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Human Rights in the Shadow of Sovereignty: A Case Study of Mandatory Conscription in Eritrea and The Limits of Global Intervention

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ABSTRACT

Mandatory Conscription is a practice adopted by several countries where the citizens of certain criteria are listed mandatorily in the military or other national services. This practice is defended by the states citing national security reasons predominantly. Though this practice is critiqued upon, the way this practice is undertaken in Eritrea is subject to massive criticism due to its behaviour of overlooking the basic fundamental rights of the human beings by having indefinite mandatory conscription, collective punishments for the relatives of the evaders, etc. In spite of such prima facie violation of the human rights in the state, the lack of any sort of effective intervention is alarming as to the existence of human rights principle on the whole in the globe. Human rights being implemented through international sources of law, there is a necessity for a balance between sovereignty and human rights in itself. In cases like this however, the concept of human rights is often hidden behind the shadows of sovereignty, where the meaning of human rights is lost. Hence it is vital to draw the line where the violations of human rights shall not be entertained for the purposes of sovereignty of the state. Through the research, the paper aims to contribute to the academic discourse on human rights and sovereignty, providing a nuanced understanding of the complexities involved in mandatory conscription and international intervention.

Keywords: *Principle of Sovereignty, Human Rights, Mandatory Conscription, Doctrine of Responsibility to Protect, Principle of Intervention.*

I. INTRODUCTION

Due to the severe need of maintaining the national security and the defence of the country, mandatory conscription is being in practice in several countries. Though mandatory, its practiced with reasonable rules and a scope of limitation in the period of service and scope in the countries, however, Eritrea begs to differ and has garnered the attention of the international

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community due to the sheer scale of the implementation of the practice and the significant human rights violations caused due to the same. Conscription, in itself is not a uncommon practice since it is considered to be required to address the security needs of the nation. It is however Eritrea's approach that raises ethical and legal questions in the matter.

Ever since Eritrea gained independence, there as been a policy of mandatory conscription that is practised in an indefinite manner, where the citizens are conscripted for undefined periods which basically goes far beyond the usual accepted international norms². This outright violation of the norm has led to widespread allegations of human rights abuses, including forced labour, arbitrary detention and a severe restriction of personal freedoms. This method of Eritrea having mandatory indefinite conscription has raised significant criticism over the long term impact that the practice has on its people, where most of the citizens are led to live in a state of constant fear of enlistment, escape or punishment.

Though there is enough acknowledgement of this issue on a global stage, the core of the issue is due to the delicate balance between respecting the sovereignty of the state and protecting the human rights. Sovereignty is the fundamental principle of international law where the states are given the power to govern their respective states without any interference³. Though this principle is respected and expected by the whole international community, in countries where there is a significant violation of the people's rights through their policies, this principle is challenged. The lack of a robust international response to Eritrea's conscription practices highlights the complexities of balancing these two important aspects of governance.

The international community, with the need to respect the principles of non intervention on the lines of sovereignty, struggles with addressing such violations. Due to this struggle, the international communities always end up in inaction or limited responses, while allowing the violations to continue. Eritrea is such an example where the situation exemplifies how human rights can be undermined in the name of national security and the preservation of state power.

With this situation in the context, it's a huge necessity to examine the impact of mandatory

² UN investigator says Eritreans experienced torture and sexual violence during national service, AP News (2023), <https://apnews.com/article/eritrea-military-service-torture-tigray-human-rights-a25b8a4178c03e1f1cf5078ecda31440> (last visited Aug 9, 2024); Enhanced Interactive Dialogue on Human Rights in Eritrea, OHCHR, <https://www.ohchr.org/en/statements-and-speeches/2023/03/enhanced-interactive-dialogue-human-rights-eritrea> (last visited Aug 9, 2024); Lisa Schlein, *UN Rights Experts: Eritrea Maintains Iron Grip Through Repression, Systematic Impunity*, Voice of America (2024), <https://www.voanews.com/a/un-rights-experts-eritrea-maintains-iron-grip-through-repression-systematic-impunity/7508459.html> (last visited Aug 9, 2024); Tricia Redeker Hepner, *Religion, Repression, and Human Rights in Eritrea and the Diaspora* (2014), https://brill.com/view/journals/jra/44/2/article-p151_2.xml (last visited Aug 15, 2024).

