

Evolution of the Principle of International Responsibility to Protect (R2P) Civilians in International Law

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Abstract

The application of the principle of the responsibility to protect (R2P) civilians has not helped to consolidate this principle to the extent that it has contributed to surrounding it with flaws and to the formation of additional contentious material that has contributed to renewed debate over the feasibility and legitimacy of the use of force on humanitarian bases. Whilst the adoption of a new principle entitled "Responsible Sovereignty" that presupposes a balance between sovereignty and intervention, and after benefiting from the expansion of the concept of threat to international peace and security and the elaboration of a conditional controls that must be respected, for the use of force for humanitarian motives derived from the theory of just war, the international practice of this principle has not lived up to the level of ambitions, as the dilemma of selectivity and the exploitation of intervention as a pretext by the major powers remained unresolved.

Keywords: *Principle of International Responsibility, (R2P), International Law.*

Introduction

The principle of "Responsibility to Protect - R2P" is an emerging and modern one in international practice, endorsed in the (2005) World Summit Outcome Document, and developed and adopted new standards in (2009) and until (2011) through the follow-up report on the implementation of the international responsibility for civilians issued by the former Secretary-General of the United Nations "Ban Ki-Moon". This principle asserts that the state has the primary jurisdiction to protect its civilian population in the event of gross human rights violations, but if the state fails to do so, this responsibility transfers to the international community. The emergence of the principle of "R2P" is a result of the lack of international consensus on the principle of humanitarian intervention, which has several flaws, as the application of this principle requires the approval of the Security Council for any military intervention to protect civilians, which may be accompanied by international violations and a departure from its humanitarian nature and objectives to direct military intervention that constitutes a violation of the sovereignty of the state and interference in its internal affairs that may reach the point of overthrowing the ruling regime therein. On that account, the principle of responsibility to protect emerged as a principle based on saving nations facing threats and difficulties and achieving the primary objectives of protecting the civilian population.

Notwithstanding all this, the principle of "Responsibility to Protect- R2P" suffers from several defects that require modification and reform through the international community in order to avoid the imbalance.

Study Importance

Controversy took place among intellectuals and in the corridors of the United Nations about the concepts of intervention and sovereignty, and this had the greatest impact on the development of the concept of the "right to humanitarian intervention", which produced another concept, the "duty to intervene", i.e. the international responsibility to protect humanity. The principle of "R2P" does not go beyond the concept of humanitarian intervention and is based on the rescue of people facing threats and difficulties by providing aid and assistance to them, whether through States or international organizations. This concept was used as a result of the concerns raised by humanitarian intervention compared to the term "R2P", and clearly the principle of the "R2P" has emerged as a result of the failure of peacekeeping operations in both Rwanda and Bosnia, where the United Nations peacekeeping forces failed to protect civilians on the grounds that

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the peacekeeping forces did not have a mandate to protect civilians. Whereas, the peacekeeping forces in Somalia failed to restore security and peace to Somalia as a result of poor planning and excessive use of military force, which ultimately led to the withdrawal of the United Nations. Also, the Security Council's failure to give NATO legal legitimacy to military intervention in Kosovo has made such military intervention contrary to the norms of international law. All this highlights the importance of addressing the principle of the "Responsibility to Protect -R2P" in order to try to control this principle and keep it away from deviation and selectivity, especially since most of its applications are directed to Arab and Islamic States.

The Dilemma Dealt with in the Study and its Raised Questions

Study Objectives

At the Millennium Summit in (2000), the Secretary-General of the United Nations called on the General Assembly to adopt the principle of the "Responsibility to Protect- R2P", affirming that it does not conflict with the principle of sovereignty. As a result, the Canadian Prime Minister announced the establishment of the (International Commission on Intervention and State Sovereignty - ICISS). In 2001, the Commission completed its report and published it under the title "The Responsibility to Protect." The report concluded that sovereign states bear a primary responsibility to protect their citizens. If a state faces difficulties in providing this protection, the international community must intervene to protect the civilian citizens of that state, albeit against its will. Therefore, this study aims to demonstrate the nature of this principle, highlight its advantages and disadvantages, and distinguish it from the principle of humanitarian intervention and its incompatibility with the principle of sovereignty. As a newly emerging principle of the international community, this study seeks, to the extent possible, to shed light on the principle of the (R2P) Populations.

The Problem Addressed in The Study

The principle of "Responsibility to Protect-R2P" raises many problems, as some consider that there is a wide gap between theory and practice, and that transferring the responsibility to protect civilians from the state to the international community did not contribute to reducing the number of casualties, but on the contrary, it led to the exacerbation of this humanitarian crisis and widened instability, while others wonder, did this principle achieve what was required of it, by reducing the number of civilian casualties in internal conflicts, and was it "an influential factor in holding tyrant rulers accountable" and prosecuting them internationally?

