

## **International Humanitarian Intervention and its Impact on the Sovereignty of the Political System (Iraqi Political System State of Study)**

Alhareth M. S. Alhalalmeh<sup>1</sup>

### **Abstract**

*This study examines the relationship between international humanitarian intervention and the problem of sovereignty. This concept is particularly problematic, both legal and political, after the end of the cold war, the collapse of the Soviet Union and the emergence of the United States at the top of the pyramid, resulting in a need to protect human rights after the emergence of the question of minorities and their duty to protect them. And so the study came to try to link and combine these two concepts with how to deal with them so that international intervention, even if it is humane, runs counter to the principle of State sovereignty that States have always tried to uphold to protect them from any external aggression against them, But does this give States the freedom to curtail freedoms and violate human rights simply to demand political rights guaranteed to them by international instruments, the Universal Declaration of Human Rights and the United Nations? This study therefore came to dismantle and clarify the relationship between these two mutually reinforcing concepts of "intervention and sovereignty", which hold.*

**Keywords:** *Humanitarian Intervention, Sovereignty, Iraq, Political System.*

### **Introduction**

The concept of "international humanitarian intervention" is one of the most problematic and creates considerable debate among researchers depending on legal and practical problems on the ground. Although the stated ends of intervention are often noble and high-level objectives for intervening States to legitimize such intervention.

This notion of "humanitarian intervention", which is meant by the intervention whereby a State or group of States relies on or sometimes without the resolutions of the United Nations Security Council; for humanitarian purposes to prevent chaos and unrest within the State whose affairs must be intervened.

The General Assembly of the United Nations had established several firm criteria for resolving that rule, warning against direct intervention in States' affairs. That task had been given to civil society organisations, human rights organisations, the International Criminal Court and the Office of the United Nations High Commissioner for Human Rights to follow up and pressure those States to stop their barbaric practices against their peoples. The experiences of direct intervention in several States over the past decade underscore the seriousness of the division of States into a devastating civil war, as well as

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<sup>1</sup> Assistant professor, Faculty of Arts, Zarqa University, hhalalmeh@zu.edu.jo

the destruction and degradation of those States' capacities at all economic, educational, social, health and environmental levels. Not only that, but also the catastrophic consequences of this intervention on the number of victims, persons with disabilities and missing persons poses the greatest risk. We cannot believe the purposes and objectives of the States active in the Security Council, which underlie their stated humanitarian goal of protecting human beings. human dignity ", as it kills and wastes human dignity of a magnitude incompatible with the power of that State or that State, Moreover, this constitutes an affront to the peoples of those States and a disregard for their ability to build a just democratic State.

- Study Importance

#### Scientific importance

The subject of the study is one of the subjects that has received little attention at the Akadimi level. Despite the numerous discussions and previous studies that have been examined at the heart of the topic, most have taken the purely legal aspect to study international intervention. All cases of human intervention that have been discussed in previous studies.

#### Practical importance

The omission of those seeking to address the political aspect of the research is a weakening of the subject. The political circumstances surrounding each intervention give the reader and scholar a state of insight into this issue; The reader avoids the question of thinking and re-examining the circumstances of intervention, which helps him to come up with real and serious research.

In the researcher ' This is because there is a complementary relationship based on the explicit and clear principle of the strength of international relations, namely respect for the sovereignty of States provided for in custom and international law. Hence the importance of the study through research into the relationship between international intervention and international sovereignty and the political dimension of such interference in the absolute meaning of sovereignty.

- Study Goals

The study seeks to achieve a range of objectives:

The study aims to rethink the issue of international humanitarian intervention in a new manner and appropriate to the requirements of the phase by knowing the different views on it, identifying States' position on the importance of human intervention and what affects the safety of peoples, thereby supporting their right to life and strengthening their demands for a dignified life.

The study aims to dismantle terminology related to international humanitarian intervention, clarify what it is and what it is intended to be, and develop general rules that refine and control analysis in the public interest, which has a positive impact on research, knowledge of the position of international organisation and at the helm of the United Nations on the issue of international humanitarian intervention.