³ Jack Donnelly, *State Sovereignty and International Human Rights*, 28 *Ethics & International Affairs* 225 (2014), <https://www.cambridge.org/core/journals/ethics-and-international-affairs/article/abs/state-sovereignty-and-international-human-rights/455EEF88258C4568D5E8EDB88BD7FA99> (last visited Aug 15, 2024).

conscription on human rights and the role of the international institutions in addressing such issues. Eritrea is taken as only one such case where the broader area of focus is on how far the state's sovereignty should extend when the fundamental human rights are at stake. Decoding this relationship is the key to navigating future instances where national policies conflict with the global commitment to human dignity and protection.

(A) Research Questions

1. Whether the mandatory conscription in Eritrea is in line with the generic practice of the same and the basic human rights?
2. Whether the UN or any other institution has no scope of interference into the matter of violations of human rights?
3. Whether there must be interference with relation to the violation of human rights in spite of the sovereignty of the state?

(B) Research Objectives

1. To highlight the various violations of human rights that are in occurrence in the course of mandatory conscription in Eritrea.
2. To analyse the backdrop behind the non-interference stand of any of the international institutions.
3. To examine and draw a line between the sovereignty that is enjoyed by the state with respect to human rights.

(C) Research Methodology

This research employs a doctrinal methodology where the primary resources such as case laws, statutes, conventions, reports shall be utilised while secondary resources such as articles and scholarly papers also shall be used. The analysis will include key judicial decisions and legislative provisions governing human rights on an international basis. A critical and analytical approach shall be taken in order to identify the gaps and propose solutions to the problems found. The Bluebook 20th edition citation style shall be used for all the references to ensure consistent and accurate citations throughout the research.

(D) Scope and limitation

The paper specifically focuses on the international community's response to the impact of the practice of mandatory conscription in Eritrea, particularly focusing on the human rights violations. The paper aims to fulfil the gap in understanding how Eritrea's indefinite

conscription policy deviates from the norms that are internationally accepted and the human rights violations that are a result of the same. The scope of the paper would include a detailed analysis of the case laws, statutes and conventions that are relevant to the human rights, where a particular emphasis shall be placed on the Eritrea. Through a critically examination, the backdrop of the non interference principle followed by the international community shall be explored, while the research seeks to propose a better plan to balance the state sovereignty and the human rights protection.

The research is however limited in several ways. Firstly, it primarily focuses on Eritrea, which means a broader applicability to other nations may be constrained. Secondly, while the study will address international human rights standards, it may not cover every international response comprehensively due to the limited data that is available. Thirdly, the reliance on the secondary resources such as scholarly articles may introduce biases inherent in the sources. Finally, the practical fieldwork or the interviews with the affected individuals are not present are considered to be beyond the scope of the paper, which may limit the depth of the personal insights and the testimonies.

Through the research, the paper aims to contribute to the academic discourse on human rights and sovereignty, providing a nuanced understanding of the complexities involved in mandatory conscription and international intervention.

II. CONSCRIPTION POLICY OF ERITREA: A SCOPE FOR HUMAN RIGHTS VIOLATIONS

The National Service Proclamation of 1995 regulates Eritrea's conscription system which mandates compulsory military service for all the citizens who are between the ages of 18 and 40 years⁴. Though as per the law the maximum service period of such mandatory conscription is only 18 months, in practice however, the conscription in Eritrea is found to be in practice indefinitely, with many conscripts serving for years or even decades⁵. This practice of indefinite conscription is not only a violation of domestic laws of the country but is also a sharp contravention to the global conscription norms, where the service periods are fixed and are time bound. Eritrea's practice of indefinite mandatory conscription has led to sever human rights

⁴ Hepner, *supra* note 2.

⁵ UN investigator says Eritreans experienced torture and sexual violence during national service, *supra* note 1; Report: Eritrea's military conscription adds to migrant crisis, InfoMigrants (2019), <https://www.infomigrants.net/en/post/18744/report-eritreas-military-conscription-adds-to-migrant-crisis> (last visited Aug 9, 2024); Carrie Booth Walling, *Human Rights Norms, State Sovereignty, and Humanitarian Intervention*, 37 Human Rights Quarterly 383 (2015), <https://muse.jhu.edu/pub/1/article/581678> (last visited Aug 15, 2024); indiatoday, *11 Countries Where Military Service Is Compulsory*, indiatoday, <https://www.indiatoday.in/interactive/longread/11-countries-where-military-service-is-compulsory-129-17-06-2022> (last visited Jul 31, 2024).

violations in various forms, such as abuses, forcing individuals in what basically amounts to forced labour under the guise of national security.