Questions Raised by The Study

In order to be able to know the international community's ability to succeed in the principle of the "Responsibility to Protect-R2P", answers must give to the questions listed below that are raised by the study:

Will the international community be able to find an acceptable mechanism for the application of this principle without contravening the principle of non-interference in the internal affairs of the State?

How can the principle of "intervention to protect civilians" be reconciled with the principle of "non-use of force"?

Is it possible to apply the principle of "R2P" away from selectivity and the overlap of interests of major countries?

Given the veto power enjoyed by the permanent members of the Security Council, how can the principle of "R2P" be applied?

Study Methodology

The analytical approach and descriptive approach in some aspects of the study will be followed, with the aim of highlighting and clarifying the important aspects of this study clearly.

Study Division

In order to highlight the principle of the "Responsibility to Protect- R2P", it is useful for this study to be divided into two chapters:

Chapter I: The Concept of the Principle of “Responsibility to Protect -R2P” Populations.

Chapter II: Restriction on the "Principle of Sovereignty" and Evolution of the Principle of "Responsibility to Protect - R2P" Populations.

Chapter I

The Concept of the Principle of “Responsibility to Protect -R2P” Populations.

The principle of "R2P" populations aims to protect the civilian population from being subjected to certain crimes, exclusively: genocide, ethnic cleansing, crimes against humanity and war crimes. At the World Summit in (2005), this principle was endorsed and is based on three main pillars:

The responsibility of each state to protect its population.

The responsibility of the international community to assist states in protecting their populations.

The international community's responsibility to protect when a state fails to protect its population.

Unquestionably, the protection of the civilian population includes their protection from violence, forced displacement, discrimination, torture, enforced disappearance, sexual exploitation and the illegal use of force .

To achieve the state of civilians enjoying their right to protection, the state must implement the necessary laws, legislation, policies and international conventions to respect individuals' human rights and fundamental freedoms.

In order to understand the concept of this principle, it is better to divide this chapter into three topics, which are:

First Topic: Theoretical Foundations of the "R2P" Principle.

Second Topic: The Genesis of the Principle of the "R2P".

Third Topic: Deviation and Selectivity in the Application of the “R2P” Principle.

First Topic: Theoretical Foundations of the “Responsibility to Protect -R2P” Principle.

Jurists differed on the origins of the "R2P" principle. According to some jurists, this new principle goes back historically to the theory of “just war,” while others believe it as mainly the theory of “humanitarian intervention.”

For the views of upholding that "R2P" principle has origins in the theory of "just war " , the first attempts to define "just war" belong to (Saint Augustine) in the Roman era, which considered that "just war is the revenge for injustice or for the restoration of something....that was seized in an incorrect way” . (Hugo

Grotius) made the greatest contribution to transforming just war into a legal idea, by establishing it on the basis of natural law. War is only just if it is due to intervention to defend oppressed nations, and with the definition of (Michael Walzer) in his book "Just and Unjust Wars", in (1977), where (Walzer) refers to the right of civilians in Vietnam to benefit from the protection provided for civilians, considering that the war in Vietnam is an unjust war where force can be used in the event of serious violations of the rights of individuals.

As for the other opinion of jurists, it is that this principle has historical roots in the theory of "humanitarian intervention", and the traditional concept of "humanitarian intervention" in international law is (Hugo Grotius) and European politics in the 17th century, where the subject of "humanitarian intervention" remained a controversial issue in the field of foreign countries' policies, especially since the intervention of the North Atlantic Treaty Organization (NATO) in Kosovo in (1999), where this intervention confirmed the disagreement between the principle of "international sovereignty" and the renewed international norms related to human rights and the use of force. In addition, the concept of humanitarian intervention has given rise to many disputes over its legality and the ethics of using military force in response to human rights violations, when such intervention should be undertaken, who is entitled to intervene, and the tangible benefit that will result from it. Humanitarian intervention for its supporters is a very important activity in confronting human rights violations and according to this view, this issue is more important than the rights of state sovereignty, while for opponents, "humanitarian intervention" is considered as a pretext for military intervention that often lacks legal justification, in addition to being applied selectively and does not lead to effective results.

