



The Idea of the Responsibility to Protect: An Analysis of the Perspectives of Developed and Developing World

Abstract

The 'Responsibility to Protect' (R2P) has an emerging norm in response to global challenges in protecting civilians from atrocities. This paper explains what is the idea of responsibility to protect and also describe the evolution and principles of responsibility to protect. This paper highlighted into the widely debated norm of the responsibility to protect, from the reason of its birth to the current status it enjoys in the international forums. Also analysis are the perspectives developed and developing world held when it was initiated and the resultant fissures that have appeared with its implementation.

Keywords

Humanitarian Intervention, Responsibility to Protect, Sovereignty, United Nations, World Summit

Introduction

United Nations established in the year 24 October 1945 was a result of the San Francisco conference attended by the then major powers. World War II acted as a catalyst to ensure the birth of a new organisation efficient and effective than its predecessor, the League of Nations (DPI 2008: 3). Given the complexities of getting victor and losing sides, as well as the new perspective independent countries on a common platform for founding a strong international body, did evoke many eyebrows. However, the urge for peace and to protect the future generation from the "scourge of war" helped to scuttle many apprehensions amongst countries (UN Charter, 1945: 2).

The soon to be global North vs South split, both found the need for UN as important, the former saw it as its responsibility to ensure peace hence took the exceptional powers in United Nations Security Council (UNSC) which the latter allowed. For the south, it was a stage for keeping western colonial powers in check, which they utilised to sponsor the process of decolonisation and even re-conquest of former colonies like Dutch attempt to conquer Indonesia was halted by India at United Nations General Assembly (UNGA). No matter, the UN Charter was ambitious to make a peaceful world but the historical context it was set in paved the way for many fissures and confusions in the later years.

The concept of state sovereignty remained supreme mainly to not make UN seem as anti-axis powers and to keep the organisation of use to newly emerging post-colonial countries who would taste autonomy in decision making for the first time after centuries of foreign rule. This ensured relevance of UN as a sole platform of international community's voice as well as indirectly giving a greater say to 'Permanent Five' while keeping the to be developing countries happy.

The Idea of Responsibility to Protect: Its Evolution and Principles

The idea of a 'responsibility to protect' is just one such case. The basic idea is that each government is responsible for protecting its population from mass atrocities, later specified as four specific crimes: genocide, war crimes, crimes against humanity and ethnic cleansing (Rotmann, et al. 2014: 359). With a rise in decolonisation and explosion of UN membership in the 1950s and 60s, diversified problems started appearing up at UN doorsteps. The newly independent countries going through a process of democratic setup were bombarded with not only along ethnic and linguistic lines but military coups. In addition to that was the cold war politics which covertly supported dictators to achieve political ends, all leading to weakening if not the demolition of nascent democratic institutions. The cold war led to misuse of veto at UNSC effectively paralysing UN 'peace enforcement' under Chapter VII and busting the myth of unanimity between Permanent Five (P5) on the UNSC - China, France, Russia, the United Kingdom and the United States to ensure global peace and security (Meisler, 1995: 35).

This provided as the first instances of mistrust of the global south on 'Permanent Five' who saw primacy of national interest as dominant criterion moulding and at times holding no reverence for international law by the same countries who were its more vocal proponents. Hence, interventions acquired a bad name for themselves, for the lack of identification of the real reasons behind the same. Sovereignty was seen as non-negotiable by the majority of countries thus, effectively giving states a free hand to conduct their business as per their wish under areas of their jurisdiction.

The end of the cold war and renewed the hopes of UNSC making easier consensus to defend global peace but the international community failed yet again to prevent the Rwandan Genocide (1994) and Srebrenica Massacre (1995) resulting renewed attention being paid by United Nations to delve into the question of state sovereignty (Gagro, 2014: 63). This is reflected in the UN Secretary-General, Kofi Annan's dilemma of need for humanitarian intervention hinging on global perceptions vs. an all-out assault on sovereignty, a principle enshrined in Article II Clause VII of UN charter itself (Calamur, 2018). Therefore, the doctrine of R2P emerged amidst the arguments that followed a series of military interventions in civil conflicts during the 1990s and early 2000s (Hall, 2018: 173).

