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Research Article

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A Legal Vacuum in The Principles of International Human Rights Protection

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Abstract

The subject of our research will be international protection as it is a theoretical concept, far from the practical meaning that relates to the international conventions and declarations on the protection of human rights and the mechanisms associated with them. It must now evolve only after long periods of time, and with timid beginnings, in this study we must address the stages in the development of international protection.

Since international protection-in the sense that this research deals with - concerns international affairs, it has been affected by the development of international relations and similar problems, so this study will also address those problems, which have hindered the development of international protection within the methodology of comparative analysis.

Keywords: human rights, International protection, legal vacuum

Introduction

The international system has sought to protect political rights within States, so that the question of respect for these rights is no longer the monopoly of internal affairs. Thus, the concept of international protection is the product of international and regional circumstances, contested at the time by national and international interests, and of the impact of this conflict on the effectiveness of international protection itself.

In addition, because international protection is a tangible reality, it is the area in which international law has evolved from the law of a group of States to the law of the international community or the so-called (principle of universality) [1].

Research Objectives

The subject of our research will be international protection as it is a theoretical concept, far from the practical meaning that relates to international conventions and declarations on the protection of human rights and their associated mechanisms. It should now evolve only after long periods of time, and with timid beginnings, in this study we must address the stages of the development of international protection.

Since international protection - in the sense dealt with in this research-concerns international affairs, it has been affected by the development of international relations and similar problems, so this study will also address those problems, which have hindered the development of international protection.

The Importance of Research

The importance of studying this subject of our research stems primarily from the importance of the rights that a person should enjoy in the context of accelerating international change. We are not exaggerating if we say that respect for human rights is the only way for states to establish themselves internally and to support and stabilize international peace and security. It condemns the idea of sovereignty in its importance and firmness except for rights which are - according to the school of the social contract-the purpose of the existence or creation of States. This makes it the goal of the existence of States.

The internationalization of the protection of human rights also leads to the definition of the content of these rights and the creation of international legal rules relating to citizens, such as the establishment of the right of individual recourse against States at the level of the United Nations and certain regional protection

systems, which would lead to the development of an international legal status for the individual. As it is well known that a profound jurisprudential dispute continues to rage over the consideration of a person as a person under public international law, and with regard to the international protection of human rights, it pays more for the individual considered as a person under public international law.

Research Hypothesis

The research hypothesis is based on the inadequacy of the means mentioned in domestic laws, whether constitutional or ordinary laws, to ensure the protection of human rights. This hypothesis is not a means of denying it, as the reality of life in many countries in the world shows, where the constitutions and legislations of many countries are cluttered with texts stressing the need for individuals to enjoy their rights. However, without these texts having a significant impact on the ground, protection complementary to the previous protection, which is represented in the determination of international protection of these rights by international human rights law, is therefore necessary.

Research Problem

As for the problem of research, it is linked to the principle of sovereignty, since the relationship between the State and its citizens is not linked, directly or indirectly, to international relations. Human rights are the prerogative of each country in their own affairs. The rights of citizens affect in particular the sovereignty of each country, because we find the idea of rights with internal roots. The existence of abstract general public rights for the human being means that the jurisdiction of that State can become a place of interference in international law, which is not usually invoked except in cases of gross violation of human rights, only international interference is in competition with the principle of sovereignty.

The problem here is the intersection of protection with the principle of sovereignty. There is no doubt that every country has internal affairs that do not allow other countries to interfere because it affects the sovereignty of the State. There is no longer any problem in raising the issue of the sovereignty of rights, and States are trying to protect it from external interference, with the help of the Charter of the United Nations issued in 1945, as stipulated in paragraph 7 of Article II thereof: (Nothing in the present Charter shall permit the United Nations to interfere in matters which are central to the internal authority of any State.

Research Plan

Based on the foregoing, we will address in this research the concept of international protection in two themes, the first will be to find a definition of the concept of international protection and its sources at the level, and the second will deal with the obstacles encountered by international protection.

The First Section

The Meaning of the International Protection of Human Rights

International protection is no less important than other subjects of international law, and it is not limited to others to raise jurisprudential and legal differences in order to discover the truth of the term. International protection is sometimes an act of the international community to avoid violating human rights, and more often than not a reaction to a violation of those rights.

On the above, it is important to clarify what is meant by international protection, as this is necessary to define the scope of the work of international protection agreements and to know where to start and where to end.

Accordingly, and in order to take note of the concept of international protection, we will approach it in two parts. The first section will be devoted to defining international human rights protection in language and terminology and clarifying its sources, while the second section will deal with the issue of the development of international protection and access to what it has achieved, as well as the importance of international protection at the present time.

First Requirement

Definition of International Protection and Its Sources

If linguistic lawyers do not differ much among themselves on the meaning of protection, because they are governed by the linguistic meaning that this word imposes. Then the question is different for international law lawyers, and to know what the terms (protection and international language) and the term (international protection) express as a term, then we in two sections, we will examine the linguistic meaning of international protection in the first section, and in the second section we will review the sources of this protection.

The First Branch

Definition of International Protection

In order to know what is meant by international protection, we must first review the linguistic meaning of the term (international protection), and then we refer to the idiomatic meaning, in two points:

First: Language of International Protection

Protection: It is said that the fever of a thing protects it with protection (by fracture), that is to say that it prevents it and the fever of the patient is harmful to him, preventing him from it, and he is protected from it, and protects the abstention of the patient and the fever, which is prohibited from food and drink [2]. It is said that people are protected to protect them, that is, they support them [3]. And his father-in-law protects him from protection, and it is something that is protected, i.e. the public does not come close, and people protect it, i.e. they suck it up and avoid it [4]. And this thing is feverish, that is to say, participants who do not come near, and protect him if you pay for him, and prevent him from coming near, and intimate pity and so on because he extends his protection to his relatives as he defends them, as the Almighty has said in his dear book (and do not ask an intimate person) 10: In the sentence, we find that protection has meanings: prevention, support, and it falls under the meaning of prevention because victory has prevented others from harming the victim [5].

International

The state and the state are the obstacle to money and war, and it has been said that there are two languages and the plural are

countries and states, and the state would have opened the war that one of the two categories is indicated. The countries with the inclusion in money are said: the shadow became a state among them, and the glass said that the noun is the thing that is exchanged and the proof is the verb and pass from one state to another [6]. D, designates the states, and the state is indicative. Moreover, the matter passed from one state to another, and the days disappeared, and the state of tyranny came, and it was taken away. A singular state combined with states and states and states. Today the state: a region that has a system of government and political independence International: a name given to countries and an international name for a woman who is linked to countries [7].

Second: International Protection as a Term

International law scholars differed in the definition of international protection, some gave it a broad meaning and some restricted it. It should be noted that agreements, treaties and declarations relating to protection did not provide a definition of it, but rather stipulated a set of procedures to which States are bound, whether this commitment is legal or moral, as if this protection was limited to these procedures (by definition), i.e. the term was known as a set of procedures.

Therefore, we need to review the definition and the jurisprudence proposed by the case law only:

At one of the round tables organized by the International Committee of the Red Cross in 1999, representatives of humanitarian organizations adopted the following definition. (The concept of international protection includes the term protection in the field of human rights in general all activities aimed at ensuring full respect for these rights in accordance with the letter and spirit of the relevant laws) [8].

What is noted about this definition is that it is suitable not only to describe international protection. Also for the national protection that the State mainly carries out, and according to the definition, international protection is represented by the various activities carried out by the bodies to ensure full respect for these rights, and in accordance with the letter and spirit of the texts contained in the law. National or international human rights.

