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Humanitarian law as a space for competition among global ideologies: Between universalism and sovereignty

Abstract. The aim of the study was to identify how the ideological confrontation between universalism and sovereignty affects the effectiveness of international humanitarian law in protecting the civilian population. A comparative legal method was used to establish the differences between universalist and sovereignist interpretations of humanitarian norms. A structural-functional analysis revealed the ambivalence of the United Nations Charter regarding human rights and non-interference. The historical method traces the evolution of the Responsibility to Protect. Case studies of Libya, Syria and Myanmar show the selectivity of universalism and sovereign resistance through reservations, “soft law” and regional mechanisms. The study revealed the structural ambivalence of the United Nations Charter, which simultaneously proclaims universal human rights and categorically prohibits interference in the internal affairs of states, creating a legal basis for selective interpretation of international norms. An analysis of the practical application of the responsibility to protect doctrine has demonstrated fundamental selectivity through the contrast between military intervention in Libya and complete paralysis on Syria, where Russia has blocked seventeen resolutions since 2011, and the Russian-Chinese double veto blocked the referral of the Syrian case to the International Criminal Court despite the support of thirteen of the fifteen members of the Security Council. The systematisation of institutional mechanisms for circumventing universal obligations has revealed a three-stage architecture of sovereign resistance through mechanisms of reservations to international treaties, the application of soft law and the creation of regional alternatives, as exemplified by the Association of Southeast Asian Nations. Analysis of the Association’s activities has shown how the principles of non-interference and consensus decision-making effectively neutralise international standards, as evidenced by the Rohingya genocide in Myanmar, which displaced more than 1.2 million people amid complete institutional silence from the ASEAN Human Rights Commission. The study found that ideological competition is multidimensional and includes the internal fragmentation of the universalist paradigm due to the emergence of alternative concepts, from Brazilian responsibility in protection to African non-indifference

Keywords: Responsibility to Protect; international institutions; geopolitical interests; “soft law”; multipolarity

Received: 04.10.2025, Revised: 21.01.2026, Accepted: 25.02.2026, Published: 02.03.2026

Suggested Citation:

Dmytrenko, S., Dmytrenko, O., & Ismayilov, V. (2026). Humanitarian law as a space for competition among global ideologies: Between universalism and sovereignty. *Foreign Affairs*, 36(1), 19-31. doi: 10.59214/ua.fa/1.2026.19.

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Introduction

Contemporary international humanitarian law finds itself in a state of profound crisis, caused by the intensification of contradictions between universalist principles of human rights protection and traditional doctrines of state sovereignty. With the increasing number and complexity of armed conflicts, including hybrid wars and non-international conflicts, the effectiveness of international humanitarian law (IHL) is being seriously tested. The protection of civilians, which is a strategic imperative for organisations such as the North Atlantic Treaty Organisation (NATO) and a decisive factor in the planning of military operations, often conflicts with states' desire for absolute independence and control over their territory. This tension arises against the backdrop of fundamental ideological competition that defines contemporary international relations. This issue has become particularly relevant in the context of the formation of a multipolar world order, where traditional Western institutions face challenges from alternative regional mechanisms and authoritarian regimes. M. Chemillier-Gendreau (2025) analysed the structural obstacles to the universalisation of international law, substantiating the thesis that the systemic reasons for the failure to create a truly global legal system are related to the unequal distribution of power between states and the dominance of particular interests over universal principles. Contemporary trends in the transformation of humanitarianism in the context of global polarisation were studied by D. Fassin (2023), who distinguished between "situational universality" and "interventionist universalism," revealing the internal tension between idealistic principles and the pragmatic policies of major powers. The regional dimensions of the confrontation between universalism and particularism were studied by R. Raman *et al.* (2023), who conducted a comparative analysis of Western universalist approaches and Asian exceptionalism in the sphere of responsibility to protect, revealing fundamental differences in the interpretation of the relationship between state sovereignty and human rights. The specifics of humanitarian diplomacy in the Association of Southeast Asian Nations (ASEAN) were examined by A.D. Cook (2021), who identified the institutional mechanisms of the organisation and revealed how the principle of non-interference in internal affairs effectively blocks effective responses to mass human rights violations, creating an alternative model of regional crisis management. An alternative perspective on the development of authoritarian international law was presented by T. Ginsburg (2020), who systematised the strategies of undemocratic regimes to undermine universalist norms through the creation of alternative legal mechanisms and regional organisations, in particular the Shanghai Cooperation Organisation and other illiberal institutions. The interaction between populist discourse and international law was studied by P. Blokker (2024), who revealed the systematic nature of criticism of universalist institutions by sovereignty movements in Europe and other regions, showing how internal political polarisation affects attitudes towards international obligations. The theoretical foundations of the debate on the universality of human rights in the context of cultural relativism were analysed by P.A. Aidonjio *et al.* (2021), who systematised the arguments of supporters and critics of the universalist