After the UN failed to prevent genocide in Rwanda, Secretary-General Annan asked the international community to address humanitarian intervention. The result was Canada's creation of the International Commission on Intervention and State Sovereignty (ICISS). The ICISS brought the discourse on "sovereignty as responsibility" to the forefront and expanded and elaborated on Deng's framework (O'Donnell, 2014: 561). The International Commission on Intervention and State Sovereignty was established in 2001 released the report 'Responsibility to Protect', which embraces the 'new idea' of state sovereignty (Gagro, 2014: 64).

Since, the negative caveats got attached to 'intervention', hence, terminologies such as 'Right to Intervene' or 'Obligation to Intervene' were disregarded and the phrase 'responsibility to protect' was adopted by the commission as a denotation for international action against humanitarian crises (Bajoria and McMohan 2013; Gagro, 2014: 65). The commission stood out for a reformulating the meaning of 'sovereignty' itself which earlier meant only rights of states added responsibility on the states to ensure the protection of their populations from human rights abuses. The report further stressed the case in which a state unwilling or unable to protect its citizens from such abuses would inadvertently pass on responsibility on the international community to save such people. Hence, the commission tried to strike a balance between the rights of sovereign governments and saving the people in need (Bellamy, 2008: 620-621).

The principles of Responsibility to Protect (R2P) was unanimously adopted when all the world leaders gathered up in 2005 World Summit, but with some different text which revolved around the apprehensions of the developing countries against developed. It was visible on the summit stage that developing countries wanted to limit the criteria set up by commission's report hence, the rightful rejection of 'environmental' and 'natural disasters' as reasons for interventions was done (UNGA, 2009: 5). The World Summit had succeeded in establishing 'a new norm to legalize humanitarian intervention' and reaffirmed by the Security Council in 2006 (Bellamy, 2008: 616-617). Although, paragraphs 138 and 139 of the World Summit outcome document are worth repeating in full:

According to paragraphs 138:

"Each 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 under 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" (UNGA, 2005: 30).

According to paragraphs 139:

"The international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, under 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, under the Charter, including Chapter VII..... 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" (Bellamy, 2008: 622-623).

Therefore, a three-core pillars approach regarding the direction of the implementation of R2P was stressed upon. Pillar one stressed that it's the primary responsibility of the state to protect its population from Genocide, War Crimes, Crimes against Humanity and Ethnic Cleansing. Hence, it put the onus on the state that to enjoy sovereignty it must undertake this responsibility, derived straight from the UN report (UNGC 2009: 8).

Pillar two stated that every state (International community) has the responsibility to augment the capabilities of other states to fulfil the responsibility stated above; this could be done via aid, advice, diplomacy and so on (O'Donnell, 2014: 562). In case the first two pillars crumble then the international community must intervene to

pressurise the government to rectify its ways by means like economic sanctions, expulsions from international organisations memberships and so on (UNGC, 2009: 9).

The third pillar stated that in cases where a state is unable to protect its citizens, the international community has the responsibility to respond “collectively in a timely and decisive manner... to provide such protection” (Stark, 2011: 4). Use of military force is allowed but strictly under the control of the UNSC and as the last resort. This would be the third pillar of the doctrine of R2P (UNGC, 2009: 9).

Thus, it also reemphasized that pillar-three responses could include peaceful interventions (covered by Chapter VI of the Charter) and regional institutional ones (covered by Chapter VIII), alongside Chapter VII’s UNSC, mandated military interventions (Hall, 2018: 176). This is probably reflected in the fact that the authority chosen for R2P implementation and overseeing was UNSC, given its dubious track record of working during cold war guided by national interests than upholding the sanctity of international law. Hence, UN howsoever imperfect it might have been still seen as the sole voice of the international community getting UNSC authorisation for protecting populations under R2P doctrine with Chapter VII peace enforcement (UNSC 2006).