However, the definition does not indicate what these procedures are and does not provide certificates to serve as examples to be measured. International protection was also known to be: (It consists mainly of many general measures practiced by the United Nations specialized agencies, or by the practices of private international protection agencies responsible for monitoring the implementation of States' obligations to respect human rights. It has been established in accordance with the agreements of the specialized international agencies and the agreements that The Charter of the United Nations). The criterion of discrimination followed the general procedures practiced by the specialized agencies and special protection, is whether the work falls under the Charter of the United Nations, or under special agreements or treaties concluded by international agencies, when protection under the Charter was a general protection. In addition, if it was under agreements concluded International agencies - albeit on the basis of the Charter-are special protection. This definition was more precise than its predecessor, as it limited protection to those of an international character, whether practiced by the United Nations or the specialized agencies [9].

(Françoise Boucher-Soleilin) defined protection by saying: (Protection means recognizing that individuals have rights, and that the authorities who exercise authority over them have obligations, and it means defending the legal existence of individuals, as well as their physical presence. Therefore, the idea of protection reflects all the physical measures that enable vulnerable individuals to enjoy the rights and assistance stipulated in international agreements and, in any case, relief organizations must enshrine these laws in concrete terms [10].

What is remarkable about the definition is that it focused on the commitment of states to individuals and their obligations to the rights of individuals, and did not refer to the international dimension of protection. But later indicated that the legal status of individuals, even if determined by domestic law, except There are various elements of international law that confer international legal status on individuals, and the source of these elements are the human rights agreements, declarations, protocols and covenants in force in peacetime.

While some jurists have argued that international protection is divided into two types of protection, direct international protection and indirect international protection, the first is: (a set of procedures and activities undertaken by competent agencies at the international or regional level to enforce respect for human rights recognized by the international covenants, and to respond to violations committed against those rights, in order to stop and erase their effects or mitigate them).

While Indirect Protection Means:

The tasks and activities carried out by international bodies at the international or regional level, with the aim of creating or creating a general climate guaranteeing the recognition and promotion of human rights, by formulating and codifying human rights rules and provisions and by making them known to peoples and governments on both [11].

We see notes on this definition that he intentionally divided protection into two parts, although the definition must be inclusive. The expert is mindful that the second meaning to which the definition of indirect protection has been exposed is a definition of the concept of human rights promotion, which aims to propagate a culture of human rights in international and national circles. It is carried out by international governmental and non-governmental organizations, and at the national level it is often the work of organizations independent of the State, which are civil society organizations.

But if we go back to the first definition, we see him defining protection as (a whole set of procedures and activities ...), as if he wanted to limit protection to material measures taken by the competent international agencies-he supports this second definition-even though protection

often takes moral or ethical forms. Such as urging countries to protect political rights, or certain organizations publishing their reports on the state of rights in certain countries to form international public opinion that pushes States and international institutions to put pressure on these countries to improve their human rights situation.

Some have Defined International Protection as Follows:

The measures taken by international bodies in respect of a country to ensure the extent of its commitment to implement what it has promised and undertaken in international human rights agreements, to disclose its violations and to develop proposals or measures to prevent such violations [12].

The above definition has come to understand the types of international and regional protection, as it has indicated that the purpose of the measures is to ensure the commitment of States to what they have undertaken in international agreements. It may be regional in nature, in addition to the possibility that international bodies may have the power to provide redress for violations by developing proposals or taking action.

From the above, we see that the definition of international protection is always based on an unspecified set of procedures that differ from one international body to another, and differ in regional organizations. In general, it can be said that international protection is (mandate and procedures of control exercised by international and regional organizations and bodies against their members) to ensure respect for human rights).

The Second Branch: Sources of International Protection

The idea of sources in international law is of great importance, and the term is used to refer to three indications:

First: The legal basis of international protection is conceived in the sense of the binding basis, i.e. its binding force in expressing the last source of the effectiveness of the international rule, which is understood in our approach to the question of sources.

The second: Means the material sources of the rule of law, i.e. the first sources from which the rule was derived, the reason for its existence and, in addition to these - for these sources - the factors that contributed to the formation of the rule, such as Romanian and Islamic law.

Thirdly: The singular term is used to express the formal sources of law, i.e. the methods for forming the legal basis, such as legislation at the internal level or collective (legal) agreements at the international level [13].

International sources of protection are mainly based on two main sources: global and regional sources:

First: Global Sources

These sources are of two types, public and private sources. The former are sources represented in charters and declarations that include all or most of the rights that human beings are supposed to enjoy, and currently constitute a general human rights law that has even been called (the International Bill of Human Rights). It includes the Charter of the United Nations of 1945, the Universal Declaration of Human Rights of 1948, the International Covenant on Civil and Political Rights of 1966 and the International Covenant on Economic and Social Rights of 1966.

The effectiveness of these sources differs from one source to another, as the Universal Declaration of Human Rights, for example, did not include any legally binding mechanism in relation to the International Covenant on Civil and Political Rights. But the declaration was the first step that paved the way for the legally binding nature of these rights in the subsequent International Covenants of 1966 [14].

In addition to these sources, a body of statements issued by the United Nations General Assembly, including the Declaration on the Right to Development issued in 1983. The Declaration on the Rights of Persons Belonging to National, Ethnic, Linguistic or Religious Minorities issued in 1992, and the declaration issued by the World Conference on Human Rights held in the Austrian capital, Vienna, in 1993, and the program of work resulting from the conference [15].

The second type of global sources are private sources and constitute a wide range of international declarations and agreements that deal with specific issues, or concern a group of individuals, such as International Labor Agreement No. 100 on Equal Remuneration for Men and Women, and the 1951 Convention relating to the Status of Refugees. Also, the United Nations Educational, Scientific and Cultural Organization (UNESCO UNSCO) Convention on the Prevention of Discrimination in Education of 1960, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination of 1963, the Convention on the Elimination of All Forms of Discrimination against Women of 1967 and the Convention on the Rights of the Child of 1989, and many other agreements and advertisements that deal with specific issues or concern specific individuals or persons [16].

Second: Regional Sources

There are currently three regional systems operating on three continents that effectively protect human rights. These systems, according to their effectiveness, are the best European system, followed by the American system which operates in North and South America and the African system*.

The European system is the oldest and most effective, and its creation dates back to the London Agreement in 1949, which was the 1950 Rome Convention for Human Rights and Fundamental Freedoms, one of its best products. It is also the best among not only regional but also global protection systems [17].

As for the American system of human rights protection. It is based on two main documents, the first is the Charter of Bogotá in 1948, which created the American Organization, and the second, which represents the general origin of the American protection system and is the American Convention on Human Rights of 1969.

The American Human Rights Committee was created in 1959, by the Ministers of Foreign Affairs of the American countries, and then the American Court of Human Rights was created, and although the American states followed the effects of the European countries in creating the American Human Rights Committee and the American Court, the bonn is wide between the two. This is due to the underdevelopment of the South American continent in many of its countries and to the different political, economic, social and cultural levels of government and peoples, which prevents the creation of single standards applicable to all parts of the continent, which is not the case in Europe [18].

As for the African system, it started late, as the African Summit approved the African Charter on Human and Peoples' Rights in 1980 and it only entered into force in 1986, which obliged African Member States to take legislative measures to respect human rights.

