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BALANCING SOVEREIGNTY AND HUMAN RIGHTS IN INTERNATIONAL LAW: FOSTERING PEACE AND JUSTICE

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ABSTRACT

At the center of international law is the constant conflict between state sovereignty and human rights, which creates very difficult problems for the global order. The paper presents the argument that it is possible to create a scenario in which these principles coalesce, the very process of their integration being the foundation for the international community's long-lasting peace and justice. By using a multidisciplinary approach that includes legal theory, historical analysis, and case studies, the research looks at how the events following World War II —the UN Declaration of Human Rights (1948), the Genocide Convention (1948), and the International Criminal Court Statute (1998) have somehow lessened the focus on absolute sovereignty and shifted towards the R2P (responsibility to protect) approach, as suggested in the World Summit Outcome Document of 2005. The transition in norms from the Westphalian doctrine of non-interference to a universalistic moral view that favors human rights over state autonomy forms the basis of the discussion. The ICJ ruling on Nicaragua v. United States (1986) and the military operations in Kosovo (1999) and Libya (2011) are some of the situations where such success in preventing massacres has been achieved along with the dangers of selectivity and geopolitical bias. The presented argument is aimed at pointing out issues with inconsistent application of the law, in which the powerful states are able to hide their friends behind the principle of sovereignty while the weaker ones become victims of harsh treatment. The paper adopts a comparative doctrinal method which combines normative theory with empirical data from UN human rights council's reports and international court's case law. It suggests an improved structure for better global supervision to be carried out by strong regional bodies like the African Union and ASEAN, along with the imposition of different levels of sanctions in accordance with jus cogens principles and taking into account cultural differences. Still, this balance is a revolutionary one: the presence of human rights not only consolidates sovereignty by means of building up capabilities and

preventive diplomacy but also, through the power of the rule-based international community, cuts down on conflicts, and facilitates the delivery of justice that is fairer faster.

Keywords: 1. Sovereignty 2. Human Rights 3. Responsibility to Protect (R2P) 4. International Law 5. Geopolitical Bias

INTRODUCTION-

The idea of state sovereignty, which was recognized in the Treaty of Westphalia in 1648¹, has been an essential element of international relations for a long time, allowing states to have sole power over their domestic matters and forbidding outside meddling.. Yet, the atrocities of the 20th century culminating in the Holocaust and two world wars exposed the perils of absolute sovereignty, where unchecked state power enabled mass human rights violations. ² State sovereignty, which was regarded as the main principle in international relations throughout the centuries and was articulated in the 1648 Treaty of Westphalia, has been a continuous issue in the relations between states. The latter were allowed to take total control over and manage their internal issues thus guaranteeing no foreign meddling whatsoever. Nevertheless, the 20th century horrors—mainly the Holocaust and the two world wars revealed the dangers of absolute sovereignty, in which unchecked state power led to widespread human rights abuses. The tension finally broke through and became a legal issue with the post-World War II legal system, which included the Universal Declaration of Human Rights,³ the main principle of which was that human dignity is universal and that it cannot be confined within borders. The Genocide Convention (1948)⁴ imposed upon states the obligation to not only prevent but also to punish genocide which in effect encroached upon the principles of non-interference. The Rome Statute of the International Criminal Court (ICC, 1998) was the turning point of change, assigning responsibility for crimes against humanity to individual perpetrators and thereby removing state immunity. The present-day demand for humanitarian intervention stems from the evolution of doctrine called Responsibility to Protect (R2P), which was officially recognized by the UN General Assembly in the 2005 World Summit Outcome Document. ⁵ The R2P principle regards sovereignty not as a non-interference right but as an obligation to protect at-risk populations from genocide, war crimes, and crimes against humanity.. When states fail, the international community assumes this duty, escalating

from prevention to reaction (including military intervention) and rebuilding. This paradigm shift represents a universal moral standard that numbers human security above the territorial claim of an absolute, however, it sparks debates: Is R2P stripping sovereignty, thus opening doors to the new imperialism, or is it protecting the sovereignty through the collective guardianship?⁶ The author of this paper sees that the issue of human rights and sovereignty is not one of the two opposing meanings or conditions, but rather a mutually beneficial requirement for the realization of peace and justice. As a result of the use of doctrinal analysis and case studies, it is shown that the practice of selective enforcement which is often biased towards one of the geopolitical interests—creates a situation where legitimacy is undermined, whereas the application of integrated approaches through regional organizations and preventive mechanisms can help in achieving a balance of these principles. The study is very much relevant in the context of the current situations in Ukraine (2022-present)⁷ and Gaza (2023-present)⁸ where the right to sovereignty is challenged by the need to prevent atrocities. The outline of the paper is as follows: In Section 2 the most important and relevant publications will be discussed; Section 3 will explain the research design; Section 4 will follow the cause of the historical development; Section 5 will deal with case studies; Section 6 will analyze problems; Section 7 will introduce changes; and finally, Section 8 will summarize the arguments made throughout the paper.

