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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

THE ROLE OF SOVEREIGNTY IN DEFINING INTERNATIONAL LAW: A COMPARATIVE ANALYSIS

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ABSTRACT:

This study examines the intricate function of sovereignty in international law, emphasizing the equilibrium between state autonomy and international obligations within legal systems. The fundamental question is: How does international law harmonize the idea of state sovereignty with the implementation of international obligations? This study employs a comparative and doctrinal methodology to analyze fundamental principles, including Article 2(7) of the United Nations Charter, which stipulates non-intervention in domestic matters, as well as doctrines such as the Responsibility to Protect (R2P) and the powers of the UN Security Council under Chapter VII. These procedures underscore the dual approach in international law: certain laws safeguard sovereignty by restricting foreign involvement, whilst others permit action in instances of humanitarian emergencies or threats to peace and security. The findings demonstrate that although international law generally upholds sovereignty, it incorporates adaptable exceptions, particularly for global security and human rights matters. Case studies of both safeguarded and contested sovereignty demonstrate that reconciling state autonomy with global governance is a complex and dynamic endeavor, necessitating ongoing multilateral discourse to harmonize international law with current requirements.

Key words: Sovereignty, International obligations, United Nations Charter, Non-intervention, Global governance.

INTRODUCTION:

International law has traditionally recognized state sovereignty as states' right to govern without outside influence. This idea is often tested by international commitments including global security, human rights, and humanitarian disasters in an increasingly interconnected world.

This study examines sovereignty's changing significance in international law, concentrating on state autonomy and global governance. It answers the research question: How does international law balance state sovereignty and international obligations.¹

Chapter VII powers allow international law to supersede sovereignty to address global challenges. International law preserves state sovereignty but allows intervention, indicating a dual approach that addresses modern global requirements without compromising state autonomy, according to this study.²

This research addresses a crucial international law issue: reconciling sovereignty with international commitments. Understanding this balance is crucial to international law's legitimacy and effectiveness as global issues become increasingly complicated. This study clarifies sovereignty's upholding or limitation criteria, informing future international cooperation frameworks.

Structure of the paper: First, a literature study covers sovereignty and international legal principles on non-intervention and intervention. Next, a conceptual framework examines sovereignty and international commitments, focusing on Article 2(7), R2P, and the Security Council. Following a comparative review of laws and doctrines that protect and limit sovereignty, case studies of interventions and sovereignty-protected cases are examined. The report finishes with insights into the difficulty of reconciling sovereignty with international legal duties and suggests solutions to improve state autonomy and global governance.³

LITRATURE REVIEW

Sr. No.	Nature of Literature	Name of the Literature	Covered/ Review	Research Gap	Intended Research

¹ Nur Rohim Yunus, Muhammad Sholeh & Ida Susilowati, Implications of State Sovereignty for the Ratification of International Law, 8 DAULIYAH J. ISLAMIC & INT'L AFF. 131, 133 (2023).

² Georges Labaki, The Dilemma of Sovereignty of Failed States in International Law: From the Obligation to Abstain to Intervention, Lebanese Army Website (Jan. 2023), <https://www.lebarmy.gov.lb/en/content/dilemma-sovereignty-failed-states-international-law-obligation-abstain-intervention>.

³ Jana Maftai, Sovereignty in International Law, 11 ACTA UNIVERSITATIS DANUBIUS. JURIDICA [starting page not provided], [pages cited not provided] (2015), <https://journals.univ-danubius.ro/index.php/juridica/article/view/2798/2585>.