The African system followed in the footsteps of its predecessors by creating an African Court of Human Rights in 2000, and the African Charter ranks third in terms of effectiveness among continental regimes. However, this is an important step, especially in a continent where most of its countries control totalitarian military systems of government, poverty, ignorance and underdevelopment are widespread [19].

The truth is that the profound political, economic, social and ideological differences between states make it necessary for states to attempt to protect human rights in a narrower range of world regimes, within a group of countries whose systems are convergent and homogenous, which makes protection more feasible. The best example here is the European group, and as we look at the Continental systems host the four continents of Europe, Americas and Africa, we note that Asia is the only continent whose countries have not come together to establish a system for the protection of the rights of Asian citizens. This may be due, for a number of reasons, to the difference between its countries, from rich to poor countries and from capitalist to capitalist countries à The socialist states seek to establish the desired communist regime, from liberal democratic regimes to dictatorial military regimes. All these reasons have led to the failure to establish an Asian system for the protection of human rights, including political rights.

The Second Requirement: The Evolution of International Protection and Its Importance

The sources of international law, which deal with the issue of international protection, note that the attention and importance attached to the question of human rights has reached the level of one of the main issues raised at present.

We can say that it is the number one subject on which international attention is currently focused, but it was not achieved overnight, but rather the result of many years of suffering and hard struggle that mankind measured against tyranny until it became clear what it is now. This demand will be enshrined in the first two branches to be studied. The development of the international protection of human rights, and the second to determine the importance of that protection.

The First Branch: The Development of International Protection

The Development of International Protection Has Two Main Phenomena

The first is that human rights and freedoms have become a global problem after having been, for a very long time, absolute monopolies of a State that could not even allow them to think about taking them away.

The second: to shift interest in these rights and to think about protecting them from the field of moral principles, philosophical idealism and ideas to the real field of application, where the search for ways to bring these principles and ideas into the field of application has emerged. For the purposes of the briefing, we will discuss the evolution of monitoring from the stage of non-interference in domestic human rights protection affairs first to the stage of intervention for protection second [20].

First: Non-Interference

The nation-state was born in its modern concept in Europe in the middle of the 17th century - with the image of a kingdom - and in the first days of its birth it became clear the need to protect it from the images of other human gatherings. The means for this was absolute sovereignty, which the rulers exercised in its original sense, meaning that all a sovereign who has control over all matters in his kingdom and has no authority over him, which is why the state is not subject to any supreme political authority.

Sovereignty in its absolute sense above was associated with the principle of non-interference, so that the term singular sovereignty means not allowing interference in the affairs of the State by other countries or international bodies. Whatever the form of such intervention, jurists have attempted to link the principle of non-interference with the Monroe principle or the so-called Monroe Declaration, which is the first clear formulation of the policy of non-interference formally [22].

The principle of non-interference first appeared in international regional groupings from the 1930s of the twentieth century, and the first international systems to be introduced were the American system, and it was later adopted by other international groups such as the Organization of American States and NATO, the Warsaw Pact and the League of Arab States. However, the principle of non-interference has not received the attention it deserves, except after its promulgation in Article Two, paragraph 7, of the Charter of the United Nations, which reads: (Nothing in the present Charter shall permit the United Nations to interfere in matters which are within the domestic jurisdiction of any country.) [22].

The principle of non-interference represented the negative manifestation of absolute sovereignty at the beginning of its establishment. Sovereignty has two positive aspects, and the authority of the supreme State means exercising its internal and external powers with what its interests dictate, and a negative one, which excludes any interference in the jurisdiction reserved to the State. Not to interfere in the affairs of others.

During the last quarter of the twentieth century, with the collapse of the Soviet Union and with other sources of international threat not represented by States. A new fact emerged and became strongly evident in the field of international changes, represented (by terrorism) and the transfer of conflicts between countries within the State itself. The emergence of new mechanisms for interference, such as international tribunals and international organizations, all these considerations, in addition to considerations of intervention to protect human rights, have all put severe pressure on the principle of non-interference, in the same way that his previous release has stolen. All this has raised a number of questions, perhaps the most important of which is to define the meaning of non-interference, and the difficulty that lies in the absence of a norm that separates what is within the scope or competence of the State and what is not [23].

And some jurists refer to two criteria to determine what falls within the domain reserved to the State [23]. The first is the norm of sovereign rights, i.e. rights based on the legal description of sovereignty, which the State assumes as competences related to its existence as a State, inside or outside the region. As for the second criterion, it is the criterion of the existence of an international commitment. If there is an international obligation in the neck of the State - whatever its source-then the subject matter comes from the jurisdiction reserved for international jurisdiction and, therefore, the criterion for distinguishing between the implementation of internal or international jurisdiction is the absence or existence of an international obligation [24].

Consequently, when France organized nationality issues in territories to which it was subject after the First World War-Tunisia and Morocco - Great Britain rejected it and submitted the dispute to the Permanent Court of International Justice. It adopted the British viewpoint, so that its decision on the question in 1933 was given: (As long as a domestic case is organized by international agreement, it loses its national character and becomes an international issue) [25].

Read the text on the principle of non-interference in the Charter of the United Nations, a number of declarations prohibiting interference in the affairs of countries, including the United Nations resolution of 1947. It condemned all types of propaganda disseminated from any country and disturbing the peace, and leading to the commission of aggression by any country and disturbing the peace and leading to peace to commit aggression. The resolution (Peace Through Actions) in 1950, which denounced the interference of a State in the internal affairs of another country to change its legitimate government. The most important is the United Nations Declaration No. 2131 of 1965 prohibiting interference in internal affairs and protecting its independence and policy, and Resolution No. 2225 of 1966 which confirmed the first decision and Declaration No. 2625 of 1970, which emphasized non-interference and the fact that the practice of intervention not only violates the Charter, but also endangers international peace and security.

And on Resolution 2131 of 1965, (René Coast) relied on its clarification of non-interference and considered it: (an interference in the affairs of a State every interference by a State to impose its will upon it, whether the intention is humanitarian or inhuman or through war or other means of pressure). In accordance with what has happened in the world of changing circumstances, particularly in the field of international relations, human rights have become the kiss of world concern and the realization of their well-being and dignity for the sake of international organization. Something has begun to narrow the scope of absolute internal competence in favor of internal competence bound by international obligations [26].

However, the interference of State law in the protection of human rights was not intended to eliminate State sovereignty, but rather, in the words of Kofi Annan (to remove borders and obstacles preventing the protection of those rights and to ensure their respect [27].

Second: Intervention

Although intervention dates back to its origins a long time ago, a long period of time was necessary for the crystallization of this idea, and if this did not lead to the legalization of the idea as a principle or as a customary or written international rule as is the case with the principle of non-interference.

As we have seen, the relationship of the State with its citizens was not within the competence of international law, and it was not outside the competence of international law until the end of the previous century, as we have explained in its place. In addition, which depend in their definitions on the use of military force, including: Baxter, Braille, Fushi, Jarls, Despus and Muhammad Talaat Al-Ghunaimi.

As for the broad definition, which has been taken from the other side of the jurists, and the owners of this tendency do not limit the exercise of pressure or interference to military measures. But rather to economic, cultural and political measures, which aim to dictate the state's desire to interfere in the affairs of the state that interferes in its affairs, and from Lazar, Graber, Curtin and Klein, and as a result, intervention can take place in innumerable forms [28].

