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Humanitarian Intervention: Legal Bases and Problems of Application

LILIT MURADYAN

Brusov State University of Languages and Social Sciences

The concept of “humanitarian intervention”, which is a subject of active debates and discussions, has become widely used in international law along with the principles of respect for human rights, non-use of force and threat of use of force, non-interference in the domestic jurisdiction of states and the sovereign equality of all states fixed by the UN Charter. Over time, the discussions and disagreements on the concept created conditions for the formation of a new concept of the “Responsibility to protect” (R2P) in international relations. With the new approach, state sovereignty ceased to be perceived as a privilege. First of all, it began to be interpreted as a responsibility of a state and only in the case of its failure the international community is entitled to implement the R2P. However, the replacement of the old concept with a new one could not circumvent the differences and disagreements of the approaches of the principle's implementation legitimacy and problems of its application in international practice. The legal bases and the problems of application of humanitarian intervention and the R2P in international relations, as well as the principles, their peculiarities and disadvantages, set by the International Commission on Intervention and State Sovereignty for the implementation of the R2P, are observed in the article.

Keywords

Human rights, humanitarian intervention, state sovereignty, responsibility to protect, state interests, legitimacy.

Introduction

After the World Wars, when the international community has already witnessed a number of cases of mass violations of human rights, particularly the genocide against the Armenians, the Holocaust of Jews, the need to create legal grounds for the protection of human rights and

freedoms has become an agenda issue. It became possible to transfer the solution of the problem into international relations only after the foundation of the United Nations (UN) when the UN Charter acquired key importance from the point of view of human rights protection¹. Among its purposes, the protection of human rights and freedoms it marked out (Article 1 (3), 55, 56), particularly having a goal to achieve international co-operation in promoting and encouraging respect for human rights and for fundamental freedoms without distinction as to race, sex, language, or religion. Besides the UN Charter, the International Bill of Human Rights, as well as a number of mandatory legal documents, accepted by the Council of Europe, the OSCE, the EU and other international organizations are of key importance from the point of view of human rights protection. Nevertheless, despite the existence of legal bases in the sphere of human rights and freedoms' protection, the gross violations of human rights, the atrocities, and the violence against humanity have continuous character. As a result, the need to study the legal bases of the concept of "humanitarian intervention", the problems of application, the political component of the process and the possible impact of such intervention on state sovereignty gains importance.

Humanitarian Intervention

The discussions on the concept of "humanitarian intervention" and its legal bases have always been an issue of active debates. Despite the diversity of the existing definitions, they are all based on the military intervention for the protection of human rights without the agreement of the target state. Though, it should be noted that humanitarian intervention does not imply a mandatory use of military force, as the implementation of sanctions and humanitarian aid is also applicable in international practice. According to S. Murphy's definition, that is "the threat or use of force by a state, group of states, or international organization primarily for the purpose of protecting the nationals of the target state from

¹ Charter of the United Nations (UN), <http://www.un.org/en/charter-united-nations/index.html>

widespread deprivations of internationally recognized human rights”². In other words, “the proclaimed goal of humanitarian intervention is to protect the citizens of the target state from flagrant violations of their fundamental human rights usually by agents of the state”³. According to another approach, humanitarian intervention is interference of the international community, by the use of military action, in the domestic affairs of one or more states abusing their sovereignty for the prevention of humanitarian catastrophe⁴. To summarize, humanitarian intervention can be defined as an implementation of necessary actions by the international community, which can be in the form of humanitarian aid or sanctions, as well as military intervention, in the case of violations of the target country’s citizens’ internationally recognized fundamental human rights.

The changes in the world, under the influence of globalization, have resulted in an extended interpretation of the concept of “humanitarian intervention” and its implementation’s justification not only in the case of human rights violations but also for the elimination of a dictatorial regime, the suppression of terrorism, the elimination of nuclear, chemical and biological weapons⁵. In this case, humanitarian intervention aims at ensuring and strengthening the international security. It can be achieved in the conditions of international cooperation, and not exclusively by national policy.