1.	Research paper	Implications of state sovereignty for the ratification of international law. Sovereignty in international Law	Sovereignty in the state and international obligations that arise while acceding to international law have been critiqued in this article. The prospects of national sovereignty, global standing and freedom of policy enactment are all factors determined by the extent to which nations reconcile self rule and obligations contracted with other states. The article deconstructs the historical growth and importance of state sovereignty with regards to international legal standards and emphasizes the factors which make state sovereignty a very complicated issue. Within the scope of globalization.	The research gap lies in the limited exploration of decision-making mechanisms that can balance sovereignty with global responsibilities, particularly frameworks that ensure transparency and stakeholder participation during the ratification of international treaties. The research gap in this article lies in the insufficient exploration of how emerging global issues, such as cybersecurity threats and climate change, challenge traditional notions of state sovereignty in international law.	This research will address the lack of exploration into decision-making mechanisms that reconcile state sovereignty with international obligations, highlighting the importance of transparency and stakeholder engagement in treaty processes. My research paper will address the gap in understanding how state sovereignty interacts with international law's evolution, particularly in the context of modern challenges such as human rights and global security.
2.	Journal article	international Law	standards and emphasizes the factors which make state sovereignty a very complicated issue. Within the scope of globalization.	sovereignty in international law.	particularly in the context of modern challenges such as human rights and global security.

3.	Journal Article	From Humanitarian intervention to responsibility to protect (R2P)	The article compares humanitarian intervention to the Responsibility to Protect (R2P) doctrine, which increases state sovereignty by requiring the international community to intervene in mass atrocities.	The Responsibility to Protect (R2P)'s effectiveness and implementation in varied geopolitical circumstances, particularly state sovereignty challenges, is understudied.	MY research delves into the broader repercussions of sovereignty and its incorporation into international law, especially concerning R2P and the role of international bodies.
4.	Article	R2P and the UN	The article explores the evolution and challenges of the Responsibility to Protect (R2P) philosophy, underlining the conflict between state sovereignty and international involvement to protect civilians from mass atrocities.	The article lacks a thorough exploration of the specific challenges faced by UN peacekeepers in interpreting and executing their mandates under R2P, particularly in high-risk environments.	The article, which discusses issues regarding the adequate implementation of R2P by UN peacekeepers due to the absence of clear guidelines, will not be the focus of my research paper.

5.	Journal article	International Criminal law by other means: The quasi-criminal jurisdiction of the human rights courts	This article explores how human rights courts, though not formally criminal courts, exercise a quasi-criminal jurisdiction by holding states accountable for severe human rights abuses. It examines how these courts impose responsibilities and quasi-punitive measures that overlap with traditional criminal law functions.	The research gap in this article lies in its limited exploration of the direct impact of quasi-criminal rulings by human rights courts on individual accountability, focusing instead on state responsibility. It also lacks a detailed analysis of the implications for international criminal law frameworks and enforcement practices.	My work will fill gaps by examining the intersection of sovereignty with enforcement mechanisms and obligations, offering a comparative analysis that highlights the roles and limitations of international organizations in enforcing accountability.
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RESEARCH METHODOLOGY

This study analyzes state sovereignty and international duties in international law using a comparative and doctrinal approach. This method compares legal frameworks that defend and limit sovereignty, such as Article 2(7) of the UN Charter, the Responsibility to defend (R2P) theory, and Chapter VII UN Security Council powers. The doctrinal analysis examines these principles through case studies and international legal precedents to explain how sovereignty is upheld or challenged in certain settings. This combined approach provides for a full study of sovereignty's changing role in international law.

Conceptual Framework: Sovereignty vs. International Law Obligations

- **Traditional concept of sovereignty:**

The traditional understanding of sovereignty remains a key pillar in the edifice of international law, which postulates that states possess the supreme power to govern their territories without external interference. In the context of 1648 Western Europe,

‘sovereignty’ as a concept was developed to describe a system in which, all states are regarded as sovereign and equal within the international system. Sovereignty has three main components: territorial integrity, jurisdictional control, and an internal consideration whereby no state or supranational structure is allowed to intrude on a nation’s decision-making processes.