Birth of the doctrine of R2P also saw the calls for the proper balance of responsibilities between the General Assembly and the Security Council in developing world coinciding with the implementation of this new norm. It was primarily done by the developing world who due to their numeric superiority in UNGA saw it as a better platform to counteract the dissymmetrical power enjoyed by the Permanent Five of UNSC. Also, the bottom line comes down to the fact that R2P was to protect at-risk populations who were mainly to be found in the developing world, further accentuating the demand mentioned before. Hence, one could conclude the reason why full unanimity was not observed in the summit with countries such as Cuba, Nicaragua, Sudan and Venezuela wanted to roll back the 2005 consensus (Thakur 2009).

After the World Summit, all UN member states had agreed to specific language on a responsibility to protect (Rotmann et al. 2014: 368).

The ‘doctrine of Responsibility to Protect’ proved out to be a watershed moment among international law scholars as it ended state dictatorship over its borders since the Treaty of Westphalia (Slaughter, 2006). The world now armed with this new norm got opportunity to cement it for the first time in election result related to violence Kenya in 2008. The elections saw two opposite camps declaring results as farce, resulting in protests in the streets with rioting throwing normal life out of gear leading to shortages and possible economic collapse. Seeing the situation ripe for a civil war to prop up, the world community under the aegis of United Nations swung into action leading to the then Secretary-General, Kofi Annan visiting the country and carving out a successful power-sharing agreement securing peace for millions in the region.

Hence, this new doctrine was used as a combination of diplomatic and political pressures to get the desired objective of protecting out populations from future devastating conflicts. For both the developed and developing world opinion was unanimous that R2P in its first attempt was able to secure peace which would be a significant shift from earlier UN actions of in between or post-action intervention. However, putting out in terms of international scholars, this was probably the only successful mandate of use of R2P to date (Thakur 2009).

In the backdrop of Arab Spring that engulfed the Middle East and North African dictatorships widespread protests, we reported across countries. Regimes at places yielded peacefully for democratic transitions but at many places, repressive measures were taken to kill the protests. The best example of the latter is Libya where dictator, Colonel Muammar Gaddafi was challenged and the use of live ammunition on protesters in Benghazi turned into a full-fledged rebellion (O'Donnell, 2014: 556). The country quickly became a conundrum of various insurgent groups supported by networks of regional and global powers; the authorities to use of violent force. Protesters were shot at, indiscriminate use of artillery and air force jets to bombard their citizenry were reported from various locations.

The world looked up to UNSC for action who firstly responded by freezing all the assets of Gaddafi and referring his way of exercise of power to the International Criminal Court. With the worsening of the situation, the UNSC declared a no-fly zone over Libya and authorised member countries to use “all necessary measures” which, however, turned into NATO bombing campaign supporting out rebel forces even after repeated ceasefire attempts by Gaddafi regime (Evans, 2014: 2-3). The campaign by NATO which was already seen as a choke organisation targeting Russia was condemned by both Russia and China. The open support to rebels and rejection of ceasefire attempts cemented the presumptions of NATO countries led by US attempting a regime change which was a far cry from the R2P mandate (Rotmann et al. 2014: 367-368). These presumptions carried weight due to the strained relationship Colonel Gaddafi enjoyed with the west right from the Lockerbie Case (1988) to this proposition of the Third International Theory which decried both NATO and Warsaw alliances.

In the fall of 2011, Brazil proposed a complementary ‘responsibility while protecting’ (RwP) concept (Stuenkel, 2014: 22). It suggested criteria for authorising military force for protection (as ICISS had done a decade before), demanded more accountability of implementing coalitions and regional organisations to the Security Council and proposed a ‘chronological sequencing’ of the three pillars (Rotmann et al. 2014: 368-369).