In the majority of the countries that undertakes the practice of mandatory conscription, the individuals are conscripted based on a temporary obligation that is primarily aimed at national defence purposes, where the individuals are allowed to return to their civilian life after the said amount of service period. The International conventions such as the International Labour Organizations Conventions No. 29⁶ and 105⁷ prohibit forced labour except during circumstances of military services during wartime. However, the indefinite nature of Eritrea's conscription system turns what is legally permissible into an instrument of oppression within which the citizens of the state are stuck. Most of the citizens are made to work in sectors such as construction or agriculture, where they are made to work in exchange for no little pay which is a clear violation of the international norms that protect the individuals from slavery like conditions⁸. The practice that is practiced in Eritrea, aligns more with forced labour than that is the said reason of legitimate civic duty, where there is a clear violation of the article 8 of the International Covenant on Civil and Political Rights (ICCPR)⁹.

To make the rate of the violations worse, Eritrea has the practice of recruiting children for their conscription policy, a practice that is in direct violation of the Convention on the Rights of the Child (CRC)¹⁰. Many sources and evidences indicate that the children who are as young as 15 years old are conscripted, often through military camps such as Sawa, which are military camps that are disguised to be educational institutions to the outside world¹¹. Due to these practices, the educational path of the youth of the country is disrupted, where the opportunities of

⁶ Convention C029 - Forced Labour Convention, 1930 (No. 29), https://normlex.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C029 (last visited Oct 22, 2024).

⁷ Convention C105 - Abolition of Forced Labour Convention, 1957 (No. 105), https://normlex.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_ILO_CODE:C105 (last visited Oct 22, 2024).

⁸ Findings on the Worst Forms of Child Labor - Eritrea, DOL, <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/eritrea> (last visited Aug 9, 2024).

⁹ International Covenant on Civil and Political Rights, OHCHR, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights> (last visited Feb 16, 2024).

¹⁰ Convention on the Rights of the Child, OHCHR, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child> (last visited Oct 22, 2024).

¹¹ Laetitia Bader, "They Are Making Us into Slaves, Not Educating Us," Human Rights Watch (2019), <https://www.hrw.org/report/2019/08/09/they-are-making-us-slaves-not-educating-us/how-indefinite-conscription-restricts> (last visited Aug 9, 2024); Eritrea Busses Thousands of Students to Military Camp | Human Rights Watch, (Sep. 11, 2020), <https://www.hrw.org/news/2020/09/11/eritrea-busses-thousands-students-military-camp> (last visited Oct 22, 2024); Louder than words - Case Study: Eritrea: Widespread conscription of children goes unchecked, Refworld, <https://www.refworld.org/reference/countryrep/cscoal/2012/en/88981> (last visited Oct 22, 2024); Item 4: Human rights situations that require the Council's attention, 4, <https://primarysources.brillonline.com/browse/human-rights-documents-online/item-4-human-rights-situations-that-require-the-councils-attention;hrdhrd4021201840210011> (last visited Oct 22, 2024).

personal; development of the child is robbed by the very own country of the child. The practice of forcing minors into the military services is a clear violation of the right to education that the child is entitled to, guaranteed as per both the CRC and the Eritrea's obligations under the International Human Rights Law.

The human rights violations in the countries is beyond forced labour and child conscription. Violence on the basis of gender is rampant in the country, specifically in the military camps. Female conscripts often face sexual harassment and abuse. The lack of accountability and justice for the affected women perpetuates a culture of impunity within the military, where the women are often left vulnerable to such exploitation¹². These violations directly contravene the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)¹³, where the states are expected to provide protection to women from gender based violence. In Eritrea, however, these protections are often overlooked and are found to be non-existent.