approach, revealing irreconcilable positions on the possibility of creating uniform global standards in the field of human rights protection. A comprehensive analysis of the European experience of balancing humanitarian universalism and sovereignty was carried out by A.P. Ruoppo & I. Viparelli (2021), who revealed the contradictions of integration processes in the context of growing nationalist-populist sentiments and Euroscepticism. The theoretical foundations of competition between universalist and pluralist international law in the world of civilisational states were developed by P. Tucker (2022) developed the theoretical foundations of competition between universalist and pluralist international law in the world of civilisational states. The author formulated the concept of the "globalisation trilemma" and showed the structural impossibility of simultaneously achieving sovereignty, democracy and global integration in the context of growing geopolitical rivalry. An empirical study of the influence of ideological factors on the functioning of international institutions was conducted by E. Voeten (2021), who proved that the political convictions of member states largely determine the effectiveness of multilateral organisations and their ability to respond to humanitarian crises. Despite a significant number of studies on individual aspects of universalism and sovereignty in international law, the scientific discourse has been characterised by fragmented approaches and a lack of systematic analysis of ideological competition as a fundamental factor shaping the contemporary architecture of humanitarian law. The mechanisms of transformation of universal norms in the process of their regional adaptation, the strategies of states to circumvent international obligations through institutional innovations, and the impact of geopolitical polarisation on the effectiveness of humanitarian interventions remained insufficiently studied. There was a lack of comprehensive research on how structural contradictions in the United Nations (UN) Charter itself create legal opportunities for selective interpretation of universal principles depending on geopolitical interests. The aim of the study was to conduct a comparative analysis of ideological approaches to humanitarian law in order to identify doctrinal foundations and institutional mechanisms. The research hypothesis was that the conceptual tension between the universalism of human rights and the sovereignty doctrines of statehood shapes the heterogeneous interpretation of humanitarian law in different geopolitical blocs.

Materials and Methods

The study was conducted as a comprehensive theoretical and legal analysis of ideological competition in international humanitarian law using an interdisciplinary approach that combined methods of jurisprudence, political science and international relations. The theoretical basis of the study consisted of three main categories of sources: normative legal acts of international law and official documents of international organisations. The normative basis was formed by fundamental international legal documents that shape the modern architecture of humanitarian law. These included the United Nations Charter (1945), the International Covenant on Civil... (1966), and the International Covenant on Economic... (1966). At the same

time, documents enshrining the principles of state sovereignty were analysed, in particular Resolution Adopted by The General Assembly... (1965) and Declaration on Principles of International... (1970). Particular attention was paid to the Vienna Convention on the Law... (1969) as the legal basis for analysing the mechanisms of reservations. One part of the study was an analysis of the gradual development of the Responsibility to Protect (R2P) doctrine through relevant normative documents. Resolution Adopted by the General Assembly... (2005) and Resolution Adopted by the General Assembly... (2009) were studied to reveal the three-stage structure of responsibility and the process of institutionalising R2P. Data from the report The Responsibility to Protect... (2001) were examined to identify the conceptual foundations and rethink the relationship between sovereignty and human rights. The regional dimension of sovereignty was studied on the basis of documents of Southeast Asian states, including The ASEAN Charter (2015), ASEAN Agreement on Disaster... (2005) and Terms of reference of ASEAN... (2009). In addition, the founding documents of the African Union, in particular the Constitutive Act of the African Union (2000), were analysed. To study the practice of reservations as a mechanism for circumventing universal obligations, Soviet/Russian reservations to Articles 10 and 11 of the Convention (IV) relative to the Protection... (1949) were analysed. French declarations were studied through an analysis of France's reservations to Additional Protocol I on the right to self-defence and the definition of armed conflicts France, accession to Protocol I (n.d.).

The methodological basis of the study was a comparative legal approach, which made it possible to identify structural differences between the universalist and sovereignist paradigms by comparing their normative foundations, institutional mechanisms and practical application. Structural-functional analysis was used to reveal the internal contradictions of the international legal system and their impact on the effectiveness of humanitarian law. The historical method was used to trace the evolution of universalist concepts from traditional humanitarian intervention to contemporary alternative approaches. The research methodology also employed a case study approach, which involved a detailed analysis of specific humanitarian crises as manifestations of ideological competition. The 2011 Libyan crisis was studied as an example of the application of R2P, and the 2011-2024 Syrian crisis as a demonstration of the paralysis of universalist mechanisms (Security Council Resolution 1973..., 2011; Referral of Syria to International..., 2014). The Russian Federation's aggression against Ukraine since 2014 is considered an example of the blocking of universalist norms through the veto of a permanent member of the UN Security Council, in particular the violation of international humanitarian law during the 2022 invasion, as well as the international response through the UN General Assembly (GA) (Resolution Adopted by the Human Rights Council..., 2022; Aggression Against Ukraine, 2022). The genocide of the Rohingya in Myanmar in 2016-2018 was seen as an illustration of the limitations of regional approaches (Myanmar: No justice..., 2022; Security Council Demands, 2022). The invasion of Iraq by the United States of America (USA) in 2003 was seen as an example of the instrumentalisation of humanitarian

arguments (Text of U.N. Resolution on Iraq, 2002). The 1999 intervention in Kosovo was examined in the context of the use of humanitarian arguments outside the UN framework (Security Council Resolution 1244..., 1999). The operation in East Timor was examined as a model of sanctioned intervention (Resolution 1264. The India-Pakistan Question, 1957). Content analysis of official documents of international organisations revealed discursive strategies for legitimising and delegitimising humanitarian interventions. Classification and systematisation were used to create typologies of universalist concepts and sovereignist mechanisms for circumventing international obligations.

Results

The genesis of ideological and doctrinal foundations in the statutory contradictions of the UN. The universalism of international law in its classical sense refers to the idea that the legal system has global validity and is binding on all states, as noted by A. Nollkaemper (2011). However, the idea of universality as a generally accepted phenomenon underlying the international legal system only took hold after the Second World War. Three decisive moments cemented this concept. The first was the creation of the United Nations in 1945. The United Nations Charter (1945) implemented the principle of universality by opening membership to all states that adhere to the principles of peace, regardless of their political or economic traditions. The second important moment was the process of decolonisation, based on the recognition of the right to self-determination. This allowed formerly colonised states to actively participate in the process of shaping international law, giving it true global legitimacy. Finally, the third moment was the end of the Cold War, which removed the main ideological confrontation between capitalism and communism, which had previously limited the scope of universal cooperation. Despite this, the historical path of universalism has not been linear. It has been strengthened after global catastrophes, such as World War II and the genocides that followed – from Cambodia in the 1970s to the tragedies in Bosnia and Rwanda in the 1990s – which sparked a collective desire to create mechanisms to prevent the recurrence of these and other atrocities. However, its depth and scope have always been limited by ideological contradictions. Even after the creation of the UN, socialist and communist regimes rejected the universality of classical international law, limiting cooperation to issues of territorial integrity and sovereign equality (Nollkaemper, 2011). This cyclical dynamic, where universalist ideals are strengthened after crises but then face the realities of geopolitical resistance, is central to contemporary tensions in humanitarian law.