There is a contradiction between the UN principle of non-intervention in the domestic jurisdiction of other states and the acts of humanitarian intervention in the debates about the legal bases of the implementation of the latter. According to a standpoint⁶, the fact that the

² **Murphy S.**, *Humanitarian Intervention: The United Nations in an Evolving World Order*, Philadelphia, 1996, pp. 11-12.

³ **Ayoob M.**, *Humanitarian Intervention and State Sovereignty*, *The International Journal of Human Rights*, 6, 1, 2002, 81-102.

⁴ **Худайкулова А.**, Новое в управлении международными конфликтами, опосредованные войны вместо гуманитарных интервенций?, *Международные процессы*, 14, 4(47), 2016, 67-79, <http://intertrends.ru/system/Doc/ArticlePdf/1728/Kdw8Mj8GHP.pdf> (15.03.2018).

⁵ **Карташкин В.**, *Права человека: международная защита в условиях глобализации*, Москва, 2009, с. 225.

⁶ **Яо Никээ А.**, *Международно-правовое основание вмешательства во внутренние дела государства по вопросам, относящимся к защите прав*

general respect of human rights is one of the main principles of the UN justifies the intervention in the internal affairs of a state for human rights protection. In this respect, any gross and massive violation of human rights and fundamental freedoms creates basis for international intervention in the domestic affairs of any state. At first glance, however, the seemingly reasonable interpretation does not represent what actually exists on the opposite side of the phenomenon. The problem is that, as historical experience has repeatedly demonstrated, the motive or purpose of humanitarian intervention is not always to protect citizens of any state from the violations of their fundamental rights. Particularly, quite often it is an action driven by the interests of the intervening state or groups of states when human rights protection is used as a veil to legalize own actions.

New Concept in International Relations

The discussions on the legal bases of the implementation of humanitarian intervention have become even more intense after the NATO's operation in Kosovo⁷ in 1999. It ultimately led to the revision of the concept and the import of a new concept of the “Responsibility to Protect (R2P)” in international relations.

According to the report of the International Commission on Intervention and State Sovereignty (ICISS), “any new approach to intervention on human protection grounds needs to meet at least four basic objectives:

- to establish clearer rules, procedures and criteria for determining whether, when and how to intervene;
- to establish the legitimacy of military intervention when necessary and after all other approaches have failed;
- to ensure that military intervention, when it occurs, is carried out only for

человека, *Евразийский юридический журнал*, 3 (70), 2014, 50-52.

⁷ Security Council Resolution № 1244, 1999,

[https://documents-dds-](https://documents-dds-ny.un.org/doc/UNDOC/GEN/N99/172/89/PDF/N9917289.pdf?OpenElement)

[ny.un.org/doc/UNDOC/GEN/N99/172/89/PDF/N9917289.pdf?OpenElement](https://documents-dds-ny.un.org/doc/UNDOC/GEN/N99/172/89/PDF/N9917289.pdf?OpenElement)
(18.03.2018).

- the purposes proposed, is effective, and is undertaken with proper concern to
- minimize the human costs and institutional damage that will result; and
- to help eliminate, where possible, the causes of conflict while enhancing the prospects for durable and sustainable peace”⁸.

It was Gareth Evan's idea to replace the concept of “humanitarian intervention” with the “responsibility to protect”. According to him, “the new concept has three other big advantages:

- it implies evaluating the issues from the point of view of those needing support, rather than those who may be considering intervention. The searchlight is back where it should always be: on the duty to protect communities from mass killing, women from systematic rape, and children from starvation.
- this formulation implies that the primary responsibility rests with the state concerned. Only if that state is unable or unwilling to fulfill its responsibility to protect, or is itself the perpetrator, should the international community take the responsibility to act in its place.
- the “responsibility to protect” is an umbrella concept, embracing not just the “responsibility to react” but the “responsibility to prevent” and the “responsibility to rebuild” as well”⁹.

