

# Practical Legal Issues of the Application of the Principle of Non-Interference in the Internal Affairs of States by Subjects of International Law

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## Abstract

In this article, the concept of the principle of non-interference in the internal affairs of states by the subjects of international law, practical legal issues of the application of the principle of non-interference, the implementation of the UN Charter, the powers of the Security Council, the causes and consequences of the war between Russia and Ukraine, addressing regional organizations in peacekeeping operations procedure will be explained.

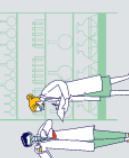
**Keywords:** principle of non-interference in internal affairs, sanctions, SWIFT, economic base weakening, European Union, NATO, sovereignty, genocide, aggression.

## INTRODUCTION

The principle of non-interference, by its essence, is a principle that prohibits the use of coercive measures in order to protect weak states from the rule of strong ones in international relations. This principle is indirectly confirmed by the recognition of sovereign equality in accordance with Article 2.1 of the United Nations Charter of 1945 and sovereign immunity in accordance with Article 2.7 and is clearly recognized and defined in the Declaration on Principles of International Law, i.e. the UN Charter. . However, strict adherence to this principle is controversial due to certain limitations.

The right of states to intervene to prevent human rights violations is enshrined in Article 39 of the UN Charter, which allows the Security Council to take action against "any threat to the peace, breach of the peace or act of aggression." There is no denying that interventions in **Somalia, Liberia, and Sierra Leone** in the 1990s significantly alleviated human suffering.<sup>1</sup> Recently, the use of peacekeeping interventions against extremely humanitarian objects has been criticized. This is because such interventions not only lead to violence and death, but also increase defense spending and the demand for nuclear weapons. At the same time, member states are demanding the right to intervene through military action in response to humanitarian crises, even without Security Council authorization. Although there is insufficient practice to incorporate unilateral humanitarian intervention into the principles of customary international law, research has shown that such interventions are often criticized when they are shown to

<sup>1</sup> Earl Conteh-Morgan, "Xalqaro aralashuv: mojaro, iqtisodiy dislokatsiya va dominantlarning gegemon roli", Xalqaro tinchlik tadqiqotlari:2001, 6-b.



serve political ends.<sup>2</sup> Nevertheless, the failure of the Security Council to take measures against humanitarian crises is considered a basis for unilateral intervention.

Modern international law also includes the concept of intervention by invitation, which is seen as another exception to non-intervention under customary law, which allows foreign forces to intervene in an internal armed conflict at the behest and request of a government. Since the 1990s, such intervention has been considered legitimate if consent has been shown to some degree by a state that is seen as a high example of legitimacy and democracy towards its people.<sup>3</sup>

However, this form of intervention is also criticized because state consent is developed through the consensual dominance of powerful states and arises from the possibility of negative relations between these states and developed states. For example, the Russian invasions of Hungary in 1956, Czechoslovakia in 1968, and Afghanistan in 1979 were criticized because the proposed consent was not voluntary. Although the consent was free, the intervention was found to be carried out at the request of illegitimate authorities seeking to secure their position within the state.

Although the United Nations Charter allows for humanitarian interventions authorized by the international community, such measures are rarely used due to conflicting political interests of member states. Even when an intervention is sanctioned, the United Nations faces the problem that most countries do not have sufficient capacity to commit their troops and financial resources. As a result, this situation is interpreted as a ploy by the United States and takes the blame and creates the hegemony of the only military power in the world. This trend in international politics is called "humanitarian imperialism" by legal scholars. In other cases, interference is the result of selfish political interests, such as access to resources and markets, or the promotion of favored ideologies, as opposed to benevolence or the pursuit of global justice. Therefore, the interventions carried out by the United States of America under the pretext of restoring democracy in Grenada and Panama have been criticized.<sup>4</sup> Because there are hypotheses that such interventions lead to the loss of identity of developing countries in the face of increasing external aggression. To prevent actions related to military interventions, **loans, aid, trade**, etc. economic sanctions such as bans are applied. Countries like China favor the use of economic sanctions because it not only relieves them of the economic burden associated with military attacks, but also helps them pursue their commercial interests.<sup>5</sup>

For example, on February 21, 2022, after the President of the Russian Federation, Vladimir Putin, signed a decree in the Kremlin on the recognition of the self-proclaimed Lugansk People's Republic and the Donetsk People's Republic in Eastern Ukraine, a war broke out between Ukraine and Russia. its arrival was almost certain, and on February 24, when Russian

<sup>2</sup> Masalan, *AQShning Iroqqa, Janubiy Afrikaning Mozambikka va Indoneziyaning Sharqiy Timorga aralashuvi* va hokazolarni keltirish mumkin.