- The Hypothesis of the study

There is an inverse relationship between international humanitarian intervention on the one hand and national sovereignty on the other; That is, the greater international humanitarian intervention in the world, especially in the Third World States, is a clear detraction of those States' national sovereignty.

- Study Problem

The research problem is based on a fundamental issue, namely the relationship between international humanitarian intervention and sovereignty. The basis of the relationship

between States is respect for each other, non-interference in each other's affairs, as well as the question of sovereignty as the cornerstone of mutual respect among States; Intervention was therefore a stumbling block and a factor affecting States' respect for each other, and she considered that there was a fundamental problem in the study.

- Study Questions
  - What is the relationship between international humanitarian intervention and the concept of national sovereignty? This raises a number of questions, including:
    - What is international humanitarian intervention and its most important justification, and how legitimate is international humanitarian intervention?
    - Is international humanitarian intervention compatible with the principle of sovereignty, who is empowered to authorize international humanitarian intervention, and what are its objectives?

- Study Limits

Time limit: the end of the cold war and the emergence of the United States of America as a single pole after the fall of the Soviet Union and United States control over United Nations resolutions and human rights concepts, It must be protected even through military intervention to protect it and in a manner that forgets sovereignty and States' rights to protect their independence. international humanitarian intervention in Somalia, Iraq and the Sudan.

Spatial limitation: cases addressed in the study are Iraq, Somalia and the Sudan.

Scientific addendum: This study distinguished from previous study situations as addressing the relationship between international humanitarian intervention and its violation of State sovereignty, and the concept of sovereignty as an absolute concept, by demonstrating the relationship and intersection between international humanitarian intervention and States' right to preserve their sovereignty.

## **Study methodology**

The study basically relies on systematic integration using more than one methodology as follows:

- Analytical descriptive curriculum

The approach is based on describing and analysing the issue of international humanitarian intervention and sovereignty not as general ideas in their rigid form but as examining the circumstances surrounding them and clarifying the relationship between them and the notion of sovereignty as approaches that do not go the same way but as each of them seeks what positively affects their strength and descriptive focus on the circumstances surrounding each intervention.

- Legal curriculum

As the basic framework for the analysis process, which is the primary analytical source of research as it shows the legal relationship of human intervention, between sovereignty, and what exceptions appear on the surface for the principle of international sovereignty and intervention, such as the principle of non-interference, respect for each other by States, and what is stronger for each of these aspects?

- International intervention

Military intervention is justified if it is necessary to preserve fundamental values of order, security and peace, and to prevent the escalation of the situation to a state of war at the regional or international level. Military interventions took place during the cold war under the theory of balance of power; The United States intervened in Dominican in 1965, and

the Soviet Union intervened in Eastern Europe in accordance with the Brezhnev Principle (Nye, 1997: 196-197).

Given that international stability is a vital interest that must be maintained, the criterion of national interest is justified by military intervention in other States, sovereignty and non-interference provide international stability unless the national interest requires otherwise. Widening the incidence of military intervention, moving away from the national interest and carrying out undefined humanitarian tasks in precarious political situations may lead to a range of good intentions and poor outcomes; Increasing chaos and promise of stability rather than preventing them (Hoffman, 1996: 13-14).

- Concept of human intervention

A legal and political definition of international humanitarian intervention is not easy, because this concept is one of the most controversial because of the different opinions of scholars. Politically, it is a reflection of power relations in the international system. Strong States employ their capabilities once their political and economic interests are at risk in order to eliminate their sources. If there are no vital interests, States will refrain from making the decision to intervene, Or even thinking about doing it, and states put their interests when talking about their motivation to intervene even if there is a discrepancy between what is stated and what is true. Intervention may be politically, economically and securely motivated, or to achieve international standing.

The term "international humanitarian intervention" has been problematic in its clarification as a concept at the level of international relations. The difference between real motives and what is stated, and what are the real reasons have created a situation in researchers in trying to come up with a consensual term who saw it correctly, and who explained it as an academic theoretical concept or as it must be, and the other defined him on what he saw as his arm, as required by the interest and purpose of that intervention. So in this study we will address a number of terminological definitions of this concept.