As for the basis for such intervention, it is based on the international and regional agreements that the international community has legalized, foremost among which is the Charter of the United Nations, which contains numerous texts indicating the need to respect human rights and fundamental freedoms and the need to guarantee them to all. This is not achieved if attention is limited Each state must respect these rights and freedoms within its borders, except with a willingness to take the necessary measures within the limits of what is required by international law as stipulated in Article of the Charter [29]. It obliges members to do individually and collectively what they must do to achieve the objectives of nations. United States stipulated in Article 55 of the Charter, which includes the protection of human rights [30].

Because of the domestic and international interests and legal principles associated with the intervention, and the related necessities, in particular the protection of human rights, legal and philosophical arguments have been made and have not been confined to the limits of politics.

Numerous theories have explored its study, placing it under the microscope of analysis, evaluation and assessment, after the disappearance of the idealistic theories whose characteristics were studied in the 1930s of the previous century, which adopted the principles of ethics and ideal values in international trade. The realistic proposal emerged under the leadership of (Morgento)**, linking this proposal between intervention and the interest of the State and the need to judge the work on the basis of its results. In the field of humanitarian intervention, its commitment is also linked to the interest, or that the high cost of not applying this criterion is the one that pushes countries to request it. This goes hand in hand with the real world theory or (cosmopolitan theory), which said the idea of a citizen of the world who is not bound by any religious or political authority, and developed by the jurist (was), and this theory did not call for the right to interfere but rather the duty to interfere with international ethical obligations. Then new ideas emerged in the mid-twentieth century that are rational and constructive, the first of which justified intervention with the idea that the state is a rational being dependent in a chaotic world on protecting itself for survival, and intervention intervenes to increase security and ensure the survival of the state. As for constructivism, it sees only political interference in propaganda to cover national interests, which means that human rights are only a cover for the legitimacy of intervention, which is the interest of States.

Faced with a critical situation to which he (interference) was exposed at the political, legal and juridical level, an approach was needed in order to reconcile a contradictory syndrome (interference and sovereignty). consequently, new concepts emerged that attempted to link the two concepts, and finally the concept was settled with the attempts of (Bernard Kouchner in the late 1980s. The right to intervene or (the duty to interfere) has been proposed, and from a practical point of view, the Security Council has, since the fall of the Soviet Union, sought more intervention under the pretext of protecting human rights. So that the principle of sovereignty has been transformed from an absolute to a relative right, and has been established as a duty. With regard to its nationals by complying with international standards that ensure the minimum level of protection of these rights, failing which international intervention is not necessary, which can often be in a broad sense [31].

The Second Branch: The Importance of International Protection

Human rights were associated with the internal authority of States, and a progressive international movement had begun to take care of those rights. In this regard, the importance of international protection comes from the importance of these rights in addition to other considerations that are just as important as the importance of these rights and the threats to international peace and security.

With the end of the first half of the twentieth century and the beginning of the second half, interest in international relations began to shift from States and their rights and obligations to the same person with regard to the rights they should enjoy. Attention was consistent with what had been produced by the previous stage, so that it included the right to life, freedom of thought and belief, and the prohibition of racial discrimination, torture, slavery, genocide, the right to work and education, as these rights were often neglected by States. The protection of human rights against subjects that drew the attention of researchers to philosophical aspects, International law, from the philosophical point of view, the human rights report is a realization of the idea of justice. From the political point of view, recognizing the existence of human rights is a fundamental guarantee for achieving a political system based on a genuine popular base that exists in reality and thus achieving democracy, and at the international level, the addition of human rights to the areas in which international forums are concerned. Thus ensuring the establishment and consolidation of relations between peoples, leading to the realization of a common interest in the dimensions of international problems. All these aspects have affected All are directly related to the fundamental concepts of international law [32].

It Should Be Noted That There Are Two Levels of International Protection:

The first is the domestic level, because it is clear that the protection of the rights of the individual is primarily ensured by his or her own country.

Second: the international level, whether at the global or regional level, by activating international protection mechanisms in accordance with the agreements signed by that country.

It is not disputed that guaranteeing and respecting human rights is not only a matter for which a particular international organization should strive, but rather that the efforts of all international and regional international organizations should be combined [33]. But have constitutions succeeded in achieving a minimum level of human rights protection?

Bitter human experience has shown that States are within and sometimes within the limits of their constitutions, and often outside those limits. They repeatedly violated and insulted the rights and freedoms of individuals, and those rights that were emphasized in constitutions were merely slogans that masked the ugliness of power [34].

The need for international protection is obvious in the face of its absence at the internal level of States, because international protection - especially those related to political rights - often contradicts the dialectical relationship between the individual and authority in domestic law at the domestic level and between large and small States. With regard to the relationship between the individual and authority, it is domestic law that requires the protection of the rights of the individual vis-à-vis the authority that

watches over his or her movements and dwellings, and ensures that the individual is not a source of danger to security and public order, or for the authority to enjoy political privileges. The authority is that an individual or a group of individuals constitutes a danger to his or her existence within the government, because it does not hesitate to limit the activity of these individuals, particularly with regard to their political freedoms. It is authority and its apparatus. The difficulty here is that the opponent is the arbiter. If the relationship between authority and individuals worsens, then its privileges and rights over the rights of individuals. In the context of this contradiction, there must be protection of the political rights of individuals and ensure that this protection is maintained.

At the international level, relations between small and large countries are governed by the rules governing relations between the strong and the weak party, which are mostly unjust rules, and in order to stabilize those relations in order to maintain international peace and security, small countries must be immune to intervention by large countries. Intervention and with increasing frequency takes from the violation of human rights an argument for the application of its effects, so if the individual is able to enjoy his or her fundamental rights in the face of internal authority. Then this effective effect is to limit interference in internal affairs, reflecting its impact on the security and stability of States, and the way to do this is to activate international legal protection. Far from any illegal interference-which takes place within the framework of international and regional international organizations, if the authority is unable to provide guarantees enabling individuals to enjoy their political rights. The international legal system is justified in intervening to provide this lost protection, so that international institutions often assert that their right to intervene is not to protect the rights of individuals, but to protect the rights of peoples [35].

In the face of this fact, which is the creation of the international legal system itself to justify intervention to provide this protection, we find evidence based on the insight and disregard of states, not only for the rights of their citizens. But also for the rights of citizens of other countries, which can threaten international peace and security, so that international protection intervenes to curb this negative development, instruments have been developed to protect human rights in general, as preventive mechanisms first and foremost and also as means of redress, preventive means oblige States with a minimum of protection. They must adhere to them through joint working mechanisms for States parties to human rights treaties and agreements, either as a means of Therapeutics deals with cases of human rights violations and explores ways of remedying these violations to restore the right to its right [36].

In addition to the above, international protection helps to ensure the application of international human rights standards and to oblige States to do so, which is reflected in the internal stability of the State, since the unrest that occurs in countries is often linked to the extent of the rights that people obtain and the evidence exists in our times. The present is about the above, while the Arab region is witnessing many revolutions and demonstrations that have destabilized the security of many Arab countries and suppressed the dictatorial regimes that ruled and controlled for three or four decades. These events have had a negative impact on the Arab region and its surroundings, and have led to the results that led to them. To international military intervention in the affairs of certain countries, under the guise of internationally questionable legitimacy or its true motivations, to say the least.

The application of international human rights standards and the obligation of states towards them is reflected in the stability of countries, despite the absence of international protection systems for the power of punishment, but it has made significant progress in protecting rights against violations, particularly at the regional level.

