The Emergence of a New Plan, "Responsibility to Protect"

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ABSTRACT: In the international traditional system, absolute sovereignty of states over their citizens in internal dimension and their independent activities in external relations was considered as governments’ exclusive and universal right and the principles of "respect for sovereignty" and "non-interference in the internal affairs" are the pillars of the international system’s regulations. Today, with the evolution of the international community and the emergence of new concepts and values in the light of humanitarian thought, "national sovereignty" cannot be considered as an absolute concept and we cannot rely on Iron walls bordering countries which passing from them only depends on the "Leviathan". So it can be said that the “rule” has lost its classic sense as a great power. From the first years of the twenty-first century, doctrine of "responsibility to protect" entered the legal literature as a norm of international law and as a solution in response to the shortcomings of the international system facing gross violations of basic human rights, with three main elements named prevention, reaction and reconstruction. The main purpose of the present doctrine is dealing with violations of basic human rights in the territory of a country and in this regard, the most important change occurs where the government is unable or unwilling to protect the citizens’ rights because of disputes causing racial, ethnic and religious reasons that in such cases, the responsibility will be transferred to the international community.

KEYWORDS: Humanitarian law, Humanitarian intervention, Responsibility to protect

1. INTRODUCTION

In the last decade of the twentieth century, millions of people were the goal of conflicts in Bosnia, Congo, Kosovo, Rwanda, Sudan and Uganda and the international community could not take an effective action in this crisis. In cases such as the former Yugoslavia in which the international community take action against the actors of violation on human rights in the form of "humanitarian intervention”, it was faced with a problem due to the
past history of humanitarian interventions and selective behavior of the West in this area, as well as some states sensitivity to the principles of sovereignty and non-interference in the internal affairs, faced with opposition and reactions And finally resorting to the concept of humanitarian intervention and its use in such cases [5].

Although in terms of forcing, there is not an exact boundary between ethics and law, but some lawyers do not consider strong moral and universal back up a norm less important norm than binding legal regulation. In today's world, convert a moral norm to a legal one is not subject to a lengthy process and so is not mainly a problematic procedure. As a comprehensive and universal value is embraced by the international community and find common aspects, should not hesitate to submit it, Isn’t it the content of the Universal Declaration of Human Rights at the beginning was composed of the essence of the moral advices. However, much of the content of the announcement today, are binding in terms of the provisions of international conventions. Article 227 of the Treaty of Versailles criminalizes destruction international ethics. According to Rousseau, even violent acts of World War II motivated by ethnic and religious reasons, because its aim was to fight against attack and aggression. However, the essence of the doctrine of responsibility is as a protecting method of efficiently is to protect human security in cooperation with national and international law. There is no doubt that in theory, what is hidden is achieve nothing beyond the fact that in the field of international relations called negative peace, remembered a state where there is no war [14].

The doctrine of "responsibility to protect" entered to legal literature as a norm of international law and a solution in response to the shortcomings of the international system in the face of gross violations of basic human rights. The main purpose of the doctrine of dealing with violations of basic human rights in the territory of a country. It occurs where the government is unable or unwilling to protect the rights citizens because of disputes caused racial, ethnic and religious reasons that in such cases, the responsibility will be transferred to the international community [6].

It can be said that the scientist’s mental product to create a reasonable relationship between the intellectual "human security" and "human rights" in relation to the accepted principles of international law such as the "sovereignty of nations" and "the principle of non-interference" in upbringing is flourishing.

Establishing the doctrine of“ responsibility to protect” seeks to reach such an important goal to create a good strategy systematically support human rights and law enforcement, reasonably and objectively. This is thought by making responsible governments to protect their citizens, in order to prevent violations of their basic human rights, and most importantly, responsive governments deem the international community for their...
negligence and failure, is going to open widespread perspective to support the promising form of human rights.

2. THE HISTORICAL AND THEORETICAL DEBATES AND PROMOTING THE CONCEPT OF "RESPONSIBILITY TO PROTECT"

2.1 International Commission on Intervention and State Sovereignty of countries

The history of the formation of the concept of "responsibility to protect" shows that the report said by Kofi Annan, Secretary General of the United Nations General Assembly on the work of the organization in 2000, was the beginning of the debate. In the report, he deals with the question if humanitarian interventions become unacceptable to the rule, how should answer the situation in Rwanda and Srebrenica gross and systematic where violations of human rights beings in illusion? [1].