- Definition of the concept of intervention

Scholars could not agree on a clear meaning in the definition of intervention, and the word remained controversial between writers and Members of the United Nations, and the travaux préparatoires in San Francisco did not imply any uniform attitude between the drafters of the Charter towards the meaning of intervention (Alsayid. 2012:75).

This great disagreement between destinations over a clearly defined definition will lead to the ambiguity of this term, some of whom attribute it to two reasons:

The first: some view it as a particular picture of behaviour, and others view it in terms of its consequences.

The second is the extent of the intervention, some limiting it to two non-third parties, and others entering a third party (Younis, 2010:17).

The word "intervention" is limited to exposure in another State's internal or external affairs that would violate its independence (Brielly, 2000:200).

Roger's intervention was: the right to exercise international control by one State over acts contrary to the laws of humanity, falling within the sovereignty of the other State, and to regulate its functioning legally. Foreign sovereignty replaces national sovereignty, in the name of human solidarity for the performance of the function neglected by the civilian Government (Khuli, 2011, 14).

In Joseph Nye's view, intervention in the "broad sense" is a term that refers to external practices affecting the internal affairs of another sovereign State. In the sense of narrow interference, it refers to interference by military force in the internal affairs of another State. Accordingly, the concept of interference in terms of forms of influence, from the least compelling to the above, is graded as follows:

Shape/ Military invasion/ Limited military actions/ Blockade/ Vulnerable support/ Military advisers/ Economic assistance/ Radio

Shape/ Low Local Option/ High Local Option

The broad definition of interference with all forms of interference, from low to high compulsion, is of particular importance; On the basis of which the degree of choice of available force depends, hence the degree of external reduction of local government (Abdulrahman, 2004: 14-15).

Muhammad Feddah, describes intervention as an activity of aggressive intent. aimed at making a difference in the affairs of the target State, by creating new realities including change of government, or even the political system, which is contrary to international custom based on respect for the sovereignty and independence of the State, Despite the diversity of intervention activities, whether economic, diplomatic or propaganda, Ideological or military, they are all aimed at forcing a small and vulnerable State to pursue a policy commensurate with a State's great and powerful interests (Feddah, 1986:42).

Ismail Sabri's intervention considers a balanced process to maintain the balance of power necessary for the stability of the international system. This process takes the following two forms:

First: defensive intervention aimed at preventing a change in the balance of power that exists because it would be detrimental to the interests of the intervening State.

Second: Offensive intervention that resists a change in the existing balance of power, and a change in the governing system of the target State, in such a way as to ensure the most positive results of the intervening State (Soldier, 2000:12).

From the standpoint that intervention is the response of an external political unit to an interventionist motive in the crisis of internal conflict in the dissolved State, according to intellectual Richard Littell, which is why a third party intervened to divert the course of conflict through external assistance in the interest of the internal ally; Therefore, disintegration is the most important driver of intervention; because it is evidence of social and political heterogeneity in the State; Each party to the internal conflict attempts to use an external party to support it, thereby transforming the internal dispute into an external internal conflict; This response takes a variety of forms (Ghazaoui, 2009).

- Concept of human intervention

States' motives may vary according to their interests when deciding to intervene. Interference by a State in the affairs of another State may be the result of security, economic, ideological or humanitarian motives, or to achieve international standing (Abdulrahman, 20004:19).

There is a narrow tendency for this concept to be limited to the definition of humanitarian intervention in terms of military terms only because of its persuasion with followers of this current that it is more effective and useful choices than economic and political intervention because of the delay in these routes and its inability to deter the other side and thereby delay the achievement of the objective of intervention. However, it was forgotten that the Charter of the United Nations, in Article 4 (2), affirmed the principle of non-recourse to violence and force in international relations and resort to military option as a last resort after the exhaustion of non-military means from achieving its objective (Hamdoun, 2013:27).

Mamdouh Shawki considers that international humanitarian intervention is the use of military force by a State or group of States against a State for the purpose of providing humanitarian protection to that State's nationals or non-nationals as long as the State commits human rights violations (Khuli, 2011:15).

In Dr. Ibrahim Al-Daraji's narrow concept of humanitarian intervention, international humanitarian intervention is the use of armed force by a subject of international law against a State for widespread brutal violations committed by or by the authorities of that State. Deliberately and repeatedly against groups of individuals, both citizens and foreigners residing on their territory (Al-Badi 'ah, 1996: 12-13).