Humanitarian intervention in Somalia was resorted to against the backdrop of famine and armed fighting between militias, and the Security Council responded to this humanitarian deterioration through a series of resolutions, such as Resolution (751) issued in April (1992), which considered that the humanitarian tragedy in Somalia resulting from the continuing conflict constitutes poses a threat to international peace and security, and Resolution (794) issued in December, which called on states to use all possible means to secure the delivery of humanitarian aid, including the use of force without referring to the consent of the state concerned. In Bosnia and Herzegovina, where the Security Council issued a series of resolutions between (1992 and 1995), including resolutions (770, 780 and 781) on the access of humanitarian aid to (Sarajevo), and wherever there were people in need of assistance through safe corridors, even if their security required the use of force. Then in (Rwanda), starting from (April 1994) with the adoption of Security Council Resolution No. (929) in (June 1994) (which classified the situation in Rwanda as a threat to international peace and security), after the extermination of nearly (800) thousand Tutsis. The last humanitarian intervention act was in (Kosovo), where NATO launched a series of air and sea attacks against Yugoslavia over a period of (79) days, starting on (24th April, 1999), without authorization from the Security Council under Russia and China's rejection of any military intervention.

The jurists, who argue that the origins of the "R2P" principle are mainly based on the theory of "humanitarian intervention", emphasize that, in view of the grave violations resulting from the application of the principle of "humanitarian intervention", the international community has tried to frame a new principle that emerges from the womb of the principle of humanitarian intervention but differs in its nature and norms, the "R2P" principle was therefore adopted to be more acceptable than its predecessor.

Second Topic: The Genesis of the Principle of the "Responsibility to Protect -R2P".

The United Nations Secretary-General's appeals to the United Nations General Assembly on the occasion of the Millennium Summit in (2000) can be considered as important launch for the "R2P" principle, where he wondered "If humanitarian intervention is indeed an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica – to gross and systematic violations of human rights that offend every precept of our common humanity?" Following this appeal, Canadian Prime Minister "John Chrétien" announced the formation of an independent body, called the International Commission on Intervention and State Sovereignty (ICISS), whose task was to formulate new foundations for humanitarian intervention.

The Commission completed its report and published it in (December 2001) under the title "The Responsibility to Protect". The report concluded that sovereign states bear the primary responsibility for protecting their citizens. In the event that the state faces difficulties in providing such protection, the international community must intervene to assist the state concerned. If that state refuses to be assisted, the responsibility for protection shifts to the international community, which has the authority to use all possible means, including direct military intervention, to impose protection, regardless of the state's lack of consent. The Commission did not limit the idea of protection solely by military means, considering that providing it primarily starts with the responsibility to prevent by working to prevent humanitarian crimes and ends with the responsibility to rebuild by advancing the institutions of distressed societies.

It was striking that the Commission devoted an entire section of its report to the authority to intervene, particularly after the failure to address the genocide in (Rwanda) and the unauthorized intervention in (Kosovo), in which the Commission stressed that there is no authority more efficient than the Security Council in authorizing military intervention for the purpose of humanitarian protection.

The European Union countries appreciated the report, while most African and South American countries raised many doubts, demanding that the implementation of what is included in the report be accompanied by the prior consent of the state before intervention, in addition to Russia and China declaring that they are against any weakening of the principle of sovereignty.

At the World Summit in (September 2005), the topic of (Responsibility to Protect-R2P) was the subject of wide-ranging discussion to the extent that the adoption of (R2P) at this summit was one of its most important outcomes in terms of importance. Given paragraphs (138 and 139) of the outcomes summit documents, the legal basis for the (R2P) principle can be found, which distinguishes it from the principle of "humanitarian intervention" and clarifies its essential features. The (R2P) principle, in which states and regional and international organizations participate, requires early preventive international measures to avoid internal conflicts that may lead to humanitarian disasters. Therefore, in the event of a possible humanitarian catastrophe in a state, international political, diplomatic, economic and legal measures must be taken to help bring this conflict to an early end. The principle of (R2P) requires that, if preventive measures fail, appropriate military measures be taken by the international community, exceptionally and limited to war crimes, genocide, crimes against humanity, ethnic cleansing and genocide. Ultimately, the principle of (R2P) must include steps for reconstruction, integrated assistance, lasting peace and sustainable development, the promotion of justice within the state and the prosecution of perpetrators.

Complementing the consolidation of the new concept, Resolution (1674) on the protection of civilians in armed conflict in (June 2006) was the Security Council's first provision referring to the principle of (R2P) by affirming in paragraph (4) the provisions of Articles (138 and 139) of the outcomes of the World Summit of (2005), after six months of discussions that resulted from the objection of several parties, headed by (Russia), which considered that it was premature to include the principle in the texts of Security Council Resolutions.

In Resolution (1706) on the situation in (Darfur) in (August 2006), the Security Council adopted the pillars of the principle of (R2P) by referring to the responsibility of each member of the United Nations to protect its citizens and the responsibility of the international community to assist in the event that states fail to shoulder the responsibility to protect alone.

In further support of the principle, the Secretary-General of the United Nations presented in (July 2009) his annual report to the General Assembly on the development of operational frameworks for the responsibility to protect, under the title "Implementation of the responsibility to protect", which was endorsed as an official document on (14th September 2009), with the support of (176) out of (180) States.

