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## **Innovative Conceptual Revolution in the Legal Nature of the Responsibility of Heads of States over Time**

**Dr. Sartipi Hosein**

*Assistant Professor - Member of Faculty in Payame Noor University (PNU), P.hD in International Law, Iran*

**Hamid Reza Oraee**

*Student in Master of International Law, Payame Noor University (PNU), Iran*

### **Abstract**

*Responsibility of states and heads of states is among important factors in international law. In the paper the situation of responsibility of heads of states has been discussed and the major factors in international law have been examined in this regard. Eventually we came to conclusion that the responsibility of heads of states exists in its weak form because of the existence of some factors such as power of kings and absoluteness of sovereignty and absence of some factors such as human rights, situation of individuals and etc. But by the foundation of Tokyo and Nuremberg trials the way has been opened to summon up the authorities because of their wrongful acts to courts. The way continued by emerging concepts such as responsibility to protect and humanitarian intervention and the change in concept of human rights.*

***Key Words: Responsibility, Sovereignty, Humanitarian Law, Traditional International Law, Heads of States, modern international law.***

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**Introduction:** Although the international responsibility has a very important role in international law, its legal regime developed slowly and many of the principles are customary and the cause refers to the features of international society. In the first efforts, in 1930 in the Geneva conference, the responsibility issue had been considered but the most of the principles regarding responsibility were about “responsibility regarding the misbehavior with foreigners” and eventually the conference could not codify them. After the foundation of United Nations the international law commission, which is dependent to the general assembly and its task is to codify and develop the international law, focused on the issue from 1949. The procedure of codification was slow because of disagreements. Francisco V. García-Amador was the first Special Rapporteur on State Responsibility regarding misbehavior against foreigners, but the fact was that the responsibility is wider than the

issue. From 1963 to 1980 the Special Rapporteur on State Responsibility was Roberto Ago who shaped the modern plan of it.<sup>1</sup>

A traditional look toward the responsibility domain reveal that the peoples and common groups act, don't entangled with state acts. Referring the act of people to state shall be possible while the individual or group act as a formal organ of state, the view remains until 2001.<sup>2</sup> There are three major areas about the responsibility of states and individuals. First, just countries are the subject of international law. Second, countries and individuals, both are the subjects of international law and third, just individuals are the subject of international law. It seems that the second idea is in line with the logic and international temporary rules. These days international law in one side has recognized some tasks that in case of disobedience they shall be sentenced and on the other side recognized some advantages to protect them.<sup>3</sup>

Until the end of World War II, whatever the state enjoying sovereignty did to its citizens was the internal affair of that country and other countries could not interfere in it and the international law did not see individuals as subjects of its issues. Foundation of war crimes courts creates a new situation and the behavior of heads of states and rulers could be upon the international criteria.

During the Nuremberg trials, attorneys claimed that the international law just refers to states and does not refer to individuals and therefore the act of state even if refers to individuals shall be the responsibility of state not individual. By the claim, attorneys tried to show the court as illegitimate and exempt their client from trial, but the court rejected the idea and announced that, it is the individuals who are committed crimes not the states and the development of international law shall be happened by the trial of these people.<sup>4</sup>

After these starting points, some new concepts such as responsibility to protect and humanitarian intervention emerged and the change in some concepts such as human rights and humanitarian law affect the responsibility from not being responsible to responsible. In the entire paper after considering the traditional domain of responsibility we will focus on modern concepts of responsibility in modern international law.

**Nuremberg and Tokyo Trials:** For the first time Gustave Moynier suggested a criminal international court. He in a report published in 1872 to the international committee of helping wounded people in war, proposed a court consisting of 5 elements (two elements from the countries at war, and three elements from states impartial) their task is to inspect the violations of 1864 Geneva treaty. The suggestion did not concluded and Moynier in Cambridge institute of international law in 1895 again proposed his offer. In each two cases,

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<sup>1</sup> Kouch Nejad, A. (2014). *The Concept of Responsibility of States*. Tehran:Seda.