There is also a clear link between the concept of humanity and the notion of humanitarian assistance; Because what affects man's body and dignity is relevant to human theory. Human rights mean those rights that all human beings are believed to enjoy because they are human and the human condition applies to them. These rights are therefore not a grant from anyone and are not authorized by the State. Because they are not able to give or prevent them as long as they are inherent in the very existence of man, All that is required of States to adapt their domestic and international laws to those rights (Ibrahim, 1998:12)

The concept of humanitarian assistance is embodied in the provision of health services and foodstuffs to victims of international or internal conflicts through external bodies (Torbelli, 1992:197).

Humanity also refers to a set of characteristics that distinguish individuals of the human species of other living beings. Man's relationship with man has the qualities of love, charity, benevolence, empathy for the weak, cooperation and assistance to the needy (Abdulsalam, 1974:294). Human doctrine is an admirable goal for having freedom and freely exercising one's choice (Al-Omari, 2007:787).

Human emotions express humanity and its good attitudes to its sex, leading it to try to stop the suffering and pain of others. Human theory has provided its interpretation of the human term as targeting the good of all mankind by maximizing happiness and well-being, to the greatest number of people regardless of any difference between them. Accordingly, this theory considers that a number of fundamental rights of the individual must be recognized at the local and global levels, and that aid should be provided to those in pain, life-threatening and physical or moral dignity, in all cases where the State's existing institutions are inadequate or ineffective in ensuring the application and protection of the rights of the individual. Human cooperation in humanitarian action through intergovernmental and non-governmental organizations avoids the return of injustice, thereby achieving the human dignity that is the cause of international well-being and peace (Ghazauoi, 2011:160).

According to Dr. Husam Ahmed Al-Hindawi, the intervention is that one or more subjects of public international law resort to political and economic coercion against a State or States to which they are accused of gross and repeated violations of human rights in order to induce them to put an end to such practices (Khuli, 2011:15).

Anthony Rugier defines humanitarian intervention as recognition of the right to exercise international control by one or more States over acts contrary to the laws of humanity that would fall within another State's domestic policy. Whenever the human rights of a people were ignored by its rulers, a State or group of States could intervene on behalf of the United Nations community by requesting the abolition of the Authority's critical actions or preventing its future renewal by means of an urgent provisional measure, including sovereign solutions in the place of the observer State (Mekou, 1993:106).

In the result, there are several trends of intervention in terms of the elements, concept and mechanism of application, which can be distinguished between two directions. First: the concept of humanitarian intervention is linked to the flagrant and systematic violation of human rights, including the use of armed force to defend fundamental human rights that are subject to flagrant violations, such as genocide and ethnic cleansing. The second relates the concept of humanitarian intervention to the protection of nationals of the intervening State as a case of legitimate self-defence, and, without the nationality and

citizenship link that makes international law permitted humanitarian intervention, the use of force would be an unlawful violation of other States' sovereignty (Al-Saad, 2006:34)

The true concept of human intervention was focused solely on the protection of citizens of a State that violated fundamental human rights, but for nationals of another State's nationality. The procedures for the protection of their diplomatic States justify their diplomatic intervention for them. Otherwise, they constitute an unlawful violation of the State's sovereignty and territory (Ibn Issa, 2012:10).

- Political justification for international intervention

Political justifications underpin everything related to the political system of the State in which it intervenes or to the global international order. Political justifications emanate from human justifications: the international community's goal is to enable people to enjoy their fundamental rights. which has become the most prominent in the present era the exercise of freedom of opinion, expression and political rights, All of which are linked to the citizen's relationship with the political system that governs his State, Human beings cannot enjoy freedom of opinion and expression if the political system governed by a dictatorship does not believe in or apply democracy, Human beings cannot enjoy their rights in the face of a threat to international peace and security. It was therefore imperative for the international community to intervene in order to remove the obstacles that prevented this, according to the preceding justifications, and in which it should be said. (Mahmoud, 1991:62).