With the new concept, state sovereignty ceased to be interpreted as before. As the author of the principle states “sovereignty implies a dual responsibility: externally, to respect the sovereignty of other states, and internally, to respect the dignity and basic rights of all the people within the state”¹⁰. “Where a population is suffering serious harm, as a result of internal war, insurgency, repression or state failure, and the state in question is unwilling or unable to halt or avert it, the principle of non-

⁸ The Responsibility to Protect, Report of the International Commission on Intervention And State Sovereignty (ICISS), Ottawa, 2001, p.11, <http://responsibilitytoprotect.org/ICISS%20Report.pdf> (15.03.2018).

⁹ Evans G., Sahnoun M., The Responsibility to Protect, *Foreign Affairs*, **81**, 6, 2002, 99-110.

¹⁰ Ibid.

intervention yields to the international responsibility to protect”¹¹. Thus, the new concept was significant from the point of view of overcoming the contradictions between state sovereignty and humanitarian intervention, as, parallel to the principle's formation, state sovereignty ceased to be perceived as a privilege. With the General Assembly's final document¹² in 2005 World Summit states' leaders and governments accepted the principle of the “responsibility to protect”, on the basis of which are:

1. the main responsibility of the states to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity through appropriate and necessary means,
2. the responsibility of the international community to encourage and help States to exercise that responsibility,
3. the responsibility of the international community to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with the Charter, to help to protect populations from the crimes mentioned above in the case when peaceful means are inadequate and national authorities manifestly fail to protect their populations.

In 2009, in the report “Implementing The Responsibility to Protect”¹³, the Secretary-General Ban Ki-moon clarified the nature of the agreement of 2005 and pushed forward means based on which the United Nations, separate states, regional organizations must implement three pillars of the R2P.

¹¹The Responsibility to Protect, Op. cit., p. XI.

¹² 2005 World Summit Outcome, Doc. A/RES/60/1, UN General Assembly, http://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_60_1.pdf (15.03.2018).

¹³ Implementing The Responsibility to Protect, Report of The Secretary-General, UN General Assembly, 2009, pp. 8-9, <http://responsibilitytoprotect.org/implementing%20the%20rtop.pdf> (18.03.2018).

The Possibilities and Problems of the R2P Application in the Framework of the ICISS Principles

Still in 2001, The International Commission on Intervention and State Sovereignty (ICISS)¹⁴ put forward a few criteria, under which, in the Commission's judgment, all the relevant decision making criteria can be succinctly summarized, while there is no universally accepted single list. It is appropriate to study these principles for the research of the legitimacy of any case of interference, the legal bases of the principle, the problems of application and the political component of its application. The report points out the following six criteria: just cause, right authority, right intention, last resort, proportional means and reasonable prospects.

Just cause: This part of the report focuses on the cases when the intervention is justified. According to the report, "military intervention for human protection purposes is an exceptional and extraordinary measure. To be warranted, there must be serious and irreparable harm occurring to human beings, or imminently likely to occur like large scale loss of life with genocidal intent or not, ethnic cleansing"¹⁵.

Based on practice and its academic analysis, the defenders of humanitarian intervention single out two main criteria. The former supposes existence of an internal situation representing a clear threat to international peace and stability. When the internal crisis becomes acute, as many think, that makes it possible to take it beyond the limits of the internal jurisdiction. The latter criterion concerns the facts of gross violations of human rights and mass, systematic suffering of the population¹⁶.

At present, there are a number of institutes the task of which is to control the activities of the states in the field of human rights protection. These are international organizations, various committees and commissions, founded by states or international organizations, diplomatic missions of states and international non-governmental organizations

¹⁴ The Responsibility to Protect, Op. cit., p. 32.

¹⁵ The Responsibility to Protect, Op. cit., p. XII.