Prior to the issuance of Resolution (1973) in (March 2011) which authorized a military operation to protect civilians in Libya, the Security Council adopted four resolutions referring to (R2P), while the following five years (March 2011) witnessed more than (40) Security Council resolutions explicitly referring to (R2P).

Undoubtedly, this principle is still at its infancy, and its application has not been witnessed in an international armed conflict, but rather its application has been limited to certain internal armed conflicts. Despite the fact that it is a newly established principle and has many flaws, it has begun to expand, spread and gain acceptance by the international community. In his annual report in (2012), the former Secretary-General of the United Nations “Ban Ki-Moon” welcomed the emergence and evolution of the principle of (R2P) and called on the international community to adopt and implement this principle to reduce the grave violations to which many civilians are exposed. Indeed, this principle was widely welcomed by the members of the United Nations General Assembly, which called for its application in several resolutions.

Third Topic: Deviation and Selectivity in the Application of the Principle of “Responsibility to Protect -R2P”.

If the implementation of the (R2P) principle has achieved limited successes for the protection of civilians, the concerns of deviating from this principle and subjecting it to selectivity and mixing with the interests of major countries has made the international community hesitate much before it is implemented. In the Libyan and Syrian cases, the international community failed to apply the (R2P) principle.

In (February 2011), protests erupted in Libya and extended to other parts of the country. According to a Human Rights Watch (HRW) report, the death toll reached dozens in the first four days of the protests . The UN Secretary-General also indicated that the death toll had risen to thousand by (25th February, 2011)

Given the fact of the outbreak of hostilities and violence, and the recording of threats to track down and eradicate the protesters, and amid fears of possible mass atrocities , the international community's action through the Security Council and issued Resolution No. (1973) of (2011) .

On (February 26, 2011), the Security Council unanimously adopted Resolution (1970), in a sign of the broad consensus on the Libyan issue , which calls for the application of the (R2P) principle by referring Libya issue to the Prosecutor of the International Criminal Court.

However, the continued violence against civilians and the Libyan authorities' failure to comply with the obligations set out in the Resolution No. (1970) prompted the Security Council to adopt another resolution, Resolution No. (1973) dated (17 March 2011), which, unlike its predecessor, did not enjoy international consensus, as (10) states voted in favour of it and (5) states abstained from voting.

Resolution (1973) also refers to the "Responsibility to Protect -R2P" in the fourth preamble paragraph, resulting from the Libyan authorities' failure to respect their obligations .

As for the new measures imposed by Resolution (1973), they relate to the protection of civilians, as stipulated in paragraph (4): "Authorizes Member States that have notified the Secretary-General, acting nationally or through regional organizations or arrangements, and acting in cooperation with the Secretary-General, to take all necessary measures, notwithstanding paragraph 9 of resolution 1970 (2011), to protect civilians and civilian populated areas under threat of attack in the Libyan Arab Jamahiriya, including Benghazi, while excluding a foreign occupation force of any form on any part of Libyan territory".

Paragraph (6) of resolution (1973) on the establishment of no-fly zone also referred to the protection of civilians: "Decides to establish a ban on all flights in the airspace of the Libyan Arab Jamahiriya in order to help protect civilians." However, the deviation from the application of the (R2P) principle provoked strong reactions from several countries (Russia and China), which both felt that they were driven for passing the (1973) resolution without paying attention to attempts to override the mandate contained therein, with dozens of civilians, including many women and children, killed. Amnesty International's report issued in March (2012) indicated that the number of civilian casualties in the Libyan conflict would have been (10) times less if there had been no military intervention by NATO , meaning that the intervention, whose primary purpose was to protect civilians, led to an increase in the number of deaths. NATO also exceeded the will of Resolution (1973) to limit the no-fly zone to the scope of preventing targeting civilian residential areas, as it expanded its military operations to include Libyan army bases and official government

headquarters in contravention of the resolution's content . The surrender of weapons by external parties to Libyan opposition forces under the pretext of securing self-defence was also criticized by the Russian side by the Minister for Foreign Affairs " Sergey Lavrov ", who considered that the supply of weapons to the Libyan opposition falls within a special interpretation of United Nations resolutions, placing such conduct in breach of the mandate granted by Security Council .

NATO also exceeded the limits of implementing the resolution to the extent of changing the Libyan regime, even if the argument behind that was that it was the necessary means to disrupt the regime's ability to harm the Libyan citizens in order to implement the required protection, but in fact, it is not a condition for activating the "R2P" and is not included within the provisions of Resolution (1973).

After taking over the command of operations since (31st March, 2011), NATO carried out (24,346) raids, (9,082) offensive raids, and (9,700) air sorties within six months , which exacerbated questions about the necessity of all this large number of raids and whether they all fall under the heading of protection of civilians or whether the will of the Security Council has been bypassed and unrelated targets was bombed.