The Second Topic

The Legal Vacuum in The Face of International Protection

The concept of international protection of human rights is linked to the application of such protection on the ground, since the purpose of protection is the theoretical philosophical theories calling for the protection of rights or legal controversy. However, the main purpose of international protection is to enable individuals wherever they are to enjoy their rights without being restricted by authority. Decision.

International life may show us respect for the rules of international law, but we must not lose sight of the fact that phenomena are often stylized, contrary to what they actually are. The surest assessment of things must focus more on its essence and reality than on its appearance, even countries that violate the rules of international law usually confirm adherence, but fabricate false interpretations of its rules to conceal such abuses.

In a unipolar international community such as the present one, and with a great disparity of military and economic power in favor of one country in today's world, the stronger party always seeks to exploit the advantages of its power to its full potential, and unfortunately this is done in a legal, albeit justifiable, manner.

Furthermore, international protection agreements have established or attempted to establish general standards, applicable to all countries, which is not entirely possible for the different social, cultural, value and possibly religious systems, which differ considerably from country to country. Year, except in accordance with the above considerations, and by country.

Fundamentally, based on the above, international or internal circumstances may lead to hampering protection, limiting its role or making it empty and lacking in slogans.

In order to uncover the obstacles to protection at the national and international levels, we will address protection issues in two applications, the first will deal with problems at the internal level of countries and the second with problems at the international level.

First Requirement: Problems of International Protection Internally

The State has remained the main building block of international construction, and it has remained primarily responsible for the protection and respect of the rights and freedoms of individuals. Nevertheless, the development of the international community has imposed obligations on the State-within this system - which has reduced the area of absolute sovereignty as described above, and transformed it into a restricted sovereignty, but the question of human rights is still entrusted to the system of government [37]. It is he who has the right to recognize or deny these rights, and it is he who gives way to their exercise or closes the doors without them, there is no more evidence than the requirement to exhaust domestic legal litigation methods before moving protection to the international level by private individuals.

However, there is no expression of rights and freedoms that their owners do not enjoy or are not subject to practice, and the prisoner of paper remains, and we will review the most important issues of international protection at the internal level in two sections. The first concerns the extent of States' commitment to implement international protection agreements, while the second section deals with the relationship between the rules of international protection and the internal legal system of States, given that the rules of international protection are superior to domestic law.

The First Branch: The Extent of States' Commitment to Implement Protection Agreements

The human rights conventions did not, in principle, provide a means of incorporating their texts into domestic law and how they would be received, whether automatically or if domestic legislation was adopted in which international obligations were applied internally [38].

The question is whether the commitment of States to protection agreements is an immediate or temporary obligation.
During the general debate on the two human rights covenants, representatives of many countries indicated that the two covenants imposed certain obligations on their countries that they did not have before them, such as full equality between men and women. To this end, the two Covenants were formulated in such a way as to guarantee the approval of the majority of States, since both Covenants contain a minimum of rights that States are inevitably obliged to accept, or are accused of being contrary to human rights.

The search for the extent of States' commitment to implement protection agreements necessarily leads us to seek the binding basis of the rules of protection. On this subject, **there are two directions:**

The First: the traditional approach, which sees the binding basis, lies in the will of states, and in this sense, two doctrines. The first is the voluntary doctrine, according to which only the will of States is the one that gives binding force to the law (the treaty). In the first two sections, it sees that the binding basis of international rules is the will of the State itself without being overridden by another will, and this means that the State is the one that restricts its will to itself, and no other country can bind the State to any commitment whatsoever if it is not obliged to do so. This view is called a theory ("self-identification" or "self-limitation"). As for the second part of the follow-up to the voluntary doctrine, it is that while I agree with the owners of the first opinion that the basis for adhering to the rules of international law is the will of the countries themselves. However, not by themselves but by the union of the wills of States which, when merged with each other, constitute binding international rules, this union of wills may be implicit in customary practice, or explicitly represented by agreements. Accordingly, this theory has been called the common will theory. As for the second doctrine, in the traditional sense, it is an objective doctrine that denies its owners the will. As a basis for binding international legal rules, and they see that this binding force comes from external elements, but they differed on these elements from two opinions. The first was also adopted a theory called (the abstract theory of law), which denies the international character of the State, and considers that the basis for the validity of each legal rule is due to its dependence on a legal rule surmounted by a hierarchical construction of legal rules, to a general abstract rule above all other legal rules, and from which the latter derives its legitimacy. This supreme rule is (the fulfilment of the covenant), while the second theory is the social theory, and this theory is based on the premise Its importance is that the law is a product of social relations, called by the proponents of this theory (social event), that the existence of groups requires the existence of relations that bind them. These relations necessarily require the existence of legal rules to regulate these relations.

The Second: contemporary jurisprudence, contemporary jurisprudence considers that the basis of binding international rules, including rules for the international protection of human rights, cannot be restored to any of the above criteria, but rather there is a standard or binding basis consisting of three pillars:

1. The source of the legal rule is a form (custom, treaty or legal principle), which is at the same time the basis of its binding force.
2. Will of the legal persons, who have the greatest role in the practical effectiveness of the legal rule.
3. There are always binding legal rules, whether people agree with them under international law or not, because they are the basis of the international community (such as prohibiting aggression and respecting the covenant. etc.).

Some proponents of this trend argue that the binding force of international legal norms derives from material facts relating to the lives of individuals and from the need for cooperation between international groups, which is only useless if it is regulated by legal rules that States take into account in their relations with each other [40].

Article II of the International Covenant on Civil and Political Rights stipulates: (The commitment of the States Parties to this Charter towards all individuals within its territory or subordinate to it, respecting and guaranteeing the rights recognized in this Charter) [41].

As far as political and civil rights are concerned, their implementation requires no more than the failure of the State to restrict them, and this is apparent from Article two, first paragraph, above, and in this respect the obligations of States towards the implementation of these rights are immediate, and since these barriers arise from the position of the authority itself, its duty is to stop or not to place such obstacles. However, the second paragraph - relating to the fight against the violation of rights - and the third, feel the need for the State to take positive measures or obligations, even if only in a limited way - compared to the second paragraph - to ensure the protection of these rights. Butter, that the international covenant obliges States to take steps to respect the rights of individuals, and this is achieved through a number of positive and negative measures. This is what makes this category of rights different from the second category, which are economic, social and cultural rights, which cannot be evoked outside the contribution of the State in creating the necessary reasons for their enjoyment [42].

In any event, international human rights law does not oblige States parties to protection agreements to directly implement those agreements. Since the purpose of such agreements is not only the implementation by States of certain obligations at the international level, otherwise it would have been easy for countries to circumvent the principles established by these agreements with formalities - which are already in place-such as reporting mechanisms, in which States demonstrate their full commitment to the agreements governing these reports and reflect a clear picture of human rights in their regions.

Even though these reports may emanate from the most comprehensive system, in which it is impossible to speak of the existence of rights for citizens. But the accession of these countries to these agreements may be for purely international purposes, without this having anything to do with the principle of the exercise of rights within the State, such as the purpose of accession is to avoid international criticism or condemnation, or to show the State in international fora that it is not standing on Against the exercise of these rights. But what is meant by these agreements and treaties is to protect the rights of individuals vis-à-vis the State on the ground, and in a way that frees individuals from pressure and arbitrariness in the exercise of its powers. Towards them, by creating mechanisms that reflect a clear picture of what is happening on the ground [43].