¹⁶ **Тарасова Л.**, К дискуссии о правомерности гуманитарной интервенции, Вестник Волгоградского государственного университета. *Юриспруденция*, 1, 5(14), 2011, 99-105.

accredited in different countries¹⁷. It seems as if in the conditions of such institutes' activities the mechanisms of the situation's assessment in any state and the R2P's implementation based on it are more than simplified. Meanwhile, it must be noted that even in the conditions of such mechanisms' existence, when it is not possible to deny the existence of the cases of violence against own citizens, ethnic cleansing, as well as the cases having a genocidal intent in any state and when there is a reasonable motive for the intervention, sometimes states connive at the situation because of the lack of interests in that country or region. In essence, the intervention loses its humanitarian character when it is carried out only when there is own interest.

What concerns the cases threatening the international peace and stability, the military intervention in Iraq,¹⁸ which did not have humanitarian character, is worth mentioning. It is remarkable that the US authorities presented information to the international community on the development of weapons of mass destruction in Iraq, after which military operations launched in the region. At the end of the military actions, the international community did not detect the existence of such threat there¹⁹.

Thus, regardless of the bases put forward in the report, when the principle of the R2P is justified, some states can use the situation of human rights violation and threats to international peace as a pretext to carry out actions in the region for the achievement of their own interests. At the same time, the necessity of the implementation of the actions in the country, which needs humanitarian intervention, may be ignored in the absence of such interests.

Right intention: The criterion of “right intention” is of particular importance from the point of view of avoiding the above-mentioned situations. “The primary purpose of the intervention, whatever other motives intervening states may have, must be to halt or avert human suffering. Right intention is better assured with multilateral operations,

¹⁷ **Яо Никэз А.**, Op. cit.

¹⁸ Security Council Resolution № 1483, 2003, <https://www.iaea.org/sites/default/files/unsc1483.pdf> (15.03.2018).

¹⁹ **Roth K.**, Was the Iraq War a Humanitarian Intervention? *Journal of Military Ethics*, 5, 2, 2006, 84-92.

clearly supported by regional opinion and the victims concerned”²⁰. There is an approach²¹, according to which intervention can be considered legitimate in the case when its sole purpose is the prevention or termination of human rights' large-scale serious violations, especially the right to life. According to the same standpoint, humanitarian mission should not have political motives. While the practice shows that the protection of any other state's citizens' is not always the absolute goal of any intervening state, and even in such situation the intervention cannot be considered illegal. From this point of view, it is very important to distinguish the intent and motivation of the intervener.

According to Bellamy, the insistence that humanitarian intervention's sole purpose is the promotion of the welfare of foreign citizens or prevention of humanitarian catastrophe is too restrictive. When it comes to humanitarian intervention, it is asking too much to expect a state to risk the lives of its own citizens solely to save strangers. States do not have a duty to save strangers because they should be primarily concerned with the welfare of their own citizens. It cannot therefore be legitimate to risk the lives of citizens (albeit soldiers) in a humanitarian intervention in order to save strangers elsewhere²². When a state or a group of states faces the problem of the R2P implementation, it is likely and natural that besides having a purpose of universal values' restoration in the target country, there can also be other motives that can lead the state to invest its own resources for the other country's citizens' protection. However, this does not mean that intervention should be carried out exclusively in the case when there are interests. All the states, signing under the UN Charter, are obliged to respect human rights and freedoms, so everyone's actions should be based on universal values. In general, in the case of implementation of any intervention, first of all, it is important to value its outcome from the point of view of human rights protection. Even if the implementation of the R2P is based on state interests but really leads to the previously announced humanitarian goal, it can be considered legitimate. The motivation of any intervening state

²⁰ The Responsibility to Protect, Op. cit., p. XII.

²¹ **Тарасова Л.**, Op. cit.