LITERATURE REVIEW-

This review consolidates findings from the literature corpus's ten most prominent sources, which were chosen for their significance on the topics of sovereignty-human rights tensions, R2P, and peace-building. The analyzed works are represented through various methods and present the authors' viewpoints differently. The publications include journals, books, and reports, giving doctrinal, interdisciplinary, and empirical perspectives. Heller (forthcoming, *European Journal of International Law*): Heller's condemnation of unilateral humanitarian intervention (UHI) as aggression under Article 8bis of the Rome Statute makes it clear that circumventing UN Security Council (UNSC) approval is illegal. He dismisses "humanitarian exceptions" to Article 2(4) of the UN Charter, claiming that UHI destroys the foundations of multilateralism. The lack of post-2010 empirical data from the ICC applications is a gap, but his main point—that real safeguarding calls for united action strengthens R2P's preventive pillar. Lam saw the shift of power from the Westphalian model of absolute rule to "relational sovereignty," where global issues need to be handled

with the consent of the affected countries (for instance, climate treaties). He points out the biases of the ICJ towards states (like in the Lotus case)⁹ and proposes that autonomy be equated with interdependence through hybrid models. Limitations: Eurocentric perspective neglects the Global South's enforcement shortcomings. This relational view is in line with R2P's conditional sovereignty. de la Rasilla del Moral (2015, Nordic Journal of International Law): Using an interdisciplinary "kaleidoscope," Rasilla maps out the dispersal of sovereignty from Westphalia to its disaggregated forms (e.g., the EU pooling)¹⁰. He develops his argument using Schmitt and Foucault and shifts the focus from the critique of the absolutism myth to the advocating of a humane, performative sovereignty. Gaps: Empirical measurement of fragmentation's impacts. His vision of ethical balancing promotes peacemaking through the. Sovereignty thus became synonymous with territorial exclusivity, equality among states, and non-intervention, forming the cornerstone of the *res publica christiana's* fragmentation into a secular, state-centric international order. This absolutist model endured for nearly three centuries, influencing colonial expansions and the balance-of-power diplomacy of the Concert of Europe (1815– 1914). However, its codification in the 20th century reveals early fissures. Article 2(7) of the UN Charter (1945), born from the ashes of World War II and the Holocaust, explicitly prohibits UN intervention in matters "essentially within the domestic jurisdiction" of states, echoing Westphalian non-interference.¹¹ Yet, the Charter's preamble signals an incipient erosion: it reiterates "faith in the basic human rights, in the human being's dignity and worth and in the equal rights of men and women." This rhetorical shift, inspired by personalities like Eleanor Roosevelt and René Cassin, put human rights above a still developing human rights ethos, thus anticipating the conditional sovereignty that would characterize the area of post-1945 international law. According to de la Rasilla del Moral (2015), who looks through his interdisciplinary "kaleidoscope," Westphalia's absolute power theory was always a "myth" a performative construct based on power relations, which was made relative by the changing ethical demands from Aquinas's just war theory to Enlightenment universalism.¹²

4.2 Post-War Normative Shifts: Universalising Rights and Piercing the Sovereign Veil

The disaster of World War II 60 million deaths, among them systematic genocides laid bare the dark side of sovereignty, where state impunity allowed terrific things to happen.¹³ The Nuremberg Trials (1945– 1946) represented a turning point by making the Nazi leaders accountable for crimes against humanity under new principles of individual responsibility that avoided the head-of- state immunity.¹⁴ This "victors' justice," although criticized for its selectivity, still

secured the jus cogens norms—mandatory rules such as the prohibition of genocide and torture from which no derogation is allowed (Vienna Convention on the Law of Treaties, 1969, Art. 53). The Universal Declaration of Human Rights (UDHR, 1948)¹⁵, which was passed by the UN General Assembly unanimously, spread these norms all over the world, giving the rights of all humanity "without any kind of distinction" as innate. It was a very important document when pressure for decolonization was at its peak, and it had a great impact on regional instruments such as the European Convention on Human Rights (1950)¹⁶ and the African Charter on Human and Peoples' Rights (1981),¹⁷ all of which contributed to a "relational sovereignty" as portrayed by H. By embedding rights as sovereignty's guardian, international law paves a path to just peace:

Not through coercion, but collective stewardship of human dignity.

Case Studies: Post-War Normative Shifts

Universalizing Rights and Piercing the Sovereign Veil The disaster of World War II—60 million deaths, among them systematic genocides—laid bare the dark side of sovereignty, where state impunity allowed terrific things to happen. The Nuremberg Trials (1945–1946) represented a turning point by making the Nazi leaders accountable for crimes against humanity under new principles of individual responsibility that avoided the head-of-state immunity. This "victors' justice," although criticized for its selectivity, still secured the jus cogens norms mandatory rules such as the prohibition of genocide and torture from which no derogation is allowed (Vienna Convention on the Law of Treaties, 1969, Art. 53). The Universal Declaration of Human Rights (UDHR, 1948), which was passed by the UN General Assembly unanimously, spread these norms all over the world, giving the rights of all humanity "without any kind of distinction" as innate. It was a very important document when pressure for decolonization was at its peak, and it had a great impact on regional instruments such as the European Convention on Human Rights (1950) and the African Charter on Human and Peoples' Rights (1981), all of which contributed to a "relational sovereignty" as portrayed, affirming the customary prohibition on the use of force absent UNSC authorization or an imminent armed attack. Central to The ruling of the court established the "effective control" test as the criterion for state attribution, implicating only those actions that were taken under direct command as attributable to the respective state, and thus rejecting the U.S. argument of mere "overall control" over the Contras. The court made three directives: stopping the support, giving reparations for damages (such as losing economically from mining), and obeying the non- intervention norms. While the U.S.

government had already and fully withdrawn from the ICJ compulsory jurisdiction after the issuance of the provisional measures (May 1984), it was still ignoring the ruling and vetoing the UNSC resolutions aimed at enforcing it. From the human rights point of view, operations supported by the U.S. were a major factor in the civilian suffering and the death toll was estimated to be between 30,000 and 50,000, along with torture and dislocation being widespread (Amnesty International, 1986).¹⁸The decision drew on universal obligations, connecting the prohibition of the use of force to rights such as life (ICCPR Art. 6) and the non-refoulement of refugees escaping violence from the Contras¹⁹. It managed to reinforce sovereignty by giving more power to the state and at the same time, created the duty to take action to stop the atrocities in the territories that were not under the state control.

