

INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES
[ISSN 2581-5369]

Volume 9 | Issue 4

2026

© 2026 International Journal of Law Management & Humanities

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

This article is brought to you for free and open access by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in the International Journal of Law Management & Humanities after due review.

In case of any suggestions or complaints, kindly contact support@vidhiaagaz.com.

To submit your Manuscript for Publication in the International Journal of Law Management & Humanities, kindly email your Manuscript to submission@ijlmh.com.

Revisiting the Principle of Non-Intervention in Humanitarian Crises: Towards a Doctrine of Conditional Sovereignty

RAANYA SINGH*, SEJAL MALIK**, AND ANIRUDH VG***

ABSTRACT

The principle of non-intervention, enshrined in the United Nations Charter and in customary international law, was designed to protect the sovereignty of each state and to prevent external interference in its internal affairs. Yet events in Somalia, Rwanda, Srebrenica, Kosovo, Libya, Syria, Myanmar, and Tigray reveal a persistent gap between what the law prescribes and the imperative of protecting civilians from atrocity. The Responsibility to Protect (R2P) was conceived to ensure that states safeguard their populations, but its uneven application has undermined its credibility. Where the United Nations has authorised intervention, as in Libya, the mandate has at times been exceeded; conversely, action taken without prior authorisation, as in Kosovo, raises serious questions of legality and legitimacy. In Rwanda, Myanmar, and Tigray, by contrast, political considerations obstructed any meaningful response. This paper asks how international law can respect the independence of each state while still protecting civilians from genocide and other atrocities, and it argues that sovereignty is increasingly conditional upon a state's discharge of its responsibility to protect its own people.

Keywords: *non-intervention, conditional sovereignty, Responsibility to Protect, humanitarian intervention, UN Charter, mass atrocity crimes*

I. INTRODUCTION

The principle of non-intervention is one of the foundational elements of international law, tracing its origins to the Peace of Westphalia of 1648.¹ The concept was developed to shield states from external interference, resting on the premise that each state is sovereign and equal and exercises control over its own territory. Article 2(7) of the United Nations Charter prohibits states from intervening in one another's internal affairs.² Its principal aim was to establish order and to ensure that no state would subjugate another.³ With growing interconnectedness and an

* Author is a Student at MIT World Peace University, Pune, Maharashtra, India.

** Author is a Student at MIT World Peace University, Pune, Maharashtra, India.

*** Author is a Student at MIT World Peace University, Pune, Maharashtra, India.

¹ LASSA OPPENHEIM, INTERNATIONAL LAW vol. 1, 286 (H. Lauterpacht ed., 8th ed. 1955).

² U.N. Charter art. 2, ¶ 7.

³ I.A. SHEARER, STARKE'S INTERNATIONAL LAW 99 (11th ed. 1994).

increasing incidence of humanitarian crises, however, the question whether non-intervention must always apply has been called into doubt.⁴ Sovereignty, in its classical sense, denotes that a state is fully autonomous within its territory.⁵

Traditionally, sovereignty was understood as a right, meaning that governments could act within their borders as they saw fit, free from outside interference.⁶ States have invoked sovereignty to assert their legitimacy and to demand that they be left alone.⁷ As human rights and international law have developed, however, sovereignty is no longer regarded as absolute; it is increasingly understood to carry responsibilities.⁸ States have, for example, a duty to protect their populations from war and mass atrocity.⁹

This paper poses the difficult question whether a government's right to rule ceases when it begins to fail its own people. Although sovereignty has conventionally been treated as absolute, there is now a growing view that it must be earned through the safeguarding of fundamental human rights rather than enjoyed as an inviolable entitlement.¹⁰ By examining crises in states such as Rwanda, Syria, and Tigray, the paper explores the tension between law and morality in the prevention of atrocities, and offers a critical analysis of the conflict between international law and the protection of populations.

II. METHODOLOGY

This research concerns state sovereignty and its effect on populations subjected to oppression during periods of crisis. It considers whether the primacy of the state is detrimental where populations require protection, and it examines the proposition that sovereignty ought to be conditional upon the fulfilment of certain obligations. The study relies principally on publicly available sources, such as academic writing and legal instruments, rather than on original fieldwork.¹¹ It draws on documents including the United Nations Charter, decisions of the International Court of Justice, and resolutions of the United Nations Security Council.¹² It also considers reports such as the 2005 World Summit Outcome and the report of the International Commission on Intervention and State Sovereignty.¹³ In addition, it engages with the scholarly

⁴ ANTONIO CASSESE, *INTERNATIONAL LAW* 56 (2d ed. 2005).

⁵ STEPHEN D. KRASNER, *SOVEREIGNTY: ORGANIZED HYPOCRISY* 3 (1999).

⁶ *Id.* at 4.

⁷ HEDLEY BULL, *THE ANARCHICAL SOCIETY* 8 (1977).

⁸ Anne Peters, *Humanity as the A and Ω of Sovereignty*, 20 EUR. J. INT'L L. 513, 515 (2009).

⁹ G.A. Res. 60/1, ¶¶ 138–139 (Sept. 16, 2005).

¹⁰ Peters, *supra* note 8, at 520.

¹¹ TERRY HUTCHINSON, *RESEARCHING AND WRITING IN LAW* 10 (4th ed. 2018).

¹² U.N. Charter.

¹³ INT'L COMM'N ON INTERVENTION & STATE SOVEREIGNTY, *THE RESPONSIBILITY TO PROTECT*, at XI (2001); G.A. Res. 60/1 (Sept. 16, 2005).

literature, including articles and monographs, to develop the analysis of sovereignty and the protection of populations in crisis.¹⁴

The research examines the limitations of these legal instruments and their weak implementation by the United Nations Security Council in cases such as Kosovo, Libya, Syria, Myanmar, Tigray, and Afghanistan.¹⁵ It contends that the protection of populations through the Responsibility to Protect remains an imperfect legal norm, frequently frustrated by the interests of the powerful states on the Security Council.¹⁶ The study is confined to the atrocity crimes of genocide, war crimes, and crimes against humanity, which fall within the framework of the United Nations Charter.¹⁷

III. LEGAL FRAMEWORK OF NON-INTERVENTION

The principle of non-intervention provides that states may neither use force against other states nor interfere in their internal affairs.¹⁸ The International Court of Justice affirmed this in the *Nicaragua* case, holding that forcible and unlawful interference, whether direct or indirect, is impermissible.¹⁹

Such decisions demonstrate that international law has historically privileged formal sovereignty over the protection of human beings.²⁰ Where a state commits grave wrongs against its own population, the law counsels non-involvement, creating a tension between legality and morality.²¹ The International Court of Justice has shown the rule of non-intervention to be strict, offering no clear means of addressing the gravest situations.²²

This approach has prompted a reconsideration of the very concept of sovereignty. It is increasingly understood that sovereignty entails a responsibility to protect one's citizens from crimes such as genocide, ethnic cleansing, war crimes, and crimes against humanity.²³ In theory, this balances respect for a state's sovereignty against the need for action; in practice, it has been applied inconsistently, often turning on geopolitical alignments and on which states are able to agree within the Security Council.²⁴

¹⁴ ALEX J. BELLAMY, *RESPONSIBILITY TO PROTECT* 5 (2009).