<sup>3</sup> Georg Nolte, "*Taklif orqali aralashuv*", Maks Plank xalqaro huquq ensiklopediyasi, 2015, 18-b

<sup>4</sup> Maykl Byers va Saymon Chesterman, "*Xalqaro huquqda demokratik aralashuv*", Kembrij universiteti nashriyoti: 2000, 259-271 b.

<sup>5</sup> Mu Ren, "*Xitoyning BMT sanksiyalariga aralashmaslik siyosati: Liviya, Shimoliy Koreya va Zimbabve holatlari*", Ritsumeikan Intl Affairs nashriyoti: 2024, 101-b.

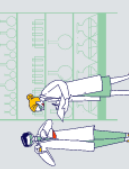
troops launched special operations in Donbass, hostilities in Ukraine escalated. This, of course, did not go unnoticed by the international community, and after this, many countries such as the European Union, the United States, Canada, Australia, Germany, and the United Kingdom imposed sanctions, and Russia fell under the rain of sanctions, and this continues even now. In particular, the European Union introduced many unprecedented sanctions. The leaders of the European Union have repeatedly demanded that Russia immediately stop hostilities, withdraw all forces and military equipment from Ukraine, and fully respect Ukraine's **territorial integrity, sovereignty, and independence**. The Council of Europe has repeatedly condemned Russia's attacks on civilians and civilian infrastructure and called on Russia to stop its missile attacks on Ukraine. The leaders of the European Union stressed that all those responsible for these war crimes against Russia will be held accountable for their actions in accordance with international law.

Despite the warnings of the European Union, a number of sanctions were applied after they did not stop military operations. These measures were designed to weaken Russia's economic base, deprive it of important technologies and markets, and significantly limit its ability to wage war. It is necessary to mention some of the restrictions that cause the greatest damage to Russia from several dozen sanctions introduced by the European Union since the beginning of the war. In particular, the SWIFT<sup>6</sup> ban on Russian and Belarusian banks prohibits ten Russian and four Belarusian banks from making or accepting international payments via SWIFT. As a result, these banks can neither receive foreign currency nor transfer assets abroad. This will have negative consequences for the economy of Russia and Belarus. Technically, banks can do international transactions without SWIFT, but it is expensive and complicated. The complication is that it takes payments back to the 20th century, when telephones and faxes were used to confirm each transaction.

Also, the European Union banned all transactions with the National Bank of Russia related to the management of reserves and assets of the Central Bank of Russia. After freezing the Central Bank's assets, it lost the right to access its assets stored in central banks and private institutions in the European Union. In February 2022, Russia's international reserves amounted to 643 billion dollars (579 billion euros). Among other purposes, holding foreign currency reserves helps to maintain a stable exchange rate of the country's own currency. It is estimated that more than half of Russia's reserves have been frozen due to the ban on transactions from the European Union and other countries. The ban has also been imposed by other countries (such as the US, Canada and the UK), which also hold a share of Russia's foreign reserves. Consequently, Russia cannot use foreign assets to fund its banks and thus limit the impact of other sanctions. Even the sale of gold reserves stored in Russia will be complicated due to international sanctions affecting Russian entities. The European Union also banned the sale, delivery, transfer and export of euro banknotes to Russia. The goal was to limit access to euro

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<sup>6</sup> SWIFT – (Society for Worldwide Interbank Financial Telecommunications) bu banklar va boshqa moliya institutlari o'rtasida ma'lumot almashishni sezilarli darajada osonlashtiradigan xabar almashish xizmati. SWIFT butun dunyo bo'ylab 11 000 dan ortiq sub'ektlarni birlashtiradi.



cash by the Russian government, its Central Bank, and individuals or legal entities in Russia to prevent sanctions evasion. Similar sanctions apply to Belarus.<sup>7</sup>

We learned that in order to limit the conflict situation that has arisen, measures are taken by states and organizations to try to stabilize the situation through economic interventions and economic sanctions. Now, let's talk about the role of humanitarian intervention in the current conflict. Criticism of the situation caused by humanitarian intervention becomes an obligation of states to create an international regime based on cooperation and interdependence to eliminate gross violations of human rights. This was recognized by the United Nations when it adopted the principle of the "responsibility to protect" which imposes the responsibility to use "collective" force under the UN Charter to protect humanity from "genocide, war crimes, ethnic cleansing". Nevertheless, if there are cases where the intervention by the states is just an excuse to protect human rights and aggravates the situation, this is the most serious violation of international human rights.