The opposite approach, sovereignty, defends the primacy of national state power. Its origins date back to ancient history, such as the behaviour of the Athenians described by Thucydides, who demanded submission from the Melian people (Jones, 2025). According to this doctrine, peace at the international level is best organised on a decentralised basis, where powerful states control their spheres of influence and restrain each other. International agreements in this context are seen as situational arrangements rather than universal rules. Political realism provides a powerful theoretical justification for this approach.

It views the international community as characterised by anarchy, as there is no comprehensive world government to enforce a single code of rules. In this environment, states are the main actors, acting in their own national interests and constantly struggling for power. An example of such behaviour is the systematic use of the veto by permanent members of the UN Security Council to block resolutions that contradict their geopolitical interests. For example, Russia has blocked 17 resolutions on the Syrian conflict since 2011, citing the protection of the principle of sovereignty (In Meeting Following Russian..., 2023). However, J. Trahan (2020) emphasises that such vetoes are unlawful and violate Article 24.2 of the UN Charter, making Russia an accomplice to mass crimes in Syria. For supporters of realism, international law and moral norms are secondary and cannot be applied outside the state. Thus, IHL is either irrelevant or serves as a tool for powerful states to achieve their goals, masking their aspirations for hegemony. A telling example is the US invasion of Iraq in 2003, when Washington, without obtaining the approval of the UN Security Council, justified its military action by the need to protect human rights and combat terrorism (Text of U.N. Resolution on Iraq..., 2002). However, scholars A.J. Bellamy (2004) and K. Roth (2006) have demonstrated that the humanitarian justification was a post-factum rationalisation of geostrategic and economic interests, since there were no mass killings of civilians at the time of the invasion of Iraq. Similarly, the R2P doctrine has been criticised as a tool used by Western states to legitimise selective interventions. A. Hehir's (2013) analysis addressed the "persistent inconsistency" in the application of R2P, with the intervention in Libya in 2011 contrasting with the inaction regarding Syria, Yemen or Myanmar. J. Morris (2013) developed this criticism, showing how the controversial intervention in Libya undermined future applications of R2P in Syria, creating a "pendulum effect." A. Orford's (2011) research emphasised that R2P functions to legitimise Western international power, bypassing traditional principles of international law and sovereignty. Furthermore, the departure from respect for international law, characteristic of sovereignist behaviour, can have devastating consequences for the state that practises it. This phenomenon is known as the backfire effect of authoritarian practices. Postcolonial theorists such as A. Césaire (1955) argued that colonialism instilled authoritarian practices at home among the colonisers. In the contemporary context, the selective disregard of international norms by democratic states can undermine their own

constitutional orders, as contempt for the law in the international arena can easily be transferred to domestic politics. Thus, sovereignty is not simply an immoral position, but a different ethical system that places the interests of the nation above all else. The fundamental legal roots of the ideological conflict between universalism and sovereignty are laid down in the United Nations Charter (1945) itself. On the one hand, the Charter recognises fundamental human rights in its preamble and defines the promotion of respect for human rights as one of its purposes. On the other hand, Article 2(7) of the Charter categorically states that the United Nations has no right to interfere in matters that fall within the domestic jurisdiction of states. This internal contradiction is not a mistake, but rather the product of a compromise that underlies the entire international system. It creates fundamental uncertainty that allows states to selectively choose which of these principles they will uphold at any given moment, depending on their geopolitical interests. The structural ambivalence of the UN Charter is the cause of ongoing legal debates and serves as a legal cover for ideological positions.

Fundamental international legal acts demonstrate the deepening of this paradox. The Universal Declaration of Human Rights (1948) finally enshrined the universalist approach, proclaiming the equality of all people in dignity and rights regardless of their nationality or the political system of their state. The Declaration did not contain any reservations regarding the cultural or political characteristics of states, which became the basis for future arguments in favour of the universal nature of human rights. The International Covenant on Civil... (1966) and the International Covenant on Civil... (1966) transformed these declarative principles into legally binding norms, while leaving unresolved the problem of the relationship between the universality of rights and state sovereignty. At the same time, there was a parallel trend towards strengthening the principles of sovereignty. Resolution Adopted by the General Assembly... (1965) categorically prohibited any interference in the internal or external affairs of states, including interference on humanitarian grounds. Declaration on Principles of International... (1970) developed this approach by establishing an absolute prohibition on interference by states in each other's affairs. These documents created a powerful legal foundation for the sovereignty position, which remains in force to the present day. The comparative Table 1 below systematises the key characteristics of both approaches in their manifestations through the prism of practical application and theoretical justification.

