



THE ROLE OF STATES' WILL IN CREATION AND ACTIVATION THE PRINCIPLE OF THE RESPONSIBILITY TO PROTECT.

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Abstract:

The responsibility to protect has become an approach in international law to deal with gross violations of human rights, with balanced thinking between protecting the sovereignty of states and protecting humanity at the same time. This follows the United Nations high-level meeting. Committee on Threats, Challenges and Variables, which met in 2004 and was approved by the General Assembly. The United Nations set out this concept in the outcome document of its 2005 meeting, in Articles 138-139, as it applies to the four international crimes. only, specifying that recipients must assume this responsibility and follow it.

What is the role of the will of States in the adoption of the principle of the responsibility to protect, during the establishment of this principle and during its activation?

Keywords: humanitarian intervention, human rights, responsible sovereignty, responsibility to protect, last resort, just cause.

THE INTRODUCTION:

Kofi Annan, then Secretary-General of the United Nations, was considered the driving force behind research into the R2P system when, during the special session of the General Assembly in September 1999, he called for a study of mechanisms for authorizing humanitarian interventions and asked states that strongly opposed this effort to provide a response on what their position would have been if the group had found an intervention mechanism in the Great Lakes region in 1994 to end the genocide which killed 800 Tutsis and Hutus.

In 1999, he also attempted to present a new concept of sovereignty, stating: "States are now largely seen as tools in the service of their peoples. » Then, in his 2000 book titled "We the People," he raised an issue about the role. of the United Nations in the 21st century: "If humanitarian intervention "is an unacceptable attack on sovereignty. How should we respond to Rwanda and Srebrenica and the blatant and systematic human rights violations that offend every principle of our common humanity?"¹

In response to these issues, Canada took up this challenge, when the Canadian Minister of Foreign Affairs, Lloyd Ox-worthy, formed an "International Committee on Intervention and State Sovereignty" to study all the conflicting opinions and attempt to propose a unified international vision on the issue of humanitarian intervention. Heads of state and former prime ministers participated in the development of the committee's report and United Nations generals, and the

¹- By researching the origin of the idea before the establishment of the committee, we find that it had been proposed in a book prepared by the former Sudanese diplomat and international legal expert (Francis Deng) with a group of researchers, as he had proposed the idea in a book published by the American (Brookings) Institute in 1996, under the title (Sovereignty as Responsibility - Conflict Management in Africa).

- Francis M. Deng and others, **Sovereignty as Responsibility, conflict Management in Africa, The Brookings Institution**, P.XI, 1996.

committee was chaired by former Australian Foreign Minister Garrett Evas and Special Advisor to the Secretary General of the United Nations, Mohamed Sahnoun.

The report of the International Commission on Intervention and State Sovereignty was published on December 18, 2001, in which the concept of "international responsibility to protect" was approved in place of humanitarian intervention, in order to avoid the fears of control and domination that humanitarian intervention arouses. raises, in relation to the expression "responsibility to protect", which includes meanings of responsibility and international support.

This report received the support and approval of the Secretary-General of the United Nations, who stated in his 2005 annual report: "The members of the International Commission on Intervention and State Sovereignty supported what they considered to be a new principle of the existence of a collective responsibility to protect, and although I am well aware of the implications of this sensitive issue, I strongly support this approach, and believe that we must adopt the principle of the "responsibility to protect" and act accordingly when necessary. the responsibility lies primarily with the States for which the protection of their populations is one of their duties and the fundamental justification of their existence, but if the national authorities are not able or unwilling to protect their citizens, the responsibility then moves to the international community, which must use diplomatic, humanitarian and other methods to help protect human rights and the well-being of civilians. When these methods appear insufficient, the Security Council may decide, for reasons of necessity, to take measures in accordance with the Charter of the United Nations. United Nations, including enforcement measures where appropriate.

The United Nations General Assembly approved this concept in the outcome document of its meeting in Articles 138 and 139, as it applies only to the four international crimes, and clarified those who should be held accountable, in 2005 .

What is the role of the will of States in the adoption of the principle of the responsibility to protect, during the establishment of this principle and during its activation?

To answer this problem, we follow the descriptive analytical approach within the framework of a plan divided into two sections.

