

Equality in international sovereignty between theory and practice (TaseeliStudy) Dr. Mona Awad Mohammed Yousuf¹

Abstract

We find that the principle of the sovereign equality of states has sparked heated debate among scholars of international law and those interested in political affairs and relations between the countries, there are varied views proof and denial around it, and a third team takes the principle of relativity which, considered its presence in terms of origin, but he controlled and limited the release. Despite these differences of opinion, the practice has proved that the work of this principle reserve on the States in terms of military and economic influence and power.

On the other hand, the sovereignty in the Islamic Sharia if we use this term, takes another dimension, and that the close link between religion and the State, they do not separate from each other, ruler in the conduct of his own affairs internally and externally, but derives this authority disciplined provisions of the law and its purposes, and therefore that any religious faith and political orientation contribute together in the construction of Islamic thought. Through these data the search concluded to a number of results including:

- * The principle of sovereign equality concept has development through successive periods of time.
- * The presence of sovereign equality of States is affected in accordance with the international political situation and the associated effects.
- * The principle of sovereign equality of States is dominated on the presence or absence and the great powers who have influence and power, and therefore seeks to impose the idea of world government.
- * We cannot as Muslims accept the idea of a world government to impose its sovereignty on all countries of the world, because, that will demolish the rules of the Islamic religion.

The recommendations in part:

There must be an active and influential Islamic union between States, but not only for the consolidation of the word, and the courage to make decisions and overcome the internal differences in order to re-Sultan of the Islamic religion, and thus protects the Muslim peoples from the violation of their rights and sovereignty.

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An introduction:

Praise be to Allah who has made us Muslims, May Allah bless our Prophet Muhammad and his family and companions.

Importance of research:

The principle of sovereign equality of States is the most important principles that stated in the international conventions on the foreign and domestic level, as is a third side in the state triangle after the completion of the other two sides: people and region. countries insist on their rights of sovereign equality, because when countries do not claim this right, this indicate the presence of international dependency or colonial domination, but nevertheless, we find that this principle, in the reality of life is set aside above all considerations of people, area, weakness or strength.

Research problem:

Originally no state has the right to impose its authority on the other, because this represents violation of its sovereignty, and hence it is considered as the collapse of one of its foundations, but that originally became just a theory found its place in the international covenants and charters, but in terms of the actual application it has been restricted by the states who have influence and power.

Research questions:

The theory of equality formed in sovereignty as a result of some of the factors that led to find it and decided through which a number of international rights and duties that have been shown through the answers to the following questions:

1. What is the concept of sovereign equality among nations?
2. What are the causes and factors that led to the emergence of the principle of sovereign equality?
3. What is the concept of sovereignty in Islamic jurisprudence?
4. What are the rights arising from the principle of equality among nations?
5. What are the views of lawyers on the principle of equality?
6. Are the articles that indicate equality in international sovereignty correspond to reality?

Research Methodology:

The nature of this research required to combine a number of approaches, which is the historical method in order to identify the origin of the principle of sovereign equality and to be compared with Islamic jurisprudence, in addition

to the inductive analytical approach of texts that believe in this principle, and finally descriptive approach through realistic views on the international scene.

Structure of the research:

There are three themes, each includes a number of requirement as follows:

First theme : the concept of equality in international sovereignty.

First requirement: linguistic and terminological concept of equality in international sovereignty.

Section one: the concept of equality

Section three: the concept of sovereignty

The second requirement: the emergence of the theory and concept of sovereignty.

Section one: the emergence of the theory of sovereignty.

Section two: the concept of sovereignty in the legal terminology.

Third requirement: idiomatic concept of sovereignty in Islamic jurisprudence.

The second topic: the rights arising from the principle of equality of States and opinions of the scholars of international law.

First requirement: the rights arising from the principle of equality among nations.

The second requirement: the views of the scholars of international law on the principle of equality.

Section III: equality in international sovereignty between text and reality.

First requirement: to prove the principle of sovereign equality in international text.

The second requirement: An Empirical evidence of deviation from the principle of equality in international sovereignty.

Conclusion and include findings and recommendations.

The first topic

The concept of equality in international sovereignty

First requirement: linguistic and terminological concept of equality in international sovereignty:

Section one: First: linguistic of the term equality:

The Arabic term «sawa» indicates the idea that two things are of the same kind, the plural in Arabic is «Aswa'a» and it is an infinitive from which both the plural and the dual can not be derived, Allah says («At length, when he had filled up the space between the two steep mountain-sides,») AL Kahf verse No 96, and he says (Not all of them are alike:) AL Omran verse No 113 and says («When we held you as equals with the Lord of the Worlds;») AL Shuara' verse No 98, this means that people are of the same kind of creation and therefore they are the same in devoting¹.

The equal time is a fixed cycle time and constant duration,

The doctrine of equality is the doctrine is aimed at civil, political and social equality between people.

The basis of equity is justice which indicates that people are equal without preference of one to another².