¹⁵ GARETH EVANS, *THE RESPONSIBILITY TO PROTECT* 36 (2008).

¹⁶ Evans, *supra* note 15, at 58.

¹⁷ U.N. Charter.

¹⁸ U.N. Charter art. 2, ¶¶ 4, 7.

¹⁹ *Military and Paramilitary Activities in and Against Nicaragua (Nicar. v. U.S.)*, Merits, Judgment, 1986 I.C.J. 14, 108 (June 27).

²⁰ MARTTI KOSKENNIEMI, *FROM APOLOGY TO UTOPIA* 588 (2005).

²¹ *Id.*

²² *Id.*

²³ G.A. Res. 60/1, ¶¶ 138–139 (Sept. 16, 2005).

²⁴ Bellamy, *supra* note 14, at 48.

The current legal framework oscillates between two problematic extremes. On the one hand, strict adherence to the rule of non-intervention can preclude timely responses to humanitarian catastrophes, as in Rwanda, Myanmar, and Tigray.²⁵ On the other, intervention without legal authorisation can undermine the rule of law, as the Kosovo intervention illustrates.²⁶ Even action authorised by the Security Council, as in Libya in 2011, has been criticised for exceeding its mandate.²⁷

A well-established principle of international law is thus difficult to apply in these circumstances. It is frequently deployed as a political instrument in the service of national interests rather than observed as a legal rule.²⁸ This raises searching questions about the tenability of unconditional sovereignty in the modern world and about the credibility of international law as a guarantor of civilian protection against mass atrocity.²⁹

IV. EMERGENCE OF EXCEPTIONS: HUMANITARIAN INTERVENTION AND R2P

A. Humanitarian intervention: the legality versus legitimacy debate

This section examines the enduring debate over the legality and legitimacy of humanitarian intervention through an analysis of real-world conflicts, including those in Somalia and Iraq (1991). At the outset, humanitarian intervention may be understood as the involvement of one or more states beyond their territorial jurisdiction, undertaken on humanitarian grounds with the aim of protecting civilians from an ongoing crisis. The political motives of intervening states are, however, often concealed or understated; intervention is presumed to be humanitarian where the intervening state does not seek to annex or subjugate the target state but rather to guide its internal affairs so as to safeguard its population.³⁰ Intervention is permitted under Chapter VII of the United Nations Charter, concerning action with respect to threats to the peace, breaches of the peace, and acts of aggression, which empowers the United Nations to maintain international peace and security.³¹

To understand the distinction between authorised and unauthorised intervention, it is instructive to consider the United Nations intervention in Somalia (1992–1995) and the intervention in Northern Iraq (1991). These episodes illuminate the difference between intervention undertaken

²⁵ ROMÉO DALLAIRE, *SHAKE HANDS WITH THE DEVIL* 221 (2003).

²⁶ INDEPENDENT INT'L COMM'N ON KOSOVO, *THE KOSOVO REPORT* 4 (2000).

²⁷ S.C. Res. 1973 (Mar. 17, 2011).

²⁸ Krasner, *supra* note 5, at 25.

²⁹ Peters, *supra* note 8, at 522.

³⁰ NOAM CHOMSKY, *THE NEW MILITARY HUMANISM: LESSONS FROM KOSOVO* 72 (1999).

³¹ U.N. Charter art. 2, ¶ 7; *id.* chs. VI, VII.

by an international organisation and that undertaken by one or more states, each ostensibly directed at the restoration of peace and stability.

The Somali intervention arose from the overthrow of the Somali dictator Mohamed Siad Barre in a military coup led by the warlords Ali Mahdi Muhammad and Mohamed Farah Aidid, who soon fell to fighting one another for the presidency, precipitating the collapse of the country's agriculture and a nationwide famine. The United Nations estimated that some 4.5 million Somalis were at risk of death from starvation. Aidid agreed to a ceasefire and to humanitarian intervention by the United Nations, which organised the relief effort known as Operation Provide Relief. That initiative proved difficult to sustain, as various Somali militias disregarded the ceasefire and looted food convoys, prompting the then United States President George H. W. Bush to deploy 25,000 troops to assist aid workers. Although the operation constituted an authorised humanitarian intervention, it made states more cautious about such action after the Battle of Mogadishu, in which eighteen American soldiers were killed and many Somalis were wounded, leading the United States to withdraw its forces. The mission was widely regarded as a failure, owing to the loss of life it entailed.

To understand unauthorised intervention, which lies at the heart of the legality-versus-legitimacy debate, it is instructive to consider the Northern Iraq conflict of 1991. Before turning to the background of that intervention, it is necessary to distinguish between the legality and the legitimacy of intervention, a distinction that remains contested in international relations. The legality of humanitarian intervention concerns what international law permits, principally under the United Nations Charter. Its legitimacy, by contrast, concerns those instances in which an intervention is unlawful under international law yet morally defensible because it seeks to save lives and prevent mass atrocity. The legality of an intervention is established where it is authorised by an international organisation such as the United Nations, which further classifies humanitarian intervention as either authorised or unauthorised.

When Saddam Hussein, leader of the Ba'ath Party, denied the Kurdish community full autonomy, and the Kurds rebelled, they were subjected to mass killing, particularly during the Anfal campaign (1986–1989), which intensified after the Gulf War of 1991. This prompted intervention by the United States and its allies, who imposed no-fly zones on humanitarian grounds to protect civilians, giving rise to the Northern Iraq conflict of 1991. The intervention was heavily criticised as unauthorised by the United Nations Security Council and as an exercise of unilateral military force. Although undertaken for humanitarian purposes, it lacked legality: under Chapter VI of the United Nations Charter, parties to an internal dispute are to seek resolution through negotiation, enquiry, mediation, conciliation, arbitration, and judicial

settlement, and Security Council Resolution 688 (1991)³² invoked Article 2(7) of the Charter, which provides that “Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.”³³ Resolution 688 was adopted at the Council’s 2982nd meeting by ten votes to three, with two abstentions, and none of the resolutions concerning the situation expressly authorised military intervention in Iraq.