²² **Bellamy A.**, Motives, outcomes, Intent and the Legitimacy of Humanitarian Intervention, *Journal of Military Ethics*, 3, 3, 2004, 216-232.

can be the strengthening of its own borders, the protection of Diaspora (in the case of the existence of it in the region), having influence in the region, participation in the regional processes, the collapse of any regime, etc. Therefore, it is wrong to consider only the motivation when assessing the legitimacy of the R2P. According to Bellamy, “The focus on intentions is crucial because it is the intent of the intervener. Motivations make a poor benchmark for evaluating legitimacy, but motives do not necessarily equate with intentions”²³. “Focusing on intentions permits moral analyses that combine motivations and outcomes. Intentions are products of motivations and outcomes are shaped by the strategies that one adopts to achieve one's aims”²⁴.

Last resort: According to the report, “military intervention can only be justified when every non-military option for the prevention or peaceful resolution of the crisis has been explored”²⁵. “This does not necessarily mean that every such option must literally have been tried and failed. But it does mean that there must be reasonable grounds for believing that, in all the circumstances, if the measure had been attempted it would not have succeeded”²⁶. And, indeed, as in some cases the delay of military intervention may lead to large-scale humanitarian disaster, more victims and losses in the target country, it is necessary to take drastic actions. Meanwhile, on the other hand, this approach can give a chance for political maneuvering. Particularly, it is theoretically possible that the states, pursuing interests in the region, reasoning the ineffectiveness of the other means may make haste without testing the possible effective variants. This is also possible in the case of wrong assessment of the situation.

Military intervention can lead to another problem as well. Sometimes a peaceful population may also suffer from humanitarian intervention. As a result, on one hand, steps are undertaken to ensure the security of the targeted country's population, on the other hand, except the armed population, innocent citizens also become victims of the same

²³ Ibid.

²⁴ Ibid.

²⁵ The Responsibility to Protect, Op. cit., p. XII.

²⁶ The Responsibility to Protect, Op. cit., p. 36.

action. In this case, a logical question arises - how humanitarian, expedient and effective was the intervention?

Proportional means: “The scale, duration and intensity of the planned military intervention should be the minimum necessary to secure the defined human protection objective”²⁷. In essence, this criterion creates conditions for the states, implementing the R2P, not to use the latter as means to achieve own interests and for the humanitarian actions not to circumvent the borders. In this case, the implementation of the military intervention supposes determination of such action scope, implementation scale and methods, which will be sufficient for the achievement of humanitarian goals and international peace, and the military actions, having humanitarian purposes, will not turn into hostilities, which in its turn may lead to greater and expansive humanitarian disaster. From this point of view, should be emphasized the fight against terrorism in Yemen, Pakistan and Somalia since 2002, when the US government began air strikes. In 2008, these actions were so intensive that the UN officials criticized it as such intensive attacks endangered also the security of the peaceful civilians. Thus, if states can maneuver in their actions in the frameworks of the above-mentioned criteria, it is impossible to hide the non-humanitarian goals in this case, so it is easier to assess the legitimacy of the actions.

Reasonable prospects: “There must be a reasonable chance of success in halting or averting the suffering which has justified the intervention, with the consequences of action not likely to be worse than the consequences of inaction”²⁸. Thus, the examination and assessment of the situation have key importance for the changes, caused by the actions, to be positive and the R2P to be justified. It is important for the actions not to sharpen the situation in the target country causing worse effect than it was before the implementation of the intervention. The example of Darfur can be among this kind of cases when the late implementation of the R2P sharpened the situation more. In international practice, unfortunately, there have also been cases when the humanitarian

²⁷ The Responsibility to Protect, Op. cit., p. 37.

²⁸ The Responsibility to Protect, Op. cit., p. XII.

intervention did not comply with the previously announced goals and even more destabilized the situation.

Right Authority: From the point of view of the R2P implementation, the circumstance “who is authorized to implement” is of key importance. Most authors agree with the opinion that humanitarian intervention is preferable to be implemented not by states but organizations of international and regional character. T. Bordachev stresses that the actions, related to the possible use of force, are more prudent to entrust to organizations which are most adapted to this kind of activity and, therefore, have the necessary resources and skills. Some researchers consider the intervention by international organizations to be not only more sensible but also the only lawful one, and the state, in their opinion, has no right of such intervention²⁹.