It is devastating to acknowledge the societal impact that these practices of the country has left on the citizens of the state. Families are found to be often torn apart due to the young men and the women of the family being conscripted indefinitely, where there is the creation of the prolonged separations and emotional distress¹⁴. The citizens of the state have resorted to the decision of marrying off their daughters in an early stage in order to shield them from being mandatorily conscripted, which further adds on a weight to poverty of the family and takes a huge toll on the women rights¹⁵.

¹² Women This Week: Report Exposes Sexual Enslavement of Women by Eritrean Troops in Ethiopia | Council on Foreign Relations, <https://www.cfr.org/blog/women-week-report-exposes-sexual-enslavement-women-eritrean-troops-ethiopia> (last visited Oct 22, 2024); Girmatsion Fisseha et al., *War-Related Sexual and Gender-Based Violence in Tigray, Northern Ethiopia: A Community-Based Study*, 8 *BMJ Global Health* e010270 (2023), <https://pmc.ncbi.nlm.nih.gov/articles/PMC10364179/> (last visited Oct 22, 2024); Ethiopia: Eritrean soldiers committed war crimes and possible crimes against humanity after signing of agreement to end hostilities – new report., Amnesty International (2023), <https://www.amnesty.org/en/latest/news/2023/09/eritrean-soldiers-committed-war-crimes-and-possible-crimes-against-humanity-in-the-tigray-region-after-signing-of-agreement-to-end-hostilities/> (last visited Oct 22, 2024); Wide Eye Creative, *Eritrean Refugee Women Face Sexual Violence in Tigray*, Refugees International (2022), <https://www.refugeesinternational.org/eritrean-refugee-women-face-sexual-violence-in-tigray/> (last visited Oct 22, 2024).

¹³ Convention on the Elimination of All Forms of Discrimination against Women New York, 18 December 1979, OHCHR, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women> (last visited Oct 22, 2024).

¹⁴ In Eritrea, the authorities punish the relatives of military deserters, Feb. 10, 2023, https://www.lemonde.fr/en/lemonde-africa/article/2023/02/10/in-eritrea-the-authorities-punish-the-relatives-of-military-deserters_6015087_124.html (last visited Aug 9, 2024); Eritrea persecuted relatives of military draft dodgers – HRW, Al Jazeera, <https://www.aljazeera.com/news/2023/2/9/eritrea-persecuted-relatives-of-military-draft-dodgers-rights-group-says> (last visited Aug 9, 2024); Findings on the Worst Forms of Child Labor - Eritrea, *supra* note 9; Eritrean students forced into indefinite military, govt jobs: HRW, Al Jazeera, <https://www.aljazeera.com/news/2019/8/9/eritrean-students-forced-into-indefinite-military-govt-jobs-hrw> (last visited Aug 9, 2024).

¹⁵ Eritrea, Girls Not Brides (2018), <https://www.girlsnotbrides.org/learning-resources/child-marriage-atlas/regions-and-countries/eritrea/> (last visited Oct 22, 2024); Eritrea: Crackdown on Draft Evaders' Families | Human Rights Watch, (Feb. 9, 2023), <https://www.hrw.org/news/2023/02/09/eritrea-crackdown-draft-evaders->

It could be easily said that the practices of Eritrea's mandatory conscription policy directly deviates from the international norms and constitutes a range of human rights abuses, inclusive of forced labour, child conscription and gender based violations. The long term consequences left by these practices is further dire to the society as a whole on both national and international levels which makes the need for an international intervention essential and the need of the hour.

III. FACTORS INHIBITING INTERVENTION

The question of the whether the United Nations or an other institution possess the authority to interfere in the matters of the human rights violations is a complex and contentious issue. The core of the issue is the principle of non interference which asserts that sovereign states have the right to govern their internal and domestic affairs without external intervention. This principle is deeply rooted throughout the international law which is depicted in the Article 2.4 of the UN Charter¹⁶. This principle poses significant challenges for the UN and the other international institutions when presented with human rights violations, such as the mandatory conscription of Eritrea.

Eritrea poses as the perfect example study to examine the limitations that are imposed by the principle of non interference. It is well established that the policy on mandatory conscription of Eritrea is not greatly appreciated by the international community due to the direct deviations from the fundamental human rights, that are inclusive of the right to liberty and the prohibition against forced labour. Though, there is a widespread international condemnation of the practice and there is a multitude of the need to take action on the matter¹⁷, the Eritrean government remains steadfast in its position, invoking its right to hold sovereignty in order to deflect the scrutiny. This case clearly illustrates the high tension between the imperative to protect human rights and the need to respect sovereignty, thereby highlighting the dilemmas faced by the international community, specifically institutions such as the UN.