The first deals with: the role of the will of States in achieving an international consensus to endorse the principle of the responsibility to protect at the global level. level of the United Nations General Assembly.

The second: The role of State consent in activating the pillars of the responsibility to protect.

The first subject: The role of the will of States in achieving an international consensus to approve the principle of the responsibility to protect at the level of the United Nations General Assembly.

The International Commission on Intervention and State Sovereignty has defined the responsibility to protect as: "a broad range of actions, which may include long-term or short-term measures to help prevent situations that threaten human security do not occur, worsen, spread or persist, and in very serious cases. » "This requires military intervention to protect civilians in danger. »²

What therefore emerges from this definition is that the responsibility to protect is based on two responsibilities:

- The first is the original responsibility of the State concerned to protect its nationals by fulfilling the obligations imposed on it by international law.

² -United Nations, General Assembly, **Report of the Committee on Intervention and State Sovereignty "The Responsibility to Protect"**, December 2001, item 44, agenda of the 57th session, document No. 303/57/A.14/10/2002.



- The second is that a precautionary responsibility is assigned to the international community, and this responsibility comes into force when the intention of the State becomes clear: it is unwilling or unable to fulfill the responsibility to protect, or that he is the author of crimes and atrocities. which violate the rules of international humanitarian law.

In 2009, United Nations Secretary-General Ban Ki-moon presented a report in which he clarified the responsibility to protect and the extent to which states can implement the responsibility to protect and established the rules for defining of the principle of the responsibility to protect, so that the first rule stated that³:

- Every State has an ongoing responsibility to protect its population, whether citizens or not, against the incitement or commission of genocide, war crimes, ethnic cleansing and crimes against humanity against it. The responsibility to prevent human rights violations is an integral part of everyone's responsibility. sovereign role exercised by the State, and taking into account respect for human rights, it is the first indicator of the extent of the responsibility enjoyed by this sovereignty.
- When peaceful measures fail to end a crisis that poses a threat to global peace and security, the Council may authorize its member states to use force to protect civilians under Chapter Seven, consistent with 'Article forty-two of the Charter of the United Nations.

This concept was responsible for the formation of an international consensus on the adoption of the principle of the responsibility to protect rather than direct humanitarian intervention, even if it was a consensus at the level of the General Assembly, which contains only a recommendation that is not legally binding but morally represents legitimacy and international consensus. Thus, the will of States has a role to play in promoting the pre-emption of good humanitarian intervention in two initial stages, out of respect for State sovereignty.

Among the most important elements that influenced countries to accept the principle and reach consensus on the General Assembly's decision regarding the approach to the principle of the responsibility to protect are two elements:

The first requirement - that the principle of the responsibility to protect compensates for the shortcomings of the principle of humanitarian intervention

Former United Nations Secretary-General Kofi Annan's ideas on humanitarian intervention and his total bias towards the protection of human rights over the principle of national sovereignty were met with violent resistance from many countries, especially countries in which multiple religions, ethnicities or linguistic minorities coexist. These countries adhered to the principle of sovereignty and considered that intervention in all its forms constitutes a flagrant violation of Article II of the United Nations Charter, which prohibits interference in the internal affairs of States. Many countries have rejected humanitarian intervention. were motivated by the fear that the consecration of this right would lead to their fragmentation into several small States according to the multiplicity of minorities present within them. position of rejection on the part of many countries, Secretary-General Kofi Annan called at the special session of the General Assembly in September 1999 to study mechanisms for authorizing humanitarian intervention and asked countries that strongly oppose this effort to provide an answer to what this represents. The situation would have been if the international community had found a mechanism to intervene in the Great Lakes region in 1994 to end the genocide that killed 800 Tutsis and moderate Hutus. This dispute focused primarily on its legality, its legal nature and the extent to which it complied with the principles of public international law⁴.

³ -United Nations, **Report of the Secretary-General, Implementation of the Responsibility to Protect**, agenda items 44 and 107, Sixty-third session, United Nations General Assembly, 12 January 2009.

⁴-Report of the Committee on Intervention and State Sovereignty, op. cit, p. 17.