With regard to the Syrian crisis, the acceleration of events and their transition from peaceful demonstrations calling for reform to demands for the overthrow of the regime led to a shift in the international community's position towards gross violations of human rights. On (3rd August 2011), the United Nations Security Council issued a statement condemning violence against civilians . In the midst of these events, which seem to have taken an upward trend of violence and counter-violence between the government and the opposition, the United Nations, represented by the Security Council and the General Assembly on the one hand, and the Arab League on the other hand, initiated steps aimed at protecting the Syrian people. However, these moves did not convince both (Russia and China), which used their "veto" power on (4th October 2011) to avoid the issuance of a Security Council resolution condemning the Syrian government, fearing that the resolution would be the beginning of military intervention in Syria.

The international community's lack of commitment to the commitments made at the (2005) World Summit to take timely collective action in the Syrian situation is due, inter alia, to: Difficulty in obtaining permission to intervene as the United Nation Security Council, in accordance with its prerogatives, has tended to adapt the situation in Syria and its deteriorating humanitarian situation as a threat to peace and security in the region , but has not succeeded in taking the necessary measures to address this deterioration and its repercussions on the region in accordance with Articles (41 and 42) of Chapter (7) of the Charter, because (Russia and China) have not hesitated to obstruct any attempt to take any measure under Chapter (7), by using their right to veto any draft Resolution put to a vote.

The issuance of a valid mandate of the United Nations to use force to protect civilians in a certain situation and withholding from doing so in a similar situation raises the problem of double standards that affect the credibility of the United Nations. Although the Syrian crisis has reached a very severe and complex stage at all levels, particularly humanitarian ones, it has not achieved the necessary level of international consensus on implementing the measures contained in the principle of (R2P) compared to the Libyan crisis, to which the Security Council responded swiftly and decisively, by adopting Resolution (1973).

The Syrian crisis has posed the greatest challenge to the International Humanitarian Law , International Human Rights Law, International Criminal Law and International Refugee Law, given the inability of the United Nations and regional organizations to act.

Although the crisis has been classified as a threat to regional peace and security , there was no seriousness on the part of the international community to protect millions of civilians, save the future of this country and end this crisis, owing to conflicts of interest and the divergent positions of the international community.

Political will is twofold: The political will to accept the "R2P" and the political will to provide a legal mandate for armed forces equipped to provide protection. Political will should not hinge at the stage of consensus and ratification of the criteria for intervention and readiness to provide protection, but must be translated into effective actions that ensure people's genuine protection away from selectivity and political

exploitation. It has been noted how Western countries were able to resolve the conflict in Kosovo because of the strong political will of NATO members, and the rapid and decisive response to end this conflict, even in the absence of any mandate from the United Nations Security Council.

The conflicting interests of the major powers in Syria have contributed to fuelling and prolonging this conflict and undermining the chances of finding a solution to it. This inconsistency has resulted in the exclusion of any military intervention in the application of the principle of "Responsibility to Protect- R2P". The result has been the continuation of the conflict and division between the parties to the conflict, which has led to the migration and displacement of Syrian civilians in a tragic manner that has demonstrated the failure of the international community to protect the civilian population, as each party seeks to reap certain gains without realizing their repercussions, not only on the country concerned.

Since (24th February 2022), and with the start of the Russian forces' invasion of Ukraine, the United Nations has verified the killing of more than (8,000) civilians, including more than (438) children, in the first year of the conflict, emphasizing that the actual figure is much higher, and that the conflict has caused a massive humanitarian crisis, leading to the displacement of more than (14) million individuals, including more than (7.6) million who fled to neighbouring countries, and leaving (18) million individual in need of assistance. The Commission of Inquiry on Ukraine, established by the Human Rights Council in March 2022, documented evidence of war crimes committed by Russian forces against civilians, including indiscriminate attacks, torture, sexual and gender-based violence in "Kyiv, Chernigov, Kharkiv and Sumy Oblasts" districts. The United Nation Human Rights Monitoring Mission in Ukraine also documented the widespread use of indiscriminate weapons in populated areas, targeting schools, medical facilities, homes, water and sanitation systems, civilian shelters, Ukrainian historical, religious and cultural sites, buses and convoys of fleeing civilians in clear violation of the parties' agreements on humanitarian corridors.

Chapter II

Restriction on the "Principle of Sovereignty" and Evolution of the Principle of "Responsibility to Protect - R2P" Populations.