The political will of the members states of the UN often plays a major role in the intervention habits of the institution¹⁸. It is found that the UN's authority to act is often circumscribed by the

families (last visited Oct 22, 2024); Children of Eritrea, Humanium, <https://www.humanium.org/en/eritrea/> (last visited Oct 22, 2024); ERITREA COUNTRY PROFILE ON CHILD MARRIAGES – AU Campaign to End Child Marriage | AUCECMA.ORG, (Aug. 23, 2023), <https://www.aucecma.org/eritrea-country-profile-on-child-marriages/> (last visited Oct 22, 2024); Eritrea: Refugees fleeing indefinite conscription must be given safe haven, Amnesty International (2015), <https://www.amnesty.org/en/latest/press-release/2015/12/eritrea-refugees-fleeing-indefinite-conscription-must-be-given-safe-haven/> (last visited Oct 22, 2024); Bader, *supra* note 12.

¹⁶ United Nations, *UN Charter*, United Nations, <https://www.un.org/en/about-us/un-charter> (last visited Oct 22, 2024).

¹⁷ ERITREA COUNTRY PROFILE ON CHILD MARRIAGES – AU Campaign to End Child Marriage | AUCECMA.ORG, *supra* note 16; Women This Week, *supra* note 13.

¹⁸ Czernecki, *supra* note 4.

political will of the member states, which often hinders the timely action and decisive action which is of utmost necessity. It is a difficult fact that has to be acknowledged that the organisation, in spite of its powers, is immensely dependent on its members for both political support and financial resources¹⁹. This dependency makes the organization vulnerable to the influence of the powerful states. Eritrea's case would be an appropriate example to understand the authority of the UN in intervening in such human rights issues. The Syrian conflict is another issue where the UN stood unable to intervene due to the lack of fulfillment of the necessity for the consensus within the UN which is often found to lead to a paralysis of the organization in the face of urgent crisis²⁰. With respect to the UN, the supposedly protector of international human rights, the interests of the powerful nations are found to often overshadow the humanitarian considerations, which gives us a result of a failure in the protection of the vulnerable populations.

The UN holds a comprehensive framework where there is a solid legal basis for the practice of intervention through instruments such as the Universal Declaration of Human Rights (UDHR)²¹ and various other treaties by the UN. The factor that stands between the implementation of the framework and successful realization of the instruments is the principle of non interference. Even in the cases where the doctrine of the Responsibility to Protect (R2P) applies, such as the cases of genocide or severe human rights abuses, the political will and the political realities act as an inhibitor of such intervention. The R2P doctrine was brought in in order to make sure that the moral obligation to protect the citizens of a state supersedes the principle of non interference that the violator states holds as a shield²². However, the authority of the international institutions to intervene is still sporadic and often contentious within the international community.

The limitations faced by the UN in handling such interventions could be very well identified through the past cases such as the Rwandan genocide²³. In that case, though there was fair knowledge on the occurring genocide and the human rights violations, the UN's failure to intervene paved way for much greater catastrophic consequences. The statement that the UN is not short of resources of authorities but is greatly influenced by the political will of the member

¹⁹ Michael W. Doyle, *3 UN Intervention and National Sovereignty*, in *The Self-Determination of Peoples: Community, Nation, and State in an Interdependent World* 67 (Wolfgang Danspeckgruber ed., 2022), <https://www.degruyter.com/document/doi/10.1515/9781685854027-006/pdf?licenseType=restricted> (last visited Aug 15, 2024).

²⁰ Czernecki, *supra* note 4; Conlon, *supra* note 5.

²¹ United Nations, *Universal Declaration of Human Rights*, United Nations, <https://www.un.org/en/about-us/universal-declaration-of-human-rights> (last visited Apr 8, 2024).

²² United Nations, *The Responsibility to Protect*, United Nations, <https://www.un.org/en/chronicle/article/responsibility-protect> (last visited Oct 22, 2024).