Just a year later, in September 2001, the commission established the core of their ideas about humanitarian interventions by creating so-called "responsibility to protect" and replacing it with a "humanitarian interventions" expression and published it in a 90-page report [7]. The Committee members in the so called report, with the creation of three Executive of prevention, response and recovery, gave a particular importance of the responsibility to protect and the integrity of their responsibility and prevention priorities and stresses that the responsibility for prevention and response actions have caused less coercive and interventionist, before more coercive and interventionist actions in terms of their effects.1

2.2 Report of the High-level Panel

By the time to the heads of state meeting to commemorate the sixtieth year of the founding of the United Nations in 2005 and request of many countries to reform its structures and approaches, UN Secretary-General in order to make the necessary amendments to the United Nations and prepare its report and submit, appointed senior officer of the day based on conditions and developments in the international scene. The delegation comprised of sixteen leading international figures presented its report in 2004 as "a more secure world: our shared responsibility". In this report, the Board stated that the principle of non-interference in internal affairs cannot support the acts of genocide or other acts of cruel which properly are threat to international security [6]. High-ranking delegation referred to the responsibility to protect doctrine in two separate parts of their
report; First, under the title "sovereignty and responsibility," remembering that the idea of
the responsibility to protect, acts as a means of strengthening the collective security
system of the Charter in mind [15].

2.3 The world summit outcome document in 2005

World Summit on the sixtieth anniversary of the United Nations in 2005, was one of
the biggest events in the history of law and international relations, where some 170
countries, in order to obtain a consensus on the different legal and political issues,
including the concept of responsibility to protect, attended it.

At that meeting the issue of the responsibility to protect was first recognized in the
United Nations and heads of state, with the acceptance of the responsibility to protect
civilians against the four crimes of genocide, war crimes, ethnic cleansing and crimes
against humanity, achieved a crucial agreement [15]. The final document of the Summit in
paragraphs 138 and 139 clearly was related to responsibility to support issue. Paragraph
1382 of the document said that any government is responsible to protect their citizens from
genocide, war crimes, ethnic cleansing and crimes against humanity.

In paragraph 1933, it is stipulated that the international community is responsible,
through appropriate means of diplomatic, humanitarian and other peaceful means under
Chapters 6 and 8 of the Charter of the United Nations to protect the citizens of a country
against so called crimes.

2.4 Security Council and the doctrine of the responsibility to protect.

From 2001 to 2006, after the Security Council implied by the titles of "protection of
civilians" or "jeopardize international peace and security", the concept of the responsibility
to protect doctrine used. Then in 2006, after the publication of the final document of the
world Summit of the United Nations Security Council Resolution No. 1674 was approved
[14].

In two other resolutions in December 2006 and November 2009 (1894) respectively,
the Security Council adopted the title "Protection of civilians in armed conflict", Not only
calls deliberately targeting civilians and other protected persons in armed conflict as a
flagrant violation of international humanitarian law and human rights, but committing
such acts constitutes as a threat to international peace and security and consist on clear
preparation for the review and take appropriate action in these cases [6].
In the most important manifestation of the responsibility to protect in Security Council Resolution 1973 dated 17 March 2011, any action needed to protect the lives of Libyan civilians is permitted [16].

2.5 Report of the Secretary-General in 2009

In February 2008, Secretary General of the United Nations, chose Professor Edward Luck to the newly established post of "secretary-general's special adviser on the responsibility to protect doctrine" his duty was to discuss and build consensus around the development of this theory in the International. According this task, at the beginning of 2009, the United Nations Secretary-General's report was published in consultation with Professor Locke, entitled "Implementation of the responsibility to protect". The report, he describes the structure of the responsibilities of countries and the international community on the responsibility to protect, in accordance with the final document of the 2005 World Summit deals [14].