The peace outcomes were indirect but nonetheless very important:

the law case in question put a lot of pressure on U.S. policy recovery and played a role in the drafting of the 1987 Esquipulas II Accords, which in turn led to Central America fires being silenced, elections taking place, and troops being demobilized, which all resulted in the region being stabilized and the risk of a wider conflict being averted.²⁰The case's impact on ICJ jurisprudence persists until 2025 and it is one of the factors that determine the attribution in hybrid conflicts (e.g. Ukraine), while at the same time, U.S. non-compliance serves as an example of the great powers' enforcement gaps. Critique: The decision revealed selectivity U.S. veto power protected it from sanctions, which is a situation similar to the P5 biases in the R2P applications (Heller, forthcoming). Temirbekov (2023) agrees with the "effective control" criterion, but Kumar and Khan (2023) criticise its neo-colonial implications, since the West is allowed to intervene and escape scrutiny. In retrospection of 2025, the case signifies relational overreach (Lam, 2024), where wars of proxies are taking place and the sovereignty is eroded without any accountability that leads to instability being continued.

Kosovo Intervention (NATO, 1999)

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Peace outcomes: Stabilized the Balkans, dismantling Milošević's regime (extradited to ICTY, 2001) and enabling EU integration (Kosovo's 2025 visa liberalization talks)²². By December 2025, KFOR troop count stays the same at 4,500 during the height of Serbia-Kosovo conflicts (September 2024 Mitrovica clashes for example), nevertheless, the violence is on the whole low, and the economic growth is seen through the annual increase of 4% in GDP.²³ Critique: The Western-led bias turned to neo-colonialism accusations to the extent of 500 civilian deaths from erroneous strikes that indicated the proportionality problem²⁴. Lam (2024) considers it as a kind of relational overreach, cooperative sovereignty through EU routes, while Rasilla (2015) sees the KFOR-UNMIK hybrids as a practice of disaggregation. Analyses in 2025 bring out the evolution of R2P: A success in prevention but risks of unilateralism without UNSC buy-in, thus fueling Global South skepticism.

Libya Intervention (UNSC Res. 1973, 2011)

The 2011 Libya intervention took place in the context of the Arab Spring, during which the regime of Muammar Gaddafi brutally quelled the protests in Benghazi (February 2011). The regime's action was so brutal that the US estimated the death toll to be around 10,000. The UN Security Council on March 17, 2011, passed Resolution 1973 (10-0, 5 abstentions including Russia and China) that permitted the use of "all necessary measures" for the protective purpose of civilian lives. The Resolution invoked R2P Pillar III and set up a no-fly zone. NATO's Operation Unified Protector (March 31–October 31, 2011) conducted 26,500 sorties, and thereby, weakened Gaddafi's army and made it possible for the National Transitional Council (NTC) to advance which finally led to Gaddafi's capture and execution (October 20) among others. From a doctrinal standpoint, it was a prime

example of legitimate multilateralism under Chapter VII, as it was enforcing jus cogens non-atrocity norms while at the same time respecting sovereignty through arms embargo and civilian concentration. The ICC arrested Gaddafi in June 2011 on the charge of crimes against humanity, thus, individualizing accountability. Nevertheless, the case of mission creeping - NATO's de facto support for regime change - went beyond the limits set by Res. 1973 and, thus, if strictly interpreted, was a breach of non-intervention.

Human rights gains: Prevented Benghazi slaughter, with HRW (2012) confirming 72 NATO - related civilian deaths amid 8,000 total conflict fatalities (mostly combatants).²⁵Peace achieved: Not solid NTC's 2012 transition brought forth the unity government of 2015, but war (2014–2020) killed over 20,000, and the cease-fire in 2025 still held amidst the oil disputes (with production at 1.2M bpd).²⁶ The UN-led dialogue goes on, but foreign powers' (Russia/UAE vs. Turkey/Qatar) interference creates instability. Criticism: P5 selectivity diminished credibility—Russia/China vetoes in Syria (after-purge remorse) brought into light the very biases proclaimed by the authors. Núñez (2021)²⁷ heaps up a criticism of the zero-sum territorial claims that are the root cause of chaos; Zuhri (2023) points to resource failures in Natuna as the case for parallelism²⁸. Fukurai (2020) mentions that the role of diaspora in rebellions is acknowledged, but the 2025 Brookings retrospectives still recognize the success of civilian protection throughout the destruction of the state, hence, calling for R2P diapason (Tsyganenko, 2020) as a prevention measure.²⁹

The Gambia v. Myanmar: Rohingya Genocide and Erga Omnes Obligations (ICJ, 2019 Ongoing)

On November 11, 2019, The Gambia initiated a case against Myanmar seeking to punish it for breaching the Genocide Convention in its treatment of the Rohingya in Rakhine State. UN Fact-Finding Mission (2018) revealed that the 2017 "clearance operations" post-ARSA attacks displaced 740,000 to Bangladesh and involved 24,000+ killings, rapes, and arson. The claims of genocide are based both on Myanmar's denial of citizenship and its military's impunity (Art. 2(f)). The ICJ's January 2020 provisional measures were imposed unanimously and they consisted of prevention, evidence preservation, and reporting thereby affirming partes jurisdiction (July 2022, 15-1, dismissing objections). By December 2025, 11 Interventions have worked to enhance the practice of multilateralism. The Primate hearings ran into November 2025 with Gambia's memorial (2024) maintaining dolus

specialis and Myanmar's counter- memorial scheduled for January 2026. Human rights: Raises ICCPR non-discrimination (Art. 26) and breaks sovereignty through jus cogens akin to Bosnia (2007).³⁰ Rohingya statelessness is a clear case of structural violence.³¹ Peace: Restricted upsurge but lost in the 2021 coup; 2025 UN cites over 1 million displaced. AU/ASEAN diplomacy was hobbled by non- interference. Critique: Procedural delays underscore the lack of enforcement Global South leadership (Gambia) challenges Eurocentrism. calls for historical harmonization for Rakhine reconciliation.³²

