrated the fragility of international consensus when strategic interests collide. Despite overwhelming evidence of war crimes and crimes against humanity, the Security Council was unable to authorize intervention due to repeated vetoes by permanent members.[36] This inconsistency in enforcement has fueled criticism that R2P is applied selectively, undermining its credibility and reinforcing perceptions of politicized humanitarianism.[37]

Nevertheless, R2P remains a pivotal development in international legal doctrine. It encapsulates the growing consensus that states are accountable not only to their citizens but also to the international community. While the operationalization of R2P continues to face political and practical hurdles, its normative contribution lies in emphasizing that sovereignty entails obligations—not just privileges.

V. LEGAL OBLIGATION AND STATE CONSENT

The foundational principle underpinning traditional international law is that of consensual obligation—states are generally bound only by norms and treaties to which they have explicitly agreed.[38] This voluntarist framework reflects the Westphalian model of sovereignty, emphasizing autonomy and legal independence. However, in recent decades, this paradigm has been reshaped by the development of international human rights law and the rise of institutional oversight mechanisms. Increasingly, states find themselves constrained by legal duties rooted in globally accepted values, many of which transcend explicit consent and embody broader commitments to international order and justice.

A. Treaty-Based Commitments and Supervisory Mechanisms

Binding agreements remain the cornerstone of international legal responsibility. Through the ratification of treaties such as the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of All Forms of Discrimination

[35] See Alex J. Bellamy & Tim Dunne, The Libya Intervention: Legal, Moral and Operational Challenges, 25 Int'l Rels. 261, 267–69 (2011).
[36] See U.N. Security Council Vetoes on Syria, Security Council Report, https://www.securitycouncilreport.org/un-documents/syria/ (last visited July 3, 2025).
[37] Jennifer M. Welsh, Implementing the 'Responsibility to Protect': Catalyzing Debate and Building Capacity, in The United Nations and Global Security 98, 101–03 (Richard M. Price & Mark W. Zacher eds., 2004).
[38] Vienna Convention on the Law of Treaties art. 26, May 23, 1969, 1155 U.N.T.S. 331 ("Pacta sunt servanda"); see also Ian Brownlie, Principles of Public International Law 611–12 (7th ed. 2008).

Against Women (CEDAW), and the Convention Against Torture (CAT), states undertake enforceable obligations to safeguard individual rights.[39] These instruments form the legal architecture for a global human rights regime.

Integral to this framework are the supervisory organs established to oversee compliance. Monitoring entities such as the Human Rights Committee (for the ICCPR) and the Committee on the Elimination of Discrimination Against Women (under CEDAW) regularly evaluate state implementation through reporting cycles, concluding observations, and interpretative commentary.[40] While these bodies lack direct enforcement powers, their findings exert substantial influence, gradually shaping legal expectations and norms through what is often termed "soft law."[41]

Notably, the binding nature of some human rights treaties is reinforced by their structural design. The ICCPR, for instance, does not provide an exit clause, reflecting an intention that obligations undertaken are to be enduring.[42] This permanence underscores a broader shift towards conceptualizing human rights not as optional, but as essential elements of lawful state conduct.

B. Between Sovereignty and Global Normativity

Despite the doctrinal basis of consent, contemporary international law increasingly reveals a tension between the discretionary nature of sovereignty and the normative pressure exerted by universal standards. Global discourse, United Nations resolutions, civil society activism, and developments in customary international law have elevated expectations that all states—regardless of treaty status—adhere to minimum human rights guarantees.[43]

One manifestation of this evolution is the application of universal jurisdiction, which empowers domestic courts to prosecute individuals accused of grave international crimes irrespective of

[39] See ICCPR, supra note III.2; Convention on the Elimination of All Forms of Discrimination Against Women, Dec. 18, 1979, 1249 U.N.T.S. 13 [hereinafter CEDAW]; Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, 1465 U.N.T.S. 85 [hereinafter CAT].
[40] Office of the High Comm'r for Hum. Rts., Human Rights Treaty Bodies, https://www.ohchr.org/en/treaty-bodies (last visited July 3, 2025).
[41] See Dinah Shelton, Normative Hierarchy in International Law, 100 Am. J. Int'l L. 291, 296–98 (2006).
[42] See Manfred Nowak, U.N. Covenant on Civil and Political Rights: CCPR Commentary 42 (2d ed. 2005).
[43] See Philip Alston, Non-State Actors and Human Rights, in Human Rights and Non-State Actors 3–36 (2005).

where the acts occurred or the nationality of the perpetrators.[44] Although controversial, such assertions of legal authority signal the growing ascendancy of global norms over rigid territorial prerogatives.