In his report, he noted the need to develop a comprehensive strategy for the United Nations to carry out this responsibility and prevent abuses of the concept, and emphasizing the importance of prevention strategies and eventually resort to action in a flexible and tailored to the specific circumstances of each case, in the event of failure of preventive measures, states its three principles as follow [6]:

• responsibility of governments to protect their citizens against the four crimes in question.
• international assistance and capacity-building
• timely and decisive response of the international community

He expressed support areas of responsibility, not only known as a confounding factor to govern, but also a renewed emphasis on the principle of the sovereignty of nations, he is also responsible for the prevention of the most fundamental pillars of support in its implementation articulates.

Contrary to what is in the minds of some countries, Secretary General does not consider the responsibility to protect is derived only from the West thought of, but it is the principles of international character, which has the ability to mix with local level values [14].

2.6 General Assembly

In 2009, UN General Assembly at its sixty-third annual meeting for the first time continued its observations on the responsibility to protect since the agreements of 2005.
During the meeting of the General Assembly to exchange predicted views on the responsibility, a total of 94 countries expressed their views [14].

In late July 2009, report of the Secretary-General was discussed at the UN General Assembly. Despite numerous discussions and Western pressure to reach a resolution on the responsibility to protect principle, those governments were unable to reach consensus on the basic content of a resolution, because there was no consensus on aspects of the report of the Secretary-General. That is why the UN General Assembly passed a resolution according to the Secretary-General and decided to continue to examine the issue of the responsibility to protect.4

2. THE PRINCIPLES AND FOUNDATIONS OF THE DOCTRINE OF THE RESPONSIBILITY TO PROTECT5

• State sovereignty implies responsibility and has the primary responsibility to protect the people's self-government.
• Where a group of people were in bankruptcy6 of major damage as a result of internal war, insurgency, repression or state failure or unwillingness of the government and the, the principle of "non-interference" will be abandoned in favor of international responsibility to intervene.
• At the heart of the concept of state sovereignty, lies the responsibility of protecting their citizens, in other words ,the most fundamental duty of any government is to protect its citizens.
• Responsibility of the Security Council in accordance with Article 24 of the UN Charter to maintain international peace and security.
• Special duties in accordance with the law concerning human rights and humanitarian protection, covenants and treaties, international humanitarian law and national law.
• Developing practices of states, regional organizations and the UN Security Council.

3. PRACTICAL STEPS TO IMPLEMENT THE RESPONSIBILITY TO PROTECT DOCTRINE

3.1. Prevention responsibility
After all, confirmed reports about the responsibility to protect and stressed the United Nations Secretary-General's 2009 report as a rock responsibility to protect the building responsibility for prevention as the main option and first priority to implement the responsibility to protect, it received the special attention of Ban Ki-moon. However, compared to other positions, this responsibility both in financial and safety terms is less costly and has high priority, the report of the Commission intervention and sovereignty, as well as the final document of the summit in 2005, mentioned as the first and most important tool for implementing the responsibility to prevent, meaning the creation of early warning systems for the incidence of crimes covered by the responsibility to protect [14].

In prevention issue, sovereignty and the international community must identify the causes of human-made disasters, ways to avoid crises before they occur. Governance and national institutions are found in the first place responsible for prevention. If the government is incapable of this, the international community, led by the General Assembly and the UN Security Council should identify factors driving human rights crisis by adopting appropriate mechanisms to prevent cases of human rights violations [14].

3.2. Responsibility to Reaction

After all preventive measures, faced with the failure, react to responsibilities was replaced the implementation of the international community's responsibility to prevent. Responsibility reaction is done in two steps and two different administrative measures to control and stop widespread human rights violations. In first place, in implementation of responsibility for the response those measures should be taken that have no military concept, this means that before the use of any military option, economic, political and security, social and cultural rights should be taken to account to stop their crimes against human rights and humanitarian. Then in the occurrence of less coercive measures, the first place responsible for the reaction enters the scene, it would be in cases where the proof is not sufficient to resolve the issue of preventive measures and response civilians and four charges of genocide, war crimes, ethnic cleansing and Felonies against humanity, is still performed with the possibility of loss of life and the lives of many people in the event of these crimes seriously impact your own place, Responsibilities in exceptional circumstances and with the support of the international community to consider the terms of the issue, will focus on the use of force [14].