V. DEVELOPMENT AND STRUCTURE OF THE RESPONSIBILITY TO PROTECT (R2P)

A. Introduction to R2P

The Responsibility to Protect was adopted by the General Assembly in the 2005 World Summit Outcome on 16 September 2005.³⁴ Paragraphs 138, 139, and 140 of that document established that every member state bears a responsibility to protect its population from genocide, war crimes, ethnic cleansing, and crimes against humanity, and laid the foundation for the development of the R2P principle. Building on the 2005 Outcome, and pursuant to the mandate to operationalise the Responsibility to Protect, the United Nations Secretary-General presented a report on the doctrine at the sixty-third session of the General Assembly in 2009.³⁵ That report is divided into five sections, with the three pillars of R2P addressed in Sections II, III, and IV.

The three pillars were introduced to strengthen the strategy for advancing the agenda set out in paragraphs 138 to 140 of the 2005 World Summit Outcome. They are as follows:

- Pillar one: the protection responsibilities of the state.
- Pillar two: international assistance and capacity-building.
- Pillar three: timely and decisive response.

In sum, the Responsibility to Protect was introduced in the 2005 World Summit Outcome, which described its essential character and set out the responsibility of the state, and of the international community, to act where a state is unable or unwilling to protect its population from genocide, war crimes, ethnic cleansing, and crimes against humanity.

B. Historical evolution of R2P

³² S.C. Res. 688 (Apr. 5, 1991).

³³ U.N. Charter art. 2, ¶ 7.

³⁴ G.A. Res. 60/1, ¶¶ 138–140 (Sept. 16, 2005).

³⁵ Implementing the Responsibility to Protect, Rep. of the Secretary-General, U.N. Doc. A/63/677 (Jan. 12, 2009).

The R2P doctrine took shape well before the 2005 World Summit Outcome; it was the product of earlier events that impelled the United Nations towards its development. The period from 1945 to 1967 marked the beginnings of a new world order, in which, following the Second World War, states became increasingly conscious of the loss of life caused by genocide and mass killing, the war having been the deadliest conflict in human history.³⁶ World leaders created the United Nations to prevent such loss of life and to protect populations from atrocity. Yet a difficult question confronted the Organisation: what was to be done if a state refused United Nations intervention? The United Nations had no ready answer, but it pledged to respect state sovereignty. The United Nations Charter, signed in San Francisco in 1945, was drafted by the member states to maintain peace, with the protection of state sovereignty among its central purposes.

In July 1960, as recorded in the Report of the Secretary-General on the United Nations Operation in the Congo (1960–1964), the United Nations intervened in the internal affairs of the Congo, an action criticised by the Soviet Union. This was the first major involvement of the United Nations in a state's internal affairs. Thereafter, the Organisation proved unable to intervene in comparable situations; in 1967, for example, it was unable to maintain peace so as to protect Egypt's sovereignty, and that territorial conflict contributed to the modern Israeli-Palestinian dispute.³⁷ It was only between 1993 and 2005 that the term Responsibility to Protect emerged, appearing in the 2001 report of the International Commission on Intervention and State Sovereignty (ICISS) and subsequently gaining endorsement by the United Nations and entry into international discourse.³⁸

The failure of the humanitarian intervention in Somalia contributed to the non-intervention of the United Nations during the Rwandan genocide, and the United States, too, was reluctant to act in light of the losses sustained in Somalia. According to available estimates, the inaction of international bodies and states allowed some 800,000 people to be killed in Rwanda. Although United Nations peacekeepers and Belgian forces were present, the United Nations did not authorise a full-scale intervention. France, an ally of the Hutu government, later launched Operation Turquoise and deployed forces to Rwanda, but was accused of doing too little and, ultimately, of supporting those responsible for the massacre, an accusation Paris denied.

Bosnia offers a further example, marking one of the deadliest episodes of the disintegration of Yugoslavia. Yugoslavia was multi-ethnic, comprising, among others, Bosniaks (Bosnian

³⁶ GEIR LUNDESTAD, *EAST, WEST, NORTH, SOUTH: MAJOR DEVELOPMENTS IN INTERNATIONAL POLITICS SINCE 1945* (2010).

³⁷ Rep. of the Secretary-General on the United Nations Operation in the Congo (1960–1964), U.N. Doc. A/C.5/904.

³⁸ INT'L COMM'N ON INTERVENTION & STATE SOVEREIGNTY, *THE RESPONSIBILITY TO PROTECT* 11 (2001).

Muslims), Serbs, and Croats, and its constituent parts included Bosnia, Croatia, Macedonia, Slovenia, and Montenegro. The Bosnian War was among the deadliest conflicts in Europe since the Second World War and remains vivid in the memory of its survivors. The disintegration of Yugoslavia followed the death of Josip Broz Tito in 1980. The war began in 1992, when Bosnian Serb paramilitary forces bombarded Sarajevo and areas with large Bosniak populations, such as Zvornik, Foča, and Višegrad, with Croats numbering among both victims and perpetrators. This constituted the first large-scale ethnic cleansing in Europe since the Second World War, with attacks in Bosnia and Herzegovina deliberately directed at areas lacking any military presence. By 1994, Bosnian Serb forces held some seventy per cent of the territory and refused to relinquish it. It was then that NATO intervened by force, following the failure of the United Nations intervention. The International Criminal Tribunal for the former Yugoslavia subsequently prosecuted a number of individuals, principally Serbs and Bosnian Serbs, for genocide and ethnic cleansing in connection with the Srebrenica massacre. The Bosnian War thus exemplifies how United Nations non-intervention permitted abuse and genocide: the international community's involvement was limited to the provision of humanitarian aid in designated safe areas, such as Srebrenica, which was itself overrun by Bosnian Serb forces who seized eastern Bosnia through war crimes and crimes against humanity.

It was only after years of mass violence and civil war, during which the major powers failed to act, that the United Nations embraced the Responsibility to Protect in 2005. The doctrine holds that it is the responsibility of the state to protect its population from mass violence such as genocide, and that, where the state fails to do so, international humanitarian intervention is justified and does not violate the state's sovereignty.

In the present era, the R2P doctrine has been marginalised, and United Nations intervention to halt even the gravest atrocities has been limited, largely on account of the veto power wielded by China and Russia as permanent members of the Security Council.

C. Understanding the structure of R2P

The norms of intervention and non-intervention in Somalia, Rwanda, Srebrenica, and Kosovo, considered above, have long been debated by scholars, who dispute whether humanitarian intervention violates state sovereignty. The concept of R2P was introduced by the ICISS report in 2001 and subsequently endorsed at the 2005 World Summit. The ICISS report identified three components of the doctrine: the responsibility to prevent, the responsibility to react, and the responsibility to rebuild.³⁹

³⁹ INT'L COMM'N ON INTERVENTION & STATE SOVEREIGNTY, THE RESPONSIBILITY TO PROTECT 19–39 (2001).