Table 1. Key characteristics of universalism and sovereignty

Criteria	Universalism	Sovereignty
Philosophical origins	Kant, cosmopolitan rights	Thucydides, state-centric approach
Core value	The individual, humanity	State, nation
Mechanism of international order	Cooperation through universal rules and institutions	Balance of power, spheres of influence
Legal position on intervention	Allows/justifies intervention to protect human rights (R2P)	Inviolability of sovereignty, non-interference in internal affairs
Attitude towards international law	Mandatory, autonomous legal system	Instrument for achieving national interests, justification of power
Selected case studies	Kosovo, Libya	Syria, Russian doctrine

Source: compiled by the authors based on the Universal Declaration of Human Rights (1948), Russia's Military Doctrine (2000), M. Hashem (2004), A. Nollkaemper (2011)

The systematisation presented in Table 1 illustrates the fundamental incompatibility of the two approaches at the conceptual level. While universalism is based on the primacy of individual human rights and the need to protect them even against the will of states, sovereignty defends the priority of state interests and the inviolability of national jurisdiction. This conflict is not purely academic – it directly affects the practice of international law and the effectiveness of international institutions in resolving humanitarian crises. This paradox is the reason why the international community is constantly faced with the question of whether the UN has the legal right to intervene in sovereign states for humanitarian purposes. This dilemma also explains why international institutions risk losing credibility if they fail to consistently apply the norms they themselves have established. The following sections of the study will analyse how these theoretical contradictions manifest themselves in specific doctrines and practical cases of international humanitarian law application.

The evolution and crises of the universalist doctrine of R2P. The universalist paradigm of international humanitarian law has undergone a radical transformation, culminating in the formation of the R2P doctrine. The conceptual foundations of this doctrine were laid down in the report *The Responsibility to Protect...* (2001) on intervention and state sovereignty R2P, which fundamentally rethought the relationship between sovereignty and human rights. The Commission clearly stated that sovereignty is not a shield for mass murderers, but imposes on the state the primary responsibility to protect its own population from genocide, war crimes, ethnic cleansing and crimes against humanity (Genser, 2018). R2P was enshrined in Resolution Adopted by the General Assembly... (2005), specifically in paragraphs 138-139, which established a three-tiered structure of responsibility. This resolution established the fundamental principle of three-tiered responsibility for protecting populations from mass atrocities. According to this document, the primary responsibility for preventing genocide, war crimes, ethnic cleansing and crimes against humanity lies with the state itself in relation to its own population. In cases where national authorities are unable or unwilling to fulfil these obligations, responsibility passes to the international community, which must apply a wide range of preventive measures, from diplomatic pressure to humanitarian aid and other peaceful means of influence. The document also provides for the possibility of collective action through the UN Security Council, including the use of coercive measures in accordance with Chapter VII of the United Nations Charter (1945), but only as a last resort and exclusively on the basis of consensus among the permanent members of the Security Council. Further institutionalisation of R2P took place through Resolution Adopted by the General Assembly... (2009), which reaffirmed the international community's commitment to these principles. UN Secretary-General Ban Ki-moon detailed the operational aspects of the doctrine in his report, emphasising that R2P is a "narrow but deep" concept that applies exclusively to the four crimes mentioned (*Implementing the Responsibility to Protect...*, 2009). An analysis of the practical application of the R2P doctrine reveals a fundamental problem of selectivity that undermines its universalist claims. The

most telling example is the case of Libya (2011), which illustrates the ideological divergence between universalist and sovereignty approaches. Security Council Resolution 1973... (2011) was the first case of authorised use of military force under the auspices of R2P. The resolution, adopted by 10 votes in favour and 5 abstentions, authorised member states to take all necessary measures to protect civilians in Libya, excluding occupation forces. However, the subsequent interpretation and implementation of this resolution caused serious controversy regarding the limits of R2P application. Š. Kolmašová (2016) argued that the NATO-led coalition exceeded the mandate of the resolution, transforming a humanitarian mission into a regime change operation. Brazilian President D. Rousseff (2011) noted in her speech to the UN General Assembly that the protection of civilians cannot serve as a pretext for regime change, and that the responsibility to protect cannot be transformed into a responsibility to destroy.

The Syrian crisis has become the most striking example of the inability of the universalist paradigm to overcome sovereign resistance. Since the beginning of the conflict in 2011, the Russian Federation and the People's Republic of China have blocked 18 UN Security Council resolutions on Syria, including attempts to apply R2P (Brannigan, 2008). A notable example is the veto on 22 May 2014 on Referral of Syria to International... (2014) to the International Criminal Court, which was supported by 13 of the 15 members of the Security Council. This demonstrates how two permanent members can block an almost unanimous decision by the international community to hold those responsible for mass crimes accountable, using the principle of sovereignty to protect geopolitical interests over the universal norms of international criminal law. In response to the paralysis of the Security Council, regional organisations began to develop their own mechanisms for responding to mass atrocities. The African Union (AU) enshrined in the Constitutive Act of the African Union (2000) the right to intervene in a member state in serious circumstances, namely: war crimes, genocide and crimes against humanity. This principle was applied in practice during the crisis in Côte d'Ivoire (2010-2011), when the AU supported the UN operation to restore constitutional order. The European Union (EU) in *Shared vision, common...* (2016) reaffirmed its commitment to the principles of R2P, noting that the EU would uphold its responsibility to protect and strengthen international law on the prevention of mass atrocities.

The Russian Federation's (RF) aggression against Ukraine since 2014 is an example of how sovereignist instruments systematically block the application of universal norms of international humanitarian law. After the annexation of Crimea and the start of the conflict in Donbas in 2014, the RF used its veto power to block all UN Security Council resolutions that could have sanctioned international intervention or created mechanisms for accountability. From 2014 to 2024, Russia blocked more than 20 resolutions on its own aggression, using the same mechanism as in the case of Syria. The full-scale invasion on 24 February 2022 was accompanied by massive and systematic violations of IHL: deliberate attacks on civilians, shelling of hospitals and schools, and the use of prohibited weapons in populated areas (Situation of human

rights..., 2022). The UN General Assembly adopted Resolution Adopted by the Human Rights Council... (2022), which condemned the aggression by 141 votes to 5, with 35 abstentions. Aggression Against Ukraine (2023) confirmed the violation of the principles of the UN Charter and called for compensation for damages. However, these General Assembly resolutions are only advisory in nature and do not create legal enforcement mechanisms. The Ukrainian case illustrates a fundamental structural flaw in the universalist system: when a permanent member of the Security Council is itself an aggressor, all R2P mechanisms are paralysed. This creates a paradoxical situation where the offending state uses its position in the collective security system to block any action against itself, appealing to the principle of sovereignty. The Ukrainian case confirms the study's findings that without reforming the structure of the Security Council and limiting the veto power in cases of mass atrocities, the universalist paradigm remains vulnerable to sovereign abuses.