Returning to the essence of the debate on this subject, which has led to dividing jurists and States into several fronts on this subject, we see that it is due to several considerations, because its opponents see it as an attack against the principle the most important of public international law, which is the principle of sovereignty, while its defenders see that it leads to the implementation of one of the most important principles of this same law, which is the international protection of human rights, because we do not find strong legal principles justifications and adaptations in this regard by supporters of humanitarian intervention⁵. For example, we see that (Teson), who is one of the most ardent defenders of humanitarian intervention, adapts it for reasons that do not go beyond the scope of international ethics⁶.

Despite the decrease in the intensity of this dispute nowadays, we can say that it has not yet been resolved despite the evolution of this concept and the way of treating it by the international community, but what we see is that the nature of the discussions and controversies around humanitarian intervention today is oriented towards how to achieve a solid humanitarian intervention under conditions that guarantee that it will not be diverted and exploited to achieve objectives far from those declared, and how to obtain the best results and with the least losses⁷.

These were the practical reasons that led to the consensus of States on the idea of the responsibility to protect, as it provided mechanisms to ensure that the United Nations strengthens its role in the field of preserving human rights in times of armed conflict, to achieve the concept that prevention is better than cure and work to progressively achieve treatment, leading to humanitarian intervention and harm. With state sovereignty, its goal is only to protect human rights. This responsibility falls primarily on States, for whom the protection of their populations is one of their duties and the primary justification for their existence. However, if national authorities are unable or unwilling to protect their citizens, then the responsibility shifts to the international community. which must use diplomatic, humanitarian and other methods to help protect the human rights and well-being of civilians, and where these methods appear insufficient, the Security Council may decide, for reasons of necessity, to take measures under the Charter. of the United Nations, including enforcement measures where necessary⁸.

The second requirement - that the principle of the responsibility to protect respects the right of the State to exercise its sovereignty

The idea of sovereignty developed at the level of international relations, and went through several stages to arrive at its current state, where it first appeared in an absolute manner, its supporters demanding that it be absolute in its exercise, which means that the State has the right to exercise its powers and responsibilities at the internal and external levels absolutely and without being limited by any restriction except by its will⁹. However, the evolution of international law and the subjects it deals with indicates this. that the absolute concept of sovereignty began to shrink and many restrictions were gradually introduced with the development of international law, the restriction of sovereignty and the shift to the relative concept of sovereignty being the natural result of the expansion of international law . scope of international law and the increase in the

⁵- For more criticisms, see, for example:

Basdevant, ch, **droit international public**, paris, 1974 , p 65.

⁶-Fernando R. Teson, "**Collective Humanitarian Intervention**", Michigan Journal of International Law, Vol. 17, 1995-1996 p.323

⁷-Salwan Rashid Sinjari, **Human Rights under the United Nations: From Humanitarian Intervention to the Responsibility to Protect**, Dar Al-Jami'a Al-Jadida, Alexandria, Egypt, 2016, p.59and then.

⁸-United Nations documents, **General Assembly resolution, Final statement of the World Summit**, items 46-120 of the agenda of the sixtieth session of the General Assembly, document No. A/RES/60/1. 24/10/2005, p. 41.

⁹ -Shalaby, Ibrahim Ahmed, **International Organization: A Study in General Theory and International Organizations**, University House for Printing and Publishing, 1984, p. 43.

number of international rules which impose obligations on States, thus reducing the space of freedom envisaged by the supporters of absolute sovereignty¹⁰.

Thus, faced with the criticisms addressed to the concept of absolute sovereignty, its supporters began to raise the possibility of accepting the concept of sovereignty restricted by the rules of public international law, taking into account current developments in the field of public law. international law.

But in practice, even the concept of relative sovereignty requires guarantees, the first being the creation of something that prevents interference, and because of the importance of this principle, work has been carried out to include it in the Charter of the United Nations in its second article. , because the content of this right is consistent with the objectives of the United Nations, because interference, whether economic or political, is very frequent. What results in military intervention may be met with a counter-military stance, causing clashes and wars between them. nations in conflict, leading to the dissipation of international peace and security¹¹.

