



The responsibility to protect: A new cloth for humanitarian intervention

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1 INTRODUCTION

Humanitarian interventions in the 1990s provoked great discussions about their efficiency since they call into question the primacy of the State's territorial integrity, as well as its sovereignty (GRIMM; COOPER, 2015).

Thus, the experiences of humanitarian interventions in Kosovo, Somalia, and Bosnia, as well as the omission of the UN system in the genocide in Rwanda, reveal that humanitarian intervention as a mechanism for conflict resolution or peace reconstruction, to guarantee human rights, needed reassessment. Consequently, the dilemma of humanitarian intervention is controversial when it happens and when it does not. Because of this, the Responsibility to Protect (R2P) emerges as a possible solution (EVANS, 2008).

It so happens that with the end of the Cold War, the practice of humanitarian intervention does not diminish the debates about it, precisely because there is no consensus on the existence or not of a right to intervene. Faced with this dilemma, the United Nations was asked what should be done to reconcile the principles of State sovereignty and respect for human rights, without violating the domestic jurisdiction of States (ANSONG, 2016).

2 OBJECTIVE

Analyze the humanitarian intervention dilemma itself in light of the precepts of the United Nations Charter, and the application of the Responsibility to Protect as a solution to this dilemma.

3 METHODOLOGY

The research was carried out taking into account the hypothetical-deductive method, in addition to bibliographical and documental research.

4 DEVELOPMENT

The Charter of the United Nations sets out the postulates that serve as the foundation for the international order. Therefore, the sovereignty of States and the principle of non-use of force are considered the epitome of the global structure (HILPOLD, 2013). This means that states have primacy over national affairs and the people within their territory. Likewise, they imply the equality, independence, and autonomy of a State regarding the establishment of its foreign policy vis-à-vis its peers. Therefore, non-interference in domestic affairs is a corollary of the sovereignty of States, being a fundamental norm (HILPOLD, 2013).



It so happens that in the 2000s, UN Secretary-General Kofi Annan asked: “If humanitarian intervention is indeed an unacceptable attack on sovereignty, how should we respond to Rwanda, Srebrenica – to gross and systematic violations of human rights? humans that offend all precepts of our common humanity?” (ANNAN, 2000, p. 34). Annan's inquiry reveals a concern about knowing how to link the promotion and respect for human rights norms with the primacy of sovereignty (ANNAN, 2000).

In response to questions from Kofi Annan, in 2001 the International Commission on Intervention and State Sovereignty launched the report entitled Responsibility to Protect (R2P) to weave a new guise for humanitarian intervention. Based on R2P, the State's primary responsibility for the human rights of its population was reinforced (GRIMM; COOPER, 2015). Therefore, the State is sovereign, but with responsibility, that is, when it is silent in the face of violations of human rights norms, it opens space for international society to intervene in favor of the people (EVANS, 2008).

In summary, the legal contours of R2P can be found in paragraphs 138 and 139 of the Outcome document of the 2005 World Summit:

Paragraph 138 - Each State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing, and crimes against humanity.

Paragraph 139 - The international community, through the United Nations, also has a responsibility to use appropriate diplomatic, humanitarian, and other peaceful means, following Chapters VI and VIII of the Charter, to help protect populations from genocide, war crimes, and ethnic cleansing, and crimes against humanity. In this context, we are prepared to take collective, timely, and decisive action through the Security Council, following the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations, as appropriate, if peaceful means are inadequate and national authorities manifestly fail to protect their populations (...) (UN GENERAL ASSEMBLY, 2005).

R2P comprises three perspectives: prevention: which aims to stop the causes of conflicts and crises that place the population in a vulnerable situation; reaction: which seeks to respond to the causes of human rights violations, enabling the practice of military intervention; reconstruction: aims to promote assistance, taking into account the consequences of the intervention itself (WELSH, 2012). In this way, R2P aims to stop or prevent human suffering arising from the commission of war crimes, genocide, crimes against humanity, and ethnic cleansing.

5 FINAL CONSIDERATIONS

Considering the discussions on humanitarian intervention, against the background of the axiological and hermeneutic effort to reconcile the principle of sovereignty of States with the imperatives of human rights, it is observed that R2P differs from humanitarian intervention because it focuses on the needs of the victims and not in the right of the intervener; considers sovereignty in terms of state responsibility; it enables the implementation of prevention and reconstruction, that is, it uses non-coercive measures.



Therefore, R2P is a guise for humanitarian intervention, which is why it is not restricted to the use of military force, emphasizing crisis prevention mechanisms, in addition to the execution of instruments for the peaceful resolution of disputes. Although, in practice, the role of the international society in dealing with armed conflicts, through a humanitarian approach, remains delicate.



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