Second: idiomatic concept of equality:

1/ Equality in the law:

It is the principle that people are equal on the basis of the law, and they have the same rights and duties regardless of their social status, religion and wealth³. This definition goes out with the equality of individual people, and what concerns in this research is the equality of states and defined as:

Equality in rights and duties prescribed by the international rules which resulted in a set of legal effects to adjust the relations that arise between members of the international community⁴.

2/ Equality in Islamic jurisprudence:

Equality in Islam is based on two considerations:

First: equality of common human value, that is, in terms of human nature, and the differentiation between them on matters beyond their nature and their descendants, such as efficiency and science, ethics, business and so on, Allah says: (O mankind! We created you from a single [pair] of a male and a female,

1- Lisan AL Arab Ibn Mandhoor.

2- Mujaam AL Lugha AL Arabia AL Muaasira.

3- Mujaam AL Mustalahat AL Qanoniya.

4- Ahdaf AL Tashreea AL Islami.

and made you into nations and tribes, that ye may know each other [not that ye may despise [each other]. Verily the most honoured of you in the sight of Allah is [he who is] the most righteous of you. And Allah has full knowledge and is well acquainted [with all things].) (AL Hujrat: 13).

Second: that people are equal in rights of life in this world, according to instinct, not including the impact of the difference in sex, color, ethnicity(4).

Imam Ibn Ashour stated that : the intention of equality is derived from instinct which is considered as a standard in controlling inhibitions , either in an equity or not , and the obstacles that prevent the conduct are two things: either the emergence of benefit in the cancellation , or the appearance of evil when you make equality (5). It is known that the controller in the benefit and harm in Islamic jurisprudence is based on the intentions and objectives of Sharia, while in made law it is based on purely legal considerations. This is the standard separation between the two definitions in Islamic jurisprudence and the made law.

Section two: First: The State in Language:

The Arabic term «Da`al» indicates that something is to be transferred from one situation to another, Allah says (Such days [of varying fortunes] We give to men and men by turns:) A`al Imran 140.

Second: idiomatic concept of the state:

1/ state in the legal terminology:

It is a legal and political system consists of a group of individuals residing permanently in a given territory and controlled by a sovereign governing body holds their affairs and dominate the region¹.

2/ The State in Islamic jurisprudence:

The jurists do not use this term a lot, and it was common when jurists talk about the powers of the state they include the purview of the Imam and his authority , which considered that the state is represented in the character of the Imam or caliph and their subsequent states, rights and duties².

Section three : Sovereignty in language:

The Arabic term (Sad) means that a person prevailed and ruled, and become the ruler on his people, and become the king of everything, he became a master and ruler,: both are supposed to obey him as the king and incumbent many of the group, the Lord of all the servants and slaves³, as in the verse (And they would say: «Our Lord! We obeyed our chiefs and our great ones,

1- AL qanoon AL Dawli AL Aa.m.

2- AL Mawsoua AL Fighiya.

3- Mujam AL Lughah AL Arabia AL Muaasira.

and they misled us as to the [right] Path).AL Ahdhab: 67), the prophet, peace be upon him, : (I am the master of people in the day of the second life)¹, he intends that is the first person for whom the door of paradise is to be opened, he said that informing what God honored him of the credit and the good². Sovereignty means: power, dominance and control, and the freedom to act, and a sovereign state is an independent state, and the sovereign law means to respect and apply it to everyone., The intended meaning the term sovereignty in this research is that a sovereign state is the independent state in the sense that it has authority, dominance and absolute freedom to act in its affairs.

The second requirement: the emergence of the theory and concept of sovereignty :

Section one: the emergence of the theory of sovereignty:

We find that this idea originated during the conflict of the French monarchy in the Middle Ages³, in order to achieve its external independence to face of the emperor and the Pope⁴, and of the purpose of internal superiority over the feudal lords, the French Lords at their struggle against the Roman Empire, which was designed to extend its influence on all Christian countries, and to subject all kings. They always insist that they do not recognize any higher authority, and that the King of France is the emperor in his kingdom⁵, and so the King triumph over the obstacles erected by the feudal system at home and simplifies authority over all the kingdom, it was in need because it emphasizes his authority on feudal lords influence.⁶, and so an intellectual movement was formed and created the concept of sovereignty and tried to determine the meaning and assign meaning of what goes into it. One of the intellectual movement that meant the principle of sovereignty in the medieval century appeared in the writings of the twelfth century, which go out to highlight two angles. first, confirm the king's independence from the emperor and this is the international point of view.

The second: the Kings have on their people powers similar to the same Emperor authorities⁷.

It is worth pointing out that the law in the Middle Ages had a special concept differs from the concept of the modern era, the law in the modern

1- Kitab AL eman Hadith 8.

2- Lisan AL Arab , Ibn Mandhoor 422 -424.

3- Mabadi Nidham AL Hukm fii al islam.

4- Previous reference p 111.

5- AL Dawla wa AL Siyada fii AL Figh AL Islami.p 22.

6- Previous reference p 24.

7- AL qanoon AL Dawli AL Aam.

era is a group of commands issued by the competent legislation authority, while in the Middle Ages is a previous set of customary principles of that exist before the ruler, who has no authority to touch or change it. The power orders were not to intervene, but only to prove the custom or legalize it. But after that a major development happened on the impact of the place of customs that was known for as a result of conceptual pressure that during the era of Renaissance, in which the political thought calls for the recognition of the kings of the authority to take wide-ranging and secured regulatory decisions. Thus, the Kings took over the legislature, and the Law became something issued instead of an imposed order¹.