<sup>2</sup> Raaie, M. (2009). Overall control or effective control a factor for international responsibility of state. *Tehran: Law Seasonal* 3(29)

<sup>3</sup> Ziaee Bigdeli, M. (2013). *General international law*. Tehran: Ganje Danesh

<sup>4</sup> Ziaee Bigdeli, M. (2013). *General international law*. Tehran: Ganje Danesh

the suggestion rejected and the reason was that the suggestion ignored the competence of internal courts.

After World War I Treaty of Versailles tried to trial the emperor of Germany Wilhelm 2<sup>nd</sup> along with 21 thousand suspects to war crimes, but the court did not held, because Wilhelm took asylum of Netherlands and his retraction had not happened. In the same era, another treaty suggested the investigation to crimes of Turkey in a criminal international court, but the court did not held and criminals remained unpunished.

During World War II some criminal acts such as exile of a group of people, violence and torture, destruction of people by inhumane means, ethnic cleansing and keeping of millions in especial camps, remained bitter memories. These criminal acts led to the raise of call for justice. Because of that during World War II the Allies revealed their will to compose the court.<sup>5</sup>

The Nuremberg trials were a series of military tribunals, held by the Allied forces after World War II, which were most notable for the prosecution of prominent members of the political, military, and economic leadership of Nazi Germany who planned, carried out, or otherwise participated in The Holocaust and other war crimes. The trials were held in the city of Nuremberg, Germany. The first and best known of these trials, described as "the greatest trial in history" by Norman Birkett, one of the British judges who presided over it, was the trial of the major war criminals before the International Military Tribunal (IMT). Held between 20 November 1945 and 1 October 1946, the Tribunal was given the task of trying 23 of the most important political and military leaders of the Third Reich.<sup>6</sup> The first and best known of these trials, described as "the greatest trial in history" by Norman Birkett, one of the British judges who presided over it, was the trial of the major war criminals before the International Military Tribunal (IMT). Held between 20 November 1945 and 1 October 1946, the Tribunal was given the task of trying 24 of the most important political and military leaders of the Third Reich, though one of the defendants, Martin Bormann, was tried in absentia, while another, Robert Ley, committed suicide within a week of the trial's commencement.<sup>7</sup>

A precedent for trying those accused of war crimes had been set at the end of World War I in the Leipzig War Crimes Trials held in May to July 1921 before the Reichsgericht (German Supreme Court) in Leipzig, although these had been on a very limited scale and

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<sup>5</sup> Tusa, A. (2003). *The Nuremberg Trials*: Cooper Square Press.

<sup>6</sup> Marrus, M. R. (1997). INTERNATIONAL LAW: The Nuremberg Trial: Fifty Years After. *The American Scholar*, 66(4), 563-570. Retrieved from <http://www.jstor.org/stable/41212687>

<sup>7</sup> Rafal, L., Reginbogin, H. R., Safferling, C., & Hippel, W. R. (2006). *The Nuremberg Trials: International Criminal Law Since 1945/Die Nürnberger Prozesse: Völkerstrafrecht seit 1945: 60th Anniversary International Conference / Internationale Konferenz zum 60. Jahrestag*: De Gruyter.

largely regarded as ineffectual. At the beginning of 1940, the Polish government-in-exile asked the British and French governments to condemn the German invasion of their country. The British initially declined to do so; however, in April 1940, a joint British-French-Polish declaration was issued. Relatively bland because of Anglo-French reservations, it proclaimed the trio's "desire to make a formal and public protest to the conscience of the world against the action of the German government whom they must hold responsible for these crimes which cannot remain unpunished."<sup>8</sup>