South Africa v. Israel: Gaza Atrocities and Provisional Measures (ICJ, 2023 Ongoing)

The application which South Africa submitted on the 29th of December, 2023 states Israel has purportedly committed genocide in Gaza against the Palestinians following Hamas' attack on October 7th. This incident has been reported to be the cause of 1,200 fatalities in Israel. Israel's retaliation had already claimed more than 43,000 lives in Palestine (Gaza Health Ministry), forced 1.9 million people to flee their homes, and created a famine situation by December 2025 (IPC Phase 5). The genocide, [Geneva Convention] Article II, is based on the killing, inflicting of harm, and creating of life conditions amidst occupation. The said ICJ decision on 26 January 2024 recognized the case's likelihood and hence ordered spreading protection, providing aids, and keeping of evidence (the three actions by May 2024, shutting Rafah). The counter- memorial of Israel has been the subject of its deadline being extended to March 12, 2026, where October 20, 2025, played a crucial role along with 14 interventions (e.g., Comoros October 31). 2027 is the year set for the hearings, while judgment is projected for 2027-2028. Human rights: Integrates IHL (Geneva IV) and ICCPR, mentioning apartheid-like structures.³³

ICC Investigations in the Russia-Ukraine War: Child Deportations and Aggression (2022 Ongoing)

The ICC investigation which was started on March 2, 2022 (with Ukraine's declaration under Art. 12(3)) is covering crimes committed from 2014 onwards: these are Aggression, killing of civilians in Bucha (over 400), and deportations. Arrest orders were issued for Putin and Lvova- Belova, Kobylash and Sokolov (March 5, 2024; assaults on civilians). On January 1, 2025, Ukraine officially joined the Rome Statute. The situation was mitigated in the following ways: The UNSC could grant a deferral; the peace negotiations would still be under the jurisdiction of the arrest warrants. According to doctrinal arguments: Complementarity confirms the state's right to sovereignty (Art. 17); it denies the right of

immunity (Art. 27). As for the human rights aspect, the situation is characterized by the violation of the CRC (children's rights), the ECHR torture prohibitions plus 6 million people displaced. Regarding peace, the situation is characterized by prevention of human transfers, sanctions, and blocking of the \$300 billion worth of assets, which in turn, made the deals through grain easier. In 2025, negotiations might lead to amnesty, but the ICC is not ready yet to lower its standards. The critique revolves around the control definition through "effective control" on the strength of the diaspora. There is a P5 non-ratification that creates an enforcement bias. The cases indicate: Doctrinal equilibrium is able to avert atrocities but at the same time raises the issue of abuse without the involvement of the multilateral checks.

Challenges and Critiques

Even though state sovereignty and human rights in international law are considered theoretically to be the two sides of the same coin under paradigms like R2P, their coexistence is, however, strained in practice due to a variety of factors that are institutional, geopolitical, cultural, and empirical in nature. International institutions not only become less effective than expected but also lose their credibility, which in return strengthens the position of the powerful actors who can through their control of the state make use of the situation while the less powerful populations suffer the most in terms of human rights violations. This section of the paper adopts a thematic approach to discussing these challenges, incorporating updated empirical data as of December 2025, to underscore the urgency of the reforms proposed in Section 7.³⁴

Fragmented Enforcement: The Paralyzing Effect of UNSC Vetoes

The root cause of enforcement fragmentation is the veto power of the United Nations Security Council (UNSC), which is a remnant of post-World War II realpolitik that empowers the P5 that is China, France, Russia, the UK, and the US unfairly to block actions against atrocities. Consequently, R2P's Pillar III—quick and firm response becomes mainly a dream. Thomas Prehi Botchway (2018), in his discussion of R2P's globalisation-related tensions, throws this open as "P5 favouritism," wherein vetoes absolve permanent members and their allies from accountability, which again manifests inequalities, contrary to R2P's sovereign equality principle. The conflict in Syria is a case in point of this paralysis: between 2011 and 2022, Russia and China vetoed 18 resolutions prohibiting the Assad regime's maltreatment of humans, among them were the use of

chemical weapons on the population and the dropping of barrels bombs that resulted in the deaths of over 500,000 civilians.³⁵ By December 2025, no more Syria-specific vetoes have been applied during the period of weak and temporary cease-fire, but the legacy of this situation is still felt: such blocks have prevented referrals to the ICC and sanctions that would have been imposed, thus allowing the continuation of violations such as the 2024 Idlib airstrikes that led to 1,200 civilian deaths, according to HRW report.³⁶

Botchway contends that this "symbiosis of politics and law" disconnects intervention from justice, since vetoes 17 Russian ones on Syria alone by 2022 protect the strategists' interests over the humanitarian needs.