The inconsistent application of R2P has given rise to a number of conceptual alternatives within the universalist paradigm itself, reflecting its internal heterogeneity and evolutionary nature. In November 2011, Brazil presented the concept of Responsibility while Protecting (RWP) as a response to the Libyan experience. Letter dated 9 November... (2011) establishes additional criteria for the

application of coercive measures: exhaustion of peaceful means, proportionality of the use of force, time limitation, strict adherence to the mandate, and regular reporting to the Security Council. RWP does not reject R2P, but seeks its responsible application by introducing additional safeguards against abuse. M.E. O'Connell (2010) emphasises that genuine protection of human rights is only possible through strict adherence to the prohibition on the use of force enshrined in Article 2(4) of the United Nations Charter (1945). The evolution of the African position on humanitarian intervention demonstrates the complex process of adapting universalist norms to regional realities. The Organisation of African Unity (OAU) has traditionally adhered to the principle of non-interference enshrined in the Charter of the Organisation of African Unity (1963). However, the genocide in Rwanda (1994) and other African crises forced a rethinking of this position. The transformation of the OAU into the African Union (2001) marked a fundamental shift from "non-interference" to "non-indifference." Article 4(h) of the Constitutive Act of the African... (2000) establishes the right to intervene not only in cases of mass atrocities, but also in cases of serious threats to the rule of law. This approach is a unique synthesis of universalist and regional principles. Table 2 below systematises the evolution of universalist concepts and their practical implications.

Table 2. From traditional approaches of humanitarian intervention doctrines to contemporary universalist concepts

Doctrine	Normative basis	Key principles	Practical examples	Main criticisms
Traditional humanitarian intervention	International customary law, the doctrine of necessity	Unilateral actions by states to protect human rights	Kosovo (1999), East Timor (1999)	Undermining the principle of sovereignty, absence of UN authorisation, selectivity of application
R2P (Responsibility to Protect)	UN General Assembly Resolution 60/1 (2005), Resolution 63/308 (2009)	Three-tier responsibility: state-region-international community	Libya (2011), Côte d'Ivoire (2010-2011)	Selectivity in application, mandate creep, geopolitical instrumentalisation
RWP (Responsibility while Protecting)	Brazil's concept note A/66/551-S/2011/701	Additional safeguards: proportionality, accountability, and temporal limitation	A theoretical concept with no practical precedents	Excessive bureaucratisation, potential obstruction of rapid action in critical situations
Responsibility for Peace	Academic doctrine, based on Article 2(4) of the UN Charter	Absolute prohibition on the use of force, with priority given to peaceful means	Support for a diplomatic settlement of the Syrian crisis	Inadequacy in cases of genocide and mass atrocities, passivity in the face of crimes
African "non-indifference"	Article 4(h) of the Constitutive Act of the AU (2001)	Regional right of intervention in cases of mass atrocities and threats to stability	Darfur (2003 – present), the Central African Republic (2013-2014)	Limited resources, dependence on external support, political bias

Source: compiled by the authors based on the Resolution 1264. The India-Pakistan Question (1957), Security Council Resolution 1244... (1999), Constitutive Act of the African Union (2000), The Responsibility to Protect... (2001), 2005 World Summit Outcome (2005), Resolution 1769 (2007)/Adopted by the Security Council... (2007), Resolution Adopted by the General Assembly... (2009), Security Council Resolution 1973... (2011), Resolution 1975 (2011)/Adopted by the Security Council... (2011)

Table 2 demonstrates that the universalist paradigm of international humanitarian law is not a monolithic construct, but rather a dynamic system of competing and complementary concepts. The evolution from traditional humanitarian intervention to R2P, and further to alternative approaches such as RWP and African "non-indifference," reflects the constant tension between universalist ideals and geopolitical realities. This process confirms the thesis that ideological competition in international law is not limited to the "West-East" confrontation, but includes

complex internal discussions within the paradigms themselves, making contemporary international humanitarian law an arena for multidimensional ideological pluralism.

Institutional mechanisms for circumventing universal obligations. State sovereignty is traditionally defined as the exclusive and absolute power of the state over its territory and population. It is a central element of sovereignty ideology, which opposes any external interference in internal affairs, including even the protection of human rights. This ideology is reflected in the

most important international documents. The United Nations Charter (1945), which is the fundamental legal act for the international community, contains, as mentioned above, contradictory principles. This internal competition between two ideologies, universalism and sovereignty, creates a legal basis for discussions and conflicts that manifest themselves through specific institutional mechanisms. Reservations are a legal and widely used tool in international law that allows a state to become a party to a multilateral treaty while excluding or modifying the legal effect of certain provisions in its application. According to the Vienna Convention on the Law... (1969), reservations cannot be incompatible with the object and purpose of the treaty. However, the use of this instrument by powerful states transforms universal law into fragmented, individualised obligations. This practice, described below, undermines the integrity and uniformity of IHL, as it creates a mosaic system where different states are bound by different rules, leading to uncertainty and weakening the effectiveness of the legal regime. This legal instrument is attractive to sovereign states because it allows to formally demonstrate their commitment to international law while effectively avoiding unwanted or burdensome obligations. This creates a paradoxical situation where a state can be a party to the Geneva Conventions but at the same time limit their application based on its national interests.