Some critics contend that these developments erode the classical notion of sovereignty by subjecting states to coercive moral or legal expectations without their explicit assent.[45] Nevertheless, advocates of a human rights–oriented system maintain that sovereignty in the modern era derives legitimacy not from insulation but from accountability.[46]

As Michael Reisman has argued, this transformed understanding does not eliminate sovereignty but redefines it: legitimate sovereignty is contingent on the effective discharge of responsibilities, particularly the protection of fundamental rights.[47] From this perspective, legal obligation is not exclusively predicated on consent but is increasingly derived from participation in a values-based international community.

VI. THE ROLE OF INTERNATIONAL INSTITUTIONS

The evolution of sovereignty from a traditional state-centric notion to a human-centric paradigm would be inconceivable without the supporting role of international institutions that define, interpret, and monitor compliance with legal obligations. These institutions—global and regional alike—have emerged not only as platforms for intergovernmental dialogue but also as pivotal actors in norm creation, legal oversight, and enforcement.[48] By enabling collective examination of state conduct, they challenge the classical understanding of sovereignty as an impermeable barrier to external scrutiny.

A. United Nations and Human Rights Bodies

At the center of this institutional ecosystem is the United Nations, whose Charter articulates the advancement of human rights as one of its primary objectives.[49] A number of U.N. bodies—

[44] See Regina v. Bartle and the Commissioner of Police for the Metropolis and Others ex parte Pinochet, [1999] UKHL 17; Arrest Warrant Case (Dem. Rep. Congo v. Belg.), 2002 I.C.J. 3.
[45] See Jack L. Goldsmith & Eric A. Posner, The Limits of International Law 135–38 (2005).
[46] See Richard Falk, Human Rights Horizons: The Pursuit of Justice in a Globalizing World 55–58 (2000).
[47] W. Michael Reisman, Sovereignty and Human Rights in Contemporary International Law, 84 Am. J. Int'l L. 866, 870 (1990).
[48] Karen Knop, Introducing Patrick Macklem, The Sovereignty of Human Rights: Four Contexts, 67 U. Toronto L.J. 418, 419–21 (2017).
[49] U.N. Charter art. 1, 3.

including the Human Rights Council (HRC), the Office of the High Commissioner for Human Rights (OHCHR), and treaty-monitoring committees—play foundational roles in shaping international human rights norms and ensuring their implementation.

The HRC, which replaced the Commission on Human Rights in 2006, introduced the Universal Periodic Review (UPR), a peer-review mechanism evaluating all member states' human rights records on a cyclical basis.[50] Although the Council lacks direct enforcement powers, the UPR and other special procedures serve as mechanisms of normative pressure, employing moral persuasion and reputational accountability to encourage compliance.[51]

The OHCHR, meanwhile, plays a crucial role in interpreting treaty obligations, supporting capacity-building efforts within states, and overseeing compliance.[52] Through these functions, it affirms that international human rights obligations are not occasional but constitute enduring standards tied to state legitimacy.

Additionally, the United Nations Security Council (UNSC) has increasingly incorporated human rights concerns into its Chapter VII mandates, including sanctions and peacekeeping operations.[53] Although political considerations often limit its action, the UNSC's engagement with rights-based concerns underscores that sovereignty may yield when collective security and human dignity are endangered.

B. Regional Human Rights Frameworks

Regional human rights institutions complement the global architecture by offering culturally and legally contextualized enforcement. The European Court of Human Rights (ECHR), established under the 1950 European Convention on Human Rights, allows individuals to bring direct claims against state parties and delivers binding judgments.[54] Its jurisprudence has influenced not only national legal systems within Europe but also

[50] G.A. Res. 60/251, 5(e), 6–7, U.N. Doc. A/RES/60/251 (Apr. 3, 2006).
[51] Edward R. McMahon & Marta Ascherio, A Step Ahead in Promoting Human Rights? The Universal Periodic Review of the U.N. Human Rights Council, 18 Global Governance 231, 233–36 (2012).
[52] Office of the High Comm'r for Hum. Rts., About OHCHR, https://www.ohchr.org/en/about-us (last visited July 3, 2025).
[53] S.C. Res. 1267, 2–4, U.N. Doc. S/RES/1267 (Oct. 15, 1999); S.C. Res. 2149, 5, U.N. Doc. S/RES/2149 (Apr. 10, 2014).
[54] Convention for the Protection of Human Rights and Fundamental Freedoms, Nov. 4, 1950, 213 U.N.T.S. 221.

global conceptions of sovereign accountability.[55]

Other regional tribunals—including the Inter-American Court of Human Rights and the African Court on Human and Peoples' Rights—likewise play critical roles in upholding regional treaties and providing remedies for violations.[56] While their institutional capacities vary, they reinforce the principle that sovereignty must be exercised in accordance with individual and collective rights.