In 1965, the General Assembly issued Resolution 2131, which included the rejection of interference in the affairs of states and the protection of their independence and sovereignty, and in 1970, Resolution 2925 was also issued, which emphasized the rules of international law. linked to friendly relations between States and cooperation between them. Furthermore, this principle has been repeatedly stipulated in decisions related to the provision of aid or otherwise to countries, within the framework of references to respect for the national sovereignty of the target state¹².

Dr. Boutros Ghali believes that: “National sovereignty is the art of reconciliation between unequal powers. » He added that without state sovereignty, the instrument of international cooperation itself could be destroyed and the international organization itself could become impossible. active elements on the international stage, but rather they must be part of regional links and global organizations, all of which truly provide the framework for international security and progress¹³.

Dr. Ben Amer defined sovereignty as a component of the state: “A sovereign state is that political society in which the governing body brings together all aspects of authority, internal and external, in such a way that no authority is superior to his powers, or in other areas. In other words, it is the capacity of the State to decide what it wants, whether in the internal or external subject¹⁴.

Faced with these pushes and pulls, the Committee on Intervention and State Sovereignty did not question the principle of equal sovereignty. On the contrary, the responsibility to protect that the Committee created enshrines this principle, as the United Nations Committee said. The Charter itself is an example of the international commitment that Member States have voluntarily accepted. Society By granting membership in the United Nations to the State which signed the Charter, on the one hand, it welcomes it as a responsible member of the community of nations. , and on the other hand, by signing the Charter, the State itself accepts the responsibilities of membership that arise from this signature, and there is no transfer of State sovereignty or derogation, but this is a requalification. from sovereignty as control to sovereignty as responsibility in internal functions and external duties, and in this sense sovereignty includes a double responsibility: externally to respect

¹⁰-Salwan Rashid Sinjari, op. cit, p.78

¹¹- Muhammad Alwan, **Responsibility to Protect: Reviving Humanitarian Intervention**, Arab Policies, Issue 23, Petra University, Faculty of Law, Amman, Jordan, November 2016, p. 30.

¹²-UN General Assembly resolutions (2131/1965, 2625/1970, 2734/1970, 155/1977).

¹³-Boutros Boutros-Ghali, **Report of the Secretary-General of the United Nations to the General Assembly**, 48th session, 1993, p. 4.

¹⁴- Qazran Mustafa: **The principle of the responsibility to protect and its applications in light of the principles and provisions of international public law**, a thesis for a doctorate in law, Department: Public Law, Faculty of Law, Sciences and Political Sciences, Abu Bakr Belkaid University, Tlemcen, 2014-2015, p. 254.

the sovereignty of other countries and internally to respect the dignity and the basic rights of people within the state¹⁵.

The High-Level Panel on Threats, Challenges and Change also affirms that: “When States sign the Charter of the United Nations, they not only enjoy the privileges of sovereignty, but they also accept their responsibilities, and whatever perceptions prevailed when the “Westphalian” system This system led to the emergence of the concept of state sovereignty for the first time. Today, it clearly includes an obligation on the part of the state to protect the well-being of its population and to fulfill its obligations to the international community as a whole¹⁶.

Therefore, thinking of sovereignty as a responsibility in a way that is increasingly recognized in the practices of States, because it implies the following obligations¹⁷:

First: State authorities are responsible for protecting the safety and lives of citizens and promoting their well-being.

Second: it suggests that national political authorities are accountable to their citizens internally and to the international community through the United Nations. Third, it means that government employees are responsible for their actions, which means they are responsible for what they do or omit. the question of thinking about sovereignty in this sense is reinforced by the ever-increasing impact of international rules relating to human rights. The growing impact of the concept of human security in international discourse.

This was affirmed in the first section of the report under the title “The Responsibility to Protect” to include the fundamental principles of the international responsibility to protect in the area of human rights. Paragraph (1/a) placed the responsibility to protect. at the national level in the hands of the national state, because it stipulated that “the sovereignty of the state requires that it fulfill its responsibilities, and the state itself is primarily responsible for the protection of its people ”.