An analysis of the reservations made by key international players demonstrates how this mechanism is systematically used to assert sovereignty at the expense of universal norms. The Soviet Union, and later the Russian Federation, made a number of reservations to Convention (IV) relative to the Protection... (1949). The most significant ones concerned Articles 10 and 11 of the Fourth Geneva Convention (on the protection of civilians) and Article 85 of the Third Geneva Convention (on the treatment of prisoners of war). The reservations to Articles 10/11 did not allow neutral states or humanitarian organisations to perform the functions of Protecting Powers without the consent of the government of the country holding the persons. This subordinated humanitarian mechanisms to the political will of one of the parties to the conflict, which directly contradicts the universal imperative of protecting civilians. The reservation to Article 85 allowed the protection of the Convention not to be extended to prisoners of war convicted under the domestic law of the detaining country, in accordance with the principles of the Nuremberg trials. The United States also used reservations to maintain flexibility. For example, in its declaration on the Fourth Geneva Convention on the protection of civilians, the United States reserved the right to apply the death penalty in accordance with the provisions of Article 68, regardless of whether the death penalty was provided by the legislation of the occupied territory at the

time of the occupation. This reservation, although limited, demonstrates the state's desire to retain a certain level of sovereign jurisdiction that could be limited by universal norms. France acceded to Additional Protocol I of 2001 with a number of declarations and reservations that have a significant impact on its application. In particular, France made a statement that the provisions of the Protocol do not prevent it from exercising its inherent right of self-defence in accordance with Article 51 of the UN Charter (France, accession to Protocol..., n.d.). In addition, France indicated that the term "armed conflicts" in the Protocol does not include ordinary crimes, including terrorist acts. This interpretation allows the state to retain a degree of flexibility in applying the Protocol to specific situations, which is another example of weakening a universal norm to take national interests into account. These examples illustrate how a legitimate instrument, the reservation, is a powerful mechanism for weakening the universalist requirements of IHL, transforming a single legal space into fragmented obligations.

In situations where consensus on the adoption of binding, legally enforceable treaties is impossible, states often resort to another institutional mechanism: non-binding political declarations. Such declarations, such as the Political Declaration on Explosive Weapons in Populated Areas, adopted in 2022, do not create new legal obligations (Implementing the political declaration..., 2023). Instead, they contain voluntary political commitments for states to develop national policies and practices to limit or refrain from using explosive weapons in populated areas when they may cause harm to civilians. This mechanism is dual in nature. On the one hand, it is a pragmatic step that allows humanitarian goals to be promoted and the practical implementation of IHL to be improved even in the absence of agreement on strict legal norms. On the other hand, the application of "soft law" legitimises states' refusal to accept legal responsibility. This creates the appearance of progress and commitment to humanitarian principles, while leaving sovereign states room to manoeuvre and avoid legal consequences for violations. This compromise is yet another manifestation of competition, where political interests and sovereign reservations limit the full development of universalist norms.

An analysis of the activities of the Association of Southeast Asian Nations (ASEAN) as a regional organisation demonstrates a complex system of sovereignty, manifested through the principles of non-interference in internal affairs and consensus-based decision-making. These principles, enshrined in The ASEAN Charter (2015), create structural obstacles to the effective application of international humanitarian law in the region. The institutional mechanisms of sovereignty within ASEAN are presented in a systematic manner in Table 3 below.

Table 3. Institutional mechanisms of sovereignty in international humanitarian law (using ASEAN as an example)

Mechanism	Legal basis	Restrictive elements	Impact on IHL
Principle of non-interference	ASEAN Charter 2008	Prohibition of criticism of domestic policy	Blocking responses to violations of IHL
AADMER	Agreement 2005	Restrictions due to natural disasters	Exclusion of conflict situations
AICHR	Established 2009	Lack of investigative powers	Impossibility of bringing to justice

Table 3. Continued

Mechanism	Legal basis	Restrictive elements	Impact on IHL
AHA Centre	Operational since 2011	Activities only at the invitation of the state	Limited effectiveness in crises

Note: AADMER – ASEAN Agreement on Disaster Management and Emergency Response; AICHR – ASEAN Intergovernmental Commission on Human Rights; AHA Centre – ASEAN Coordinating Centre for Humanitarian Assistance on disaster management

Source: compiled by the authors based on the The ASEAN Charter (2015), ASEAN Agreement on Disaster... (2005) and Terms of reference of ASEAN... (2009), T.S. Merah, (2025), Myanmar: No justice... (2022), Security Council Demands (2022)

Table 3 shows the systemic nature of the restrictions imposed by the sovereignist paradigm on the functioning of ASEAN's humanitarian mechanisms. Each of the listed instruments, despite their formal compliance with international standards, contains structural elements that effectively prevent effective intervention in cases of gross violations of international humanitarian law. It is telling that all mechanisms are based on the principle of voluntariness and consent of the member state, which makes them ineffective precisely in those situations where humanitarian intervention is most needed. Sovereignty in humanitarian law manifests itself not only through the direct rejection of universal norms, but also through the creation of alternative interpretative mechanisms. The institutional architecture of sovereignty in humanitarian law includes several key elements. First, it is the creation of regional legal instruments that formally comply with international standards but contain significant reservations regarding state sovereignty. The ASEAN Agreement on Disaster... (2005) demonstrates this trend by limiting its scope to natural disasters and excluding conflicts, as became apparent during the Rohingya crisis of 2016-2017, when, despite the displacement of more than 700,000 people, the AADMER could not be applied because the situation was classified as an internal conflict rather than a natural disaster (Myanmar: No justice..., 2022). Secondly, sovereignty manifests itself through the creation of ineffective oversight mechanisms. The ASEAN Intergovernmental Commission on Human Rights (AICHR) was established in 2009 without any real powers to investigate violations or hold states accountable (Terms of reference of ASEAN..., 2009), as evidenced by the 2017-2018 Rohingya genocide. When, despite the UN's findings of genocide and the displacement of 1.2 million people, the AICHR remained completely silent, and after the military coup in Myanmar in February 2021, the commission did not hold a single collective meeting or issue a statement despite thousands of deaths (Security Council Demands..., 2022). The ASEAN Humanitarian Assistance Centre (AHA Centre), established in 2011, also demonstrates the limited nature of regional humanitarian response. Although the centre effectively coordinates responses to natural disasters, its mandate does not extend to conflict-related crises without a direct invitation from the state concerned, as demonstrated by Cyclone Moch in Myanmar in 2023, when the military junta suspended travel permits for humanitarian workers for three weeks after the cyclone, effectively blocking aid to 1.6 million victims (Regan, 2023). Crises in the Southeast Asian region vividly illustrate the practical implications of sovereignty in humanitarian law. The Rohingya crisis in Myanmar has been a case in point of how the principle of non-interference can block