The most controversial part of the responsibility to protect with many critics is the debate on the reaction, because some claim that the "responsibility to protect" encourages intervention against paragraph 7 of Article 2 of the Charter. In this case, it should be noted this work is licensed under a Creative Commons Attribution 4.0 International License.
that military actions (in accordance with Article 42 of the UN Charter), when fear is that order and world peace is at risk as a last resort should be applied exceptionally.\textsuperscript{7}

Before resorting to military, the international community can do intervention of the civil sanctions (economic sanctions, political, military) to prevent human rights violations benefit a country's sovereignty. (In accordance with articles 39-41 of the Charter of the United Nations).\textsuperscript{8}

3.3. Reconstruction responsibility

After military interventions in response to the four crimes, the responsibility support does not end. At this point, it is tried the intervened country take good condition in any case. Responsible for reconstruction, includes all assistance from the international community for the country's recovery and reconstruction of the case, in terms of political, economic, legal and security; particularly after a military intervention. As in the case of responsibility to prevent, the international community's was trying to discover the roots and causes of humanitarian crises and solving the season. In other words, trying to resolve various problems, both before the crisis and after the liability side.

So in terms of security, after the military and security forces were created or modified, different groups should be disarmed. Disarmament is demobilization and responsible reintegration for the involved parties to restore security to a country which is in turmoil. In building peace operations, Disarmament, means to collect, control, become unavailable or destroy small arms, ammunition and explosives from citizens. And from a legal perspective it must rebuild, support and manage the judicial system, which means that it should replace unbalanced legal relationships and alternative with decent and suitable ones. The big challenge in the post-crisis and military intervention is this issue that whether the violators and perpetrators must be punished?

Economically, the necessary support for economic development should be applied the international community. Because there is a direct relationship between economic development and the risk of return to conflict. Recovery and reconstruction programs and economic policy, job creation, how to achieve financial opportunities, make management of natural resources, including measures that can be done in the context of economic recovery. Politically supports must be taken to the development of democracy in the country affected by the crisis of human development and international relations [8].

4. CONCLUSION

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Experience has proved that many governments not only lack the will to fulfill human rights obligations towards its own citizens, in accordance with the national constitution and in accordance with internationally accepted regulations, but in many cases are the cause or end of the tragedy that during it many people lost their life and property. In this respect, the second stage of the role placed on the shoulders of the international community is to comply with legal logic and sequence in reaction to its duty in human rights violations. "Responsibility to protect is due to governments and the international community through the UN. "Responsibility to protect" means that each state has the duty of support citizens against mass crimes, genocide, war crimes, crimes against humanity and ethnic cleansing. However, the responsibility to protect is also duty of all Member States of the United Nations. These governments must be appropriate to the States, or on interventions aimed at helping to protect people from mass atrocities and take action if possible.

According to the "International Commission on Intervention and State Sovereignty", the use of a military solution is only as a last resort. According to "HLP"9, the primary objective should be to stop the conflict through mediation and other tools to protect people and using measures such as the deployment of human rights observers, military and humanitarian groups. But if the preventive measures should not lead to a real threat, the UN Security Council can decide upon the need for intervention, even military intervention, in accordance with its Charter, Therefore, the expectation of world leaders are expected to decide in principle that the legal requirements for such intervention is explicitly stated.

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17. ICISS:2001:XI-XII

Endnotes

2. Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This responsibility entails the prevention of such crimes, including their incitement, through appropriate and necessary means. We accept that responsibility and will act in accordance with it. The international community should, as appropriate, encourage and help States to exercise this responsibility and support the United Nations in establishing an early warning capability.
3. The international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter, to help to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. In this context, we are prepared to take collective action, in a timely and decisive manner, through the Security Council.

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Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity. We stress the need for the General Assembly to continue consideration of the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity and its implications, bearing in mind the principles of the Charter and international law. We also intend to commit ourselves, as necessary and appropriate, to helping States build capacity to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity and to assisting those which are under stress before crises and conflicts break out.

5. iciss:2001:xi-xii
6. State Failure
7. ICISS, p.10-14.
8. ibid, p.3-9.
9. ICISS

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