The Renaissance has formed a historic turning point which has has a clear impact on people's lives, that made the king of the dominance of a wide area and absolute authority in the legislation, and this definitely, if it is not optimally controlled, it may be subject to selfishness and thus people become a victim of this legislation.

From this perspective, thinking about separation between the king and the power takes place, and this has been claimed by the French intellectual (Jean Bodin), which the theory of sovereign is linked by his book under the title (six books of the Republic), which was directed in the year 1577, and his theory summed up in the following principles:

- 1/ The main element in the formation of the state is the presence of the supreme authority in which all other authorities.
- 2/ The central supreme power in the country is not headed by another authority.
- 3/ Sovereign has the power within the state and it is not subject to the laws that issued to regulate the affairs of individuals who, because it has an absolute power and does not of the not subject to its provisions of legislation.
- 4/ Power sovereign in the state is subject to the natural law and the law of nations, and that because there is no authority in the world can live with the other, or that the coexistence between nations will not continue if their authorities are not limited².

We conclude from what was mentioned above that the term sovereignty has evolved in its indication during the successive periods of time starting from the middle ages through the Renaissance ending up with the modern era, and it has different concept in every era according to the political situation

1- AL Dawla wa AL Siyada fii AL Figh AL Islami.p.

2- AL Qanoon AL Dawli AL A`am

and depending on the associated stimuli that contributed collectively to find a modern country, and sovereignty is one of its pillars.

Section Two: Definition of sovereignty in the legal terminology:

Jurists defined sovereignty from different points of view as follows:

Sovereignty is: (the right of influence and power, and the commands and prohibitions, and the consequent penalty, which represents the strength of the right of the community with regard to its position towards the citizens within its borders, and in its relationship with the international community)¹. And is also known as: (the highest authority, that we do not find a higher authority above it, as well as there is no equal power or competitor like it in the State)².

(The State's right to behave as it likes in order to defend its existence and preservation of survival, which is an absolute right, unless there is an evidence against)³.

Also it is defined as : (the right of the state linked to the its presence, and there is no person, other, whether international or non-international, to enjoy this right, which arranges other rights in domestic and international terms of reference without the need to comment by the others, as long as it is within the international legal rules)⁴.

Through the above definitions, we find that sovereignty represents state-of authority to face individuals within its territory and to face nations abroad, and the requirements of this authority is that it will be the reference of the actions of the state authority in various affairs, and the body that holds this power reflects the will of in each state in accordance with its political system⁵.

Based on the above it is clear that the sovereignty of the state is working in two directions. First: within the geographical boundaries through the extension of authority and influence on its citizens. The second is a subject of this research, the external sovereignty as an independent state holds a particular territory, and it has its people and its existence and independent entity are internationally recognized. Thus logic leads us to say that other States have no authority in directing and dictating its will upon it, because they are equal in terms of components of the state, but the question that we will try to answer through this search is: Are there any guarantee that states do

1- Al Islam wa Osoul AL Hukm p .25.

2- Mabda'a AL Shura fii AL Islam.

3- AL Ahkam AL AMA .

4- AL Omam AL Muttahida wa AL Niza`at AL Musallaha.

5- AL Qanoon AL Dawli AL Aamp 103.

not interfere in another states sovereignty, or they weaken them ?

Third requirement: idiomatic concept of sovereignty in Islamic jurisprudence:

AL Medina (Yathrib) was the beginning of the territory of the Islamic State, it was Haram (Holy)¹, The Messenger of Allah, peace be upon him and make it Holy, and sent some of his companions to build flags on the border of AL Madina from all sides, and between Thor mountain in North and Namiramountain in the south. Then this territory expanded and many people of the country enjoy Islam and believe in it until the country became large¹, which was defined as a state according to the applied international and constitutional Law because of the presence of region, people and a governing authority which was held by the prophet Mohammad, peace be upon him.

The close correlation between religious belief and political ideology have played the first role in the construction of Islamic thought which refuses dualism in power, does not agree with the existence of two separated authorities one for religious matters, and other for worldly life².

Islamic jurisprudence does not mention the Arabic term (Siyada), but it talked about Sulta (authority) and Sultan (Governor) , and it was in the Qur`an in a number of verses, including the verse: (Nor take life - which Allah has made sacred - except for just cause. And if anyone is slain wrongfully, we have given his heir authority [to demand qisas or to forgive]: but let him not exceed bounds in the matter of taking life; for he is helped [by the Law]. (Isra: 33) (and the Sultan is the argument and the ability of ruling and the governor, and also in the verse: (Soon shall We cast terror into the hearts of the Unbelievers, for that they joined companions with Allah, for which He had sent no authority:)(Al-Imran: 151)

Mawardi has stated that : (Shara came delegating matters to the Governor in religion), Allah Says (O ye who believe! Obey Allah, and obey the Messenger, and those charged with authority among you.)(AL Nisaa: 59), Then we must obey the Imams³ Muslims set certain conditions that should be fulfilled by the Imamate, one of these conditions is that he is the best of all and people don't hesitate to pledge allegiance and obey him⁴.