Three-and-a-half years later, the stated intention to punish the Germans was much more trenchant. On 1 November 1943, the Soviet Union, the United Kingdom and the United States published their "Declaration on German Atrocities in Occupied Europe", which gave a "full warning" that, when the Nazis were defeated, the Allies would "pursue them to the uttermost ends of the earth ... in order that justice may be done. ... The above declaration is without prejudice to the case of the major war criminals whose offences have no particular geographical location and who will be punished by a joint decision of the Government of the Allies."<sup>9</sup> This Allied intention to dispense justice was reiterated at the Yalta Conference and at Berlin in 1945.<sup>10</sup>

On January 19, 1946, MacArthur issued a special proclamation ordering the establishment of an International Military Tribunal for the Far East (IMTFE). On the same day, he also approved the Charter of the International Military Tribunal for the Far East (CIMTFE), which prescribed how it was to be formed, the crimes that it was to consider, and how the tribunal was to function. The charter generally followed the model set by the Nuremberg Trials. On April 25, in accordance with the provisions of Article 7 of the CIMTFE, the original Rules of Procedure of the International Military Tribunal for the Far East with amendments were promulgated.<sup>11</sup>

The prosecution began opening statements on May 3, 1946, and took 192 days to present its case, finishing on January 24, 1947. It submitted its evidence in fifteen phases. The Charter provided that evidence against the accused could include any document "without proof of its issuance or signature" as well as diaries, letters, press reports, and sworn or unsworn out-of-court statements relating to the charges.<sup>12</sup> Article 13 of the Charter read, in

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<sup>8</sup> Kochavi, A. J. (1998). *Prelude to Nuremberg: Allied War Crimes Policy and the Question of Punishment*: University of North Carolina Press.

<sup>9</sup> Heller, K. J. (2011). *The Nuremberg Military Tribunals and the Origins of International Criminal Law*: OUP Oxford.

<sup>10</sup> Wright, Q. (1946). The Nuremberg Trial. *The Annals of the American Academy of Political and Social Science*, 246, 72-80. Retrieved from <http://www.jstor.org/stable/1025134>

<sup>11</sup> Bix, H. P. (2009). *Hirohito and The Making Of Modern Japan*: Harper Collins.

<sup>12</sup> Brackman, Arnold C. (1987). *The Other Nuremberg: The Untold Story of the Tokyo War Crimes Trial*. New York: William Morrow and Company.

part: "The tribunal shall not be bound by technical rules of evidence...and shall admit any evidence which it deems to have probative value".<sup>13</sup>

**Traditional humanitarian law:** War is as old as society and history. The fact is not ignorable and introduced by some thinkers. War is the demonstration of anger and excitement and originated in the old rule of "power is right". The rule also carried out among individuals before the foundation of courts. Also war recognized among tribes before the emergence of new states. The war was among individuals and gradually it transformed to the war among countries and shaped as international. Regarding this, war had changed to an international phenomenon. History is full of wars and enmities. The rule of "power is right" remained among countries as an accepted rule. The situation remains intact in west until the new era. In 17<sup>th</sup> century Hugo Grotius in the introduction of his book named "law of war and peace" described that how nations in Christian world fight each other by minor causes and do not respect to divine rules. Then he proposed countries to rely on justice and natural law. He saw this law as the call of safe moral that shows an act is banned or allowed by God.<sup>14</sup>

The law of war also is from the oldest branches of law rooted in history and even in political and military thoughts of primitive tribes. Among the Sumerians there was an organized foundation that the announcement of war, immunities and respect to peace treaties refers to it.<sup>15</sup>

Attempts to define and regulate the conduct of individuals, nations, and other agents in war and to mitigate the worst effects of war have a long history. The earliest known instances are found in the Mahabharata and the torah.<sup>16</sup> In the Indian subcontinent, the Mahabharata describes a discussion between ruling brothers concerning what constitutes acceptable behavior on a battlefield: One should not attack chariots with cavalry; chariot warriors should attack chariots. One should not assail someone in distress, neither to scare him nor to defeat him ... War should be waged for the sake of conquest; one should not be enraged toward an enemy who is not trying to kill him.