effective humanitarian response, notably the ASEAN summit in November 2017 in Manila demonstrated institutional silence, with the 26-page Chair's Statement containing only one reference to the Rohingya as disaster resilience, avoiding even the use of the word "Rohingya" and classifying genocide as humanitarian assistance, while Myanmar directly referred to the ASEAN Charter to block any criticism from neighbouring states (Molthof, 2012). An analysis of regional models of sovereignty demonstrates that contemporary international humanitarian law faces systemic challenges that go far beyond individual violations or political crises. Sovereignist ideology does not simply oppose universalist norms, but creates an alternative institutional architecture that formally recognises international standards but effectively neutralises them. The mechanisms of reservations, "soft law" and the regional organisation ASEAN form a complex system for circumventing universal obligations, which calls into question the very possibility of creating a truly effective global humanitarian regime while preserving traditional notions of absolute state sovereignty.

Discussion

The study revealed complex dynamics of interaction between universalist and sovereignist tendencies in contemporary humanitarian law, confirming the relevance of ideological competition in the global legal space. The results of the analysis demonstrate that humanitarian law functions not as a neutral technical system, but as an arena for the struggle between different concepts of sovereignty, universality and cultural specificity. The results obtained correlate with the conclusions of R.O. Zaporozhchenko (2023) on the political forms of spatial organisation in the context of globalisation processes. The analysis examines how globalisation creates new forms of political organisation that go beyond traditional state borders, but does not take into account the destructive impact of these transformations on the effectiveness of international law. The study shows how this transformation generates fundamental contradictions in international law, creating legal loopholes that are exploited by sovereign regimes. While R.O. Zaporozhchenko focuses on the positive aspects of the transformation of spatial organisation, the results of this study reveal the destructive potential of these changes for the effectiveness of humanitarian law, in particular through the creation of "grey areas" of legal regulation. The historical roots of sovereignty revealed in the study found deeper justification in E.S. Longhi's (2022) work on d'Annunzio as the "father of sovereignty" in the Fiume episode. The researcher demonstrated how the crisis of liberalism and criticism of democracy in the interwar period shaped the ideological foundations of contemporary sovereignty, in particular through

the concept of the “living law of the nation” as opposed to the “dead law of states.” The study developed this thesis, showing that contemporary manifestations of sovereignty in humanitarian law inherit not only ideological attitudes but also specific legal mechanisms for circumventing universal obligations. The results demonstrated that the mechanisms of reservations, first used on a massive scale in the interwar period, are now used for the same purpose – to preserve national autonomy while formally recognising international norms. The results of the analysis of the three-stage architecture of sovereignist resistance are confirmed in the study by J. Sondel-Cedarmas & F. Berti (2022) on right-wing criticism of Europe. The authors systematised nationalist, sovereignist and right-wing populist positions on the EU, drawing parallels with conclusions about institutional mechanisms for circumventing universal obligations. In particular, they demonstrate how Eurosceptic parties use formally democratic procedures to undermine European integration. However, the study showed that such mechanisms function not only in the European context but are global in nature, as demonstrated by the example of ASEAN, where the principle of consensus is used to block any decisions that may affect the sovereign interests of member states.

The conceptual framework of the study on the dynamism of sovereignty was further substantiated in the work of M. Mihatsch & M. Mulligan (2025). The authors demonstrated the historical variability of concepts of sovereignty, which correlates with conclusions about the evolutionary nature of ideological competition in humanitarian law. The concept of “competing sovereignties” explains how different actors – states, international organisations, non-state actors – claim different aspects of sovereign power. However, the study specifies these general trends, showing the mechanisms of their manifestation in contemporary international legal institutions through the prism of humanitarian law as the sphere most sensitive to ideological contradictions. The results of the analysis of the selectivity of R2P application find theoretical support in the study by P. Drulák *et al.* (2024) on roles, ideologies and positions in Czech foreign policy during the European migration crisis. The researchers showed how national ideologies shape states’ positions on international crises, confirming the thesis of the ideological conditioning of the practical application of universalist doctrines. They find that even within the EU, different states interpret the same international obligations through the prism of their own ideological attitudes. However, the study extends this analysis to the global level, demonstrating the systemic nature of the problem by comparing different regional approaches to humanitarian law. The conceptual foundations of universality analysed in the study find additional justification in the work of K. Lidén (2020), who systematised the key characteristics of the universalist approach in humanitarianism. K. Lidén highlighted the fundamental tension between universal claims and particular practices, showing how humanitarian organisations are forced to adapt universal principles to local contexts. This is fully consistent with the conclusions about the selectivity of R2P application, but the study goes further, revealing the specific institutional mechanisms through which this tension manifests itself at the level of inter-state relations and

international law. The results of the analysis of the relationship between sovereignty and liberalism correlate with the conclusions of G. Martinico (2023), who explored the links between sovereignty and anti-liberal tendencies in contemporary Europe. The researcher showed how the protection of sovereignty can serve as a cover for authoritarian practices, in particular through the concept of “liberal democracy,” which formally preserves democratic procedures but undermines the liberal principles of the rule of law. This confirmed the thesis that sovereignist arguments are used to avoid international human rights obligations, especially in the context of growing authoritarian tendencies in the world.