There is a need to develop the institutional capacity of the Security Council to initiate early action to address the growing threat of unilateral interventions. Even if the United Nations Security Council does not take the necessary measures, there is a need to refer to regional organizations in peacekeeping operations authorized by Article 53, Part 1, and Article 52 of the UN Charter. States should resort to unilateral interventions only in dire situations and when they have sufficient resources to conduct successful operations. Countries facing economic or political turmoil should refrain from participating in such interventions. Most importantly, the right to intervene should also be accompanied by preventive action and post-conflict assistance. Before resorting to drastic measures of military intervention, countries should use lighter methods, such as sending investigative teams, as used by ASEAN (Association of Southeast Asian Nations) to force Myanmar to release political prisoners.<sup>8</sup>

If deterrence fails and a deadly conflict escalates, the international community is left with very few policy options. During the Cold War, diplomatic peace efforts, the traditional option used for example in Cyprus and the Ethiopia-Eritrea war, were seen as a reasonable effort. It is difficult to say that this way of mitigating the situation always works. In this case, at least the parties can agree on armed marches, ceasefire, after which the peacekeeping mission can be agreed in this way.

In the 1990s and beyond, many disputes are complex in nature. Because it is not an easy task to determine the warring parties, that is, who actually created the conflict and who joined the war, behind whom and who is working secretly to make the conflict worse, this issue often seems very urgent. As Brian Urquhart<sup>9</sup> puts it: "If they (regional warlords, warring ethnic leaders, or thugs with political ambitions) smell a possible victory, they rarely fall for legal arguments, international pressure, or humanitarian appeals." it is not difficult to see how true his sharp and meaningful thoughts are.

<sup>7</sup> [www.consilium.europa.eu](http://www.consilium.europa.eu) saytining "EU sanctions against Russia explained" (Yevropa Ittifoqining Rossiyaga nisbatan qo'llanilgan sanksiyalari bo'yicha tushuntirish) nomli maqolasidan.

<sup>8</sup> Mayk Molzof, "ASEAN va aralashmaslik prinsipi", ilmiy-maqola, 2022

<sup>9</sup> Ser Brayan Edvard Urkxart (1919-2021) - Britaniya Ikkinchi Jahon urushi faxriysi, yozuvchi va xalqaro davlat xizmatchisi. U BMTning tashkil etilishida muhim rol o'ynadi va u erda Bosh kotib o'rinbosari lavozimida ishlagan.

Thus, during the 1990s, we saw the emergence (or rather the re-emergence, since interventionist doctrines of one form or another have long existed) of the doctrine of the right to humanitarian intervention. The main idea is that if human rights, in particular the most basic of them, the right to life, are being violated or are likely to be violated on a mass scale in the country, then it is necessary to mention the possibility of moral and legal violations. .

Military intervention for the purpose of humanitarian or human rights protection is precisely during the 1990s, regardless of whether the Security Council approves it or not, as seen in Somalia, Northern Iraq, Liberia, Bosnia, Haiti, Rwanda. possible The problem is that because this right has been invoked and exercised so many times during the 1990s – the initial ideas about allowing military intervention in extreme cases developed not only among international actors, but theories that the root of this problem lies within the Security Council itself are not far from the truth. This has given rise to endless and increasingly bitter debates about whether such a right exists, and if so, when and how to exercise it.

NATO's intervention in Kosovo in 1999 led to serious controversy. The main reason for the reversal of the growing pre-Kosovo attitude is that the intervention was too late, ill-conceived, the help that should have been provided was superficial and remained on paper. Plab was criticized by legal scholars. The reason for this situation was that the members of the Security Council were divided. There were also parties who did not support the authorization of military actions that do not have the authority of the Security Council on legal grounds. Misunderstandings have arisen due to the fact that the other party recognizes the movement as a form of humanitarian intervention that is much stronger than its spiritual or external appearance. Therefore, there is a lot of criticism about whether the policy of NATO allies is fair or not.

All this suggests that the right of humanitarian intervention and the sea of questions swirling around it is perhaps the most controversial and unresolved issue in the foreign policy of the 1990s.

The key question was posed sharply by UN Secretary General Kofi Annan in his 1999 speech to the General Assembly: “...if humanitarian intervention is truly an impermissible invasion of sovereignty, how can we go to Rwanda, to Srebrenica – to all the rules of our common humanity? How should we respond to the gross and systematic violations of human rights that affect us? (Partially answering his own question, he continued:) But surely no legal principle—not even sovereignty—can ever protect against crimes against humanity...”<sup>10</sup> Armed intervention is always a last resort. must remain, but against mass murders this option cannot be abandoned.

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<sup>10</sup> BMT Bosh kotibi Kofi Annanning 1999-yil 20-sentabrdagi SG/SM/7136-sonli yillik hisobotidagi nutqidan

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