Foundational instruments such as the American Convention on Human Rights and the African Charter on Human and Peoples' Rights impose binding legal standards.[57] The growing jurisprudence from these bodies indicates that state sovereignty is no longer absolute; it is increasingly subject to adjudication and normative oversight under international human rights law.

VII. CRITICAL REFLECTIONS AND CHALLENGES

The rise of a human-focused understanding of sovereignty marks a notable shift in international legal thought, yet it remains fraught with tensions and unresolved debates. Critics contend that the supposed universality of human rights and the expansion of international legal obligations may conceal unequal power dynamics, selective application, and lingering colonial structures.[58]

A. Selective Application and Geopolitical Interests

A central critique of human-centric sovereignty pertains to the selective enforcement of rights-based obligations. The NATO-led intervention in Libya in 2011, justified under the Responsibility to Protect (R2P) doctrine and authorized by U.N. Security Council Resolution 1973, is a prominent example.[59] Although intended to prevent mass atrocities, the mission rapidly evolved into a broader political intervention that resulted in regime change and long-term instability.[60]

By contrast, the paralysis of the Security Council in addressing

[55] Laurence R. Helfer, The Effectiveness of International Adjudicators, in Oxford Handbook of International Adjudication 464, 474 (Cesare Romano et al. eds., 2014).
[56] Dinah Shelton, Regional Protection of Human Rights 15–18 (2008).
[57] African Charter on Human and Peoples' Rights, June 27, 1981, 1520 U.N.T.S. 217; American Convention on Human Rights, Nov. 22, 1969, 1144 U.N.T.S. 123.
[58] Jack Donnelly, State Sovereignty and International Human Rights, 28 Ethics & Int'l Aff. 225, 233 (2014).
[59] S.C. Res. 1973, 4, U.N. Doc. S/RES/1973 (Mar. 17, 2011).
[60] Alex J. Bellamy, Libya and the Responsibility to Protect: The Exception and the Norm, 26 Ethics & Int'l Aff. 263, 268–70 (2012).

atrocities in Syria due to geopolitical rivalries has exposed the inconsistencies in humanitarian responses.[61] As Richard Falk notes, assertions of humanitarian intent must be critically examined to reveal the power relations underlying interventionist practices.[62] Such inconsistencies cast doubt on the legitimacy of interventions and suggest that even human-centric sovereignty can be co-opted by dominant states for strategic gain.

B. Global South Resistance and Sovereignty Reclaimed

Postcolonial states often express skepticism about the human-centric turn in sovereignty, perceiving it as an extension of external influence masked in normative rhetoric.[63] They contend that obligations imposed without meaningful participation or consent undermine self-determination and may obstruct domestic democratic processes.[64]

These concerns are compounded by the perception that universal human rights norms disproportionately reflect Western cultural values and legal traditions. In response, several states have withdrawn from treaties, rejected international oversight, or resisted periodic reporting obligations.[65] Rather than rejecting human rights altogether, these actions represent demands for equitable participation, cultural pluralism, and procedural fairness in global norm formation.[66]

C. Reconciling Sovereignty and Human Dignity

Despite these critiques, the normative momentum behind a human-centered understanding of sovereignty persists. Increasingly, legal scholars and practitioners propose that sovereignty be reimagined not as a barrier to rights protection but as a means of enabling it.[67]

Jürgen Habermas argues that the legitimacy of state sovereignty in the postnational era is predicated not on absolute autonomy

[61] Jennifer Welsh, Humanitarian Intervention After Kosovo and Libya: Now What?, 39 Ethics & Int'l Aff. 1, 6–8 (2023).
[62] Richard Falk, Human Rights, State Sovereignty, and International Law: An Interview, https://richardfalk.org (last visited July 3, 2025).
[63] Vusal Mehdiyev, The Intersection of International Law and Human Rights (Dec. 1, 2024), https://ssrn.com/abstract=5061879.
[64] DR. Gigimon V.S., State Sovereignty and Protection of Human Rights, JETIR, Vol. 6, Issue 6, June 2019.
[65] Douglass Cassel, A Framework of Norms: International Human-Rights Law and Sovereignty, 22 Harv. Int'l Rev. 60, 61–62 (2001).
[66] Gregory H. Fox & Brad R. Roth, Democratic Governance and International Law 243–46 (2000).
[67] John Charvet, The Idea of State Sovereignty and the Right of Humanitarian Intervention, 18 Int'l Pol. Sci. Rev. 39, 45 (1997).