Therefore, sovereign states have the primary responsibility to protect their residents when they are exposed to serious harm due to internal wars, disobedience or oppression. Sovereignty is considered one of the pillars on which state sovereignty rests. an end in itself, but rather a means to an end, and the aim is the well-being of and respect for the population of the State, the dignity of persons, their fundamental rights and their protection at home and against enemies abroad. , sovereignty now designates the legal identity of the State in international law. It is a concept that ensures order, stability and predictability in international relations, because sovereign states are considered equal regardless of their size and wealth, and the principle of equality in Sovereignty between states is enshrined in article two, paragraph 1, of the Charter of the United Nations. National sovereignty means the ability to make effective decisions regarding the population and resources present within the territory of the state. However, state authority in general is not considered absolute. but it is limited and regulated internally by constitutional power-sharing arrangements¹⁸.

The idea of the obligation to protect as the primary objective of the state and justification for its existence is not a new idea, but rather arises from the concept of state sovereignty when individuals give up the freedom they enjoy in the state. nature in exchange for their security, as philosophers such as Thomas Hobbes (1588-1679) and John Locke (1632-1704) and Jean-Jacques

¹⁵-Report of the Committee on Intervention and State Sovereignty, op. cit, pp. 26-31.

¹⁶-**Report of the High-level Panel on Threats, Challenges and Change**, in the transmittal letter dated 1 December 2004, addressed to the Secretary-General by the President, Note by the Secretary-General, Fifty-ninth Session, Agenda Item 55, General Assembly of the United Nations, 2 December 2004, p. 28.

¹⁷-Report of the Committee on Intervention and State Sovereignty, op. cit, p. 31.

¹⁸-Report of the Committee on Intervention and State Sovereignty, op. cit, p. 29

Rousseau (1712/1778) said and explained what this means: If the State is no longer able to fulfill its functions, it will not remain sovereign and there is no duty to obey it¹⁹.

The second subject: The role of state consent in activating the pillars of the responsibility to protect

There are three pillars, and it is not necessary to respect the arrangement of the three pillars, but rather it must be considered only, and it depends on the seriousness of the current situation and the appropriate means of response and according to which the Security Council decides or not, considering the violations committed and the capacity of the State to provide protection.

The first requirement: the first pillar, is that the State assumes its permanent responsibility to protect its population.

The first section of the report was titled “The Responsibility to Protect” to include the fundamental principles of the international responsibility to protect in the area of human rights. places the responsibility to protect at the national level. in the hands of the national State, because it declares that “the sovereignty of the State requires its creation”. “It is the responsibility of the state itself to protect its people in the first place.”²⁰

Therefore, sovereign states have the primary responsibility to protect their residents when they are exposed to serious harm due to internal wars, disobedience or oppression. Sovereignty is considered one of the pillars on which state sovereignty rests. an end in itself, but rather a means to an end, and the objective is the welfare of the people of the State and respect for their dignity, fundamental rights and protection in the country and against enemies abroad.²¹

The State assumes its permanent responsibility to protect its population, whether or not its nationals, against genocide, war crimes, ethnic cleansing and crimes against humanity, and even to prevent possible violations or incitements to commit such acts. This protection arises from the concept of responsible state sovereignty and its legal obligations, and here state consent is assumed and imposed.

The second requirement, the second pillar, is the commitment of the international community to help the State fulfill its obligations.

Paragraph 138 of the World Summit Outcome states that “the international community should, as appropriate, encourage and assist States to assume the responsibility to protect, such assistance taking one of the following four forms²²:

- Encourage countries to assume their responsibilities under the first pillar.
- Help him exercise this responsibility.
- Help them strengthen their protection capacities.
- Help countries facing tensions before crises and conflicts erupt.

As part of this commitment, the will of States plays a decisive role in implementing the responsibility to protect, which also includes external military assistance to confront armed non-state actors who threaten to commit crimes and violations. linked to the responsibility to protect both against the state and against the state. his population. It is the responsibility of the international community in this matter. The responsibility to intervene to offer its services to incapable countries in the event of delay or inability to protect their populations, and to make all necessary means available to them. technical capabilities that would prevent the commission of these crimes or their repetition, as a step that embodies the intention of the international

¹⁹Muhammad Alwan: , op. cit, p. 29.

²⁰-Report of the Committee on Intervention and State Sovereignty, op. cit, p. 31.