Various efforts by states and organizations have played a prominent role in shaping the principle of the "Responsibility to Protect - R2P" Populations in international law, which was widely accepted when it was adopted at the 2000 Millennium Summit. The Secretary-General of the United Nations called on the General Assembly to adopt the "R2P" principle, stressing that it does not contradict the principle of sovereignty. The United Nations General Assembly has adopted this principle in many of its resolutions, and the "R2P" principle has evolved and new standards have been adopted in (2009 and 2011) through the follow-up report on the implementation of international responsibility for civilians issued by the former Secretary-General of the United Nations "Ban Ki-Moon". Many jurists have also put forward the idea of "sovereignty as responsibility" and the need to look at it instead of the traditional concept of sovereignty. So, it is all helpful to divide this Chapter into two topics:

First Topic: The Principle of "Responsibility to Protect -R2P" and the Restriction of Sovereignty.

Second Topic: Evolution of the Principle of "Responsibility to Protect-R2P" Populations.

First Topic: The Principle of "Responsibility to Protect -R2P" and the Restriction of Sovereignty.

The spread of treaties raising the slogan for the protection of human rights and the emergence of globalization as a new world order led to the erosion of the concept of sovereignty from its traditional formulation to its relative formulation, such that it came to be viewed as a means to achieve the common weal rather than an end for states to justify human rights violations.

The "R2P" principle adopted this shift in the concept of sovereignty. The concept of "sovereignty as a responsibility" goes back to the jurist "Francis Deng", who had taken the lead in presenting sovereignty as a responsibility rather than a privilege or a right, and that if a state fails in its duty to ensure the security and rights of its individuals, it loses the privilege of sovereignty. This concept was guided by the International

Commission on Intervention and State Sovereignty (ICISS) in its report on the work of the United Nations Secretary-General's Envoy for Internally Displaced Persons for the period (1992 to 2004).

The addition made by the Commission was in reconciling the lack of questioning of the principle of sovereignty and its presentation of the "R2P" as an intermediate concept that links intervention to sovereignty, considering that sovereignty carries a dual meaning: abroad respect for the sovereignty of other states, and home respect for the dignity and fundamental human rights within the state.

The enshrinement of the "R2P" principle revealed that respect for the principle of sovereignty is an obligation, and respect for the principle of defending humanity is also an obligation, but the second principle prevails over the first in the event of their conflict, in the context of the Secretary-General's statement in 2000: " It is certain that no legal principle, not even sovereignty can ever shield crimes against humanity, and when such crimes are committed and all peaceful attempts to stop them have been exhausted, the Security Council has a moral duty to act on behalf of the international community" .

The UN Secretary-General affirmed in his (2009) report on the implementation of the "Responsibility to Protect- R2P" that "the "R2P" is synonymous with sovereignty, not an adversary to it" and set the stage for the emergence of "sovereignty as responsibility" and its consideration as an alternative to the traditional concept of sovereignty by presenting a number of variables, most notably: the link between the security of states and the security of individuals, and the transformation of the nature of conflicts that witnessed a transition from internal conflicts to international conflicts.

In the 1970s, several ideas emerged that emphasized the right of civilians to security and restricted the traditional definition of sovereignty, as many jurists stressed that peace does not only mean the absence of systematic violence, but is effectively achieved if the cessation of violence is accompanied by social justice. "John Burton" stated in (1972) that many of the world's conflicts are primarily caused by the deprivation of human groups of their needs.

As the concept of "collective security" evolved, and the emergence of the term "sustainable development" in the Brundtland report of (1978), the principle of sovereignty was restricted, and the concept of protecting civilians was taken out of its military understanding to include economic, social, cultural and political development . The term "human security" first appeared in the International Human Development Report issued by the United Nations Development Programme (UNDP) in 1994, which went so far as to limit security threats to war and violence. The Secretary-General's Human Security Report of (2012) linked security, development and human rights, as no country can enjoy development without security and respect for human rights .

The restriction of the principle of sovereignty has become more acceptable with the emergence of the term "Failed States", which means the proliferation of cases of disintegrated states that have become unable to discharge their duties , which may lead to the breakdown of the system in the state and affect neighbouring states, and affect international peace and security . Therefore, the United Nations adopted the concept of "Responsible Sovereignty" to place states before their obligations.

In order to give effect to the "R2P" principle of the responsibility to protect in an acceptable and legitimate manner, this principle has surrounded itself with solid ethical and legal foundations through a narrow delimitation of military intervention linked to four types of international crimes, and on the basis of recognizing that the Security Council is the only authority authorized to activate the "R2P" principle.

According to paragraphs (138) and (139) of the 2005 World Summit Outcome Document, the application of the "R2P" is limited to four types of international crimes: genocide, war crimes, ethnic cleansing, and crimes against humanity.

It is worth noting that most of the international court statutes established to prosecute these crimes (such as the Yugoslavia and Rwanda Tribunals) had their own definitions of these crimes depending on the circumstances in which they were committed. Until the adoption of the Statute of the International Criminal

Court, which defined three of the four crimes, ethnic cleansing was not defined as a separate crime under international criminal law and did not fall within the substantive jurisdiction of the International Criminal Court, which was first used as a term during the armed conflict in Yugoslavia, and was referred to in the Secretary-General's report on the fall of Srebrenica in Kosovo under the title "ethnic cleansing".