Sovereignty allows states to enact and enforce laws, deal with internal affairs and conduct international relations as instance of self-government. The legal order has always been understood as respecting this limit on fragmentation of states authority over their territorial jurisdiction, as well advanced in the the United Nations Charter where Article 2(1) affirms the equality of States and Article 2(7) prohibits any action on the part of a member in regard to the internal affairs of a State. This approach keeps the focus on the State in the international relations while understanding sovereignty as a shield imposed by the state from any foreign venture that could in any way undermine the state. However, as the world has become more globalized, this traditional appraisal has come under challenge because of numerous global obligations and responsibilities that have been incorporated; most especially in the areas of human rights, environmental protection and international peace and security. Such transformations have led to the evolution of the concept of sovereignty in such a way that, state sovereignty is preserved alongside the need of the global society to address the challenges that cut across national borders. Therefore, in spite of the fact that sovereignty remains a cardinal principle in international law.⁴

- **Article 2(7) of the UN Charter and the Protection of Sovereignty:**

The provision found in Article 2(7) of the Charter of the United Nations signifies the aspect of International Law that upholds the doctrine of non-interference in domestic politics by stipulating that the UN shall not intervene in matters ‘which are essentially within the domestic jurisdiction’ of any state. This principle serves as an underpinning of statehood, for it allows states to exercise control over their internal affairs like government, law enforcement, and social systems without the risk of interference from the outside world. Non- intervention which is what the article articulates enhances the still core concept of sovereignty which is to say that states are seen as independent and self-governing

⁴ Oyetola Muiyiwa Atoyebi, SAN, The Concept Of Sovereignty In International Law:Lessons For The Nigerian Society, LAW PAVILION [(last visited Nov. 7, 2024)], https://lawpavilion.com/blog/the-concept-of-sovereignty-in-international-law-lessons-for-the-nigerian-society/#google_vignette.

possessing rights over their territorial bounds.⁵

Importance of Article 2(7):

This article serves as a legal safeguard, shielding states against undue influence or activities by other states or international organizations. This ideal of non-interference is especially esteemed by states that stress sovereignty to maintain political stability and cultural autonomy. It asserts that the UN and its member states must honor the sovereignty of nations to manage their own affairs without external interference.⁶

Transforming Context and Obstacles:

The meaning and execution of Article 2(7) have evolved in response to changing global objectives, particularly concerning human rights breaches and dangers to world peace. The UN Security Council may allow intervention under Chapter VII of the Charter if a situation within a state is considered a threat to world peace and security, therefore establishing an exception to the norm of non-intervention. Moreover, the formulation of theories such as the Responsibility to Protect (R2P) contests the inflexibility of Article 2(7) by positing that the international community bears a moral need to intervene in instances of egregious human rights violations, including genocide and ethnic cleansing.

- **Principles and Laws That Challenge Sovereignty:**

Notwithstanding the safeguards provided by Article 2(7) of the United Nations Charter, numerous principles and norms in international relations contest or modify state sovereignty, particularly in situations involving humanitarian catastrophes and risks to global security. These principles underscore a transition towards emphasizing human rights and global stability, demonstrating a dynamic contradiction within international law

Responsibility to Protect (R2P):

The R2P concept was developed primarily in response to severe humanitarian situations, including but not limited to, genocides and ethnic cleansings, and in this context gained much support. The Responsibility to Protect (R2P) proposes that where a particular state is not able

⁵ Nicholas Tsagourias, Security Council Legislation, Article 2(7) of the UN Charter, and the Principle of Subsidiarity, 24 LEIDEN J. INT'L L. 539, 539-559 (2011).

⁶ UOLLB First Class Law Notes®, Chapters VI and VII of the United Nations Charter, [UOLLB First Class Law Notes®] [(last visited Nov. 7, 2024)], <https://uollb.com/blogs/uol/chapters-vi-and-vii-of-the-united-nations->

to or does not want to protect their people from serious human rights abuses, other states, and in some instances international law, have a duty to intervene. This idea is revolutionary, as it changes the view of sovereignty in that it puts the safety and welfare of individuals, rather than state territorial integrity, at the fulcrum. R2P makes it clear that sovereignty has both rights and responsibilities, where human security triumphs over respect for non- interference.⁷ **UN Security Council Chap.**

V11 Powers:

The Security Council of the United Nations is able to exercise the powers set out in Chapter VII of the UN Charter whenever there is a threat to peace and security in the world, even if the obligation to refrain from interference is promoted as a principle between the member states. The Security Council can impose sanctions, order the use of force, or take other actions that may interfere with a country's domestic jurisdiction under Chapter VII. The interventions in Libya and Iraq carried out under the authorization of the Security Council with the aim of 'maintaining' or 're-establishing' peace proved to be very successful in globalizing state sovereignty. This power is important since it constricts the principle of non- interference as contained in Article 2(7) because the Security Council has the right to violate the territorial jurisdiction of any country for the purpose of global security risks that it deems necessary to address..