Hence the ruler responsible for his actions in front of his citizens, and he feels the danger of this great responsibility in the Hereafter, Allah,

1- Maalim AL Dawla AL Islamiya p 113.

2- AL DAWLA wa AL Siyada fii al Figh AL Islami.

3- AL Ahkam AL Sultaniya p 16.

4- Previous references.

the Almighty says (O ye that believe! betray not the trust of Allah and the Messenger, nor misappropriate knowingly things entrusted to you.) (Anfal: 27 (and the prophet, peace be upon him, said : (If any person who rules citizens and deceive them, Allah will deprive him from the Paradise)¹, so sovereignty in Islam based on the human right arising from making a legitimate, in the sense that sovereignty in its origin is for the Almighty God regarding commands and prohibitions, and the practical sovereignty is derived from people in the light of the principles of Sharia, and the caliph derives his authority from the nation².

AL Mawardi stated that: If the Caliph chose an Ameer for a certain region his Emirate should be on two kinds: public and private, the public is of two kinds:

- 1/ Istikfa`a Emirate : It is being held by his choice, includes limited work, and the delegation should be on all people of the region.
- 2/ Invasion Emirate: It is being held by force on the country, so the Caliph takes the country by force and appoints an Ameer to start his responsibility and policies on all citizens.

The Private Emirate : it is that the Emirate will be limited to the army and the citizens policy measure of the parish and to protect women , and does not have to be exposed to the justice and provisions and the collection of alms and charity³.

Islam is based on ensuring religious freedom under Muslim rule, and so non-Muslim are free to adopt Islam or to submit to Islamic rules, and submit to the rule of Islam generally means the commitment to the provisions of Islam related to the organization of the society affairs as a whole, and to administrate its members relationships with each others, and the Islamic state should be pride and independence to be without any other authority has the right to interfere in their affairs⁴.

And we can see from the above that the concept of sovereignty in the law is different from what is in Islamic jurisprudence and that sovereignty in Islamic law derives its authority from the sources of sharia, and thus the state and religion are usually integrated and never separated.

1- Bab AL Nahy an Talab AL Imarat 214.

2- AL Figh AL Islami wa Adillatuh 631.

3- AL Ahkam AL Sultaniya p 63 -66.

4- AL Alagat al dawliya Bein al Osoul AL Islamiyawa KHibrat AL TAREEKH al Islami.p 135.

The second topic

The rights arising from the principle of equality between states and the views of the scholars of international law.

First requirement: the rights arising from the principle of equality:

The International Legislation is the most important field in which the United Nations has succeeded, a number of multilateral international agreements has been reached to within the framework of the concerns of different states. It is characterized by being obligatory for countries that have ratified it, and does not deny the role of public agreements which stipulated certain standards of international economic and social relations which are reflected on the regional relations, and the growing sense of individuals that they have rights and international legal norms provide them with protection¹.

Charter of the United Nations has identified a number of principles that the body and its members should be committed with, and what concerns us among these principles is the principle of sovereign equality, the Article (21/) of the Charter provides that: (The Organization is based on the principle of the sovereign equality of all its members), San Francisco Conference² has identified elements of this principle as follows:

- (A) The states are legally the same.
- (B) State enjoys full rights of the full sovereignty.
- (C) Personality state as well as the territorial integrity and political independence are intact.
- (D) States should implement the international obligations they have assumed under the Charter in good faith³.

According to these elements, the principle of equality is the logical consequence of the principle of sovereignty, and the dividing line between equality of States on the one hand and the sovereignty of each of them on the other hand is difficult to be drawn, they are two sides of the same coin, and the recognition of state sovereignty requires cooperation with other members of the International Community, and it does not mean in any way results in being subject to it, and the basis of States cooperation is equality - regardless of their origin, size and governments –otherwise a state underwent another and thus lost its independence and sovereignty⁴.

1- AL Alagat al Dawliya, Dr. Raymoon Haddadp 441.

2- AL Muttamar al Dawli Lil Omam AL Muttahida.

3- AL Waseet fii AL Munadhammat al Dawliya.p 57.

4- AL Qanoon AL Dawli AL Aam.p 695.

And confirmation of the foregoing, we find that the United Nations General Assembly¹, believes in the principles contained in the Charter of the United Nations and issued a number of decisions declaring the principles of international law, including what came in decision No. (2652) issued in October 1970 (the General Assembly Noting that the major political, economic and social changes in the world since the adoption of the Charter and scientific progress witnessed in that period has increased the importance of those principles, and the need to better apply in the conduct of States wherever practiced). this research concerns what stated in the decision saying: (Reaffirming the fundamental importance of the principle of sovereign equality and in accordance with the Charter, confirming that the purposes of the United Nations can only be achieved if countries enjoyed equal sovereignty), as the General Assembly formally announced a set of principles, including the principle of the sovereign equality of states, and states that: (all nations enjoy equality and have equal rights and duties, they are equal members in the international community regardless of economic, social or political differences or others), also announced that all of its stated interconnected principles in the interpretation and application and interpret each principle of them in light of other principles, and that these principles represent the fundamental principles of law and, therefore, call all States to be guided by these principles in its international behavior and develop their mutual relations on the basis of strict observance of these principles².