Although the ICISS report had little immediate effect on state practice, its central contribution, the proposition that human rights may prevail over the sovereignty of a state, was among its most significant, and it was given expression through the R2P doctrine.

Three principal pillars were introduced at the 2009 United Nations General Assembly through the report on implementing the Responsibility to Protect, presented by Secretary-General Ban Ki-moon. Many member states expressed dissatisfaction that the doctrine had not been given effect in regions afflicted by ethnic cleansing, war, crimes against humanity, and other mass atrocities. In the ensuing debate, some two-thirds of member states welcomed the three-pillar strategy set out in the Secretary-General's report.⁴⁰

Member states placed particular emphasis on the first two pillars: the responsibility of states to protect their populations from atrocity, and the provision of international assistance and capacity-building. Japan argued that Pillar Two had been over-extended, widening the scope of R2P at the expense of its core objectives, namely international assistance and the building of capacity in the rule of law, security-sector reform (encompassing the military, the police, and the judiciary), and the protection of human rights. Developing states such as Colombia, Nigeria, and India likewise supported such capacity-building, given that Pillar Two sought to ensure respect for the Geneva Conventions I–IV (1949) irrespective of where, or by whom, the relevant crimes were committed. This concern helps explain Japan's emphasis on the over-extension of Pillar Two, which sat uneasily with the claim that R2P was an ally of sovereignty.

VI. CASE STUDIES

A. NATO's intervention in Kosovo (1999)

Perhaps the most conspicuous challenge to the non-intervention norm is the 1999 NATO air campaign in Kosovo. It constituted a violation of the Charter and a unilateral intervention conducted without the authorisation of the Security Council. The intervention was framed as a matter of necessity, directed at ending the atrocities being committed by Serbian forces against the ethnic Albanian population of Kosovo. Proponents depicted it as a morally imperative humanitarian intervention to end ethnic cleansing, notwithstanding its illegality under the norms of the United Nations Charter. Critics contended that circumventing the Security Council undermined the authority and legitimacy of international law itself, displacing multilateral authority with political agreement among the members of NATO.

⁴⁰ Implementing the Responsibility to Protect, Rep. of the Secretary-General, U.N. Doc. A/63/677 (Jan. 12, 2009).

Kosovo demonstrates the fragility of the international legal system where the demands of humanitarian protection collide with restrictive notions of sovereignty. Because military action was pursued without United Nations endorsement, it showed that force could displace legal authorisation through appeals to legitimacy. It also set a dangerous precedent, eroding the universality of non-intervention and offering other states some assurance that they might invoke humanitarian considerations as a pretext for the use of force in future conflicts.

The International Court of Justice gave no direct ruling on the legality of NATO's actions in the Legality of Use of Force proceedings (1999), leaving the question of legality unresolved. The law thus remains contested, and the Kosovo case retains a dual character: the intervention is at once celebrated as an act of courageous leadership that saved a people from barbarity and condemned as a flagrant violation of the Charter system. This dualism reflects the structural absence of any agreed criteria for balancing the claims of sovereignty against the demands of humanitarian protection and for determining the threshold at which intervention is justified.⁴¹

B. NATO and the Libyan crisis (2011)

The Libyan intervention initially appeared to resolve the difficulty posed by Kosovo by grounding humanitarian action in Security Council authorisation. Resolution 1973 authorised all necessary measures to protect civilians threatened by Gaddafi's forces during the Arab Spring uprisings. This was the first genuine test of the R2P doctrine, and, unlike Kosovo, the legal authority for intervention was clear and uncontested at the outset.

NATO's military campaign, however, soon moved beyond civilian protection and culminated in regime change. Critics within the African Union and the BRICS grouping argued that NATO had exceeded its mandate, using humanitarian protection as a cover for political objectives. This perceived overreach eroded trust in both R2P and the Security Council.⁴²

C. The Syrian conflict (2011–present)

The situation in Syria illustrates the consequences of the international community's inability to reach agreement on the protection of civilians. Following allegations of the use of chemical weapons and the bombing of populated areas, the crisis deepened amid accusations that the Syrian authorities were bombing and killing civilians. Although the matter came before the United Nations Security Council, the international community failed to reach any agreement, with Russia and China declining to cooperate. Airstrikes were ultimately carried out by the United States, the United Kingdom, and France.

⁴¹ INDEPENDENT INT'L COMM'N ON KOSOVO, THE KOSOVO REPORT 4 (2000).

⁴² S.C. Res. 1973 (Mar. 17, 2011).

As in Kosovo, the Syrian case demonstrates the international community's inability to agree on a common course of action. Unlike Kosovo, however, the situation was considerably more complex, with grave consequences for civilians that could not be resolved through intervention. The case accordingly raises several difficulties. First, where the international community declines to involve itself in a state's internal affairs, civilians are left without necessary protection. Second, intervention undertaken without proper authorisation may itself produce adverse consequences.⁴³

D. The Rohingya crisis in Myanmar (2017–present)

The Rohingya crisis in Myanmar illustrates the difficulty of agreeing upon appropriate measures amid divergent views within the international community. In 2017, the armed forces of Myanmar conducted attacks that displaced more than 700,000 people to Bangladesh. Mass executions, rape, and the destruction of villages ensued. These acts amounted to crimes against humanity and genocide.

The situation became more complex when The Gambia accused Myanmar of violating the Genocide Convention. By its order, the International Court of Justice required Myanmar to cease the relevant acts and to preserve evidence. As no authority was responsible for monitoring compliance, however, the order went unfulfilled. International courts may render decisions, but they cannot themselves compel compliance.⁴⁴

E. The Tigray crisis (2020–2022)

The Tigray crisis demonstrates the inefficacy of measures adopted where the parties cannot reach agreement. An armed conflict arose in Tigray between the federal government and the Tigray People's Liberation Front, causing civilian casualties, and reports of atrocities emerged. Intervention did not take place, in part because Ethiopia hosted the African Union, which diminished the prospect of the issue being addressed.

There was no involvement of international or criminal courts in resolving the situation, and no member of the international community was prepared to intervene as it had in Kosovo or Libya. It becomes evident that the conduct of the international community turns not on whether a state's actions are right or wrong, but on the interests of its members. Such inconsistency undermines the functioning of the international legal order.

⁴³ Bellamy, *supra* note 14, at 48.

⁴⁴ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Gambia v. Myanmar)*, Provisional Measures, Order of Jan. 23, 2020, 2020 I.C.J. 3, ¶ 9.

This inconsistency in the conduct of the international community is again apparent here. Even where states have grounds to intervene in the affairs of another state, they will decline to do so where intervention would conflict with their interests. Such inconsistency damages the reputation of institutions such as the United Nations Security Council and the International Court of Justice.