International Human Rights Legislation:

The enforcement of the provisions of the Covenant on Civil and Political Rights (ICCPR) or any similar international treaties imposes on states a duty to ensure accountability of their subordinate bodies to the international agencies. It should also be noted that the International Criminal Court (ICC), in its current form, aims to ensure individual criminal liability for the most serious concerns of international law – war crimes and crimes against humanity – even where such aims seem at cross-purposes with the State's foreign policy of non-interventionism. This very intricate and multi-layered relational context assists us in understanding why and how the international norms – in this instance those dealing with human rights – need to be incorporated into the traditional concepts of state sovereignty and public authority within their territory.

⁷ M.C.W. Pinto, Responsibility to Protect ('R2P'), in Asian Approaches to International Law and the Legacy of Colonialism 16 (Routledge 2012).

COMPARATIVE ANALYSIS:

The study of international regulations and principles reveals the paradox of the need to maintain the autonomy of the nation-states and the necessity to respond to humanitarian and security issues at the global level. This part of the research paper seeks to illustrate at least, how some of the frameworks are said to defend sovereignty, while again some are said to permit intervention under extreme situations, hence the complicated nature of sovereignty in modern international law.

Legislation and Principles Safeguarding Sovereignty:

According to Article 2(7) of the UN Charter: This serves as a basic which every state must respect in order to protect its sovereignty as it does not allow in any state's internal affair until and unless the Security Council determines the existence of an international threat to peace and security. Article 2(7) safeguards the principle of sovereign equality enshrined in the Charter by stating that countries do not need to look to other nations for guidance in their internal governance. This has been invoked in many instances where regimes have sought to resist foreign intrusion in domestic issues, demonstrating its role in safeguarding a particular nation's political and territorial space. Often discussions on the radical need for interventions in nations embroiled in internal political strife will invoke Article 2(7) in support of a position of non-intervention unless radical evidence of an external threat is present.

Non-Interference in International Agreements:

In addition to the UN Charter, several international accords uphold the principle of non-nterference, asserting that sovereignty should be regarded as a fundamental value. Treaties aimed at regional peace, including the ASEAN Charter and the OAS Charter, codify non-intervention to preserve harmony and respect among member states. In the Nicaragua v. United States (1986) case before the International Court of Justice, sovereignty was affirmed as Nicaragua effectively contended that U.S. meddling violated principles of non-intervention, establishing a significant precedent about the boundaries of external influence.

Regulations/Principles Restricting Sovereignty:

Chapter VII of the UN Charter gives the Security Council the authority to intervene where situations are deemed damaging to international peace and security, thus placing it above Article 2(7) whenever this is necessary for maintaining order. This power allows the Security

Council to clause, authorize in some cases, undermine all military obstinacy of a nation state. Thus, for example, the Security Council's invasion of the Balkans in the 1990s illustrates how Chapter VII can be invoked during major global regional security crises. These interventions imply a legality that, in some cases, the global concern of establishing and maintaining peace ignores and overrules the principle of non-interference.⁸

Responsibility to Protect (R2P):

Formulated in reaction to widespread crimes, R2P is a concept that reinterprets sovereignty by incorporating a "responsibility" element. Under the Responsibility to Protect (R2P), sovereignty encompasses not only the authority to govern but also the duty to safeguard populations from atrocities such as genocide and war crimes. Should a state neglect this obligation, the international community may act, emphasizing the conditional aspect of sovereignty during grave humanitarian situations. The concept of Responsibility to Protect (R2P) was reignited in 2011 with the most recent military intervention in Libya. This is because this was the first time the United Nations approved military action to protect innocent people, illustrating R2P's ability to require intervention notwithstanding the existence of a state's opposition.⁹

ICC jurisdiction and human rights treaties:

The jurisdiction of the Court, as well as the universal human rights treaties, limit the state's sovereignty because they require states to comply with universal human rights standards. The Court practices the prosecution of the individuals with serious crimes irrespective of the state's hostility to the authority of the Court, arguing that the matter of human rights is over and above the boundaries of any state. For instance, prosecutions of leaders facing charges for crimes against humanity in places like Sudan show how the theory of international law's processes can come into conflict with the idea of sovereignty when the states fail to ensure the human rights protection. The ICCPR and other international instruments on human rights require states to respect a set of minimum rights, the fulfillment of which is monitored by international bodies, thus illustrating the erosion of traditional sovereignty in order to protect human rights.¹⁰

⁸ Gilmour, D.R., The Meaning of "Intervene" within Article 2 (7) of the United Nations Charter—An Historical Perspective, 16 Int'l & Comp. L.Q. 330, 330–351 (1967).

⁹ United Nations, R2P and the UN, <https://www.un.org/en/chronicle/article/r2p-and-un> (last visited Nov. 7, 2024).

¹⁰ Huneeus, A., International Criminal Law by Other Means: The Quasi-criminal Jurisdiction of the Human Rights Courts, American Journal of International Law, 107(1), pp. 1–44 (2013)

Conclusion of Comparative Analysis:

The contrast between rules that safeguard and restrict sovereignty illustrates the malleability of this term in international law. Article 2(7) and numerous treaties underscore non-interference to uphold state sovereignty; however, emerging frameworks such as R2P, Chapter VII powers, and international human rights laws provide a counterbalance, indicating circumstances where intervention may be justified for the collective benefit. This dual approach highlights the persistent discourse in international law over the balance between state autonomy and global obligations, fostering a more flexible interpretation of sovereignty in a connected world.

THE ROLE OF THE UNITED NATIONS AND THE SECURITY

COUNCIL:

In terms of international law, the bodies of the United Nations have more than one type of competency – they are responsible for upholding the protection of state sovereignty as well as the protection of the fulfillment of international obligations. This duality is at the core of the ideals of the organization concerning the promotion and preservation of global order, while appreciating the status of each member state. Whenever there is a threat imposed on peace by forcible means, the Security Council within the scope of Chapter VII may, among other means, enforce sanctions and carry out military action. This effectively changes the concept of non-intervention on which international relations have been grounded for a long time to the new concept of intervention

which is referred to as the responsibility to protect. Countries like Kosovo and Iraq are instances where, in the opinion of the Council, intervention has been justified without respect for the prevailing theory of state sovereignty, as there were more critical interests at stake which were global peace and security beyond that particular state. Such an approach is evident, for instance, in the NATO operations in both Kosovo and Iraq which the Council sanctioned on the grounds of potential threats to global peace and security. The aim of the UN Charter is to provide a synthesis between the coexistence of state sovereignty and states being active in the international system. In this case it upholds 'prohibition of intervention' in Article 2(7) but also provides for its transgression under the mandate of Security Council. The General Assembly, on the other hand, is subordinate in that most of its activities dwell on transnational issues, which in turn elicit requests for aid on matters of like progress and human rights;

however G.A still cannot get into interference with the internal political affairs of states like the security body can go beyond aid while delegates have to go through barriers erected by states for aid to be absorbed. This design illustrates how the charter intends to address the issue of sovereignty whereby there are the two principles of promoting order between states and ensuring order within states.

CONCLUSION:

This analysis sheds light on the delicate balancing act that must be performed between the protection of state sovereignty and the fulfillment of the obligations imposed by international law. The most important findings show that even if sovereignty is still a fundamental value, developing doctrines such as responsibility to protect and procedures outlined in Chapter VII pose a challenge to the conventional non-interference approach in situations involving global security and human rights concerns. In order to increase the legitimacy of international law while still respecting sovereignty, proposed reforms might concentrate on improving the process of consensus-building within the United Nations Security Council. This would ensure that interventions are more closely aligned with multilateral agreement and transparent criteria from the beginning. Both international collaboration and the equitable enforcement of global standards could be improved by the implementation of such reforms.¹¹

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