An example from the Deuteronomy 20:19–20 limits the amount of acceptable collateral and environmental damage: When thou shalt besiege a city a long time, in making war against it to take it, thou shalt not destroy the trees thereof by forcing an axe against them: for thou mayest eat of them, and thou shalt not cut them down (for the tree of the field is

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<sup>13</sup> Minear, Richard H. (1971). *Victor's Justice: The Tokyo War Crimes Trial*. Princeton, New Jersey: Princeton University Press.

<sup>14</sup> Brierly, J. L., & Clapham, A. (2012). *Brierly's Law of Nations: An Introduction to the Role of International Law in International Relations*: OUP Oxford.

<sup>15</sup> Mohaghegh Damad, M. (2012). *Codification of humanitarian law and its concept in Islam*. Tehran: Beheshti University.

<sup>16</sup> Barton, J. (1996). *Reading the Old Testament: Method in Biblical Study*: Westminster John Knox Press.

man's life) to employ them in the siege: Only the trees which thou knowest that they be not trees for meat, thou shalt destroy and cut them down; and thou shalt build bulwarks against the city that maketh war with thee, until it be subdued.<sup>17</sup>

Also, Deuteronomy 20:10–12, requires the Israelites to make an offer of peace to the opposing party before laying siege to their city. When you march up to attack a city, make its people an offer of peace. If they accept and open their gates, all the people in it shall be subject to forced labor and shall work for you. If they refuse to make peace and they engage you in battle, lay siege to that city.<sup>18</sup> Similarly, Deuteronomy 21:10–14 requires that female captives who were forced to marry the victors of a war could not be sold as slaves.<sup>19</sup> Furthermore, Sura Al-Baqara 2:190-193 of the Koran requires that in combat Muslims are only allowed to strike back in self-defence against those who strike against them, but, on the other hand, once the enemies cease to attack, Muslims are then commanded to stop attacking.

During two world wars, in fact it observed that the civil people of enemy had been attacked. On the era, contrary to traditional understandings expressed by classic elites, war was not an act only for sovereignties, but directly affect people from among them was keeping in concentration camp. Unfortunately in past peace treaties asserted on such acts, may be it can be told that for the first time in 1874 Brussels Treaty, the segregation of civil and armed people has been defined. Delupis in his book noted the ignorance to individuals and only recognize states as subjects of international law.<sup>20</sup> Another lawyer, Solis believes that some nowadays principles of war law existed in past such as prisoners exchange and good behavior but by the own will of dominant sovereignty not the exact rules.<sup>21</sup>

**Sovereignty in traditional international law:** The concept of sovereignty in time of creation has a political essence, later it transformed to a legal notion. The legal interpretation from sovereignty in passage of time changed. With a deeper survey the procedures of these changes in relation with formation of state-country is obvious.<sup>22</sup> By referring to writings remained from ancients it can be conceived that they call the sovereignty as the supreme power of state.<sup>23</sup>

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<sup>17</sup> Authors, V., & Engelbrite, M. P. (2016). American King James Version: Holy Bible – AKJV. 1999.

<sup>18</sup> NIV, Books of the Bible, eBook. (2012). Zondervan

<sup>19</sup> Authors, V., & Engelbrite, M. P. (2016). American King James Version: Holy Bible – AKJV1999.

<sup>20</sup> Delupis, I. D. (2000). *The Law of War*: Cambridge University Press.

<sup>21</sup> Solis, G. D. (2010). *The Law of Armed Conflict: International Humanitarian Law in War*: Cambridge University Press.

<sup>22</sup> Ghazi, A. (1994). *Constitutional law and Political Foundations*. Tehran: Tehran University.

<sup>23</sup> Karami, J. (1996). *UN Security Council and Humanitarian Intervention*. Tehran: Ministry of Foreign Affairs.