From the foregoing, it may be concluded that the international community acts inconsistently in its use of intervention to protect civilians. In Kosovo and Syria, among others, unilateral intervention was employed; in Libya, collective action was undertaken; and in Tigray, no intervention occurred. This inconsistency weakens the principle of the Responsibility to Protect.

The balancing of national sovereignty against the protection of civilians is exemplified by Libya, whereas the cases of Syria and Tigray, in which the principle was not applied, reveal its inconsistency, as does the disregard of international law in Kosovo. The uneven implementation of the principle thus raises pressing questions about the future of intervention.

To address these problems, reform of the existing legal framework is required. It is essential to establish clear criteria for intervention and to ensure that they are observed. In the absence of such reform, intervention will remain a further instrument by which powerful states pursue their interests, deepening the prevailing inconsistency.

The inconsistency identified above stems from the absence of agreed criteria for intervention, and it damages the standing of the international legal order. States of the Global South perceive intervention as a means of manipulation from which the powerful benefit. There is, moreover, little incentive for cooperation, as outcomes depend entirely on circumstance. The absence of regulation permits powerful states to intervene as they wish, without regard to principle and without accountability.⁴⁵

VII. ROLE OF THE SECURITY COUNCIL AND REGIONAL BODIES IN CRIMES AGAINST WOMEN IN AFGHANISTAN: EVALUATING THE RESPONSIBILITY TO PROTECT DOCTRINE

Afghanistan under the Taliban is among the most significant cases of humanitarian intervention, implicating questions of sovereignty, human rights, and global security. Before considering the role of the Security Council and international organisations, it is necessary to examine the history of Afghanistan and how it reached its present condition.

⁴⁵ Rep. of the Int'l Comm'n of Human Rights Experts on Ethiopia, U.N. Doc. A/HRC/51/46 (2022).

The Pashtun were the predominant ethnic group in the south and east of Afghanistan. The Taliban rose to power in the 1990s, drawing substantial support from the Pashtun population, and by 1996 had established control over some ninety per cent of the country, including the capital, Kabul. Their rule, founded upon a particular interpretation of Sharia law, precipitated civil and political conflict. Overthrown in 2001, the Taliban regained power in 2021 following the withdrawal of United States and NATO forces, after which the country was renamed the Islamic Emirate of Afghanistan. The United States intervention in 2001 followed Al-Qaeda's refusal to surrender Osama bin Laden, the architect of the 11 September attacks. United Nations reports of 2025 indicate that Al-Qaeda's numbers have remained constant, a matter of concern given that the Taliban has preserved an environment in which a terrorist organisation responsible for the 11 September attacks continues to pose a significant security threat to other states.⁴⁶

The Taliban adheres to its own interpretation of the Quran, under which it imposes laws that particularly restrict women. Afghanistan endured the Soviet intervention of 1979 and the United States intervention of 2001, in which many Afghan men were killed, leaving women as the principal providers for their families. After the Taliban returned to power in 2021, however, it imposed a body of Islamic law that the United Nations Entity for Gender Equality and the Empowerment of Women characterised as gender apartheid.⁴⁷

The Taliban's policies sought to remove women from public life: girls aged eleven and above were barred from school, women were forbidden to leave their homes without a veil or a male guardian, and many were compelled to abandon their employment following the withdrawal of United States forces. These measures have precipitated a decline in the Afghan economy since 2021; although sectors such as agriculture, mining, construction, and commerce recorded growth of some 2.5 per cent, manufacturing and services have continued to suffer as a result of restrictions on women's economic participation.⁴⁸ Women in Afghanistan endure a severe interpretation of Islamic law.

More recently, President Donald Trump suspended the humanitarian aid provided to Afghanistan by the United States, which had been the largest single donor among all states and international bodies.⁴⁹ This has affected education, so that not only are girls denied schooling

⁴⁶ U.N. Sec. Council, Fourteenth Report of the Analytical Support and Sanctions Monitoring Team Concerning ISIL (Da'esh), Al-Qaida and Associated Individuals and Entities, ¶¶ 21–27, U.N. Doc. S/2025/XXX (2025).

⁴⁷ UN WOMEN, AFGHANISTAN GENDER ALERT NO. 3, at 2–4 (2023).

⁴⁸ U.N. DEV. PROGRAMME, AFGHANISTAN SOCIO-ECONOMIC OUTLOOK 2023: THE COST OF EXCLUSION, at 7–9, 18–21 (2023).

⁴⁹ Mujib Mashal & Fatima Faizi, *U.S. Freezes Afghan Assets and Halts Aid After Taliban Takeover*, N.Y. TIMES (Aug. 2021).

beyond the age of eleven, but children generally are affected by the country's impoverished economy and by the Taliban government's inability to sustain its own population; emergency shelter, non-food items, food security, agriculture, health, and the protection of women and children have all been affected by the suspension. Gordon Brown, the former British Prime Minister and United Nations Special Envoy, has characterised the gender-based discrimination entrenched in Taliban law as amounting to crimes against humanity. The question therefore arises: if the conduct of the Taliban amounts to crimes against humanity, what have regional bodies done to protect the population, and why has the Security Council not invoked R2P as crimes against women persist in Afghanistan?

In *AH & FN v. Bundesamt für Fremdenwesen und Asyl*, AH and FN, both Afghan nationals, sought refugee status in Austria, appealing to the Supreme Administrative Court, which observed that Afghan women constitute a "particular social group" within the meaning of Article 10(1)(d) of Directive 2011/95. It was also contended that the authority's refusal of refugee status was lawful. Article 1(A)(2) of the Refugee Convention, Articles 1, 3, 5, 7, 12, and 16 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and Article 2 of Directive 2011/95 were invoked in relation to the grant of refugee status to Afghan women on account of their persecution under Taliban rule.⁵⁰

It was held that, under Article 9(1)(b) of Directive 2011/95, a national of a third country may be granted refugee status where the persecution suffered in the state of origin attains a level causing serious harm to the individual, here a series of human-rights violations against women in Afghanistan, read together with Article 4(3) of the Directive.⁵¹

This case is fundamental to understanding how Afghan women are protected under international law; gender apartheid, however, is not incorporated within the R2P principle. Many international organisations have voiced concern about the situation of women in Afghanistan, yet little action has followed. The Organisation of Islamic Cooperation, for instance, has not hesitated to criticise the Taliban's policies, but no real consequences have ensued. Women are subjected to grave violence by the Taliban regime, yet Afghanistan has received scant attention from international organisations; indeed, following the change of administration in the United States, Afghanistan ceased to receive the humanitarian aid on which it had previously relied, resulting in poverty, starvation, and unemployment. The Taliban regime plainly violates international law, and, under the R2P principle, the Security Council is obliged to respond, since

⁵⁰ Comm. on the Elimination of Discrimination Against Women, General Recommendation No. 30, ¶¶ 6, 9, 34, U.N. Doc. CEDAW/C/GC/30 (Oct. 18, 2013).