Second Branch: Considering International Protection Agreements as Superior to Domestic Law

Many international lawyers argue that international human rights norms are rules of a particular order that must be respected even if there is no contractual agreement on them, on the basis that the harm to those rights constitutes a violation of the public interest of the international community, because the violation of those rights entails a violation of rules relating to the value of mankind. The abstract, which objectively transcends the political boundaries of States, in addition to this violation of these rights leads to the transgression of the values that the international community is trying to make prevail and firm in international practice, otherwise it is reached if there is a repetition, even individually, of violations of these rights [44].

Peremptory Norms: (A peremptory norm means general rules of international law, the rule accepted and recognized by the international community as a whole as the rule which cannot be violated and which can be modified only by a subsequent rule of general rules of international law of the same nature) [45]. And in this sense they constitute restrictions on freedom of contract, and this is where the problem of peremptory rules at the international level lies, since States must take account of such rules when concluding international treaties and agreements.

In this regard, it was stated in the 1951 Advisory Opinion of the International Court of Justice on Reservations to the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, which stated that the principles contained in that agreement are principles recognized by the United Nations as binding even in the absence of contractual obligations [46].

There is near-agreement among international law jurists on the supremacy of international legal rules - as rules of command - over domestic law, and it is not permissible to agree internationally to the contrary. Therefore, a violation of these rules by the state with its constitutional and due process of law, places the State in a position of responsibility before the United Nations and international monitoring institutions, be they global or regional. The advantage of international human rights law appears in the development of this law to the will of the national legislature, so that the violation of the legal effects of the international organization [47].

However, describing it as peremptory norms is not valid for all human rights, since the Charter of the United Nations, with the exception of the right to equality, non-discrimination and the right to self-determination, does not detail human rights and does not impose specific obligations on the State with regard to certain rights [48].

It should be noted, however, that the countries dealing with the Alawi basis of human rights agreements are not the same, but the value of these agreements and treaties varies from country to country, and four directions can be considered in this regard:

The First: it gives human rights agreements a preference over their national constitutions, thus giving these agreements absolute supremacy internally and modifying all legal rules, both constitutional and regular (laws), and in these countries, the Netherlands and France.

The Second: it gives these agreements a degree of reward and equality for the constitution, and therefore is only superior to the regular legislation of the country, and of those countries the United States of America and Austria.

The Third: it gives human rights agreements a higher degree than ordinary legislation, but does not reach the level of constitutional

rules, which makes them without a diploma, and of the countries that have given these agreements these values Greece, Belgium and Switzerland.

Fourth: countries that give these agreements a diploma that rewards regular legislation, and this is what is applied in most countries of the world.

Apart from this country, another category says nothing about determining the status of human rights rules in international agreements in its legal system, which means that it has not specified the value of these international agreements like Jordan.

With regard to the above subject, namely, the value of human rights norms in relation to domestic legal systems, a problem arises in the application of domestic law by the domestic judge, and there is no problem if the international rule was included in the domestic legal system, but the problem if the rule was not.

In this case, several solutions are possible, including whether the legal system of the State of the judge adopts the principle of unity of law or dualism of law, or adaptation of the rule of international law. According to the 1969 Vienna Convention on the Law of Treaties, Article 27, international law and international agreements prevail over rules of domestic law [49].

On the other hand, protection agreements establish international bodies to ensure the implementation of their rules and thus guarantee the rights and freedoms laid down therein, e.g. the Human Rights Council, the 1966 International Covenant on Civil and Political Rights, and at the level of regional agreements the American Human Rights Committee and the European Court for human rights and in the exercise of their functions, these committees issue specific decisions. Are the decisions of these organizations a source of binding legal rules?

Jurists differed on the value of these decisions for two teams, some of which saw them as contributing indirectly to the creation of binding international rules, either through custom or if they were formulated as legal rules in international agreements. This was expressed by Judge Dillard in his opinion attached to the advisory opinion of the International Court of Justice in the case of Western Sahara in 1975: (It is alleged that a single resolution adopted by the General Assembly of the United Nations has no binding force. But the cumulative effect of many decisions of similar content rendered by a large majority repeated over a period of time can, in a short time, become an expression of the moral pillar, and thus constitute a rule of customary rules of international law).

As for the second group of jurists, they went on to say that the decisions of international organizations are in no way considered as a source of international legal rules. Since their logic lacks the legal formulation that must be available in legal rules. Since they include concepts ranging from the political to the legal, to be added Until the mandatory adjective that accompanies it derives from the commitment to the treaty established for the organization itself, the commitment to it is only a commitment to the treaty itself [50].

Second Requirement: Problems of International Protection at The International Level

One of the paradoxes with regard to human rights at the international level is the coupling of tireless efforts to promote these rights with the wider circle of violations of these rights at the practical level. This is not limited to oppressive and totalitarian regimes alone, but also to Western countries under global control, which are striving to show themselves to be Defenders of Freedom.

In an attempt to empty international protection of its internal content, states have turned to protection agreements by nationalizing-if you like-this case-and have confiscated the defense of human rights from official agencies, aided in this by the reservation system, which they have adapted in a way that has considerably broadened these agreements.

In today's world, where interests have become the compass that directs the activities of States, their movements and attitudes, no longer to speak of impartiality and deviations from human rights is a luxury or a glimpse of an unjustified ideal.

Still with a strong official and media fanaticism raised by the West and the United States of America, the violation of human rights in countries that are in a position contrary to them is addressed, while their response is not or is not taken into account with regard to the violations that take place in countries loyal to them, so that the consideration of human rights is now This is done from behind the candidate of interests.

On the basis of the above, we will address the problems facing the international protection of human rights on two levels: the first will deal with the possibility of reserving and ceasing to apply protection agreements, and the second will deal with the politicization of international protection.

The First Branch: The Possibility of Reserving Protection Agreements and Suspending Their Entry into Force

There is no need to say that the standards of societies differ from country to country, and this must be taken into account not only in the framework of human rights protection agreements, but in all agreements, and to avoid conflicts between what is set according to the traditions and customs of countries and what is included in the rules of protection [51].

From the above, the implementation of the rules for the international protection of human rights requires interaction between international and domestic law. In order to ensure the greatest possible response by States in acceding to these agreements, and as equal to other types of international treaties, the legal systems established by the 1969 Vienna Convention on International Treaties apply to them. One of these systems is the reservation system, and while reservation is possible in the different types of international treaties, its effects are more

important for human rights agreements, as it allows the party responsible for the implementation of human rights (which is the State), to evade this commitment, which may lead to exaggeration in State practice to avoid these obligations [52].

Reservation as defined by the Vienna Convention on the Law of Treaties in Article 2, paragraph (d): (Reservation means: a unilateral statement in any form or by any name made by a State when signing, accepting, approving or acceding to a treaty and purports to exclude or modify the legal effect of certain provisions of the treaty in terms of their applicability to that State). The definition indicates that the State accepts the treaty in general, with the exception of one or more specific provisions for certain reasons, and that you do not wish to implement or modify those provisions, for the sake of acceptance or accession, and if it were not for the State which refused to accede to it, the origin of this principle is sovereignty, according to which the State may accept the treaty and reserve some of its provisions [53].

Some consider that the reservation has a negative role, since it leads to the abolition of equality between individuals and the differentiation of their international protection, and also prevents the unity of the law [54].