In order for the "R2P" principle to be applied and the principle of sovereignty to be restricted, several requirements must be met, according to the (ICISS) report, which are:

The requirement of the extent of the harm that necessitates the activation of military intervention, which the Commission defined as the occurrence or imminent occurrence of serious and irreparable harm to the civilian population, such as large-scale loss of life that has already occurred or is feared, or large-scale ethnic cleansing that has already occurred or is feared.

The requirement of that the Security Council be the body that authorizes any intervention and that it be the focal point of contact on matters related to military intervention, despite some opinions that had led to the adoption of the Security Council's unauthorized intervention, and was not widely supported in view of its incompatibility with the spirit of the Charter of the United Nations. In this context, the Commission considers that the solution to the problem of the paralysis of the Security Council is to discuss the possible roles of the General Assembly and regional organizations in authorizing military intervention and suggests that special sessions of the General Assembly be used to reactivate the resolution entitled "United for Peace", previously resorted to by the General Assembly to resolve the failures of the Security Council.

The requirement of "Right Intention": The Commission's use of the word "intent" instead of the word "motives" carries a special connotation for distinguishing between the concepts, as "Bellamy" says that "The country can intervene with the intention of stopping injustice, but remains driven, for example, by the desire to secure its borders". The Commission considered that the use of force in the "R2P" has as its primary purpose the stopping or avoiding of human suffering, considering that it is impossible to prevent considerations of national interest from overlapping decisions related to humanitarian purposes.

The requirement that the military option be resorted to only when all peaceful resolution instruments fail.

The requirement that the duration and scale of the intervention be equal to the minimum necessary to ensure the successful achievement of the required humanitarian objective; (Shitzerman) considers that the establishment of the principle of proportionality as a clear condition and in unequivocal terms for the application of the "R2P" is of fundamental importance, as it is contrary to earlier formulations of humanitarian intervention, in which emphasis has not been placed on the form of the use of force.

The requirement of the existence of acceptable prospects for military intervention: Military action cannot be justified for the purposes of protecting human beings if it causes greater loss of life, in addition to the fact that the results are balanced, i.e. There are reasonable prospects for the success of military action in confronting the threat by combating it and responding to it.

After reviewing all of the above, it can be said that there is a new world order that departs from the traditional concept of sovereignty to bring us closer to the concept of relative sovereignty, so that, this concept has come to be seen as a means of achieving international security and peace for the world's people and not of respecting that concept contrary to that end.

Second Topic: Evolution of the Principle of "Responsibility to Protect-R2P" Populations.

With the emergence of the "R2P" civilians in 2009, the Secretary-General of the United Nations presented his annual report to the General Assembly on the operationalization of the operational frameworks for the "Responsibility to Protect - R2P", entitled "Implementation of the Responsibility to Protect", which was endorsed by the General Assembly as an official document in the same year. However, the "R2P" principle

has clearly failed in its application to several international crises, as a result of its deviation from its primary objective and the failure to establish clear criteria and frameworks by United Nations bodies, primarily the Security Council. This failure has increased states' fear of this principle and the belief that it is merely another means of interfering in their internal affairs and violating their sovereignty. This principle has also been subjected to serious accusations about its credibility due to the failure to adhere to the standards of its application to the conflict in Libya, which witnessed serious violations and deviations from legal boundaries, which led to states rejecting all international efforts over the past years to establish and operationalize this principle with the aim of protecting humanity from gross violations of human rights. In the face of those abuses and the international community's failure to enhance the credibility of the "R2P" principle, the Secretary-General of the United Nations and some states have put forward urgent initiatives in an attempt to promote and develop that principle. In (2009), the Secretary-General of the United Nations submitted his annual report to the General Assembly on the development of the operational frameworks of the "R2P" principle. These efforts continued until (2011). Some United Nations Member States submitted an initiative to the General Assembly in (2011). This initiative can be summarized in several points, which are: The need to focus on preventive diplomacy to reduce the risk and associated human cost of armed conflict; The international community should make tireless efforts to exhaust all available peaceful means of protecting civilians under threat of violence as enshrined in the Charter of the United Nations and as enshrined in the 2005 World Summit Outcome; The use of force, including in the exercise of the "R2P", must be authorized by the Security Council in accordance with Chapter (7) of the Charter or by the General Assembly in exceptional circumstances in line with its Resolution (377 /d/5); Authorization for the use of force must also be limited in its legal and temporal components. and that its scope should be in accordance with the letter and spirit of the mandate delegated by the Security Council or the General Assembly, and be in conformity with international law and, in the event of a decision to use force, the action taken must be prudent and proportionate, restricted to the objectives set by the Security Council and that it entails only the least violence; Under no circumstances may it cause greater harm than in normal circumstances.