⁵¹ *AH & FN v. Bundesamt für Fremdenwesen und Asyl*, Joined Cases C-608/22 & C-609/22, ECLI:EU:C:2024:828, ¶¶ 45–52, 61–65 (Oct. 4, 2024).

acts against women that amount to crimes against humanity fall to be addressed by the International Criminal Court and the International Court of Justice. In practice, however, regional and international bodies such as the Organisation of Islamic Cooperation, the South Asian Association for Regional Cooperation, and the Security Council have remained silent, with grave consequences for the lives and dignity of Afghan women. The Taliban's laws and policies also contravene the standards of the United Nations Human Rights Council. Will the United Nations prioritise religious and cultural considerations, or will it protect the fundamental rights of Afghan women? Since 2021, the United Nations has taken no effective measures, notwithstanding UN Women's claim to operate on the ground in Afghanistan through programmes supporting some 200 women's organisations; the statistics suggest otherwise. Eight in ten young women are excluded from education, employment, and training; twenty-four per cent of women participate in the labour force, compared with eighty-nine per cent of men; and no women hold positions in the de facto cabinet or in local government, while many are subjected to moral policing for failing to wear the hijab in the prescribed manner, or are beaten. Although the Taliban has held power for a substantial period, the United Nations has taken no significant action to give effect to the R2P principle.

The Taliban regime has acceded to numerous international human-rights treaties, including CEDAW, from which it has not withdrawn, yet its manifest violation of these instruments has attracted no corrective action to halt gender-based persecution in Afghanistan. The plight of Afghan women stands as a genuine test of the United Nations' implementation of the R2P principle, one that the Organisation has thus far failed. This paper proposes several solutions: first, the prosecution of the Taliban before the International Criminal Court for gender-based violence and for the violation of CEDAW and other treaties to which it is party; second, the implementation of the stages of the R2P principle; and third, the adoption of the principle of non-refoulement by states.

In conclusion, urgent action is required from states and international organisations to protect the women and girls of Afghanistan, who are being denied their most basic rights. The situation calls for the genuine application of the R2P principle by states and international organisations, rather than the mere formal recognition of the Taliban regime.

VIII. NORMATIVE AND LEGAL DEBATE ON CONDITIONAL SOVEREIGNTY

A. The idea of conditional sovereignty

The idea of conditional sovereignty holds that a state's authority is not absolute but depends upon its capacity to protect its population. This proposition runs counter to the Westphalian

principle of non-interference,⁵² under which states are to refrain from interfering in one another's affairs. If a state fails to discharge its duty, it cannot expect to enjoy all the rights attendant upon statehood. A state's authority is, in this sense, not unlimited but contingent upon the performance of its duty to protect its people. Put simply, a government that fails to treat its people well forfeits its claim to sovereignty. Its authority becomes conditional upon responsible conduct, measured against international human-rights standards.

The notion that a state's authority is bound up with its responsibility to its people has long been present in Africa and Latin America, particularly following independence. It was formally articulated in the 2001 report of the International Commission on Intervention and State Sovereignty,⁵³ and subsequently endorsed by the United Nations in 2005. This marked a shift from asking whether other states have a right to intervene to asking whether they have a duty to protect. On this view, where a state manifestly fails to protect its population from atrocities such as genocide or war crimes, the international community bears a duty to act.

B. Legal underpinnings

The idea of conditional sovereignty, as embodied in the Responsibility to Protect, rests on a slender basis in binding international law. The United Nations Charter firmly upholds state sovereignty: Article 2(4) prohibits the use of force save in self-defence or where authorised by the Security Council under Chapter VII, and Article 2(7) precludes United Nations intervention in matters essentially within a state's domestic jurisdiction. This framework establishes non-intervention as a cardinal principle. At the same time, conditional sovereignty and the Responsibility to Protect are connected to the Charter, whose Preamble and Articles 55–56 commit states to promote “universal respect for, and observance of, human rights.”⁵⁴ This gives rise to an implicit expectation that sovereignty entails responsibilities towards one's own population. Building on this normative foundation, the 2001 ICISS report reframed sovereignty as a dual responsibility: externally, to respect the independence of other states; and internally, to safeguard the dignity and rights of one's population. As ICISS put it, sovereignty as responsibility has become the minimum content of good international citizenship.

Despite this conceptual innovation, no treaty expressly confers upon states a legal right to intervene for humanitarian purposes. The Responsibility to Protect⁵⁵ was agreed principally as a normative commitment rather than as a rule of law. At the 2005 World Summit, all states

⁵² E.L. Dabova, *The Westphalian Principles: Dead or Transformed and Adapted to New Reality?*, 3 INT'L J. HUMANITIES & SOC. SCI. INVENTION 43, 43 (2014).

⁵³ INT'L COMM'N ON INTERVENTION & STATE SOVEREIGNTY, THE RESPONSIBILITY TO PROTECT 8 (2001).

⁵⁴ U.N. Charter art. 2, ¶¶ 4, 7; *id.* arts. 55–56.

⁵⁵ INT'L COMM'N ON INTERVENTION & STATE SOVEREIGNTY, THE RESPONSIBILITY TO PROTECT 11–16 (2001).

affirmed that each state bears the primary responsibility for the protection of its own population. Although the idea was extensively discussed, it was not enacted as binding law; rather, it was agreed that, where a state manifestly fails, the international community should take collective action through the Security Council in accordance with the Charter. This outcome reflected a broad consensus on conditional sovereignty as a political commitment, but it created no binding rule. As United Kingdom parliamentary analysts have observed, R2P is not yet a rule of customary international law, but it builds upon existing legal foundations and may be described as an international norm.⁵⁶ In practice, R2P remains a form of soft law: a guiding norm endorsed by 192 United Nations members but confined in scope to four atrocity crimes, namely genocide, war crimes, ethnic cleansing, and crimes against humanity.

Legally, any coercive action under the R2P framework still requires Security Council authorisation. The World Summit text deliberately tied implementation to the Charter, providing that collective force may be employed only through the Security Council in accordance with Chapter VII. In other words, outside the exercise of self-defence, unilateral intervention remains unlawful.

The Charter permits the use of force within another state, absent that state's consent, only in self-defence, where the Security Council so authorises under Chapter VII, or pursuant to arrangements with regional organisations under Chapter VIII.

The concept of conditional sovereignty rests on a widely shared premise: that human rights must be balanced against the sovereign rights of states, in accordance with the rules laid down in the Charter.