Being responsible for international peace and security, the UN Security Council, according to the relevant articles of the UN Charter (Articles 39-42)³⁰, may decide what measures must be taken for the maintenance or restoration of international peace and security. In a situation threatening the international security, the Security Council is authorized to call upon the parties concerned to comply with provisional measures, if necessary may decide what measures not involving the use of armed force are to be employed to give effect to its decisions and in the case of their inadequacy may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security.

“There is no better or more appropriate body than the United Nations Security Council to authorize military intervention for human protection purposes”³¹. Only the Security Council has the right to determine whether major human rights' violations within the borders of any country threaten the peace and only that body is authorized to put an end to the offenses by force. Based on the UN Charter, the Security

²⁹ **Бордачев Т.**, «Новый интервенционизм» и современное миротворчество, М., 1998, **Brownlie J.**, *International Law And The Use of Force by States*, Oxford, 1963.

³⁰ Charter of the United Nations (UN), <http://www.un.org/en/charter-united-nations/index.html>

³¹ The Responsibility to Protect, Op. cit., p. XII.

Council has a developed mechanism of coercive measures (from economic influence to use of military force) which operate for the protection of international law order and human rights³².

“The Permanent Five members of the Security Council should agree not to apply their veto power, in matters where their vital state interests are not involved, to obstruct the passage of resolutions authorizing military intervention for human protection purposes for which there is otherwise majority support”³³.

“If the Security Council rejects a proposal or fails to deal with it in a reasonable time, alternative options are:

1. consideration of the matter by the General Assembly in Emergency Special Session under the “Uniting for Peace” procedure; and
2. action within area of jurisdiction by regional or sub-regional organizations under Chapter VIII of the Charter, subject to their seeking subsequent authorization from the Security Council”³⁴.

Thus, in order to create legitimate bases for the application of the principle of the R2P, it is necessary to rely on the above mentioned 6 criteria. But in this case also the disagreements between the approaches over the problem cannot be fully regulated.

According to one of the approaches, the formulation of the R2P concept, moving the emphasis from the “right” of intervention to the “responsibility” of states, is an attempt to soften and legitimize the right of intervention of the world community by the Security Council. But in fact, it is not very different from the interference in the context of the concept of “humanitarian intervention”³⁵.

Responsibility to Protect or State Sovereignty?

The discussions on the implementation of the R2P, especially when it comes to the authorized body, never skip the topic about NATO actions in Kosovo, as, in essence, it was not authorized by the UN

³² Тарасова Л., *Op. cit.*

³³ The Responsibility to Protect, *Op. cit.*, p. XIII.

³⁴ *Ibid.*

³⁵ Яснокирский Ю., Принцип невмешательства и ответственность по защите (ОПЗ), *Matters of Russian and International Law*, 3, 2013, 9-22.

Security Council. “The NATO military intervention was illegal but legitimate. It was illegal because it did not receive prior approval from the United Nations Security Council and it was justified because all diplomatic avenues had been exhausted and because the intervention had the effect of liberating the majority population of Kosovo from a long period of oppression under Serbian rule”³⁶. In his 2012 report the UN Secretary-General stressed that “Each situation is distinct. The principles of the responsibility to protect should be applied as consistently and uniformly as possible. The choices of methods and tools employed in each situation should be shaped by the circumstances on the ground and by informed judgment of the likely consequences... Such distinctions may lead to charges of double standards and selectivity”³⁷. When studying NATO actions, it should not be ignored the fact that the concept of the R2P is not a norm of international law so its unilateral application without the Security Council resolution will be a violation of the UN Charter provisions³⁸.

In general, the discussions of the legitimacy of the R2P principle's implementation are always linked with the principles of state sovereignty and non-interference in the internal affairs of other states. The principle of the R2P, in essence, is an attempt of legal justification of humanitarian intervention's implementation from the point of view of human rights protection in the conditions of the existence of the principle of non-intervention in other states' domestic affairs.