The second requirement: the opinions of the scholars of international law on the principle of equality between states:

We find that the requirements of the idea of sovereignty is the principle of equality among nations as the basic cornerstone governing international relations, the right of equality means that countries in the international community have the same rights and duties no state has an advantage over the other³. Nevertheless arrows of criticism were directed towards the principle of equality since the beginning of this century. Some jurists considered it as false unrealistic idea that based on a purely hypothetical idea is in fact inconsistent with the idea of a fictional reality and the existing conditions and it must be replaced with other international regulation in order to exist and continue constantly⁴.

1- AL Jamiya AL Aama lil Omam AL Muttahida.

2- Mawsooat AL Qanoon AL DAWLI P88.

3- Izdiwagiyat AL Mua'amala fii AL Ganoon AL Dawli al Aamp 155.

4- AL Nadhariya AL Aama Ligrarat al munadhamat al dawliya.

The team adds that, while acknowledging the approval of States and that they believe in the principle of equality, the realization of the mentioned principle, either through legal provisions or international practice shows that there is a measure of the presence of the phenomenon of inequality between countries in various fields¹, and it argued that the immunity enjoyed by the big five states ,does not affect the legal organ of the United Nations Charter, and in the worst cases, these countries would be contrary to the law and violate system will remain in place and in force for the rest of the international community, this view must accept two international legal, one: the big five states, which control the rate of overwhelming military and industrial power in the world, and the other: to the rest states of the world, and from a political point of view the preservation of peace in these cases does not take place on the legal sanctions, but based on the balance of power between the major powers , and this is the reality of the situation².

On the other hand, this team believes that calling for the principle of legal equality between Member States in international organizations regarding the number of votes given to each of them to make the principle of equality has no substance, theoretically a decision could have been taken and supported by Smaller states but such a decision remains under the mercy of the most numerous States in international organizations, that the practical implications depends on the reaction of the major powers, these latter are finally decide the limits of realistic effects that result from their decision³.

We even find that some might raise a question that feasibility considered this principle such as the fundamental principles of international law, because nations are not be equal in their influence and capabilities and to achieve international interests, so there is an unequal role in establishing, interpreting and confirming the rules of international law, it becomes absurd to make the principle of equality one of the basic principles of international law. And then the so-called equality really considered, it should be reduced to the simplest form so that it becomes just one of the rules of courtesy and good behavior.

In all forms of non-realism of equality, we may find that there are certain effects produced in the framework of the legal relations between the parties to the relationship is between equally realistic, and therefore part of the Fiqh goes on to say that the will of the stronger party is destined to prevail

1- Izdiwagiyat AL Mua'amala fii AL Ganoon AL Dawli al Aamp 155.

2- Tatawur AL Qanoon AL Dawli , Dr.Wolfgang Fred Man.p 72.

3- AL Nadhariya AL Aama Ligrarat al munadhamat al dawliya.p 122.

in the imposition of acceptance of the other party to the legal act and accept what the resulting effects, or to direct the behavior of subjects of international law towards the creation of some of the legal rules that are going in the same direction and be more responsive to their interests, which raised the question: is not international law eventually consecration realism centers based on the disparity in the elements of power between members of the international community¹.

We conclude from the foregoing that this theoretical existence of the principle of equality of States can not be taken for granted in absolute terms, because it is an anti inhabitants and the facts in the international arena, and therefore it is also found that the principle of the sovereign equality of states is unrealistic, and that's what we'll try to be addressed in the next section.

The third topic

Equality in international sovereignty between textual and reality

First requirement: to prove the principle of sovereign equality in international text.

We find that the adoption of the Charter of the United Nations of the principle of sovereign equality of states is the explicit recognition of the sovereignty of each country, and the United Nations not to consider a state above the states, and that some researchers describe the United Nations system as a compromise in which states retain full sovereignty².

And that sovereignty is the basis of the standard of the state as a person of international law, and the mainstay of the legal system Society, and thus sovereignty are the rule and reduction is the exception, and reinforce this vision of what happened in the diplomatic work, and international treaties and the provisions of the international courts³, while the other team see that we should not be cheated by texts. Although the Charter recognizes the sovereignty of States, but this recognition does not at all mean that the sovereignty of a state is fully in the barn of international organization. and that the Charter itself imposes obligations on Member States multiple inconsistent and fully enjoy full sovereignty, decisions issued by the Security Council by a majority of nine votes in at least, without objection from the five major states are bound to everyone, and this is what led some to say that these countries are the only ones retained full sovereignty, while the sovereignty of the rest of the

1- AL Ganoon AL Dawly AL A'a'am , Dr.Muhammad Said AL Daggag,p29.

2- AL Tanzeem AL Dawli p194.