- The impact of humanitarian intervention within national sovereignty

There are considerable differences of jurisprudence about the interpretation of these restrictions and the identification of their sources, they have raised a very important and serious issue, which is their impact on the existence of the international personality. On the one hand, this issue has been more dealt with, on the other hand, it seems that the overemphasis of the right to freedom and conduct in its use necessarily negates the provisions of international law, and on the other hand, the overimposition of restrictions necessarily leads to the abolition of sovereignty. However, a category of scholars and intellectuals, through their interpretation of the various restrictions on a State's sovereignty and freedom in the international field, have been able to conceive of States that do not have full sovereignty, in other words, there is no irreversible nucleus of sovereignty (Azeri, 1998:66).

The topic might be more complex if it related to abandoning a well-established rule of international law and State practice as the rules of respect for States' national sovereignty and non-interference in their internal affairs; endorsed by the Permanent Court of International Justice in the Lotus case, and also recently by the International Court of Justice in the Nicaraguan case, the KOSU dispute marked a new path in the controversy between supporters of the "right of political interference" on the one hand and upholding the principles of the United Nations Charter on the other. Proponents of the right to intervene view this right as a new form of solidarity shown by some peoples towards others, and also oppressed by their governments or authorities in their own countries. Moreover, such solidarity can lead to political or humanitarian measures that overcome moral principles of state sovereignty (Berkerie Honel, 2001:118).

- Humanitarian intervention in Iraq

The case of Iraq in the post-Gulf War period of 1991 is the biggest example of the evolution of human rights violations and violations of States' sovereignty not only as a humanitarian issue, but as an issue affecting international peace and security. This issue is a turning point in the legitimacy of the use of force by the international community represented in the UN Body for the Protection of Citizens Whose Rights are Violby Their Governments. These political and legal contents of such developments will contribute to greater support for the protection of human rights at the global level (Al-Aouti, 1993:60).



Resolution 688 was adopted in the context of a series of Security Council resolutions against Iraq, that the actions authorized by the Security Council under that resolution were to protect the Kurds, that were an extension of the coercive measures taken against Iraq and that the resolution resembled the resolution. "687. Decides to disarm and denuclearize Iraq and that these subjects are at the core of the internal jurisdiction of States, and this indicates that intervention to protect the Kurds is justified; as a result of the application of Chapter VII of the Charter (Al-Azawi, 2008:351).

Iraq's position on this interference was rejected by resolution 688, which declared it interference in its internal affairs and a threat to its sovereignty and territorial integrity. In the seventh preambular paragraph, the resolution affirmed the commitment of all Member States to Iraq's sovereignty (Gaza, 2008:353); He tried to contain this decision and prevent the implementation of the safe zone system in the rest of Iraq. By signing an agreement with the United Nations allowing it to establish humanitarian relief centres and aid refugees in northern and southern Iraq, However, after the implementation of the resolution, the Iraqi Army intensified its blockade of Shi 'ah and Kurdish areas as they were targeted by international protection. This led to the spread of disease and poverty among their parents, until it was lifted in August 1996 when the Government's policy changed (Abdelfattah, 1991:52).

This decision can only be seen in terms of a return in view of the preamble, the difference between it and the application, since the arguments of the proponents of intervention in the paragraph (c) is a form of use or threat of force that has affected the Iraqi people and is therefore contrary to the Charter, in other words as a result of hostility, and therefore cannot be considered a legitimate justification for such interference (Alsaid. 212:34).

In observing and tracing the consequences of the humanitarian intervention in Iraq aimed at protecting the human rights of Kurds and Shi 'a, it has adversely affected the Iraqi people, particularly since the intervention was made to protect them, suffering a double blockade by the international community in accordance with resolution 661 (resolution 661) (Security Council resolution 1990-1991: 53-54), and by the IraGovernment of Iraq; The memorandums of understanding with the United Nations Department of Humanitarian Affairs for the provision of humanitarian assistance to the northern and southern regions were signed only after various international pressures, and their renewal was delayed. In contrast, international institutions did not engage directly with Kurdish institutions in the implementation of Iraq's reconstruction and rehabilitation programme in the absence of the Government's civil administration. This has exacerbated poverty and fighting among Kurdish factions over available resources and the distribution of Western aid. This occurred during the 1993-1994 of battles between the Kurdish Islamic Movement and the Kurdistan Patriotic Union that led to the dispersal (30) of a thousand Kurds (Abd al-Rahman, 2004:210).