Of course many are doubtful about the existence of the concept of sovereignty before 15<sup>th</sup> and 16<sup>th</sup> century. As Vincent told: in the Greek and Middle Ages thoughts there were not sovereignty. Although many of the features of sovereignty in various eras have been discussed and later filled in the sovereignty concept.<sup>24</sup> It can be said that the concept of sovereignty is an abstract concept. Before the renaissance era there was no concept like the existing concept of sovereignty and even state. If we define sovereignty as the supreme reference of law making, the concept exists from long time ago, from the time of existence of political societies and it was used.<sup>25</sup>

According to Platonic philosophy some evidences can be found which proof the idea. The false republic of Plato is a symbol of a society based on pluralism and suppress of individual freedoms and according to mere relation of ruling and being ruled. Plato believed that the ruler or philosopher has relation with the upper world and rule the people of earth and may be a king paves the way of reaching upper world.<sup>26</sup> Eventually in the ancient law there exists a kind of insight about sovereignty that if it can be analyzed, two dimensions from it shall be seen, firstly 'independence' and secondly 'exclusiveness'; Independence against foreign forces and states and exclusiveness of power in relation with interior groups and individuals.<sup>27</sup> the mentioned matters shows that in the ancient era sovereignty exist in its thickest shape and countries like isolated islands just do their own affairs and people of their own and other countries did not allowed to interfere in them. The absolute sovereignty led to absolute immunity of states. Schooner Exchange and Mc Faden case had been terminated by this excuse in the USA.<sup>28</sup>

As it was told in past all of countries and states emanated in the king and the only way for trial of king was to overthrown him in war. The issue rooted in the definition and place of sovereignty in traditional international law. In fact existence of sovereignty was the necessity for immunity. Some lawyers such as Krowicz and Brohmer asserted on the principle and their researches entangled closely with sovereignty and immunity.<sup>29</sup> In fact it can be inferred that sovereignty and immunity have direct relation and they have a great impact on each other, in other words the absolute sovereignty leads to absolute immunity.

<sup>24</sup> Vincent, A. (1991). *Theories of the State*: Wiley.

<sup>25</sup> Sovereignty Intervention and a seen away. (2015). From <http://www.siaaonline.org/article/rodolfo.pdf>

<sup>26</sup> Changing definition of sovereignty, From [http://www.unc.edu/depts/diplomat/archives\\_roll/2001\\_1012/marks\\_sovereign/marks\\_sovereign.htm](http://www.unc.edu/depts/diplomat/archives_roll/2001_1012/marks_sovereign/marks_sovereign.htm)

<sup>27</sup> Ghazi, A. (1994). *Constitutional law and Political Foundations*. Tehran: Tehran University.

<sup>28</sup> Bröhmer, J. (1997). *State Immunity and the Violation of Human Rights*: Springer Netherlands.

<sup>29</sup> Bröhmer, J. (1997). *State Immunity and the Violation of Human Rights*: Springer Netherlands.

As we know in the said era, there was no notable importance given to the natural science and just internal perception was considered. Of course the idea had great impact on political thoughts and ruling political regimes. While the ruler believes on such a thing and bases its principles and rules on this idea, it is obvious that ruling will be in its harsh and inflexible form. Therefore human in shadow of such an arbitrary regime, would be the mere victim of power and sovereignty of state, a situation exists in renaissance era.

**Responsibility in modern international law:** By passing from the traditional era and shaping of courts held by war victors, it was the time to constitute a fixed and undoubted criterion to face wrongdoers. As it was told before, Nuremberg and Tokyo trials were the starting point just spreading in the globe.

**Responsibility to Protect:** The Responsibility to protect is a global political commitment endorsed by all member states of the United Nations at the 2005 World Summit to prevent genocide, war crimes, ethnic cleansing and crimes against humanity.