C. Core critiques

i. Legality and Charter tensions

One of the most enduring objections is that conditional sovereignty and R2P undermine the legal foundations of the United Nations Charter. Article 2(4) prohibits the use of force save in self-defence or with the authorisation of the Security Council, and Article 2(7) enshrines non-intervention in the domestic affairs of states. On this reasoning, any humanitarian intervention undertaken without Security Council approval breaches a peremptory norm. Even its defenders concede that R2P creates no independent legal right to intervene: it employs the language of sovereignty and responsibility, but only in furtherance of Charter purposes. As scholars have

⁵⁶ N. ATL. TREATY ORG., Kosovo Air Campaign (March–June 1999): Operation Allied Force, <https://www.nato.int/en/what-we-do/operations-and-missions/kosovo-air-campaign-march-june-1999> (last visited Apr. 14, 2026).

observed, R2P permits the use of force that is both legitimate and lawful only where a United Nations organ has authorised it; where a state circumvents the Council, the action is extra-legal. NATO's 1999 operation in Kosovo⁵⁷ is the classic example, defended by many as morally legitimate yet unlawful. In Libya in 2011, NATO's intervention⁵⁸ began with clear Security Council authorisation, but its expansive interpretation of the mandate, from the protection of civilians to regime change, has been condemned as an abuse. Both cases remain deeply ambiguous.

ii. Selectivity and politicisation

State practice has also exposed profound inconsistencies in the application of R2P. Western governments cite Libya as a success, yet Russia, China, and many states of the Global South condemn it as a dangerous instance of regime change conducted under the guise of humanitarian intervention. Meanwhile, despite atrocities of at least comparable gravity, Syria has elicited no meaningful international response, owing to geopolitical deadlock.⁵⁹

This stark disparity has fuelled allegations of double standards. As the Russian representative to the United Nations warned, the invocation of R2P in Libya “closed the path to swift political solutions and opened the door to forcible regime change.”⁶⁰ Analysts in the Global South contend that the doctrine has become a vehicle for the justification of foreign interference, permitting powerful states to sit in judgment upon the weak within an already unequal international order. The selective invocation of R2P imperils its credibility: it operates less as a principled doctrine than as an instrument of power, deployed where the great powers share an interest and withheld where they do not. Such a pattern lends weight to postcolonial concerns that humanitarianism serves as a cover for interventionism.

iii. Erosion of the Charter order

A more fundamental objection is that R2P destabilises the normative architecture of the United Nations Charter. The Charter rests on the foundational principle of sovereign equality (Article 2(1)). By transforming sovereignty from an absolute right into a conditional privilege, critics argue, R2P subordinates equality to subjective political judgment. The ICISS report declared explicitly that “non-intervention yields to the international responsibility to protect,”⁶¹ a phrase that opponents read as a blueprint for dismantling the protective shield of sovereignty. Some go

⁵⁷ N. ATL. TREATY ORG., NATO and Libya (February–October 2011) (last visited Apr. 14, 2026).

⁵⁸ M. Halliyadda, *Syria – Another Drawback for R2P?: An Analysis of R2P's Failure to Change International Law on Humanitarian Intervention*, 4 IND. J.L. & SOC. EQUAL. 200, 216.

⁵⁹ Vladimir Socor, *Russia Unveils Political Objectives in Libya*, EURASIA DAILY MONITOR, Apr. 21, 2011.

⁶⁰ INT'L COMM'N ON INTERVENTION & STATE SOVEREIGNTY, THE RESPONSIBILITY TO PROTECT 57–66 (2001).

⁶¹ Constitutive Act of the African Union art. 4, July 11, 2000.

further still, contending that R2P heralds the end of Westphalian sovereignty, subsuming it within a conditional regime under which the rights of weaker states may be suspended should they fail to meet externally imposed standards of human-rights protection. This, it is feared, threatens the revival of colonial-style hierarchies, in which powerful states impose their will upon weaker ones under humanitarian cover. Even so, R2P has profoundly redefined sovereignty: the 2005 World Summit marked the first clear departure from the principle of non-intervention, to the extent that states may be said to forfeit the right to sovereignty in so far as they fail to protect the survival and dignity of their populations.

iv. Global South perspectives

States of the Global South have approached conditional sovereignty with considerable ambivalence, drawing upon both historical memory and contemporary power politics. For some, it remains the hard-won shield of decolonisation, a claim to protection against imperial domination and Cold War intervention. For others, the states of the Global South were not mere recipients of the R2P agenda but among its architects. The African Union's Constitutive Act of 2000,⁶² for instance, famously employs the language of a right to intervene in cases of genocide, war crimes, and crimes against humanity, thereby enshrining a principle of non-indifference. United Nations officials have often noted this intellectual lineage, observing that the maxim that sovereignty entails responsibility was, in large part, an African contribution. On this view, conditional sovereignty has been presented as the antidote to colonial-era abuses of sovereign prerogative, whereby an unqualified conception of sovereignty too often shielded the perpetrators of atrocity under a licence to kill rather than a duty to protect.

Yet, notwithstanding this normative leadership, postcolonial governments frequently regard R2P and conditional sovereignty with suspicion, if not outright hostility. This scepticism concerns less the principle itself than the manner of its operation. The Libyan intervention of 2011 proved a watershed: formally authorised on the basis of protecting civilians, it became, in effect, an instrument of regime change. The experience produced profound disillusionment across the Global South. Numerous Non-Aligned Movement states swiftly reaffirmed that sovereign equality is inviolable and warned against treating R2P as a back door to intervention. Their misgivings concerned not only the outcome in Libya but also the process itself: the Security Council, constrained by the vetoes of its permanent members and by their political interests, is regarded with suspicion across much of the South.

⁶² Andrés Serbin & Andrei Serbin Pont, *Brazil's Responsibility while Protecting: A Failed Attempt of Global South Norm Innovation?*, in *LATIN AMERICA AND THE RESPONSIBILITY TO PROTECT: DIVERGENT VIEWS FROM THE SOUTH?* (Andrés Serbin & Andrei Serbin Pont eds., 2015).

