

The responsibility to protect

Experience, Responsibility



Do you believe the United Nations and individual states have a “responsibility to protect” people from oppression by their own governments? If not should they?

Introduction

The advent of globalisation and the end of the Cold War resulted in a multi-polar balance of power, where state sovereignty was diminished by the forces of globalisation (Kaldor, 2007; Rosenau, 1990). The role of international organisations such as the United Nations (UN) increased, to reach areas in the past exclusively tied to the capacities of the state (Ohmae, 1990; Rosenau, 1990, Scholte, 2006; Krasner, 1999). Recent inter-state conflicts such as the wars in former Yugoslavia, the conflict in Rwanda, and the events of the Arab Spring have called for supranational, rather than national measures for the protection of civilians against their own governments (Bain, 2003; Brown, 2006).

This essay will look at one of the recent developments in international law – the Responsibility to Protect (R2P). The author will support the statement that the UN, as well as individual states, have the responsibility to protect their own citizens against oppression from their own governments. The reasons for this are triggered by both external and internal factors, which will be separately approached in this discussion. The external factors which necessitate the responsibility of the UN and individual states to protect citizens against oppression relate to the changing nature of the international system itself, to globalisation, and to the presence of emerging or “failed” states. The internal factors are bound by the very notion on which R2P rests

- national sovereignty, which in this paper will be discussed as a responsibility, and not only as an absolute right. The paper will show how each set of factors pertains to the position that both the UN, and individual states, have the responsibility to protect citizens against their own governments. For clarity, the rest of the paper is divided into the following sections: definition of terms; the UN and the changing world order: quasi states, failed states and the responsibility to protect; the UN, R2P, and sovereignty as a non-absolute right; and conclusion.

Definition of terms

Before we proceed with the rest of the paper, it is important to briefly define the main term related with the research question - " responsibility to protect".

It was first coined in a 2001 report of the International Commission on Intervention and State Sovereignty (ICISS), set up by the Canadian government (ICISS, 2001). Its report, called " The Responsibility to Protect" argued that the sovereignty not only gave a state the right to " control" its affairs, but the main responsibility to protect the people residing within its borders (ICISS, 2001: IX-XIII). The report also proposed that when a certain state fails to protect its citizens, due to inability or unwillingness, then this responsibility should be conferred to a higher authority in the face of the international community or the UN. Finally, the report outlined the three main elements of the responsibility to protect: responsibility to prevent, to react and to re-build (ICISS, 2001: IX). This definition reveals the changing nature of the world order, in which the cooperation between national

governments and the UN is no longer a matter of diplomacy, but of necessity.

It also needs to be mentioned, however, that the “ responsibility to protect” is a norm, a concept, and in this sense, as Bellamy (2008) rightly observes, a proposal. Yet, it has been incorporated into the practices of the UN, and is a common standard, to which governments pledge both domestically and internationally (Bellamy, 2008: 5). Bellamy’s definition shows that the responsibility to protect is therefore an obligation of the UN and its member-states, despite the ongoing debate whether it is a norm, idea, or a concept.

As the next sections of this paper will argue, because of the changing nature of security and the complex processes of state-building, the responsibility to protect is no longer only in the hands of individual countries and their national governments.

The external factors: “ quasi states”, “ failed states”, and “ the responsibility to protect”

In order to understand the concept of R2P and why it is applicable in the context of both the UN and individual states, we need to briefly examine the changing world order. This will give us a notion of the “ external” factors which make both the UN and individual states responsible for the protection of their own civilians. This section will look at state-building and globalisation, as a result of which emerging states, incapable of providing for their own citizens appeared. This called for a more global approach to the protection of citizens against oppression.

With the end of the simple bipolarity shared between the Soviet Union and the United States, the world saw the rise of non-state actors, and other threats to security coming from within the states (Kaldor, 2006; 2003). The end of the traditional state-to-state wars necessitated the actions of a global civil society. Also, the demise of communism led to the rise of newly formed states, in which the transition to democracy and human rights protection is yet to be completed (Jackson, 2006; Ghani and Lockhart, 2008). As Ghani and Lockhart suggest, these “failed states” became the source of security concerns for the international community, because they are often the stage for violent conflicts, economic instability, terrorism and networks of criminality (Ghani and Lockhart, 2008). In this sense, they present a threat to their own populations. Many of these countries are still struggling to achieve stable institutions, transparency of the state authorities, civil liberties, freedom of speech and economic development. In addition, with the end of colonialism, newly formed independent states from Latin America and Africa, despite having judicial sovereignty, have not completely acquired domestically and internally the institutional features of sovereignty as defined by classical international law (Jackson, 2006). As Jackson suggests, these states or as he calls them “quasi states” have not reached the level where they can provide for their own citizens, because of predicaments of political and institutional character. In those countries, the very process of state-building has not been completed, and is thus resulting in refugee flows, crimes against humanity, and poverty (Ghani and Lockhart, 2008). In those countries state-building is often hindered by internal ethnic and religious tensions, leading to constant turmoil and grave violations of human rights.