The Perspectives of Developed and Developing World on R2P

The doctrine while being discussed in the 2005 World Summit itself highlighted that it aimed at forcing the regime to mend its ways with realising the rights and responsibilities of the states rather become a pretext for military aggressions aiming at changing the regime altogether. These series of events reignited the fears of the Global South of R2P as a tool for western neo-imperialism to be guided by national interests rather upholding the human dignity and sanctity of the international system. To further complicate the problem were the ever-existing fissures in the P5 members based on power hierarchy and mutual distrust. These conditions ensured that the doctrine of R2P born envisioning a new global norm lost all the faith placed in it by the developing world especially after the end of the cold war.

Developed countries saw it as giving too many concessions to the developing world primarily due to the different perceptions both sides of the camp had about it. For the western developed world, R2P was being in pursuance with the values of the state of liberalism based on individual autonomy, promotion of Human Rights, prevention of nuclear proliferation but for the opposite camp, these were of less importance. The developed world or at least the P5 reacted on the R2P’s offer of assurances of a rules based system signifying human solidarity that transcended political borders reflecting the fundamental purpose of UN’s existence. This belief particularly struck a

chord with countries like India who saw the UN as a forum not only for pacific settlement of disputes but raising concerns of human exploitation issues. Therefore, efforts to promote linkages between R2P and international criminal prosecution were also looked into. The ability and tools with countries available in 2005 to act beyond borders as compared to 1946 also increased the expectation for countries to act with rising and acceptance of this new doctrine within the developing world (Thakur, 2009).

Developing countries would naturally focus much on the defence of national sovereignty which anyhow for them was prized possession after years of foreign colonial rule. Global North would be contending with the getting R2P accepted at UN stage even if only for four crimes as it would satisfy the domestic liberal intelligentsia and as restitution for failure to prevent the massacres whose prevention responsibility it took back in 1946. The developing world although had a strong opposition initially with critics calling R2P as 'Redecorated Colonialism', citations of Iran invasion based on the fake case, it still saw R2P as a measure to secure human dignity given their own bad historical experiences at the hands of current proponents of the same. Thus, the discussion about R2P continues to be largely seen in the context of a pro-interventionist Global North and a pro-sovereignty Global South, together with the BRICS bloc (Stuenkel, 2014: 11).

R2P gradual rise with rising morality standards held by developed and aspiring developing countries led to its creation but on the other hand, it acquired a bad name for itself due to problems of opportunistic attitudes adopted by its own most vocally proponent countries. One more structural flaw is with the problem of its implementation which is under the total authority of the Security Council. The council itself is divided since its inception first along with two major ideological camps during the cold war era and then post 1989 when unipolar at the council dashed up hopes of working UNSC, the reason it was given the responsibility to be the authority to take a call on R2P (Stuenkel and Tourinho 2014: 382-385). Since, Libyan intervention the two countries most sceptical of R2P along with the entire developing world are Russia and China, the former treats the US as a historical foe and the latter a potential economic competitor, both challenging the hegemony of United States at the global system (Gunatilleke, 2016: 3). It does not hold any good to the international system as the developing world especially geographically smaller states look up to UN as a platform for equal representation based on sovereignty which developed western world has held no reverence to.

Successive Russian and Chinese authorities have vowed to block out UNSC targeted operations even if it for humanitarian suffering which itself is oxymoronic (Gallagher 2019). These countries due to the scepticism of the other have chosen to use veto power based on bad experiences rather than be the guiding light to set new efficacy standards. Veto power to the P5 was on the premise of their economic and military capabilities to rise above national interests and secure global peace, if one country misused the same the rest following suit implies walking the same path they held other countries guilty of. Moreover, this defeats not only R2P and UN but also shatters the faith reposed by the developing world which constitutes the majority of the globe. If the developing world also chooses to walk purposefully the same way, the international system would collapse and placing them in direct conflict with the UN and sending world in the same chaos of pre-1946 days.