The most prominent point of this initiative is the need to strengthen the Security Council's procedures to monitor and evaluate the manner in which resolutions are interpreted and implemented in order to ensure responsibility during protection, and that the Security Council must ensure the accountability of those granted the authority to resort to the use of force and to authorize the General Assembly to exercise this competence on behalf of the Security Council. In the event of the use of force, it must be in conformity with the criteria for international authorization of the use of force and not contrary to its procedures and objectives. Through these points, it appears that the "Protection Responsibility" Initiative has emphasized the Security Council's oversight role to be undertaken, particularly when it comes to coercive measures. It is imperative not only to issue resolutions, but also to follow up on the commitment of those entrusted with implementing its resolutions, which contain a mandate to use force to ensure the credibility and legitimacy of the R2P principle and to preserve its credibility, which has been destabilized and significantly damaged in past practices.

While many states supported this initiative, some states opposed the proposal because it simply complicates and freezes the principle of "Responsibility to Protect - R2P", and that requiring the Security Council to monitor the intervention and hold its executors accountable raised many concerns, as strict monitoring of operations by the Security Council is practically impossible.

Conclusion

It is clear that the new international order no longer allows states to adhere to the principle of non-interference in their internal affairs and to take refuge in their sovereignty when it comes to human rights and fundamental freedoms. The increasing calls and demands for international intervention for humanitarian reasons have received widespread attention from the United Nations and the Security Council, which the latter has included it among its core competencies in maintaining international peace and security. The protection of civilians has become one of the new functions of the Security Council

during armed conflicts within states, meaning that the absolute sovereignty of states has become a place for the intervention of international law in terms of regulation and protection.

Having been addressed to all aspects of the principle of the "Responsibility to Protect -R2P" and its impact on the principle of non-interference and sovereignty, and we have attempted to find an answer to our question, namely, "The legitimacy of international military intervention to protect civilians in a state in view of the emergence and development of a new principle in international practice, the "Responsibility to Protect -R2P". Go without saying, that this research is not a defence of the absolute right of state sovereignty and non-interference in the state's internal affairs. but a defence of international law, which has become an instrument of political arrangements by major Powers in accordance with their interests through the Security Council, as these states use the Security Council for their own interests on the pretext of maintaining international peace and security and protecting human rights, as evidenced by the examples of this study that reveal crimes against humanity and clear violations of civilians' rights without the movement of the international community.

In conclusion, reference can be made to several outcomes and recommendations of this study, which can be summarized as follows:

Outcome

The "R2P" principle is still evolving and seeks to adopt new standards aimed at avoiding deviation and selectivity in its application.

The "R2P" principle has been introduced to regulate military interventions in a state on humanitarian grounds. However, indicators of intervention in some states have shown a deviation from objective criteria in the application of this principle.

After the application of the "R2P" principle in some states and the end of their military operations, the international community has not sought to rebuild the state in accordance with the "R2P" principle, and civilians in that state have been left to face their fate in the absence of security institutions, arms proliferation and the control of armed militias.

There are many irregularities in the application of the "R2P" norms set out in the Security Council's resolution in Libya in (2011), causing the targeting of many civilian facilities and sites that posed no threat to civilians.

The multiplicity of treaties protecting human rights, the evolution of the terminology of "Collective Security", "Sustainable Development" and "Failed States" have reduced the concept of sovereignty, from absolute form to restrictive form.

Recommendations

Reviewing the United Nation Charter in line with developments on the international scene, which also requires reforming the Security Council and its voting system.

Enshrining the "Code of Conduct" proposed by "ICISS" to prevent the use of the "veto" by the permanent members of the Security Council during its discussion of cases of grave violations that require urgent military intervention to protect civilians.

Operationalizing the "R2P" principle in accordance with the amendments introduced by the Responsibility to Protect Initiative in (2011) in order to restore confidence between the international community and the political bodies of the United Nations.

Following international efforts to develop the R2P principle from (2005 to 2001), the serious violations requiring urgent military intervention for the protection of civilians and the operationalization of the "R2P"

principle of (2011) must be considered, which stipulates that the root causes of conflict must be eliminated, reconstruction and justice must be effective, and that the international community must remain in a state of follow-up and escort with the intervening country in order to build lasting peace and sustainable development.

Establishing an international mechanism that removes the "R2P" of civilians from selectivity and from being mixed with the private interests of major powers.

The commitment of military alliances to the Security Council resolution on the mandate in all its aspects and limits and not to expand it or interpret it in a way that negatively affects the "R2P" civilians' principle and becomes an entry point for questioning its credibility.

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