²¹ -Muhammad Alwan: , op. cit, p. 2.7

²²-Paragraph (138) Final Statement of the 2005 World Summit, op.cit, p. 41.

community to restore the sovereignty of these countries and work to help them once again assume their responsibilities²³.

International assistance can also include elements of prevention and response through the formation of international commissions of inquiry to determine the facts and identify the perpetrators of crimes and violations with regard to the responsibility to protect. At the same time, the presence of these commissions in the country concerned can contribute to preventing the commission of more crimes and violations, and it is therefore preventively within the framework of the second pillar, through which we can also see the possibility for the international community to intervene peacefully to provide support and assistance to countries experiencing humanitarian crises, in case their own capacities are insufficient to resolve these problems²⁴, which paves the way for humanitarian organizations to intervene and offer their services to victims. These countries provide relief to victims, on the basis of the right of initiative enshrined in the text of Article 3 common to the four Geneva Conventions, which stipulates that "an impartial humanitarian organization such as the International Committee of the Cross- Rouge can offer its services to the parties to the conflict.

This stage aims for cooperation between Member States, to help the State subject to armed conflict to assume its responsibilities in terms of protecting the population against forms of human rights violations. This cooperation takes two forms²⁵:

First: the State subject to armed conflict requests assistance from one or more other States to fulfill its responsibilities for the protection of the population. Here, the consent of the State is prior and beyond doubt, provided that the request is presented by legitimate official bodies whose competence is to direct the request for assistance, and this question today raises many problems, notably in The Syrian and Libyan question is to know which is the legitimate authority which has the right to decide on requests for assistance?

Second: the offer of assistance from one or more States is addressed to the State subject to the armed conflict. Here, the state in question requires clear and clear consent to accept state assistance, provided that this request is approved by the state. legitimate official bodies whose jurisdiction it is to accept the offer of assistance.

Third requirement: The third pillar is the responsibility of UN Member States to act in a timely manner.

To implement the right to protection approach, the international community, represented by the United Nations and Member States, in particular the UN Security Council, must ensure that there are serious indicators and confirmed evidence of the intention of a certain party in a country to commit crimes against the civilian population.

Consequently, right to protection considers that military intervention should be limited to the following situations where the possibility of a massive loss of life is real or anticipated.

Such as the existence of an intention to carry out large-scale genocide or ethnic cleansing, actual or planned, whether carried out by killings, deportations, acts of intimidation or rape²⁶, and this is the result of the state's failure to adhere to its This occurred in Rwanda in 1994, because the Tutsi minority then in power, which was the scene of the crime of ethnic cleansing and genocide, was incapable of giving orders to the government. The leaders of the army and other security services had to confront, or did, the armed militias who carried out these horrific massacres. They are unwilling and therefore negligent or complicit, as happened in Bosnia and Herzegovina in 1992, where Serbian forces, in collusion with Bosnian forces. The Serbs committed the crime of ethnic

²³ -Implementing the Responsibility to Protect 2009, op. cit., p. 11

²⁴ -Qazran Mustafa, op. cit , pp. 353-354.

²⁵ -Implementing the Responsibility to Protect 2009, op. cit, p. 12

²⁶ -Final Statement of the 2005 World Summit, op.cit, p. 41.

cleansing and genocide against Muslim civilians, during which approximately a quarter of a million Muslim civilians were killed as victims of these atrocities.

However, force should not be used unless all diplomatic and non-military means have been considered to prevent the humanitarian crisis from occurring or to resolve it peacefully.

Military intervention by the international community does not require that it have tried all possible options, but there must be reasonable grounds to believe that the means available to the parties involved were used.

Responsibility for protection shifts from the State to the responsibility of UN Member States when there is a need for timely action as part of a decisive response. This is when this state fails to provide the necessary protection to the population. the face of gross violations of human rights is evident, or its unwillingness to do so, and this is not the case except by a decision issued by the Security Council to ensure the protection of the population in accordance with the Seventh United Nations Charter, depending on the circumstances, impose respect for the rules of international humanitarian law until peace is built in the state subject to armed conflict²⁷.

