CCE-013 | Can the Principle of State Sovereignty Justify Violations of Human Rights?

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Contact: contact@freechina.live · https://freechina.live

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Abstract

Sovereign equality protects states' standing under international law, but it is not a blanket exemption allowing governments to disregard international obligations. This article distinguishes three frequently conflated propositions: that a state has human-rights obligations; that an international body may criticize or review its conduct; and that a foreign government may use force. Using the International Court of Justice's 2012 judgment in *Belgium v. Senegal* as a verified case, it explains how an international court may review treaty obligations within its jurisdiction without authorizing unilateral military action by any state. Sovereignty and human-rights obligations can coexist; specific disputes must be examined against treaties, the United Nations Charter, and verifiable facts.

I. Sovereign Equality and Treaty Obligations Are Different Questions

Article 2(1) of the Charter of the United Nations establishes the sovereign equality of all its members. Article 2(7) provides that the United Nations generally may not intervene in matters essentially within a state's domestic jurisdiction, while expressly preserving the application of enforcement measures under Chapter VII. Article 2(4) also requires members to refrain in international relations from the threat or use of force against any state's territorial integrity or political independence.[1] Whether a state is bound by a particular human-rights treaty requires checking its signature, ratification, accession, and reservations.

Three distinct propositions follow. First, a state has human-rights obligations: by voluntarily becoming party to a treaty, it accepts the duties that treaty imposes. Sovereign equality does not mean that a state may disregard obligations it has undertaken. Second, an international body may criticize or review conduct: treaty bodies and international courts may investigate facts, express views, or render judgments within their mandates and jurisdiction. These procedural powers do not automatically confer authority to enforce decisions coercively across borders. Third, a foreign government may use force: the use of force has separate legal requirements and procedures, including the prohibition in Article 2(4) of the Charter and the framework of Chapter VII. The first two propositions cannot establish the third. Treating the issue as a binary choice between sovereignty and human rights conceals the actual legal questions.

II. Verified Case: Belgium v. Senegal (2012)

In its judgment of July 20, 2012, in *Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal)*, the International Court of Justice examined Senegal's response to allegations of torture against former Chadian leader Hissène Habré. Under Articles 6(2) and 7(1) of the Convention against Torture, the Court found that Senegal had failed to undertake a preliminary inquiry promptly and had failed to submit the case to its competent authorities for prosecution, in breach of its treaty obligations. Operative paragraph 122 required Senegal, if it did not extradite Habré, to submit the case to the competent authorities without further delay.[2][3]

The case establishes a bounded proposition: a state party cannot invoke domestic jurisdiction or implementation difficulties alone to negate specific international treaty obligations it has accepted; an international court may review those obligations where it has jurisdiction. The judgment did not authorize other states to use force unilaterally against Senegal, nor did the International Court of Justice convict Habré of a crime. The Court also expressly declined to exercise jurisdiction over the part of Belgium's claim concerning alleged customary international-law obligations. It limited the temporal application of the Convention against Torture: the obligation to prosecute applied to acts committed after the Convention entered into force for Senegal, not retrospectively to every historical act.

III. An Analytical Scenario: Criticism, Review, and Coercion

Suppose an international body criticizes a country's detention procedures. It is necessary first to distinguish fact-finding, treaty-body views, sanctions, and the use of force. The first two do not automatically establish the legality of the latter two; conversely, criticism does not necessarily violate sovereignty. This is an analytical hypothetical, not a real case.

For example, a treaty body may conclude that a country's detention procedures violate its treaty obligations. That is a factual and legal assessment. Whether the Security Council adopts coercive measures is a different decision requiring its own legal authority and procedures. Whether any state may unilaterally use force is a third question. Each calls for a distinct legal answer; one cannot substitute the answer to one for the others.

IV. The Strongest Counterargument and Response

Some worry that powerful states apply human-rights language selectively or disregard local cultural and institutional circumstances. These concerns call for consistent evidentiary standards, transparent procedures, and independent legal review of intervention measures—not abandonment of protection for victims. Selective enforcement can undermine the credibility of international institutions, which may themselves face disputes over evidence, competence, and procedure. Accordingly, one should separately examine: (1) whether an applicable treaty or other legal basis exists; (2) whether verifiable facts and evidence support the allegation; (3) whether the responsible institution has jurisdiction; and (4) whether the proposed remedy or measure satisfies proportionality and procedural safeguards. Rejecting double standards is compatible with protecting victims.

V. How to Verify Institutional Effectiveness

Examine treaty status, factual evidence, institutional powers, domestic remedies, and procedural justice; avoid presenting political judgments as facts already established by a court. First, verify whether the state has joined the relevant treaty and entered reservations. Next, assess whether allegations rest on verifiable evidence. Then determine whether the body making the claim has jurisdiction. Finally, assess proposed measures against proportionality and procedural safeguards. Sovereign equality does not place government conduct beyond all international rules. Investigation and statements by international organizations do not automatically create authority for cross-border coercive enforcement. Even when serious rights violations have been proven, sanctions, Security Council measures, and the use of force each have different legal bases and procedures.

Conclusion

The principle of sovereignty and human-rights obligations can operate together; specific disputes must be analyzed under treaties, the Charter, and verifiable facts. Sovereign equality protects the equal standing of states under international law, not immunity for governments from accountability. Implementing human-rights obligations requires scrutiny of treaties, jurisdiction, and procedure; no single party may decide the outcome unilaterally.

References

[1] United Nations, *Charter of the United Nations*, arts. 2(1), 2(4), 2(7), and Chapter VII. https://www.un.org/en/about-us/un-charter/full-text

[2] International Court of Justice, *Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal)*, Judgment, 20 July 2012, I.C.J. Reports 2012, p. 422, especially operative paragraph 122. https://www.icj-cij.org/node/103240

[3] International Court of Justice, *Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal)*, case overview (General List No. 144), with jurisdictional and temporal qualifications. https://www.icj-cij.org/case/144

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