3- AL Ahkam AL Aama fii Qanoon AL OmamDr. Mohammad Talaat p 112.

members have detracted¹ in addition, the sovereignty is absolute power have serious consequences that rules the whole of international law demolitions, the state of this account can not be delivered there is any power over its will if it is the force of law and the rules of ethics.

On the other hand, the issue of interference in the internal affairs of States is the more topics that raised up controversy in the international arena, Article (207/) of the Charter of the United Nations that: (Nothing in the present Charter shall authorize the United Nations to intervene in matters which are stipulates essentially within the domestic jurisdiction of any State, nor shall it require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement under Chapter 7².

We find that this provision did not put a clear definition of this authority, the United Nations found itself in front of two categories of Member States, each of which depends on the text in the Charter to defend its point of view, every time when a topic related to colonialism was put in front of the General Assembly the major countries who was administering colonies defend itself relying on the principle of national jurisdiction purely, or the principle of the domestic jurisdiction in accordance with the previous text (m / 27/), while other states raise opposition was the principle of the right to self-determination as enshrined in Article (1 / 2)³ that the purposes of the United Nations (to develop friendly relations based on respect for the principle of equal rights of peoples and have their own self-determination, as well as to take other appropriate measures to strengthen universal peace).

Confirming the above, the writer «Zibghiniew Brijenskizenski»⁴ stated that the concept of comprehensive security in the era of globalization is a myth and cannot be reached and the real question is: What is the amount of insecurity that can coexist in the United States in the promotion of its interests in an increasingly interconnected and interactive? He added that America is a society that changes the world, but it is revolutionary in terms of destruction of sovereignty-based on international policy⁵. It is known that the United States is one of the great powers and it forms the center of gravity in terms of power and influence, which led some people call this the era of unilateral polar reference to was called the bi-polar era, which ended with the

1- AL Tanzeem AL Dawli Dr Mohammad Majdhoub, p 195.

2- <https://ar.m.wikipedia.org/wiki>.

3- AL Tanzeem AL Dawli Dr Mohammad Majdhoub, p 202.

4- Mustashar Markaz AL Dirasat al Estiratijiya wa al dawliya.

5- AL Ekhtiyar : AL Saytara ala AL Aalam Am Giyadat AL Aa`alam.pp27- 28.

disintegration of the Soviet Union, the other pole.

And also there are some decisions that emphasize the principle of non-interference in the internal affairs of United Nations General Assembly Resolution 1980, which provided that: (Reaffirming that the preparation of a declaration on non-interference in the internal affairs of States will constitute an important contribution to increase establish principles promote equitable cooperation and friendly relations between states on the basis of sovereign equality and mutual respect) .

In all these decisions do not find any reference for the explanation or the existence of an exception to the principle of non-interference, but only what has been referred to, with respect to the measures of repression for international peace and security, however, we find that some of the general secretaries , who led the United Nations have had a vision of the concept of international sovereignty, we find the «D.Boutros Ghali» the former secretary of United Nations said that sovereignty has never been absolute principle as primarily perceived in theory, and the main intellectual of requirements of our time, so we should rethink of the issue of sovereignty, not to weaken its essence, which is of critical importance in Security and cooperation, but the purpose of the recognition is that it can take more than one form, and result in more than one job, and this vision can help to solve problems, whether within or between States. The rights of peoples are based on global sovereignty which is owned entirely by the human¹. If the Secretary-General believes that international sovereignty was not mainly perceived theoretically, in my opinion, to rely on preserving the rights of peoples through the so-called global government or universal sovereignty is more theoretical and far from realistic, according to reality of today's world of power struggles and conflicts of interest, and the prove is that because some countries try to acquire nuclear weapons and weapons of mass destruction, and economic sanctions, which is considered as a sword hanging over governments, and only people who are to pay the price of such sanctions. which do not pay the toll, but peoples, Allah(swt) says: (If thy Lord had so willed, He could have made mankind one people: but they will not cease to dispute.)Hood: 118.

We find also the former Secretary General of the United Nations, «Kofi Annan» has stated in his report to the United Nations General Assembly in September 1999: that if humanitarian intervention is, indeed, an unacceptable interference on sovereignty, on what way should we respond to a Rwanda and Srebrenica and violations of physical rights that offend every

1- AL Omam AL Muttahida wa AL Niza`at AL Musallaha.

precept of our common humanity, and certainly there is no legal principle, not even sovereignty, can protect crimes against humanity, and that armed intervention should remain as a last resort, but it remains as the option that should not be abandoned in the face of mass murder¹. In response to this appeal, the Canadian Prime Minister at the time, «Jean Chretien» announced at the Millennium Summit held in September 2000 the establishment of an international commission for intervention and sovereignty, whose mission was to support a comprehensive global debate on the basis of reconciling the duty of the international community, which requires to intervene to counter the extensive violations against humanitarian rules and the need to respect the sovereignty of States. In December 2001 the Commission ended work report about the responsibility of protection, it was the first appearance of the idea of the responsibility of protection, which was a development of the principle of humanitarian intervention².