Combined with the internal Kurdish conflict resulting from the absence of a central authority, gross human rights violations involving mass killings, the economic blockade of the Iraqi people is a violation of the fundamental human rights to life, health and food, while UNICEF estimates average child deaths at around (4500) children per month (Abdelfattah, 1991:56) (Security Council resolutions No. 706-712-986 of the Security Council-United Nations).

Humanitarian political considerations overshadowed this military intervention, which was a means of exerting pressure on Iraq's political system. The intervention was not carried out by the United Nations, but by the United States of America, Britain and France; because they have national interests to pursue; Evidence of the expansion of the air embargo zone in the southern region by the United States of America and the United Kingdom alone without the authorization of the United Nations, in addition to the fact that the intervening States have similar problems and their repeated violations of human rights in various forms; Turkey has its problems with the Kurds, and Britain has its



problems with Northern Ireland, as well as France has its problems with the residents of Corsica, and the United States has its problems with swords and people of color (Abdul Rahman, 2004:213).

Recourse to force was not the last shelter, but the use of force was the last option for coalition States, in addition to the fact that the resolution contained no explicit or implicit reference to the use of force, or any other coercive measures, and there was general agreement in international jurisprudence that the Security Council resolution did not explicitly authorize intervention, nor did it contain any language authorizing the use of force (Al-Azawi, 2008:352), as there was no proportion between the manifestations of human rights violations and the means of implementing intervention, The scale of international measures and the manner in which they have been taken are disproportionate to the extent of the abuses reported. This has caused considerable damage to the human rights that intervention aims to protect. From the outset, the intervention was aimed at changing the power structure of Iraqi society. This contradicts the consent of the Government of the State interfering in its affairs, as well as the satisfaction of Iraqi citizens with the Western intervention process was questionable to the majority. Accordingly, the standards of impartiality of humanitarian intervention do not apply in Iraq's case (Younis, 2010:65)

Hence, the general framework of the doctrine of humanitarian intervention, especially in its integrated form, and within the limits of respect for and independence of a State, is increasing by the day. Notwithstanding the Security Council's recognition of Iraq's sovereignty, particularly in resolution 688 of 5 April 1991, the international community tends to interfere in situations in which human rights are violated, even if force is required despite the Council's adherence to State sovereignty. While governing regimes renounce their humanity in treating their peoples, the sovereignty of the individual and of the group is above the sovereignty of the State (Bassiouni, 2003:12).

The human rights situation in Iraq, as stated in the Human Rights Report 2006, remains a major concern. Following the events of 22 February 2006, which included the destruction of the Imam's military shrine in Samarra and its consequences, Many repercussions have emerged on the security scene, resulting in numerous killings, torture, illegal arrests and displacement (Iraq's Human Rights Report 2006).

## **Results**

The Security Council's practices are contrary to the provisions of the Charter, and the policies of unilateral States cannot be precedents that support the idea of human intervention because it is impossible to consider creating a customary rule based on illegal attitudes.

There is no legal basis for the notion of humanitarian intervention in international law. But we do not deny that, as the history of international relations has evolved, there have been practices, although their designations differ, but they reflect the reality and content of the idea of human intervention, which later evolved to take on a new dimension after the emergence of the policy of opportunity and the ability in international relations to account for the balance of rights, duties and shared responsibility reflected in the Charter and international law, culminated in the emergence of colonialism. History repeats itself by proposing the idea of human intervention as a modern framework for the image of neocolonialism based on the logic of power.

## **Recommendations**

The principles of human rights must be strengthened, developed and monitored, and must be carried out through mechanisms within the United Nations human rights system.

Therefore, some States may not unilaterally exercise the functions of the international police, which has caused selective methodology and double standards.

Human intervention must be based on realistic legal grounds and not on fictional political norms.

It is imperative to move away from the policy of double standards and towards the principle of standardisation in humanitarian interventions, and to view human rights violations with a single perspective that does not change interests and whims so that the United Nations does not lose credibility.

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