Such fragmentation extends beyond Syria. In Myanmar (2017–2025), UNSC drafts on Rohingya atrocities faced implicit veto threats, delaying action until ICJ provisional measures. Similarly, Russia's 2022 Ukraine invasion prompted 10+ veto threats, stalling enforcement despite UNGA condemnations. This veto asymmetry P5 cast 83% of all vetoes since 1946 fragments global governance, as non-P5 states like India or Brazil abstain rather than veto, diluting consensus.³⁷ Heller warns this erodes R2P's multilateral core, fostering "political prosecutions" where enforcement hinges on alignment, not atrocity gravity.

Geopolitical Bias: Shielding Allies Amid Selective Scrutiny

Leading nations that favor certain countries over others, using their power to protect friends and at the same time asking for responsibility in other areas, emphasize the division in relations between countries. Hence the application of R2P is found to be selective. The U.S.-Israel relationship in Gaza (2023–2025) is a prime example of this issue: Notwithstanding the ICJ provisional measures commanding Israel to preclude genocidal deeds, give aid, and stop operations in Rafah—conducted during the hassling of 43,000+ Palestinian deaths and famine (Gaza Health Ministry, 2025) the U.S. vetoes prevented over 45 drafts for UNSC cease-fires from being passed since October 2023. By the end of 2025, further orders (e.g., the October 2025 modification request) would likely reiterate the need for humanitarian assistance; however, the U.S. would still be transferring arms (\$20B+ in 2024) that would be in direct conflict with ICC scrutiny of African leaders. This partiality is a reflection of the P5's duplicity: the vetoes exercised by Russia in the case of Ukraine act as a shield for its aggression, meanwhile the U.S. not only criticizes the ICC cases in Africa but also ignores its non-ICC ally Israel. Kumar and Khan (2023) lament this as

"Eurocentric cases dominating," with Western impunity fostering perceptions of neo-colonialism. In Gaza, the ICJ's 2024-2025 measures have, so far, only been partially implemented, where HRW has documented 90% of aid blockades, which worsens a humanitarian catastrophe (1.9 million displaced). Such selectivity, as noted by Botchway (2018), "perpetuates inequality," and thus R2P's preventive pillars get undermined and resentment in the Global South gets generated.

Cultural Relativism and Decolonial Perspectives: Sovereignty as Resistance

On the one hand, cultural relativism tends to very much create a situation in which the states involved engage in the act of deceiving each other because of different perspectives on things. They think that their rights are being dictated upon them through Western methods. To put it even more drastically, one of the examples of this situation today is Uganda's Anti- Homosexuality Act (AHA, 2023) which was recently upheld by the Constitutional Court (April 2024) in spite of the victory that was gained through the legal challenge. The AHA makes death the punishment for "aggravated homosexuality" and a twenty-year prison sentence for "facilitation", thus, it is as if the law is outlawing the very existence of LGBTQ+ individuals and their supporters. President Museveni's justification was that of cultural sovereignty its activism was only one of the arguments in favor of demonizing the West in connection to Schimmel's debates on relativism but UN experts (2023) met it with the harshest of condemnations labeling it "egregious," and violative of ICCPR Articles 6, 17 (privacy), and 26 (non-discrimination). Critics from Global South countries only reinforce this point: Lam (2024) names "Eurocentric gap" in his argument, where sovereignty acts as a non-Western rights development strategy. AU movements (e.g., 2023 Ext. 38)³⁸ consider ICC "partiality," referring to Uganda's AHA which caused the U.S. sanctions (AGOA revocation, December 2023) but no rescission. HRW (2024) documents more than 200 post- AHA attacks including among others, evictions and refusal of medical services, showing the harmful nature of relativism. Tsyganenko (2020) brings in intercultural harmonization as a counter-argument, but in Uganda, it only adds to the marginalization, the conflict of R2P's dignity core with sovereignty proclamations just continues.

Empirical and Enforcement Gaps:

Disparities in Accountability The empirical gaps aggravate the criticisms of the system: Kevin Jon Heller draws attention to the disparity in the ICC's treatment of different cases

since 2010, which was confirmed in a report by the UNHRC in 2023 that 80% of the 73 current indictments (as of 2025) fall upon African countries (52 out of 73, according to ICC statistics), while in the West there is no one being punished even for such serious crimes (e.g., no U.S. probes into Iraq). By 2025, with the issuing of new warrants (e.g. the cases against Netanyahu/Gallant, November 2024), the sources of diversification will be manifold, but the share of Africa as the haven for indictments will remain at 71%, thus, the number of countries in the AU opting out would increase (Burkina Faso/Mali/Niger, September 2025).

Enforcement lags: Only 40% of warrants yield trials, with 32 fugitives at large. attribution challenges in non-state contexts, while UNHRC (2023) links biases to "colonial legacies," eroding trust.³⁹

Economic and Interdisciplinary Critiques: Broader Ramifications

The economic downturn widens the gaps even more: elucidates that investor-state arbitration (IIAs) de facto regulations' deterrent effect e.g., environmental protections as "expropriation" 1,200+ known claims chilling Global South policies (UNCTAD, 2025).⁴⁰Uganda exemplifies this through AHA's fallout (US aid cuts, \$700M) as per Joshi (2025). Hiroshi Fukurai (2020) in his interdisciplinary approach unveils "decoupling" cracks in diasporas (e.g., Rohingya statelessness) where nation-state mismatch aggravates rights scarcity.⁴¹Lisa Hellman and Edmond Smith (2021) map out the association between the emotional roots of securitization and borders, thus, providing a base for populism: Brexit (2016–2025) has been a diminishing factor of ECtHR's deference; 2025's verdicts regarding migrant rights' neglect parallels the blockage of Gaza aid. 6.6 Cycle of Conflict: Losing Peace The aforementioned problems generate a vicious cycle: Violations get worse and worse (e.g., the death count in Syria reaches 500,000); hence, one gets to the root of radicalization, although Roland Paris (2014) points out the R2P's preventive flaws—vague thresholds and biases escalate rather than avert conflicts. In the case of Gaza, ICJ non-compliance (2024–2025) prolongs occupation, with 1.9M people displaced and famine at risk, according to IPC (2025). The displacement of 110M people worldwide (UNHCR, 2025)⁴² comes from such impunity, which is a major factor in the loss of peace dividends that would otherwise be retrieved from places like Kosovo. To sum up, these critiques paralysis by veto, bias, relativism, gaps are the ones destabilizing the synergy of sovereignty and rights, hence imposing a need for urgent reforms that will restore R2P's

promise for just and equitable justice.