It is to be hoped that expressing reservations to human rights agreements is sufficient to deactivate them and considerably reduce the desired protection of the rights and freedoms of individuals. The problem of reservations arises in the context of protection agreements in relation to the intention of such agreements, which is to establish objective rules offering procedural guarantees. It guarantees compliance with these rules, and here the contradiction between protection agreements and the reservation appears. It should be noted that the number of reservations made to protection agreements is increasing, which has prompted the United Nations General Assembly to express its dissatisfaction with the reservations that have been made to the Convention on the Rights of the Child, as stated in the Vienna Declaration, which was adopted by the United Nations Conference on Human Rights in 1993: (urging countries to reduce the extent of the reservations they make to international human rights documents, and to make such reservations as limited and narrow as possible, while ensuring that none of them contradict the object and purpose of the treaty).

Although the definition of a reservation contained in the Vienna Convention on the Law of International Treaties refers to it as a (unilateral statement), suggesting that the reservation as above is made and produces its effects by a single will, but a careful examination of it shows that it is conduct which results from the convergence of two or more wills. It depends on the acceptance of one or more specific parties to the agreement, and therefore applies to the reserving State and the State or countries that are subject to the reservation. As for those who reject the reservation of States parties to the agreement or treaty, its relationship with the reserving State does not govern the relevant agreement, and if it is necessary to implement the agreement. It applies to their relationship with the original texts of the treaty, without reservation, in accordance with article (4/4 \ b) of the Vienna Convention [56].

The 1969 Vienna Convention on the Law of International Treaties, Article (19) states: (A State, when signing, ratifying, accepting, approving or acceding to a specific treaty, must make a specific reservation unless.):

A. The treaty prepares such a reservation
B. The treaty provides However, only specific reservations may be formulated, of which the reservation is not the subject of discussion.
C. The reservation is in cases which are not stipulated in paragraphs A and B are incompatible with the object and purpose of the treaty), the text of this article indicates that the Convention itself addresses the subject of reservations in its texts, with regard to conventions for the protection of human rights, we see three directions in the treatment of the question of reservations:

The First Trend: it includes the agreements that accompanied the reservation absolutely. Including the Convention against Racial Discrimination in Education in its article nine.
The second direction: these are the agreements that established remedies for the subject matter of the reservation with special provisions, such as the relative presence of a reservation or the creation of a specific mechanism to oppose the reservation by the parties or prevent reservations to specific texts. An example of this trend is article 20 of the International Convention on the Elimination of Racial Discrimination.), which included participation in the acceptance of reservations that were incompatible with the object or purpose of the agreement, or that would suspend the work of a treaty body.

The third direction: It includes agreements that did not fully stipulate the issue of the reservation, which means that it was silent on it, and here it is necessary to refer to the general rules governing the subject matter of the reservation. The most important agreements that did not stipulate the reservation are the two international covenants, and with regard to the non-stipulation of the reservation came in the commentary published in 1994 with No. (23) at the fifty-second session of the United Nations, in the sixth paragraph of the commentary (The absence of a prohibition on making reservations does not mean that it authorizes the acceptance of any reservation) [23].

In addition to the foregoing, there is a paragraph in the above-mentioned statement which gives importance to the subject of reservations to protective agreements, namely paragraph [16]. It included a reference to the effect that such agreements do not accept the application of the principle of reciprocity applied in international relations, which allows a State to suspend taking or reserving a provision in a treaty in exchange for the conduct of a State which has the same content [29].

With regard to withdrawal from international human rights treaties, it is noted that there are two types of treatment in

agreements, the first being agreements that allow its parties to withdraw from them, such as the European Convention on Human Rights article, the American Convention on Human Rights article and the First Optional Protocol Appendix to the International Covenant on Civil and Political Rights article [11, 57]. As for the second type of agreements, these are those in which there is no text dealing with the issue of withdrawal, such as the two International Covenants on Human Rights. The absence of a text on withdrawal thus allows States parties to protection treaties to? International, to withdraw from them whenever they wish.

The Human Rights Committee (later the Human Rights Council) dealt with the silence of the International Covenant on Civil and Political Rights on the issue of withdrawal and the continuity of obligations of States parties, and specified in its General Comment No. 26/61 issued in 1977. That withdrawal from a human rights protection agreement, such as the International Covenant on Civil and Political Rights, contradicts the nature of such agreements, as it does not imply the right to withdraw or veto. The Committee extracted, on the basis of the absence of a text on withdrawal from it, and by reference to the general rules on withdrawal contained in Article of the Vienna Convention [29]. The will of the parties to the Covenant tended to exclude the possibility of withdrawing from it and. Consequently, the Committee considers that the Covenant is tantamount to codifying the human rights recognized in the Universal Declaration of Human Rights and cannot therefore have a temporary character characterizing terminable agreements [56].

From the above, we see that there is a serious international effort to limit reservations, which deflate protection agreements from their content. Given the objective of these agreements in terms of quality and presence and non-existence with individuals, except that the reservation on the other hand is the solution to involve the largest possible number of countries in International Protection Agreements.

The Second Branch: The Politicization of International Protection

Politicization here aims at clarifying the role of political considerations and concepts in the influence of human rights, whether with regard to the recognition of their existence or the creation of bodies to monitor their observance. In international transactions, the focus is often on violations committed by certain countries and the omission of violations committed by others.

The beginning of the politicization of the protection of human rights can be traced back to individual initiatives, which were highlighted by the attempt by Jimmy Carter, President of the United States of America 1977-1981. Then with the collapse of the bastion of communism (the Soviet Union) and the adoption of countries that were in its orbit of Western principles, then the countries of Western Europe associated their aid with those countries. By respecting human rights, taking advantage of the collapse of the Soviet Union and the collapse of its principles and concepts, and then taking this effect of human rights policy by moving towards the Third World [57].

International human rights law was not intended to link international human rights protection to the policies of countries, since protection had become a means of realizing the interests of dominant countries on a global scale in order to ensure their control, and this was subject to the subjugation of certain leaders in developing countries in order to ensure their retention. In their chairs for themselves and their offspring, and for this they are prepared to pay any price even if the sovereignty of the State itself and the violation of State sovereignty do not one-day result from the activation of the rules of international protection. But rather are the direct result of the existence of disorder in the international system and the existence of a State with influence and control. It only cares about its interests, as well as the control of leaders who only care about their presence in the seats of government.

The link between the protection of human rights and the interests of the countries controlling - at the global level - economic, military and political control has led to selectivity or double standards in dealing with violations of the rights and freedoms of individuals. These violations and their relation to the interests of the major countries date back to the post-war period. The Second World, and the two giants of the resulting Cold War struggle, exchanged accusations among themselves about human rights and their violation, regardless of what the governments of the allies were doing, and denounced what was happening in the countries of the opposite camp. For example, the United States imposed a blockade on Cuba for more than 35 years because of Havana's violations of human rights and to prevent people from exercising their political rights there. On the other hand, it supported totalitarian and military regimes in Central and South America, which were more ferocious in their relations with human rights, on the one hand, practiced the Soviet Union media blackout on human rights violations in socialist countries [58].

In addition, what is unfortunate at the level of international collective institutional work, that the UN and its executive apparatus (the Security Council) represent the most visible manifestation, that the military, economic and technological implementing countries are the same as those that implement this institution. This means that politicization can take many international practices to dress up legally, which leads to selectivity in the work of the United Nations, and this is due to the mechanism of the work of the United Nations, particularly in decision-making, whether in the General Assembly or the Security Council. depends on the majority of votes, so that major countries deliberately use the carrot to gain support or demolish a specific resolution.

The creation of an integrated system of work to put an end to violations of the rights of individuals and their freedoms cannot be achieved in a world in which interests are the only pioneers of work at the international level, so each country must renounce, even slightly, that selfishness, even to show goodwill in its request. Human rights, and unlike them, are no more than a peg or bridge to achieve goals that are not closely or remotely related to them, except insofar as they serve these ends [59, 60].