but on compliance with universal principles of law and justice.[68] This perspective reframes sovereignty as a functional concept—conditioned on a state's ability to safeguard the rights and dignity of its people.[69]

This approach is echoed by Patrick Macklem, who contends that sovereignty draws its normative meaning from international legal regimes designed to protect human dignity against state abuses.[70] In this sense, sovereignty becomes a legal and moral responsibility rather than an entitlement—a development that reflects the deeper integration of human rights into the international legal order.

VIII. CONCLUSION

The modern evolution of sovereignty in international law reflects one of the most significant paradigm shifts in legal doctrine. Traditionally conceived as a principle shielding states from external interference, sovereignty is now increasingly grounded in accountability, legal responsibility, and the protection of human dignity.[71] This transformation signifies a movement from sovereignty as control toward sovereignty as obligation—a redefinition that links the legitimacy of state power to the observance of international legal norms, especially human rights obligations.[72]

International institutions such as the United Nations, regional courts, and treaty-monitoring bodies have played a catalytic role in promoting this reconfiguration. These entities reinforce the idea that the authority of the state must be exercised within the boundaries of international law.[73] Still, the process remains contentious. The balance between universal legal standards and state consent, between legal theory and geopolitical power dynamics, continues to shape and challenge the human-centric vision of sovereignty.[74]

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[68] Jürgen Habermas, The Postnational Constellation: Political Essays 137–38 (Max Pensky trans., 2001).
[69] Hélène Ruiz Fabri, Human Rights and State Sovereignty: Have the Boundaries Been Significantly Redrawn?, 9 Hum. Rts. L. Rev. 385, 388–90 (2009).
[70] Patrick Macklem, The Sovereignty of Human Rights 33–34 (2015)
[71] W. Michael Reisman, Sovereignty and Human Rights in Contemporary International Law, 84 Am. J. Int'l L. 866, 867–69 (1990).
[72] Jack Donnelly, State Sovereignty and International Human Rights, 28 Ethics & Int'l Aff. 225, 227–28 (2014).
[73] Douglass Cassel, A Framework of Norms: International Human-Rights Law and Sovereignty, Harv. Int'l Rev., Winter 2001, at 60, 61–62.
[74] Gregory H. Fox & Brad R. Roth, Democratic Governance and International Law 243–46 (2000); DR. Gigimon V.S., State Sovereignty and Protection of Human Rights, JETIR, Vol. 6, Issue 6, June 2019.

In response, legal scholars and institutions have advanced the concept of "sovereignty as responsibility"—a doctrine that affirms the legitimacy of statehood is conditional upon the protection of fundamental rights.[75] Far from undermining sovereignty, this approach reframes it as a legal and moral commitment to safeguard those under a state's jurisdiction.[76]

As Jürgen Habermas asserts, the contemporary legitimacy of sovereign power depends not solely on effective governance, but on adherence to shared principles of justice and international law.[77] Similarly, Patrick Macklem contends that sovereignty acquires meaning and legitimacy from legal regimes that secure human dignity.[78] These theories converge in suggesting that sovereignty today is no longer absolute; it is subject to external normative constraints that define and justify the exercise of state authority within a global legal order.

This evolving framework illustrates that sovereignty and human rights are not inherently at odds. Instead, a recalibrated understanding—one that integrates sovereignty with international obligations—suggests that the future of state legitimacy lies not in isolationism, but in constructive engagement with multilevel governance structures.

[75] S.C. Res. 1973, 4, U.N. Doc. S/RES/1973 (Mar. 17, 2011); see also Alex J. Bellamy, Libya and the Responsibility to Protect: The Exception and the Norm, 26 Ethics & Int'l Aff. 263, 268–70 (2012).
[76] Vusal Mehdiyev, The Intersection of International Law and Human Rights (Dec. 1, 2024), https://ssrn.com/abstract=5061879.
[77] Jürgen Habermas, The Post-national Constellation: Political Essays 137–38 (Max Pensky trans., 2001).
[78] Patrick Macklem, The Sovereignty of Human Rights 33–34 (2015).