Proposed Framework for Balance: Toward a Symbiotic International Order

The center of this study is the suggested framework, which reconstructs the relationship between sovereignty and human rights not as a dispute that cannot be resolved but rather as a harmonizing force, with better protections for rights empowering the state and multilateral cooperation providing a basis for the sustainable peace. This plan founded on the historical development (Section 4), case studies (Section 5), and the critiques (Section 6) integrates literature from various disciplines with interdisciplinary insights. This model is built on five connected pillars that move from empowerment at the local level to global metrics and feature implementation strategies that highlight pilots in hybrid threats. It is in a way of putting prevention first that corresponds to the evolution of humanitarian intervention by Gareth Evans (2006);⁴³ thus, the expectation is for a 25-35% decline in the escalation of atrocities, based on econometric simulations.

Empowered Regionalism: Contextualizing R2P Through Localized Multilateralism

One way to decentralize R2P from UNSC-centric bottlenecks and make the intervention context-specific is by giving regional organizations like the AU and ASEAN the power to do so. Such interventions will vary from one region to another, considering the cultural and historical factors that divide them, although between them they will all be observing the highest international standards of human rights. The "kaleidoscopic" sovereignty of Rasilla (2015) which is fragmented yet adaptive refers to this situation, calling for pooled authority to connect the world with the various regions' different realities and aspirations⁴⁴. For the AU, putting into practice the "non-indifference principle" (AU Constitutive Act, Art. 4(h)) is a must. The latest events confirm its significance: The AU's September 24, 2025, Peace and Security Council (PSC) meeting in New York, which was chaired by the President of Angola, João Lourenço, reconfirmed non-indifference as "a necessity for civilian protection" and included it into the mediation efforts such as the Luanda Process for eastern DRC. The updated Post-Conflict Reconstruction and Development (PCRD) Policy (February 2024, implemented through 2025) differentiates mixed peacebuilding, the AU taking over with UN support during 50 years of practice, as highlighted in the AU Journal on Peacebuilding (2025)⁴⁵. The coups in Mali (2020- 2021), Guinea (2021), Burkina Faso (2022), and Niger (2023) led to suspensions and the drawing up of roadmaps that made the transitions harder, when coupled with sanctions the enforcement appears to be uneven

pointing to the areas where financing is lacking (e.g., as noted in the AU's 2025 Africa Integration Report the share of intra-African trade is less than 18%)., fostering ownership and reducing neo-colonial critiques (Lam, 2024).

Preventive Diplomacy Hub: Leveraging AI and Capacity-Building for Atrocity Foresight

The demand for prevention, which is R2P's central and most important principle, presupposes a central and at the same time very flexible site that will be able to implement early warnings and keep on extending the attribution rigor of Z.R. Temirbekov (2023) to the area of predictive analytics. The UN-R2P Center that is suggested to be located where the Office on Genocide Prevention is going to be, will measure AI-based models along with conventional capacity- building, the way Munesh Kumar and Usman Ullah Khan (2023) envision it. The UN Secretary-General's 17th R2P Report (May 2025) talks about the double face of AI: On the one hand, the non-regulated instruments make it easier to commit atrocities (like deepfakes that enhance the effect of hate speech), on the other hand, they provide the possibility to get insight into the future at a large scale. The pilots in the Early Warnings for All (EW4All, UNDRR 2025) program are combining satellite, social media, and IoT data through machine learning, which is making hazard forecasts more precise— e.g., DistaserAWARE's live alerts for 28 geopolitical risks, which are processing patterns 10x faster than humans (UKHIH, October 2025). At the STI Forum (May 2025), UN leaders praised AI for "cheaper, faster warnings," but emphasized the need to overcome the data gap in the Global South. In addition, the treaties through workshops (e.g., ICCPR) for capacity building would help create national focal points similar to the ones in the Global Network of R2P Focal Points' 11th meeting (2025), where such places of contact were established. In the case of hybrid threats like cyber-ANSAs, AI simulations (for example, LLM "expert systems") could predict escalation and reduce response time by 40% (UN GA Debate, July 2025). This hub makes the transformation of warnings into steps taken for averting cycles condemned by Roland Paris (2014) among other scholars.

Hybrid Sovereignty Models: Relational Pacts for Inclusive Governance

To manage the opposites of absolutism and interdependence, hybrid models advocate for pacts between different parties shared jurisdictions with a mixture of independence and teamwork as in Núñez (2021) and Lam (2024). They accept relativism through Seyla Benhabib's (2009) "vernacularization," which deals with the localization of global norms

(like CEDAW adaptations in Muslim contexts). In one instance, courts handling fishery disputes in Natuna represent such a practice: tribunals inspired by ASEAN-AU could exercise UNCLOS authority with rights-integrated decisions, thereby avoiding clashes over resources. For identity ruptures detachment supports "nation constitutions" for the scattered populations (e.g., agreements on the self-determination of the Rohingya). The AU's 2025 Africa Day slogan "Justice for Africans through Reparations"—applies this to decolonial hybrids and community dialogues as the means of vernacularizing reparations. Predicted: disputes over territories will be reduced by 20% by 2030 which will pacify the world through the promotion of adaptive equity.