Both Russia and China have usually avoided the need to support interventions rising out of their own personal historical and current records. Therefore, in case of them making a case for such interventions would be equivalent to getting targeted by the international community for their domestic treatment of minority populations. Russian treatment of Chechens and the continuing insurgency and Chinese 're-education' of Uyghur Muslims in Xinjiang province is an example of argument stated before. Moreover, for them to legitimise international interventions would mean nullifying their entire personal efforts like Russian annexation of Crimea or forcible one sided seizure of the entire South China Sea by Chinese forces. Adding to this, both these countries who could qualify as a voice of the developing world in P5 but are itself full of authoritarian governments with dubious election procedures, another pretext for getting targeted by the western world in case the latter wants to target the latter over failure to uphold international law.

Interventions as such also depend upon a wide range of factors like cooperation to commit the number of men and material, the degree of the desperation of affected people, the scale of conflict in question and the global relevance. The most important would be the domestic pressures acting on the national government to act in a particular way, US has stopped contributing its troops to UN peacekeeping operations with as much enthusiasm in numbers as it used to do before UN mission in Somalia (1993). Failure of United States in post-invasion democracy-building exercise both in Iraq and Afghanistan also calls to question the fact of success of interventions as they leave the countries mostly in conditions that are ripe for civil wars (Bajoria and McMohan 2013). This leaves the space for more proclivity of the international community towards banking on first two pillars of R2P (protection responsibility of states and international assistance and capacity building) than go for the third one (timely action under Chapter VII of UN charter). The only problem remains is the long duration and lack of guaranteed success in the first two that mandates the use of the third which currently enjoys ensured counter veto in UNSC.

Syria's ever-widening civil war with renewed threats faced by Kurds due to their ethnicity, Yemen standing on the brink of the largest humanitarian crisis face by humankind, covert actions leading to huge bloodshed in middle east with Sunni-Shia muddle and a power struggle between Iran, Saudi Arabia and Israel strongly are directed by the involvement of extra-regional powers, these will continue to exist until R2P is better implied with better balancing between UNGA and UNSC itself. In the current context of Venezuela, use of R2P to establish more of the legitimate regime be it of Nicolas Maduro or Juan Guaido depends on which side's perception of legitimacy is being talked about leaving normal citizens at risk (Sindelar, 2019).

For rest of the developing world as well it now makes better sense to look after their national interests of sovereignty given the developed world is doing the same leaving commitment to the development of international law merely as lip service and downgrading the entire R2P enterprise (Evans, 2014). For the developed world it comes off as a predicament especially to US who wants to portray itself as a global policeman (before US President Trump took over) and wants countries to believe in UN while it has gone on a rampage to undo every stitch of effort that went on to weave international law into its current form.

Conclusion

It's very appreciable that countries could come up together despite the vagaries of the international system to rise above national interests and give the place the value of human life as supreme. The World Summit of 2005 is, therefore, a milestone in human history itself. In words, the humanitarian framework of R2P is commendable but it's actual practise that stinks of opportunism, discrimination, power hierarchies and lethargy in a bureaucratic organisation are supposed to be efficient in such cases. There stands a fundamental flaw in the doctrine that those who invoke R2P, should do for moral reasons, not for personal political considerations which would not only give it a bad name but reduce the faith in the United Nations in the long run.

United Nations as such is not a perfect organisation, therefore, the mode and efforts of implementing R2P cannot be perfect either but efforts should be concentrated in rectifying the mistakes and learning from the past. R2P has all the requisites to become a global norm, which would ensure the creation of a better world. The scores of people whom the world lost due to massacres in Srebrenica and Rwanda cannot be an excuse, the responsibility of this failure lies and must be accepted by the international community only then can we surge forward. These massacres should serve as a grim reminder of what awaits if lethargy and narrow political mindedness cloud the decision making of both developing and the developed countries. It, therefore, becomes a global collective responsibility that such heinous crimes are never repeated. Only then can 'Responsibility to Protect' would become a fitting tribute to the ones the world lost.

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