The cases of Rwanda, Congo, Syria, and Libya are only few examples which demonstrate state-building in its early stages (Ghani and Lockhart, 2008; Jackson, 2006). Therefore, the protection of civilians needs to be conceived as a top-bottom strategy, and then implemented on a domestic level, so that these countries can fulfil their sovereign obligations towards its citizens (Bellamy, 2008).

The concept of sovereignty will be discussed in more detail in the next section of this essay. Here it is more important to understand how globalisation is related with the rapid emergence of newly formed states, whose capacity as security and stability providers is undermined by a variety of factors. One of them as observed by Stiglitz (2003) is related with the rapid globalisation of markets, and the inability of newly emerged states to meet the demanding expectations of globalising markets. The other one as already mentioned is related with state-building, where external intervention is necessary so that government institutions can be stabilised, and structures for the institutionalisation of the peace can be established (Chesterman, 2004). Therefore, state-building needs to be assisted not only internally, but with extended international involvement, in the face of the UN and other international organisations. The responsibility to protect in this sense reflects this newly conceived vision of state-building, because its main emphasis is to help states “ build the capacity” to assist their own populations (ICRtoP, 2005). This capacity is the actual core of state-building, and it entails constructing or reconstructing the institutions, which are responsible for providing economic stability and security for the citizens. The capacity to build is also what lies at the heart of the R2P and explains why

organisations such as the UN have responsibility to protect in cases, where national governments are unable to and the process of state-building has been hindered or slowed down.

In summary, globalisation has catalysed the process of state-building in different parts of the world. This has led to new security challenges, coming from within failed or failing states, torn by ethnic and religious conflicts and branded by political instability and poverty. These external factors and the changing international system have made the UN and individual states obliged to protect citizens from oppression.

The internal factors: The UN, R2P, and sovereignty as non-absolute

The previous section has discussed the external factors which explain why the UN and individual states have the responsibility to protect their own citizens and how R2P has been justified by globalisation and state-building. This section will look at the argument from another perspective by discussing sovereignty as a defining element and an internal factor which makes states and the UN responsible for the protection of the citizens.

In the early 1990s members of the UN Security Council like the UK and the US started to refer to sovereignty not only as a right, but also as a responsibility (Bellamy, 2008: 5). In the 2005 World Summit, the member states determined the final scope of R2P in the following way:

“ Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity [...] 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 [...]. 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 protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity” (ICRtoP, 2005, paragraphs 138-9).

A year later the United Nations Security Council formalised its support for R2P in Resolution 1674 (UN, 2006).

Here it is important to explain clearly the connection between sovereignty, and the R2P. If we understand sovereignty in its traditional, “ Westphalian” sense of the word, then the focus is on non-intervention and territorial integrity (Krasner, 1999). In a global world order however, this notion is already anachronistic and inapplicable. Because of the changed global dynamics, there is a different conceptualisation of sovereignty. This is namely sovereignty as responsibility, where national governments have the obligation to provide and not only to control, and if they are unable to fulfil these responsibilities, then international intervention might be legitimised (Bellamy, 2008). As mentioned earlier, this new vision of sovereignty is triggered by the changing nature of the international system, and the facts that traditional wars between states are withering away, to be replaced by internal conflicts, for which international intervention becomes a viable option (Bellamy, 2008). In this sense, the very concept of sovereignty has

evolved, in response to the evolving international system. International intervention is no longer to be conceived as a direct violation of classic sovereignty, but as a necessity, which can help with the enforcement of human rights and peace.

Although the R2P proposes military intervention only as a final resort, and its ability to prevent crimes remains a matter of debate, it is an exemplification of the collective effort of a global civil society to achieve international peace and stability. As already observed, R2P is applicable in cases where the state is unable to complete its national obligations, and as Bellamy (2008) concludes, no state should fail with its responsibility to protect its own citizens and to provide for their well-being. In situations where this is not possible, the state itself should welcome international assistance to corroborate its own efforts as a security and stability provider (Bellamy, 2008: 22).

In summary, the UN and national governments have the responsibility to protect their own civilian populations because they are bound by the evolving notion of sovereignty, which in modern days exists not only as a right, but also as an individual obligation of each one of the member-states.

Conclusion

This essay has attempted to explain why the UN and national governments have responsibility to protect. The author has proposed internal and external factors to support the above statement. The internal factors are related with national sovereignty, which in an age of globalisation, can no longer be

viewed only as an absolute right – it is an obligation, and entails responsibility which all sovereign countries have. From an external perspective, the responsibility of the UN and states to protect their citizens is dictated by globalisation and state-building. The withering away of the classic state-to-state conflicts and old territorial wars has paved the way for a much more complex system of relations, with threats coming from within the states. In these cases the need for a collective effort on behalf of the UN to keep the world peace is more than a necessity.

A relatively new concept, R2P remains controversial despite its strong theoretical and political fundamentals. Issues related with its enforceability and ability to actually prevent grave human rights violations remain in question. In addition, its efficacy in conflicts like the one in Syria remains to be tested, as does its applicability for military intervention in cases when the UN Security Council has not given its consent. All this however, is a subject of further discussion.

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