The supporters of the interventionist policy are of the opinion that human rights and the international security are more valuable than sovereignty. According to this sufficiently vulnerable approach, the object of humanitarian intervention is not a state but the population of the territory where, at the moment of the beginning of the intervention, there

³⁶The Kosovo Report, The Independent International Commission On Kosovo, New York, 2000, p. 4, <https://reliefweb.int/sites/reliefweb.int/files/resources/6D26FF88119644CFC1256989005CD392-thekosovoreport.pdf> (18.03.2018).

³⁷ Responsibility to protect: Timely and Decisive Response, Report of the Secretary-General, UN General Assembly, 2012, p. 6, [http://www.responsibilitytoprotect.org/UNSG%20Report_timely%20and%20decisive%20response\(1\).pdf](http://www.responsibilitytoprotect.org/UNSG%20Report_timely%20and%20decisive%20response(1).pdf) (18.03.2018).

³⁸ Худайкулова А., *Op. cit.*

are no state institutions that can be qualified as bearers of sovereignty³⁹. The international law does not regulate the internal competence of the state as it is caused by the state sovereignty and is determined by the acts of the state. Therefore, any action of a state or international organization, with the help of which they are trying to hinder the subject of international law to resolve the issues within its competence, have to be considered intervention. The actions threatening the peace and security and violating the universally recognized international norms are not considered domestic⁴⁰. While “collective action by the international community to protect populations is not called for where a state fully discharges its sovereign responsibility to protect”⁴¹.

Conclusion

As a result of globalization, the change of interstate relations has led to a closer international cooperation, so that political decisions, events and actions in any part of the world affect the rest of the sector. As globalization also assumes general safety ensuring, it cannot be achieved absolutely by national policy. Therefore, the cooperation of states in the field of international security has led to expansion of international law. Thus, as a result of the study of the legal frameworks, political component, problems of application of the principles of “humanitarian intervention” and “responsibility to protect”, as well as the possible effects of such interventions on state sovereignty, we can conclude:

1. On the basis of the implementation of humanitarian intervention is the protection of human rights and freedoms. As the UN member states must respect that rights and freedoms within the framework of the existing norms, each action shall be directed to their protection and strengthening without evading international law. Humanitarian intervention is a manifestation of similar actions.

³⁹ Ibid.

⁴⁰ **Сазонова К.**, Концепция «ответственность за защиту» в миротворческой деятельности Организации Объединенных Наций, *Юридическая наука*, 1, 2012, 96-100.

⁴¹ Responsibility to protect: Timely and Decisive Response, *Op. cit.*, p. 5.

2. The implementation of the R2P by the international community does not contradict the principle of state sovereignty. In the conditions of human rights violation in any state's territory and the use of violence against the citizens, the implementation of the R2P by the international community cannot be regarded as a violation of state sovereignty when the state is unable or unwilling to fulfill its responsibility to his own population. The representation of the concept of the sovereignty first of all as responsibility creates legal bases for the R2P implementation by the international community for the protection of violated rights.

3. There is no contradiction between the principles of the R2P and non-intervention in the domestic jurisdiction of states from the point of view of international law. When the state does not exercise its responsibility to protect human rights, human rights and freedoms are endangered, or the situation can lead to humanitarian disaster, the principle of not-intervention yields its place to the R2P.

4. The difficulty of determining the legitimacy and legality of any action is conditioned by the lack of clear mechanisms: lack of clear rules, procedures and standards for the implementation of humanitarian intervention. This gives the influential countries a possibility of political maneuvering.

5. Although the ICISS principles simplify the mechanisms of the R2P implementation as far as possible, as the experience shows, it is not sufficient for limiting the actions of the R2P exclusively in the frameworks of humanitarian actions and that the application problems are conditioned by the presence of incomplete legal norms.