The principle of the Responsibility to Protect is based on the underlying premise that sovereignty entails a responsibility to protect all populations from mass atrocity crimes and human rights violations. The principle is based on a respect for the norms and principles of international law, especially the underlying principles of law relating to sovereignty, peace and security, human rights, and armed conflict.<sup>30</sup>

The three pillars of the responsibility to protect, as stipulated in the Outcome Document of the 2005 United Nations World Summit and formulated in the Secretary-General's 2009 Report on Implementing the Responsibility to Protect are: 1- The State carries the primary responsibility for protecting populations from genocide, war crimes, crimes against humanity and ethnic cleansing, and their incitement; 2- The international community has a responsibility to encourage and assist States in fulfilling this responsibility; 3- The international community has a responsibility to use appropriate diplomatic, humanitarian and other means to protect populations from these crimes. If a State is manifestly failing to protect its populations, the international community must be prepared to take collective action to protect populations, in accordance with the Charter of the United Nations.<sup>31</sup>

Responsibility to protect which is among the emerging notions of international law, both in state and the head of state will lead to responsibility of them separately. This kind of responsibility is in link with all of the man kind and no limit has been defined for it.

**Humanitarian intervention:** Humanitarian intervention has been defined as a state's use of "military force against another state when the chief publicly declared aim of that military

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<sup>30</sup> Cunliffe, P. (2011). *Critical Perspectives on the Responsibility to Protect: Interrogating Theory and Practice*: Taylor & Francis.

<sup>31</sup> <http://www.un.org/en/preventgenocide/adviser/responsibility.shtml>



action is ending human-rights violations being perpetrated by the state against which it is directed."<sup>32</sup>

This definition may be too narrow as it precludes non-military forms of intervention such as humanitarian aid and international sanctions. On this broader understanding, "Humanitarian intervention should be understood to encompass... non-forcible methods, namely intervention undertaken without military force to alleviate mass human suffering within sovereign borders."<sup>33</sup>

There is, however, a general consensus on some of its essential characteristics:

- 1- Humanitarian intervention involves the threat and use of military forces as a central feature
- 2- It is an intervention in the sense that it entails interfering in the internal affairs of a state by sending military forces into the territory or airspace of a sovereign state that has not committed an act of aggression against another state.
- 3- The intervention is in response to situations that do not necessarily pose direct threats to states' strategic interests, but instead is motivated by humanitarian objectives.<sup>34</sup>

**Sovereignty in modern international law:** In the Middle Ages also the Platonic thoughts were exists. As we know in the period, in the domain of natural science the deserved importance did not observed for experience and just referred to insight understanding, of course the impact of such thinking on political thoughts and following of it, political ruling regimes were too much. While the political rulers asserts on their belief and base the principles and rules according to the idea, it's obvious that ruling in harsh manner and without flexibility, especially against opposition, will exist.

Therefore, human in shadow of such an opinionate regime will be the only victim of power and sovereignty of state. The feature is among the obvious features of renaissance era. The thought waned by the start of Westphalia era in Europe. It can be said that the modern or Westphalia era was the time of appearance of sovereignty concept in the existing one. After the Middle ages in 16th century the concept of sovereignty among political and international theorists spread and soon as a factor of consisting states, found an important situation.<sup>35</sup> Many refer sovereignty to Bodin.<sup>36</sup> For the first time 'Jean Bodin' in his famous book 'Six Books of Common Wealth' in 1576 explained the idea. Bodin's idea is from those bold symbols which by express of it many of ideas about the issue and other ones

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<sup>32</sup> <https://mises.org/library/humanitarian-war-exception>

<sup>33</sup> Scheffer, David J. "Towards a Modern Doctrine of Humanitarian Intervention." *University of Toledo Law Review* Vol 23. (1992): 253-274

<sup>34</sup> Alton Frye. 'Humanitarian Intervention: Crafting a Workable Doctrine.' New York: Council on Foreign Relations, 2000.