Here, the consent of the State in question is not required for humanitarian intervention as a last resort to fulfill the responsibility to protect, given that it took its chance and failed to fulfill its responsibilities by matters of protection of the population against violations of human rights and execution of its obligations. responsibilities. However, the intervention of the International Community for the Protection of Populations is necessary to verify the following²⁸:

- 1: The inability of the State to assume its responsibilities
- 2: Authorization of the Security Council to use States or regional organizations to prevent and respond.

The responsibility to protect primarily involves the responsibility to respond to situations in which humanity is in urgent need of protection, when preventive measures fail to resolve and contain conflict, and when the State is unable or does not want to deal with the situation, which requires acting. Humanitarian intervention by members of the international community at large. These coercive measures may include political, economic or judicial measures and, in extreme cases, they may also include military measures. Given the priority of these principles, it is always necessary to consider taking enforcement action. measures without military action, including in particular various types of political, economic and military sanctions²⁹.

The Commission on Intervention and Sovereignty emphasized in this context that international sanctions hinder the ability of States to deal with the outside world without physically preventing the State from carrying out actions within its borders. The authorities may or may not take one or more specific measures. Military intervention, on the other hand, directly interferes with the ability of internal authorities to operate within their territory. It actually displaces internal authority and replaces it, and aims to remedy the problem. problem in question or the threat occurring directly. For these reasons and because of the inherent risks that accompany any use of military force, the possibility of resorting to coercive military action always raises more concern among the international community than the imposition of political, diplomatic or military measures. economic sanctions³⁰.

In recent years, sanctions targeting leaders and security organizations responsible for gross human rights violations have emerged as an important alternative to the sanctions stipulated in Chapter Seven of the Charter and are called "smart sanctions", because the Security Council currently recognizes the need to resume sanctions. food supplies, medical supplies and all the necessities of

²⁷idem

²⁸ -Implementing the Responsibility to Protect 2009, op.cit, p. 11.

²⁹ -Ibid,p11.

³⁰ -Report of the Committee on Intervention and State Sovereignty, op. cit, p. 31.

life. Human rights are part of the UN Sanctions Department's efforts to specifically define the objectives of sanctions more effectively to reduce their effects on civilians and increase their effects on decisions. the creators focused on three different and specific areas, which are limited to the following³¹:

First, the military domain:

End military cooperation and training programs, the arms embargo, which constitutes an important tool in the hands of the Security Council and the international community and can be used in the event of conflict.

Second - The economic domain:

Impose financial sanctions on the overseas financial assets of a country, terrorist organization or rebel movement, and may include restrictions on economic activities and petroleum products, as well as a flight ban in some cases.

Third: In the political and diplomatic domains:

Impose restrictions on diplomatic representation, including the expulsion of international personnel or the suspension or denial of the country's membership in an international body or organization.

All methods of prevention must always be exhausted before thinking about exercising the duty of intervention, and when it is necessary to assume responsibilities in matters of prevention and intervention³², one must always consider the least intrusive and least coercive means before moving on to more coercive and intrusive means. In the event that these sanctions are ineffective, military force becomes the last option in extremely serious exceptional cases, that is to say cases of violence which shake the conscience of humanity or constitute an obvious and present danger for international peace and security. To perform this action, the following criteria must be met:

A: Correct prior authorization:

According to the International Commission on Intervention and State Sovereignty, it believes that the most appropriate and best body to authorize military intervention is the United Nations Security Council. At all times, it believes intervention is necessary, particularly when international peace and security are threatened. under threat, the Security Council is the one that must take executive decisions in the face of difficult questions related to overcoming the principle of state sovereignty. He is also the one who can mobilize effective and military resources to save the population in danger where they are. There is no serious opposition based on sovereignty³³. This is why we find the Charter of the United Nations in article twenty-four of the first paragraph. It placed the primary responsibility for maintaining international peace and security on the shoulders of the UN Security Council. is responsible for peace and the determination of the forces authorized to establish it, their mandate, size, scope and duration³⁴.

The request for intervention must be made after obtaining authorization from the Security Council for anybody authorized to convene it to study the matter, the most important being a request from the Secretary-General, who raises the matter and raises it in accordance with Article 99 of the

³¹-Walid Hassan Fahmy: **The United Nations from Humanitarian Intervention to the Responsibility to Protect**, International Politics Magazine, Issue 170, Cairo, October 2007, p. 362.