We conclude that the foregoing that the principle of equality in international sovereignty, despite the magnitude of the highness idea and labeled excellency, but it was and is still the subject of conflict between jurisprudence and judicial different issues, and that difference was the result of the critical turning over the course of events principle and realistic between what is provided, and even internationally certified, and reality, and confirming this, we present some practical models to witness of the waste of this

The second requirement: An Empirical evidence of deviation of the principle of international sovereignty:

We find that, despite the presence of the United Nations as an organization of collective security, but the major countries obligations and duties remained away from the collective control, and that was in recognition of the countries that participated in the development of the Charter not to have actual equality existing among themselves, and increases the severity of this situation is not normal contrary to the principle of equal sovereign equality of States, some of these countries are the only countries that owning nuclear weapons, this situation has led to an excellence position in that has increased its control over international relations, and to actually analyze.

The limitations of liability and legal rules contained in the Charter on the basis of their capacity for mutual destruction³, and evidence of this deviation in the international legitimacy are many, some of them are:

1- AL Omam AL Muttahida, min AL Tadhkhal AL Insani Ela Masouliyat AL Himaaya.p 34.

2- Previous Reference p 34.

3- AL Ganoon AL Dawli AL AamDr. Hamid Sultan and others, p 701.

- 1/ Threats issued by the American presidency against Iraq, that helped the Security Council to issue Resolution No. (715) on the 12/19/1991 to submit tougher arms programs on Iraq, and observers described this decision as confiscates the right of the Iraqi government in exercise full sovereignty over its territory, and for the Iraqi people themselves, is aimed at the decision to prevent Iraq from rebuilding an arsenal of weapons after completely destroyed, preventing it from re-build facilities of scientific research in space, it eliminates the decision to grant the United Nations observer and inspection teams absolute freedom to move anywhere inside Iraq, making observers in New York describe the Security Council resolution that confiscated Iraqi sovereignty.

And US department of defense issued a statement in which it made clear that the United States must play a leading role in the world, and to be a superpower in the world, and be able to deter Japan and Europe and other countries for its rival on the international control¹, and this is what happened to a large extent when US Congress decided in the year 2002, to give the president an absolute power to initiate military action against Iraq under a UN mandate or without it. This indicated the extent of deviation of the necessities of power domination for the specified constitutional balance carefully between the basic branches of government which specify the policy².

The United Nations sanctions imposed on Iraq is the longest and most comprehensive and the most controversial in the history of the world has led to the weakening of Iraq's military capabilities, and Iraq was forced to accept the inspection³.

And blocked the way for the import of vital materials⁴, on the other hand, we find that the decision was devoid of any reference to the Security Council's obligations toward Iraq with the inspectors and the International Atomic Energy Agency, and the running of the blockade imposed on Iraq, and this is illogical, because the lack of linkage between the Iraqi commitment legitimacy and the imposed blockade on it are born to believe that the intent of this, is to destroy Iraq⁵.

Reference to the above explanations it is clear that the restriction of the principle of sovereign equality of States under the pretext of intervention

1- AL Nidham AL Dawli al Jadeed p9.

2- Previous Reference p 34.

3- AL Ekhtiyar : AL Saytara ala AL Aalam Am Giyyadat AL Aa'alam.p226.

4- Tatawur Dour Majlis AL Amn AL Dawliffi HifdH al amn wa al alam.

5- Failiyat Oqubat AL Omam AL Muttahida, Andru Malikp 19.

on humanitarian grounds is only a cover for the States that have power, weapons, authority and influence to achieve their interests, and the evidence is the negative results of this intervention as undermining the security and stability of States and the displacement of its citizens and the lack of elements of human life, as well as the violation of the sovereignty of states.

2/ And also evidence that worth highlighting, some of the events in the State of Sudan, including:

- (A) The bombing of Al-Shifa factory: That's when the United States began without any legal basis or legitimacy background information pounding Shifa pharmaceutical plant in Sudan in August 1998, with cruise missiles, citing this act that the purpose is to destroy the factory that produces chemical weapons based on questionable information in the origin and source, on the grounds that he had already been to the United States that has put Sudan on the list of terrorist states, and imposed economic sanctions, including the prevention of international finance fund to deal with Sudan¹.
- (B) The Darfur issue, and of course we cannot take all the details and implications of this research, but we refer to things related to the subject of the sovereign equality of states.

An American called (Jabeera Down) who said that she specializes in Sudanese affairs, and the impact of this campaign US moved to persuade the Security Council to compose a committee to investigate the facts, and to judge some of the symbols of power in Sudan and prevent slavery², and because the United States inserted itself in the Sudanese issue, it dispatched Colin Powell, the foreign minister to Darfur and Khartoum in mid-2004 to discuss the problem of the region, he said that people are dying in Darfur, and that the rate of mortality has increased, and then the government and people's organizations began in the United States to take positions issued against the Sudanese government, and Arab tribes in Darfur³, and went after that the former Secretary General «Kofi Annan,» his tone against the Sudanese government in his report of September 2004 m saying that successive humanitarian disaster in the Darfur region in Sudan led to focus attention not on the immunities of sovereign states, but their responsibilities towards its own citizens or to the international

1- AL Nidham AL A'aalami al Jadeed p37.

2- Mushkilat Darfour , AL Gidhoor AL Tareekhiya, Dr. Zaki Buheiri p 222.