Conclusion

The issue of international protection remains a source of many theories and doctrinal opinions in international law, and also remains a subject of political controversy and disagreement among countries, as it concerns the transgression by a State or group of countries in the exercise of certain specializations of its geographical boundaries. Its entry into the jurisdiction of other countries, as in many countries Sometimes a mere declaration by a State, or an international body making a decision on human rights, constitutes a type of intervention in a State, which is rejected by that State armed with sovereignty.

The international protection of human rights is represented by a set of measures taken by international bodies, which take these rights as a subject of their activity, or as such rights as one of the areas in which these bodies are concerned. Therefore, there is no organized international protection in any way, these activities, pressure or practices (criminal) carried out by States towards each other, with the aim of protecting human rights. Since the rules of good international conduct require that each State that considers the conduct of another country as a violation of human rights guaranteed by international covenants be referred to the competent international organizations for such violation and if it is corrupt. Its focus is on violating the provisions of the relevant international agreements to which the violation is a party.

And since the United Nations is representative of the governments of countries collectively, it has a higher authority than individual countries. So the norm at the United Nations is that the organization of an internal problem in international agreements takes it out of the national scope to the international level, which in turn has led to the decline of the principle of absolute sovereignty, so that it has become a violation. The rights of individuals are a violation of an international obligation, but this presentation is not taken to launch it, because protection has remained subject and above all to international climates, which are governed by interests above all because of the contradictions and inconsistencies of the international community in complex relationships, which have lost confidence in the existence of effective international human rights protection.

At The End of This Research, We Can Draw a Number of Conclusions:

1. International protection is a concept that has recently made its way towards international application, as it is still in its infancy, and it will not become an international principle with a solid basis for a short time. There is no doubt that its maturity will influence and be affected by what surrounds it in the international environment.
2. The international protection of human rights is above all a humanitarian and moral necessity in our time. Most countries of the world have agreed on the need to activate them in order to achieve a set of objectives, not the least of which is to achieve international peace and security, because of the threat posed by human rights violations.
3. Despite the importance of protection today, but this has not prevented - unfortunately - the violation of human rights in practice, which is a clear indication of the failure of protection agreements. This is mainly related to the lack of good intentions of the signatory countries to implement the provisions, but rather often this signature or accession is aimed at avoiding criticism of the country or countering it with a backlash of international public opinion.
4. Sovereignty remains today a large part of the problem of limited international protection of human rights, as States firmly adhere to their sovereignty towards sincere international action - which is rare - even if return is a violation of the rights of their citizens, neglecting that compliance with the rules of protection established by the agreements is essentially an endorsement of the principle of Sovereignty, because States accede to such agreements of their own free will and respect their provisions is an obligation that derives indirectly from their will and therefore does not substantially conflict between the protection of human rights under international agreements and the principle of sovereignty.
5. Several contradictions, intersections and convergences in international relations have emerged as obstacles to the proper functioning of international protection, foremost among which is the entry of political considerations into the equation (protection and sovereignty). Or the lack of implementation within the State, and States have not executed the trick of finding justifications that would allow them to circumvent international protection agreements, rather than implement them.
6. International protection, whether within the framework of the United Nations or within the framework of a regional organization, is based on a number of procedures that enumerate the multiplicity of international agreements themselves, such as reports, investigation teams, the individual complaints system, complaints between States, monitoring teams or experts. etc., However, there is no mandatory quality for each of these mechanisms, thus emptying international protection of its content, and making it incoherent.

Recommendations

1. Since the invocation of national sovereignty has been an obstacle to the international will of the international community. The responsibility to protect human rights must be shared between the international bodies that decide and monitor their implementation and the national authorities that respect and apply them, as well as the work to encourage and strengthen the individual complaints system considered to be good. As a means of protecting human rights. We therefore see the need to hold an international conference within the framework of the United Nations, calling and stressing the need to urge and oblige States to incorporate and incorporate the provisions of international agreements concerning the protection of human rights into their national legislation and to implement their international obligations and commitments.

2. We see the need to activate the international conventions on human rights in Iraq, the first of which is the International Covenant on Civil and Political Rights of 1966. The International Committee on Civil and Political Rights for the year 1966 also addressed the issue. Moreover, Iraq had made reservations when ratifying the Covenant on January 25, 1971, of the first Optional Protocol to the Covenant on Civil and Political Rights in 1966, which established the right of individuals to file complaints to the Covenant Committee against States.

3. Despite the effectiveness of regional human rights protection systems, we unfortunately note the weakness of the Arab human rights protection system. We also note the need for specialized treaties for each category of rights within the Arab protection system, as is the case in the European system where the European Convention for the Protection of Human Rights was enshrined to protect civil and political rights, while a second agreement was adopted to protect the rest of economic, social and cultural rights. Even with regard to the existence of a general agreement for all categories of rights, we find that protection is very limited, as the committee composed of members, which oversees the implementation of the Arab Charter on Human Rights in 2004, represents States violate their supposed neutrality for the success of their work. Moreover, they have limited powers. The Arab Charter on Human Rights does not provide for a human rights court and is an important guarantee for the protection of rights, unlike all other regional systems.

4. International protection, whether within the United Nations or within the framework of a regional organization, is based on a number of procedures that enumerate the multiplicity of international agreements themselves, such as reports, investigation teams, the system of individual complaints, complaints between States, monitoring teams or experts ... Etc. but there is no binding quality for each of these mechanisms, except for reports, and for a very small number of elves such as the Human Rights Committee operating under the International Covenant on Civil and Political Rights. We therefore see the need to make other mechanisms binding, especially complaints from individuals who have proven their effectiveness in the European system.

5. We call on writers and jurists in international law, political science, universities, academia, civil society organizations and all those working in the field of human rights to conduct further research and studies on this aspect, which will lead to raising awareness of individuals about their rights and how to protect them, and thus increase respect for these rights. Rights and prevention or limitation of violations

6. To seek the need and importance of respecting and implementing the recommendations and decisions of the United Nations human rights bodies, by establishing a special tribunal for human rights issues through a protocol attached to the charter empowered to examine issues related to the rights established in international agreements, as well as the need to establish other committees that cover the activities and competences that it departs from the powers and authorities of other committees, leading to the absence of conflict and overlap between agencies and separation between them.

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    • * Morgenthau's theory is based on the fact that the balance of forces is ((natural and stable growth of the balance of power)), in this respect it is as old as countries, and this requires that independent systems of balance of power have functioned effectively throughout human history where and when countries exist. Although it is primarily a European phenomenon, it began to emerge in the 16th century, although (Morgenthau) sees the balance of power as a global phenomenon that has worked throughout history throughout the world. However, he emphasizes that it must be realized that it is very difficult to measure the phenomenon of power, partly because of the difficulty of comparing material factors, such as the number of forces and weapons available or that the state can provide, with non-material factors such as the efficiency and diplomacy of the government, the general national atmosphere and the morale of soldiers. Thus, an attempt to estimate the balance of power involves a series of speculations whose accuracy can only be verified later, and thus-according to Morgento - states that the state has no choice but to continually strive to improve their conditions of power as far as possible. Richard Little, Balance of Power and International Relations. Metaphors, legends and models, First edition, translation by Hani Tabri, Dar Al-Kitab Al-Arabi, Beirut Lebanon, 2009: 114-122.

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