<sup>35</sup> Sovereignty and Inequality. from <http://www.ejil.org/journal/Vol9/No4/art1.html>

<sup>36</sup> Bigdeli, M. R. Z. (2000). *Public International law*. Tehran: Ganj Danesh Publication.

raised. According to him, sovereignty is the supreme and ultimate power of state on its citizens and their properties which will not be limited by the written law and is absolute and permanent. Sovereignty has both internal and external face. It means that the superior power on citizens in a territory and freedom from foreign interventions of other states. According to Bodin sovereignty is the absolute and permanent power of government over a society.<sup>37</sup>

In modern international law the sovereignty of states is recognized. According to the UN Charter Chapter One, Article Two the Organization and its Members, in pursuit of the purposes stated in Article 1, and shall act in accordance with the following principles. 1. The Organization is based on the principle of the sovereign equality of all its members.<sup>38</sup>

There are two major ideological ideas about the evolution of national sovereignty concept in the modern world. 1- Realist point of view and 2- liberalists' view. Realists believe that the principle of sovereignty in the international regime will not disappear but the form and kind of it is changing. Some believe that in the globalization era sovereignty has not its absolute concept anymore and is comparative. From among the reasons causing this comparativeness such as: 1- regional cooperation with other governments, 2- global cooperation with other governments, 3- cooperation with formal organizations and international such as United Nations, 4- existence of treaties and pacts, 5- obedience and acceptance of resolutions. In the existing situation national sovereignty has not lost its meaning but actually states need the recognition and support of international society.<sup>39</sup>

**Human rights and responsibility:** Generally human rights are the fundamental and inalienable right which sees as the basic element for life of human. In other words human rights are a set of values, concepts, documents and mechanisms which their subject are situation, dignity and munificent of human.<sup>40</sup> In other definition human rights are a set of rights that have been granted to the residing people of a country regardless of nationality. In the human rights domain the issue of nationality must not be intervened, because this is the least right of a person to enjoy wherever he lives.<sup>41</sup>

The Universal Declaration of Human Rights (UDHR) is a declaration adopted by the United Nations General Assembly on 10 December 1948 at the Palais de Chaillot, Paris. The Declaration arose directly from the experience of the Second World War and represents the first global expression of what many people believe to be the rights to which all human

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<sup>37</sup> Sait, E. M. C., Foster, M. B., & Jones, W. T. (1959). *Masters of Political Thought*: G. Harrap & Company Limited.

<sup>38</sup> United Nations. from <https://treaties.un.org/doc/publication/ctc/uncharter.pdf>

<sup>39</sup> Mortazavi, A. (1020). *Globalization of Law and National Sovereignty*. Tehran: Payan Publication.

<sup>40</sup> Zakerian, M. (2004). *Ways of Expanding Humanitarian Law in Iran*. Tehran: Law and Politics Journal (1)1

<sup>41</sup> Langeroudi, J. (1984). *Law Terminology*. Tehran: Ganj Danesh

beings are inherently entitled. According to the first article “All human beings are born free and equal in dignity and rights”. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. The declaration urges countries to work on the promotion and widening some of human rights and reiterates that this right is from the freedom, peace and just foundation.<sup>42</sup>

**Conclusion:** Considering the issues such as sovereignty and humanitarian and law of war it can be said that there was no responsibility for heads of states because of the power of authorities and shortcomings in international law. Individuals were not subjects of international law and therefore there were not both task and right for them. Bad behavior of authorities saw as the internal affair of state. War was legitimate as the right of countries to lower their excitement and anger; therefore innocent people also could be killed and suffered from the war. Emergence of Tokyo and Nuremberg trials started the change of this idea. In both courts, individuals were summoned up for their acts and no excuse had been accepted. In the modern international law the concept of responsibility has been bolded regarding the facts of weak sovereignty of states and change in concept of human rights and humanitarian intervention and the emerging notion of responsibility to protect which both state and the head of state are responsible in all of the situations. Eventually it can be said that importance of individuals makes it responsible to his acts and let him enjoy some crucial rights.

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<sup>42</sup> The Universal Declaration of Human Rights. (1948). <http://www.un.org/en/universal-declaration-human-rights/>

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