³²-Muhammad Awad Al-Ghamry: **The Principle of National Sovereignty and the System of International Protection of Human Rights**, a thesis submitted for a PhD in Law, Faculty of Law, Cairo University, p. 377.

³³ -Obaidi Mohamed, **Human Security in Light of the Principle of Responsibility to Protect**, a thesis submitted for a PhD in Law, specializing in International Law, Mohamed Khider University, Biskra, 2016, p. 122.

³⁴- Ayman Al-Sayed Muhammad Ahmad Hassan Shabana: **The Role of the United Nations in Building Peace in Africa - A Case Study: Mozambique and Liberia**: A Thesis Submitted for the Degree of Doctor of Philosophy in African Studies (Politics), Department of Politics and Economics, Institute of African Research and Studies, Cairo University, 2009, p. 164. And the Report of the Committee on Intervention and State Sovereignty, op. cit, pp59. 62.

Charter of the United Nations. The Council should immediately consider the request for intervention in the event of allegations of larger-scale loss of life or ethnic cleansing. Conditions must also be met in the Security Council's intervention decision³⁵:

1- The correct intention: is that the main objective of the intervention is to stop and avoid people's suffering. The best way to meet this criterion is not through unilateral military intervention, but rather through collective and multilateral intervention. and this after having taken the opinion of other neighboring countries in this region, following this intervention.

2- The criterion of last resort: The use of military force can only be obtained when diplomatic means and non-military measures fail and are exhausted, in order to avoid a humanitarian crisis and human rights violations, and that there are sufficient reasons why no-military measures will not succeed and will not contain the crisis.

3- The proportionality criterion: The size, duration and intensity of the planned intervention must be at the minimum level necessary to achieve the humanitarian objective. The means of response or intervention must be proportionate to the objectives to be achieved and the resulting objectives. and the targeted effects resulting from this intervention must be limited to the political system of that country and, in any case, they require consideration of international humanitarian law, especially since the intervention involves military action.

4- The criterion of reasonable possibilities of success: No military action can be undertaken without having studied the extent of its chances of success. It is not permitted to use military force if it is clear that it will not lead to effective protection of the territory. population or if its use will lead to a worsening of the humanitarian situation or widen the circle of conflict.

B: The just cause:

The Commission on Intervention and State Sovereignty considers that the just cause that can justify military intervention for humanitarian purposes is limited to³⁶:

1: Great loss of life: occurrence or fear of occurrence, with or without genocidal intent and resulting from a premeditated act of the State, the negligence or inability to act of the State, or 'a situation in which the State is powerless.

2- Ethnic cleansing occurs on a large scale or is feared.

The Committee considers that the just cause criterion is not linked to compliance with both conditions, but that compliance with one of them is sufficient to execute the intervention decision.

CONCLUSION:

Let us finally note that thanks to the efforts of the United Nations, represented by the Secretary General of the United Nations and through him the Intervention and Sovereignty Committee, new concepts have been achieved, called the approach of the responsibility to protect, which are born the aim of balancing two variables, of preserving the sovereignty of the State and guaranteeing human rights guarantees to protect them from any violation.

³⁵-Obaidi Muhammad, the previous reference, op. cit, p. 122. And The Report of the Committee on Intervention and State Sovereignty ,op.cit, pp. 59-62.

³⁶-Report of the Committee on Intervention and State Sovereignty, op. cit., pp. 55-56.

This is a gradual progression from protective mechanisms of the State itself to the responsibility of the international community, and from preventive to curative methods. However, like others, she faced practical obstacles relating to the challenges of not deviating in applying the R2P approach. This is what the representative of the Brazilian government emphasized when he adopted it to deal with the Libyan situation.

From all this, we see that humanitarian intervention, particularly to protect civilians and spare them the scourges and horrors of war, is always in constant evolution, whether at the level of preventive measures, punitive texts or mechanisms. punitive measures, even if the request in reality represents a challenge whose effectiveness cannot be confirmed and the neutrality of the decision and the request cannot be guaranteed.

It was therefore necessary to be sure that the consensual international will must prevail in United Nations resolutions and lift the freeze on the Security Council by reviewing its working system, in particular the right of veto on serious humanitarian issues of substance.

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