²³ UNAMIR, <https://peacekeeping.un.org/en/mission/past/unamirS.htm> (last visited Oct 22, 2024).

states is clearly established by the UN's intervention in East Timor where the UN successfully facilitated peace²⁴. This duality in the habits of the intervention of the UN shows that the UN is greatly vulnerable to the political will and the principles of non interference along with the principle of sovereignty only furthers the inability of the UN in taking any action on its own. It is clearly established that in spite of the UN having great potential to intervene, the actual result of the intervention does not always happen.

IV. BALANCE BETWEEN SOVEREIGNTY AND HUMAN RIGHTS

Though it is well understood that sovereignty of a state stands as one of the fundamental principles of the international relations, it must also be acknowledged that there is a rising need for the human rights norms and the international communities' commitment realizing the rights, thus calling for a reexamination of the extent to which the shield of sovereignty shall be claimed. In a historical aspect, for ages, it has been elaborately established by the states that the state sovereignty is a principle that is inviolable, where the states shall be provided with the autonomy to govern their own internal affairs without any external influence or interference²⁵. The principle has such great acknowledgement due to its enshrinement in the UN charter²⁶ which acts as the foundation of the international legal system. However, the growth of the International Human Rights Law, especially post the World War II, has only questioned the indefinite applicability nature of the principle of state sovereignty. The subsequent instruments that has come up after the UN Charter has only established that there are certain rights which are inalienable in nature and thus cannot be derogated in the name of any circumstances.

The doctrine of the Responsibility to Protect (R2P) has only brought in a further deterrence to the applicability of the sovereignty principle. The principle was adopted in the year 2005 by the United Nations, where it was established that when a state is either unwilling or unable to protect its own population from genocide, war crimes or crimes against humanity, the international community shall intervene based on a moral and legal obligation on behalf of the international community. This principle acts as the embodiment of the fact that the principle of sovereignty is not the absolute shield, rather it emphasizes the fact that the power of sovereignty must be balanced with the state's responsibility to protect the rights of its citizens based on the international obligations²⁷.

²⁴ UNMISET: United Nations Mission of Support in East Timor - Background, <https://peacekeeping.un.org/mission/past/unmiset/background.html> (last visited Oct 22, 2024).

²⁵ M. Ayoob, *Humanitarian Intervention and State Sovereignty*, *The International Journal of Human Rights* (2002), <https://www.tandfonline.com/doi/abs/10.1080/714003751> (last visited Aug 15, 2024).

²⁶ Nations, *supra* note 18.

²⁷ Nations, *supra* note 24.

This stand of the applicability of the sovereignty principle has not only been established in the international legal instruments, but has also been established by the International Courts. In the case of the *Bosnia and Herzegovina v. Serbia and Montenegro* (2007)²⁸, the court held that Serbia violated its obligations as per the Genocide Convention in failure to prevent the genocide in Srebrenica, where the court highlighted that the principle of sovereignty cannot be taken as a shield in case of crimes that are against the humanity in itself and war crimes. A similar holding was held in the case of *Nicaragua v. The United States* (1986)²⁹, where the court said that the principle of state sovereignty is central to the International Law, however external intervention shall be justified in cases where the fundamental human rights are threatened.

The Rome statute which governs the International Criminal Court (ICC), further explains the limits of state sovereignty, especially in the cases of war crimes and crimes against humanity. As per the Rome Statute, individuals, inclusive of the state leaders, can be held responsible for genocide, war crimes and crimes against humanity, irrespective of their sovereign status. This position of the Rome Statute, goes beyond the traditional understanding of the concept of state sovereignty protecting the violators from the external prosecution³⁰.

We have understood that the Eritrean conscription policy includes various human rights violations which include indefinite national service and child conscription which is directly condemned by the UN Commission of Inquiry on Human Rights in Eritrea³¹, where it is said that the country employs slave-like practices. These activities and practices of the country are likely to constitute crimes against humanity as per the Rome Statute, especially under the definitions of enslavement and forced labour. This interpretation of the violations directly challenges the notion that Eritrea's sovereignty should shield its government from international scrutiny.

The various violations that the Eritrean government poses on its citizens necessitates international intervention. In spite of Eritrea's claim to sovereignty, the systematic and widespread nature of its violations, would likely amount to war crimes under the Rome Statute where the external interference shall stand justified. When there arises a situation where there is a gross violation of human rights in a state, the principle of non interference must provide

²⁸ INTERNATIONAL COURT OF JUSTICE, <https://www.icj-cij.org/case/91/judgments> (last visited Oct 22, 2024).