3- Previous Reference.

community, so it has a growing recognition appeared that the issue is not the right to interfere, by any State, but it is the responsibility of protection¹.

In fact, the Darfur crisis is chronic, and the conflict between pastoral Arab tribes and farming African tribes has existed for hundreds of years, which is due to economic, social and historical multiple reasons, and when the outbreak of the rebellion the Western powers found chance to achieve their goals through intervention in Sudan's affairs, and use these goals in exploiting Sudan's economic potential and the opening of a loophole in the heart of the African continent is seeking through it to the rest of the continent, in addition to trapping the Middle East region from the African depth².

Through these signals it is clear that intervention by the United States under the umbrella to protect the population of Darfur is not intended for itself, but a means to achieve the objectives it was seeking for, the incident conditions in the Darfur region created a good climate for the implementation of its plans, and which confirms these facts is that we see what is happening in Palestine, Iraq, Somalia and others, and at the same time we can not deny the existence of a real issue in Darfur worthy of recognition of its existence by the state first, then looking for mechanisms to develop appropriate solutions, but in the inner frame and with the help of friends of the Arab and African countries, in order to avoid the problems raised by the presence of peacekeeping forces, which led to an escalation of the crisis and a greater witness to that is the refusal of the residents of the region to that foreign forces.

The main outputs of the crisis in Darfur in violation of the sovereignty is the issuance of a decision to refer suspected of war crimes in Darfur to the International Criminal Court, the first time that the issue of file referred to the Court since its inception in 1998. To make matters more complicated was a decision issued by the International Criminal Court on 4 March 2009 to arrest Sudanese President Omar al-Bashir, on charges of committing (war crimes, crimes against humanity and considered him criminally responsible, as guilty of indirect or partner indirectly, intentionally directing attacks against a large number of the civilian population in the Darfur region, as it considered responsible for the killings, extermination, rape, torture and forced displacement of civilians and looting their property.

It is worth mentioning that this is the first time that the international

1- AL Omam AL Muttahida min AL TADAKHUL al insani Ila Masouliyat AL Himaya.

2- Mushkilat Darfour, AL Gidhoor AL Tareekhiya, Dr. Zaki Buheiri p 222.

court to issue an arrest warrant against a head of state still in office¹.

The Court still following the President Bashir the last event took place when EU foreign minister in the words of a spokesman for Foreign Affairs, «Catherine Ashton» when she asked the authorities of Malawi to arrest the Sudanese president during his participation in the annual summit of the Common Market for West and South Africa, and the Sudanese government considered that this request is a violation of the sovereignty of African countries, especially Sudan is a Comesa economic compound member, and it is a pure African group, and Malawi is a sovereign state, and act in accordance with its sovereignty and that such actions confirm what the government has been saying that Western countries conversations on the Criminal Court is an attempt to politicize the international justice².

Perhaps this event and the accompanying take, has had a positive result reflected through the strength and stiffness of the African position in the protection of President al-Bashir, even if the opposite happened, the Arab and African nations as a whole could be disgraceful.

Internally it was a pleasant surprise that Sudanese people were the heart of one man, despite the diversity of the political spectrum and differing views, but that when it comes to the sovereignty of the state represented by its president united the state and nation for the safety and sovereignty of the homeland.

Through previous models it is clear that the principle of sovereign equality does not exceed the limits of inclusions of the texts, but actually it is, especially in light of current international developments, and some countries are centers of excellence in economic power and military power and hegemony and its partnership in decision-making, we cannot judge the existence of equality sovereign, and perhaps the course of events in the international arena is the biggest proof of that, but it doesn't need comment or criticism or legal analysis, stand witness on their own to the lack of actual equality of States sovereignty.

1- www.sasapos.com.

2- Arab -al shahid –net/read offline.

Conclusion

Praise be to Allah, and God bless the prophet Mohammed, peace be upon him, his family, who was sent as a mercy to the worlds .

This research concludes a number of findings and recommendations include the following :

First : Results

- * The principle and concept of sovereign equality has been developing during successive periods of time starting from the Middle Ages through the Renaissance, ending at the modern era.
- * The existence of the principle of sovereignty and its effectiveness is affected according to the political prevailing of international situation associated with, which collectively contributed in shaping the rules of international law.
- * States of the great powers, which controls the world and possesses including the influence of material and military strength, dominates the principle of sovereign equality of, and thus seeks to impose the idea of world government.
- * We as Muslims do not believe in the idea of a world government impose its sovereignty on all countries of the world, because this idea demolishes the rules of the Islamic religion.
- * The existence of the sovereign equality of States supported by international agreements and destroyed by principle of practical reality.

Second: Recommendations:

- * There should be an active and influential Union of Islamic legitimacy takes the legal principles and fundamentals of Islam as the way of life so as to have a positive impact and to overcome the invasion of Western intellectual and military dominance.
- * There must be a mechanism to act together in one body of Islamic thought and have word and courage to make the decision to protect vulnerable Muslim people.
- * Islamic governments must overcome internal differences between them so that they can face the current which has its justification for the violation of sovereign rights.

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