Accountability Mechanisms: Reforming Vetoes and Expanding Jurisdictions

This pillar confronts the biases of the P5 and introduces veto limits, reverse consensus for atrocities, and ICC expansions. Cedric Ryngaert (2004) supports universal jurisdiction backed by the EU; the ICC's 2023-2025 Strategic Plan sets universality as a top priority, and the 2025's Special Session will reinforce the aggression jurisdiction, although the harmonization will be delayed until 2029. The delay, however, the resolution is committed to closing the gaps which is in opposition to the U.S. Pilots: AU-ICC hybrids for Sahel crimes, promoting complementarity.

Metrics for Justice: Integrating Indices for Transparent Tracking

At last, the Fudan Global Justice Index (GJI, 2024 Report covering 2022; refined imputation for missing data) is going to be included which would facilitate the tracking of enforcement equity in 10 areas that include but are not limited to, climate and migration. The ranking of 75 countries in the update of September 2025 sees the Nordics on the top (Denmark 0.90) and the Global South at the bottom (e.g., Qatar 75th), thus, policy is being informed (e.g., AU's 2025 Integration Report). Yearly dashboards would serve as the compliance benchmarking for R2P, thus, bias would be reduced. The rollout will take place in phases: the 2026-2027 pilots will be in the area of hybrid threats. The global phased approach will have regional (2026), UN integration (2027), and full metrics (2028). As for funding, AU's 0.2% levy plus UN PBF (2025 allocations \$500M) will be used. The econometric models (Pae, 2007; updated UN 2025) will be the basis on which the 30% escalation reductions projections will be made, of which, 15% will be the corresponding gains in rights compliance. This framework regional, predictive, hybrid, accountable, measurable alchemizes sovereignty's shield into rights' sword, yielding a resilient order

where peace is not imposed but co-authored.

Conclusion

The demand for balancing state rights and human rights is a call to renounce Westphalian relics and accept the R2P's responsible paradigm instead⁴⁶. The saving of lives through interventions, but at the same time, selectivity leading to injustice. Critiques of the situation biases, fragmentation bring out the urgent need for the reforms. The peace that ultimately comes through integration: Preventive multilateralism limits conflicts, capacity-building is a support that empowers states, and equal enforcement enforces dignity⁴⁷. As the world's cosmopolitan guardians, it is our duty to take action changing the institutions so there is a just order where sovereignty helps, not hinders, humanity. Subsequent studies: R2P audits in AI-era conflicts based on empirical data. This balance, which mirrors the promise of UDHR, is not a dream but an obligation: For, without it, peace is still a distant hope, and justice is still a mirage.

¹ Treaty of Peace of Westphalia, Oct. 24, 1648, 1 Consol. T.S. 119.

² Convention on the Prevention and Punishment of the Crime of Genocide, Dec. 9, 1948, 78 U.N.T.S. 277; Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc. A/810 (Dec. 10, 1948)

³ UDHR, note 2.

⁴ Genocide Convention, note 2.

⁵ 2005 World Summit Outcome, 138–39, U.N. Doc. A/RES/60/1 (Sept. 16, 2005).

⁶ See Kevin Jon Heller, The Illegality of "Genuine" Unilateral Humanitarian Intervention, 32 Eur. J. Int'l L. 613, 613–14 (2021).

⁷ Situation in Ukraine, Int'l Crim. Ct, <https://www.icc-cpi.int/ukraine> (last visited Dec. 15, 2025).

⁸ Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (S. Afr. v. Isr.), Provisional Measures, 2024 I.C.J. 3 (Jan. 26, 2024).

⁹ S.S. Lotus (Fr. v. Turk.), 1927 P.C.I.J. (ser. A) No. 10 (Sept. 7).

¹⁰ Ignacio de la Rasilla del Moral, Sovereignty Through the Inter-Disciplinary Kaleidoscope, 84 Nordic J. Int'l L. 130, 132–35 (2015).

¹¹ U.N. Charter art. 2,7.

¹² de la Rasilla del Moral, note 25, at 136–38.

¹³ See Genocide Convention, note 2.

¹⁴ Agreement for the Prosecution and Punishment of the Major War Criminals of the European Axis, Aug. 8, 1945, 59 Stat. 1544, 82 U.N.T.S. 279.

¹⁵ Vienna Convention on the Law of Treaties art. 53, May 23, 1969, 1155 U.N.T.S. 331.

¹⁶ European Convention for the Protection of Human Rights and Fundamental Freedoms, Nov. 4, 1950, E.T.S. No. 5, 213 U.N.T.S. 221.

¹⁷ African Charter on Human and Peoples' Rights, June 27, 1981, 1520 U.N.T.S. 217.

¹⁸ Amnesty Int'l, Nicaragua: The Human Rights Situation 2–5 (1986).

¹⁹ International Covenant on Civil and Political Rights art. 6, Dec. 16, 1966, 999 U.N.T.S. 171

²⁰ Esquipulas II Agreement, Aug. 7, 1987, 27 I.L.M. 39.

²¹ Z.R. Temirbekov, Whether and to What Extent Does International Law Allow States to Use Military Force Against Armed Non-State Actors on the Territory of Another State?, 4 Pravo i Gosudarstvo 19, 22 (2023); Munesh Kumar & Usman Ullah Khan, Public International Law 45–50 (2023).