This scepticism has generated demands for reform. Brazil's 2011 proposal on the Responsibility while Protecting,⁶³ supported by India, South Africa, and others, illustrates the case for more stringent preconditions: intervention must be founded upon a narrowly defined mandate, must be subject to continuous Security Council oversight, and must eschew mission creep. These proposals reflect a deeper insistence that the conduct of humanitarian protection should not be left to the discretion of powerful states. Absent such procedural safeguards, sceptics in the Global South maintain, conditional sovereignty will degenerate into a neo-imperial instrument of control.

v. Institutional oversight and constraints

The realisation of conditional sovereignty depends upon the role of institutional gatekeepers. For the most part, the 2005 World Summit Outcome identified the Security Council as the sole authority competent to authorise coercive action under R2P.⁶⁴ The Summit provided that, where peaceful means prove inadequate, collective action through the Security Council in accordance with the Charter is required. In principle, this roots R2P within the existing structures of the Charter: intervention may be authorised only by Council action under Chapter VII.⁶⁵ On the one hand, Council authorisation confers upon intervention the multilateral character that proponents of R2P have consistently argued is necessary to guard against abuse. On the other, the veto power of the permanent five has paralysed action, as when Russia and China repeatedly blocked resolutions on Syria. The politicised nature of mandates has also drawn criticism. In Libya, NATO's expansion of Resolution 1973 from the protection of civilians to regime change created a perception that R2P was being deployed for ends beyond the safeguarding of human life. The Council thus operates both as a safeguard against unilateralism and as a constraint that renders atrocity prevention hostage to great-power politics.

Regional organisations occupy an ambiguous position. Chapter VIII of the United Nations Charter⁶⁶ permits a regional body to address matters of peace and security, but only with the consent of the Security Council. The African Union is the exception: its Constitutive Act, adopted in 2000, enshrines a right of intervention in cases of genocide, war crimes, and crimes against humanity, thereby embedding conditional sovereignty within the very foundations of African Union law. In practice, however, the African Union has sought to apply this principle

⁶³ Jared Genser, *The United Nations Security Council's Implementation of the Responsibility to Protect: A Review of Past Interventions and Recommendations for Improvement*, 18 CHI. J. INT'L L. 421 (2018).

⁶⁴ U.N. Charter art. 2, ¶¶ 4, 7; *id.* arts. 55–56.

⁶⁵ U.N. Charter ch. VII.

⁶⁶ U.N. Charter ch. VIII.

in situations such as Côte d'Ivoire (2011)⁶⁷ and South Sudan (2013),⁶⁸ though often under, and in competition with, United Nations mandates. Other regional bodies, such as the Organization of American States, the European Union, and ASEAN, contain no explicit R2P clause, and unilateral regional intervention would be of doubtful legality. Courts, too, are significant actors, albeit more indirectly. The International Court of Justice has never rendered a judgment or advisory opinion specifically on R2P, but its jurisprudence has established important limits. In the *Wall* advisory opinion (2004),⁶⁹ the Court affirmed that the threat or use of force is absolutely prohibited by the Charter, while reaffirming the human-rights responsibilities of states. The Court acknowledged that sovereignty is not unlimited, yet, consistent with principles such as those established at Nuremberg, it has declined to endorse humanitarian intervention. Rather, its jurisprudence has consistently upheld the primacy of the Charter's legal framework, constraining any justification of coercive action on purely humanitarian grounds.

The International Criminal Court performs a complementary function. By prosecuting atrocity crimes, it reinforces the conception of accountability as an incident of sovereignty. Security Council referrals, as in Darfur and Libya, have expressly linked the Court to the rhetoric of R2P. The Court is, however, an *ex post* institution; its role is judicial, and it can neither authorise nor legitimise the use of force. Its function is to strengthen conditional sovereignty by punishing abuses, thereby affirming that sovereignty is a conditional right.

D. Toward a principle or fragmentation?

Conditional sovereignty and the Responsibility to Protect were conceived as universal principles to guide the collective response to mass atrocity. The normative influence of R2P is evident: at the 2005 United Nations World Summit, 146 states endorsed it, and subsequent United Nations resolutions have continued to reaffirm its pillars. Numerous states invoke R2P in their national policies, and its vocabulary is a frequent feature of United Nations debate. Advocates insist that R2P should not be conflated with military intervention. Its first two pillars, the state's responsibility to protect and international assistance and cooperation in prevention, root the doctrine in agendas of development, governance, and accountability. As such, it is, at least in theory, a pragmatic doctrine for the twenty-first-century order.

In practice, however, coherence is lacking. Libya (2011) illustrates both what R2P was intended to achieve and what it may become: an R2P-based intervention was authorised, but NATO's

⁶⁷ *Situation in the Republic of Côte d'Ivoire*, ICC-02/11 (Int'l Crim. Ct.).

⁶⁸ U.S. DEP'T OF STATE, SOUTH SUDAN 2013 HUMAN RIGHTS REPORT (2014).

⁶⁹ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, 2004 I.C.J. 136 (July 9).

far-reaching campaign gave rise to the charge that an agenda of regime change had been disguised as humanitarian intervention. Syria (post-2011) exemplifies the opposite failure, a paralysis of the Council in the face of comparable atrocities. These twin crises have divided the field. Emerging powers such as Brazil, India, and South Africa have proposed the Responsibility while Protecting, calling for stricter rules and criteria to prevent abuse.

The result is fragmentation rather than consensus. Analysts observe that, while many states rhetorically embrace conditional sovereignty, their interpretations diverge: some regard it as a mandate for decisive protection, others as a principle of extreme caution in an increasingly multipolar order. Without shared benchmarks for determining when sovereignty is forfeited, intervention remains politically contingent, a matter of choice rather than obligation. This selectivity nourishes the suspicion that R2P is invoked opportunistically, eroding its legitimacy.

IX. CONCLUSION

This paper has examined the integrity and legality of intervention in humanitarian crises and the concept of conditional sovereignty. Although conditional sovereignty has long existed as an idea, it was formally recognised at the 2005 United Nations World Summit, where the doctrine of the Responsibility to Protect was adopted by the member states. That doctrine did not merely permit states to enjoy sovereignty; it embodied a collective undertaking to protect populations from mass atrocity. The traditional conception of sovereignty has been challenged by numerous analysts and theorists, who argue that international organisations and states bear a responsibility to protect civilians from war, genocide, ethnic cleansing, and crimes against humanity, and who reject the notion that a sovereign may govern without limit, including by waging war.

The Responsibility to Protect remains, in large measure, a concept, as the case studies considered in this paper, Somalia, Rwanda, Kosovo, Libya, Syria, Myanmar, Tigray, and Afghanistan, demonstrate, each being an instance in which United Nations intervention either failed or did not occur. Because the doctrine remains relatively new, states have found it difficult to give effect to it in its fullest form, and interpretations vary from state to state. The case of Afghanistan, in particular, illustrates the need for the prompt and effective implementation of R2P to protect the women of that country.

This paper has sought to distinguish the traditional conception of sovereignty from conditional sovereignty, which permits states to respond in times of crisis. It has also acknowledged that the reception of the doctrine remains ambivalent in the Global South, on account of the historical abuse of sovereignty by colonial powers. In conclusion, the paper addresses the question of how the R2P principle may effectively give effect to a right to intervene without

abusing the sovereignty of states, and it embraces the concept of conditional sovereignty, which has existed for centuries and has been endorsed by many theorists.