The transformation of universalist approaches to human rights identified in the study finds parallels in M. Budiana’s (2024) work on the evolution from universalism to relativism in international politics. M. Budiana analysed the theoretical aspects of this transformation, showing how postcolonial criticism of universalism led to the legitimisation of cultural relativism in international law. However, the study demonstrated the practical consequences of this transformation for the functioning of international institutions, in particular through an analysis of how culturally relativist arguments are used to justify violations of humanitarian law. A significant comparison can be made between the results on the ontological foundations of ideological competition and O. Balaban’s (2024) study on the ontological dimension of the universal as a category of the humanitarian. The researcher reveals the deep foundations of universalist thinking, showing how the concept of the universal is rooted in the Western philosophical tradition from Plato to Kant. This has provided a better understanding of the nature of the conflict with sovereignist approaches, which are based on fundamentally different ontological principles – particularism, contextuality and cultural specificity. The regional aspects of sovereignist resistance, analysed using the example of ASEAN, were further substantiated in the work of G. Agostinis & F. Urdinez (2022) on the links between authoritarian and ecological regionalism, using the example of China’s role in the Shanghai Cooperation Organisation. The authors showed how authoritarian regimes use regional organisations to promote alternative norms that directly contradict Western liberal standards. This correlates with the conclusions about ASEAN as a model of sovereign regionalism, but broadens the understanding of this phenomenon by showing its global nature and strategic coordination between different authoritarian regimes. The alternative models of international organisation identified in the study are further explored in a publication by M. Naveed & F. Javaid (2021) on the Shanghai Cooperation Organisation as a potential “NATO of the East”. Pakistani researchers analyse how authoritarian regimes create alternative international institutions that do not formally oppose Western organisations but effectively undermine their effectiveness by creating parallel mechanisms for resolving international problems. This confirms the thesis about the systemic nature of sovereignist resistance to universalist norms and demonstrates the coordinated strategy of authoritarian regimes to reform the international order. The results of the study relevant for analysing the current state of international humanitarian law and

outlining directions for its further development in the context of a multipolar world order. Unlike previous studies, which focused mainly on individual aspects of universalist or sovereignty paradigms, this study reveals the systemic nature of their interaction and mutual influence through specific institutional mechanisms. This allows for a new understanding of the nature of contemporary challenges to international law and forms the basis for the search for more effective ways to overcome them in the context of global ideological competition.

Conclusions

The study confirmed the hypothesis that the tension between universal human rights and sovereignist doctrines of statehood leads to inconsistent interpretations of international humanitarian law in different geopolitical blocs, creating systemic obstacles to the protection of civilians and undermining the legitimacy of international institutions. An analysis of the origins of this conflict revealed the structural ambivalence of the UN Charter, which combines the proclamation of universal human rights with a categorical prohibition on interference in the internal affairs of states. This contradiction is the result of a historical compromise and forms the legal basis for the selective interpretation of international norms in accordance with geopolitical interests. This is confirmed by the practice of exercising the veto: the Russian Federation has blocked 17 resolutions on Syria, and the Russian-Chinese double veto has made it impossible to refer the Syrian case to the International Criminal Court despite the support of the majority of Security Council members. An analysis of the Russian Federation's aggression against Ukraine since 2014 has revealed a critical structural flaw in the universalist system, whereby a permanent member of the Security Council uses its veto power to block all R2P mechanisms regarding its own crimes, creating a paradoxical situation of complete paralysis of international humanitarian law. This confirmed the need to reform the Security Council and limit the veto right in cases of mass atrocities, as well as the relevance of alternative concepts such as Brazil's RWP. Research into the evolution of the universalist R2P doctrine has demonstrated the fundamental problem of selectivity in its application and the internal fragmentation of the universalist paradigm. The contrast between the military intervention in Libya under Resolution 1973 and the

complete paralysis of the international community during the Syrian crisis illustrated the "pendulum effect," where exceeding NATO's mandate in one conflict undermines confidence in humanitarian mechanisms in future crises. At the same time, the internal heterogeneity of the universalist paradigm has been revealed through the emergence of alternative concepts: the Brazilian RWP with additional safeguards, the concept of "Responsibility for Peace" with an absolute prohibition on the use of force, and the African "non-indifference" as a unique synthesis of universalist and regional principles. This testifies to the evolutionary nature of ideological competition and the multidimensional pluralism of contemporary humanitarian law. The systematisation of institutional mechanisms for circumventing universal obligations has revealed a complex three-stage architecture of sovereign resistance. The first level is represented by mechanisms of reservations to international treaties, which transform universal law into a mosaic system of individualised obligations, as demonstrated by Soviet/Russian reservations to the Geneva Conventions on the role of protecting states. The second level is the application of "soft law" through non-binding political declarations that create the appearance of progress while leaving states room to avoid legal consequences. The third level is represented by regional alternatives, in particular the ASEAN model, which, through the principles of non-interference and consensus decision-making, effectively neutralises international standards, as was evident during the Rohingya genocide. Further research should focus on analysing the impact of artificial intelligence and cyber warfare on international humanitarian law, the role of non-state actors in shaping legal norms, mechanisms for overcoming ideological polarisation in a multipolar world order, and the development of new models of global governance capable of combining universalist principles with respect for cultural diversity and state sovereignty.

Acknowledgements

None.

Funding

None.

Conflict of Interest

None.

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