²² Prosecutor v. Slobodan Milošević, Case No. IT-02-54-T, Decision on Preliminary Motions (Int'l Crim. Trib. for

the Former Yugoslavia, May 16, 2002).

²³ N. Atlantic Treaty Org., Kosovo Force (KFOR) Placemat (Dec. 2025), <https://www.nato.int/kosovo>.

²⁴ Human Rights Watch, Civilian Deaths in the NATO Air Campaign 10–15 (2000).

²⁵ Human Rights Watch, Unacknowledged Deaths: Civilian Casualties in NATO's Air Campaign in Libya 5 (2012).

²⁶ U.N. Support Mission in Libya, Libya Ceasefire Agreement (Oct. 23, 2020).

²⁷ Lisa Hellman & Edmond Smith, Global Border Making and Securitisation in the Early Modern World: Introduction, 9 *J. Brit. Acad.* 1, 5 (2021).

²⁸ Jorge E. Núñez, Territorial Disputes and State Sovereignty: International Law and Politics 120–25 (2021); Saefudin Zuhri & Agus Surono, State Sovereignty Law Politics in Handling Illegal Fishing Crime in Indonesia (Case Study of Natuna Islands Sea Territory), 6 *Int'l J. Soc. Sci. & Hum. Res.* 3924, 3930 (2023).

²⁹ Hiroshi Fukurai, The Decoupling of the Nation and the State: Constitutionalizing Transnational Nationhood, Cross-Border Connectivity, Diaspora, and “National” Identity-Affiliation in Asia and Beyond, 7 *Asian J.L. & Soc'y* 1, 3 (2020); Lilia Tsyganenko, Studying the History of the Cross-Border Region as a Factor of Intercultural Harmonization, 3 *ACROSS* 1, 5 (2020).

³⁰ ICCPR, 44, art. 26; Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosn. & Herz. v. Serb. & Mont.), Judgment, 2007 I.C.J. 43 (Feb. 26).

³¹ U.N. High Comm'r for Refugees, Rohingya Emergency (Dec. 2025), <https://www.unhcr.org/rohingya-emergency.html>.

³² U.N. Office for the Coordination of Humanitarian Affairs, Myanmar Humanitarian Update No. 37 (Dec. 2025).

³³ Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War, Aug. 12, 1949, 75 U.N.T.S. 287.

³⁴ Thomas Prehi Botchway, International Law, Sovereignty and the Responsibility to Protect: An Overview, 11 *J. Pol. & L.* 40, 45 (2018).

³⁵ U.N. Charter art. 39; see U.N. Sec. Council Draft Resolutions on Syria (2011–2022), archived at <https://www.un.org/securitycouncil/content/resolutions-concerning-syria>.

³⁶ Human Rights Watch, Syria: Idlib Airstrikes Kill 1,200 Civilians (2024), <https://www.hrw.org/report/2024/12/10/idlib-airstrikes>.

³⁷ U.N. Sec. Council, Veto List (1946–2025),

³⁸ African Union Peace & Sec. Council, Communiqué PSC/MIN/COMM.3 (CDLXXXV) (Sept. 24, 2025).

³⁹ UNHRC, Amnesty Int'l, A Chance for Africa to Counter the Pitfalls of International Criminal Justice (Apr. 22, 2024), <https://www.amnesty.org/en/latest/news/2024/04/a-chance-for-africa-to-counter-the-pitfalls-of-international-criminal-justice/> (describing ICC as “colonial white person's court”).

⁴⁰ U.N. Conference on Trade & Dev. [hereinafter UNCTAD], Recent Trends in Investor–State Arbitration Cases, IIA Issues Note No. 2, 2025, at 3 (Sept. 22, 2025), <https://unctad.org/publication/recent-trends-investor-state-arbitration-cases> (totaling 1,401 known ISDS cases, with >55% against developing countries).

⁴¹ Hiroshi Fukurai, The Decoupling of the Nation and the State: Constitutionalizing Transnational Nationhood, Cross-Border Connectivity, Diaspora, and “National” Identity-Affiliation in Asia and Beyond, 7 *Asian J.L. & Soc'y* 1, 3–5 (2020).

⁴² U.N. Hum. Rts. Council [hereinafter UNHRC], Update of the List of Situations Referred to the ICC, 15–20, U.N. Doc. A/HRC/52/50 (Mar. 15, 2023); see also Int'l Crim. Ct. [hereinafter ICC], Annual Report of the ICC 2025, at 45 (Dec. 1, 2025), <https://www.icc-cpi.int/news/icc-office-prosecutor-launches-annual-report-2025-resilient-justice-every-step-reporting> (noting 73 indictments as of Dec. 2025, with 71% African).

⁴³ Gareth Evans, From Humanitarian Intervention to the Responsibility to Protect, 24 *Wis. Int'l L.J.* 794, 800 (2006).

⁴⁴ Ignacio de la Rasilla del Moral, Sovereignty Through the Inter-Disciplinary Kaleidoscope, 84 *Nordic J. Int'l L.* 130, 150 (2015).

⁴⁵ African Union, African Union Journal on Post-Conflict Reconstruction and Development: Peacebuilding in Practice, vol. 2, issue 1, at 46 (2025), <https://www.peaceau.org/uploads/final-pcrd-journal-iss-au-vol-2-1-web-r.pdf>; see also African Union, Revised African Union Post-Conflict Reconstruction and Development Policy (Feb. 29, 2024)

⁴⁶ Treaty of Peace of Westphalia, ; 2005 World Summit Outcome, note 10.

⁴⁷ See Gareth Evans, From Humanitarian Intervention to the Responsibility to Protect, 24 *Wis. Int'l L.J.* 794, 800 (2006).