²⁹ *Military and Paramilitary Activities in and against Nicaragua* (*Nicaragua v. United States of America*), <https://www.icj-cij.org/case/70> (last visited Oct 22, 2024).

³⁰ Rome Statute of the International Criminal Court, OHCHR, <https://www.ohchr.org/en/instruments-mechanisms/instruments/rome-statute-international-criminal-court> (last visited Oct 22, 2024).R

³¹ Report of the Commission of Inquiry on Human Rights in Eritrea, OHCHR, <https://www.ohchr.org/en/hr-bodies/hrc/co-i-eritrea/report-co-i-eritrea-0> (last visited Oct 22, 2024).

scope for the international community to realise the accountability and the justice that is required. Eritrea's ongoing abuses gives the scope for an international community to intervene as early as possible superseding the sovereignty of the state.

V. SUGGESTIONS AND FINDINGS

Through the research it is found that Eritrea significantly deviates from the International Human Rights Standards. The indefinite conscription practices of Eritrea violates numerous international treaties which are inclusive of the International Covenant on Civil and Political Rights (ICCPR)³² and the International Labour Organisation's conventions³³ against forced labour. The practices of the state are in direct contravention to the accepted norms of the military services and personal freedoms in an international context.

In spite of these stark violations by the state, the principle of state sovereignty presents a complicated case in order to intervene. It has been understood that though the principle entrusted by the UN Charter³⁴ is fundamental in nature, the principle is not absolute in nature such as in cases where the states fail to protect the basic human rights. The doctrine of Responsibility to Protect (R2P)³⁵ was formulated to address exactly such situations where the state fails to protect their citizens from human rights violations. In spite of having such a doctrine, factors such as political realities and the reluctance of the UN Security Council to act have hindered meaningful intervention in Eritrea. This case is a typical example of how international mechanisms, that are supposed to uphold human rights, are often unable to do their duties due to geopolitical factors and the political will of the powerful states.

Though it is established that Eritrea's policy on conscription constitutes crimes under the Rome Statute³⁶ Eritrea being a non-signatory to the statute, limits the International Criminal Court's jurisdiction until or unless there is an explicit action taken through the UNSC. This brings a much broader issue to the light, that is the inability to hold non-signatory states accountable for gross human rights violations. There is a need for human rights principles. Especially the ones that are indispensable, to act beyond the limits of sovereignty. This format has to be adopted due to the universal and inalienable nature of human rights. Being a non-signatory to a particular set of principles that are considered to be of gross human rights violations would definitely amount to alienation of such rights which is contradictory to the very nature of the right.

³² International Covenant on Civil and Political Rights, *supra* note 10.

³³ Convention C105 - Abolition of Forced Labour Convention, 1957 (No. 105), *supra* note 8; Convention C029 - Forced Labour Convention, 1930 (No. 29), *supra* note 7.

³⁴ Nations, *supra* note 18.

³⁵ Nations, *supra* note 24.

³⁶ Rome Statute of the International Criminal Court, *supra* note 31.

One possible solution to address the influence of politics and political will in the matter of human rights intervention is to reconstitute the United Nations Security Council, such that the council is empowered to take decisions in the matter. The bar should be such that the members of the Security Council must be ready to undertake such interventions and must be playing great role in the peacekeeping missions of the UN. Additionally the practice of having permanent members in the UN, who also have veto power is only detrimental to the functioning of the Security Council due to the political interests of the states. Moreover, the scope of the R2P doctrine must be expanded to create clearer pathways for intervention when states commit severe human rights abuses.

Sovereignty is a fundamental principle of the International Law, however it must be kept in mind that the principle must be balanced with the need to protect the human rights. Eritrea is one such reason where the the principle of sovereignty is misused in order to justify gross violations of human rights and human dignity. To make sure that such practice is not continued, the international legal system must evolve to ensure that human rights protection are universally enforced, regardless of the state's sovereignty. It must be had as a rule of thumb that the protection of human rights should always supersede rigid interpretations of sovereignty, especially in cases where the humanity in itself is at stake.

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