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The legal basis for the principle of the responsibility to protect and the possibility of its
extension in humanitarian crises

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Abstract :

This research aims to study a new and modern concept resulting from current developments in the field of legal principles underlying contemporary international law, specifically those related to the issue of securing humanitarian protection for civilian victims during armed conflicts, especially internal ones, especially in light of the increasing humanitarian tragedies at the present time resulting from the violations committed by state governments on the largest scale towards the basic rights of their citizens. This principle is known as the responsibility to protect, which is the new garment and advanced version of the concept of humanitarian intervention. The cases in which this principle is invoked have been limited to the occurrence of war crimes, crimes against humanity, genocide or ethnic cleansing.

Therefore, it is necessary to investigate the extent to which it is possible to expand its application in the event of other humanitarian crises or disasters that require international intervention to protect the civilian population. This has added great importance to this topic, making it the focus of attention of many scholars and those interested in this matter, and the study concludes that there is a possibility of expanding the application of this principle whenever there is a humanitarian necessity outside the framework of armed conflicts.

Keywords: legal basis ;principle responsibility to protect ;humanitarian intervention; humanitarian crises; Corona Virus

INTRODUCTION

The non-international internal wars that erupted after the end of the Cold War and the emergence of a new world order had a significant impact on the emergence of a definite desire by the international community to transform the mechanisms of protection traditionally established for human rights, which affected principles and rules that were well established in public international law, such as sovereignty, the principle of non-intervention and intervention, the nature and concept of international peace and security, and the internal jurisdiction reserved for the state, which prompted a great international effort to search for a new mechanism that guarantees the protection of human rights, these efforts culminated in the 2005 World Summit, at which world leaders launched a new and novel mechanism for the protection of human rights, under new circumstances and in the face of the most serious and dangerous international crimes such as war crimes, ethnic cleansing, crimes against humanity and genocide, and strengthening the enforcement of the rules of international humanitarian law, the principle of the responsibility to protect.

Therefore, the focus of this article relates to the following question: What is the legal basis for this principle and to what extent can it be expanded in the event of humanitarian crises or disasters that require international intervention to protect the civilian population?

The importance of this study lies in the fact that the issue of protecting individuals has become one of the concerns of the international community on an equal footing with the protection of the security of states. Therefore, resorting to the concept of the responsibility to protect would ensure effective respect for human rights, especially in light of the dangerous transformations that the world is witnessing today, including conflicts and interventions under the pretext of protecting human rights, disasters, diseases and epidemics

Accordingly, we are able to address the main themes that make up the study as follows:

1- What is R2P?

1.1 - The emergence and development of the Responsibility to Protect doctrine.

1-2- The legal basis of the R2P principle.

2- The possibility of expanding the scope of implementation of the responsibility to protect

2-1- The possibility of applying the principle in cases of natural disasters

2-2- The possibility of applying the principle in cases of epidemics and pandemics by applying it to the Corona virus (COVID-19).

The First Topic: What is the Responsibility to Protect

In order to increase and strengthen the international protection of human rights, the international community, represented by the United Nations Organisation, sought to create a new mechanism as an alternative to international humanitarian intervention and to remedy the various shortcomings of previous humanitarian intervention applications.

This new principle emerged and underwent a qualitative development through UN texts (first requirement), which gave rise to an institutionalised and legally acceptable basis (second requirement).

First requirement: The Emergence And Development Of the Responsibility to Protect

The first embodiment of the idea of the Responsibility to Protect came after the end of the Second World War and in light of the establishment of military tribunals in Nuremberg and Tokyo to try war criminals, but it did not develop and crystallise rapidly until after the end of the Cold War, where the first seed of the emergence of the principle of sovereignty as responsibility was planted¹. The motivation for developing the Responsibility to Protect was the inadequate response by the international community to prevent or stop genocide, ethnic cleansing and crimes against humanity that occurred in Somalia, Rwanda, Bosnia and Kosovo in the 1990s, and the concept came into being through the debate on the legitimacy of intervention².

In his speech to the 54th session of the United Nations General Assembly in September 1999, former UN Secretary-General Kofi Annan warned that “if the common conscience of humanity cannot find its greatest platform in the United Nations, there is a great risk that peace and security will be sought elsewhere”³, in his report, he noted the failure of the Security Council to take appropriate action to put an end to human rights violations in the armed conflicts in Rwanda and Kosovo, the UN Secretary-General concluded that states no longer provide protection for their citizens, and in the same report, the Secretary-General called for defining intervention in a broad way to include the protection of civilians from massacres and the most compelling violations⁴.

In his report to the General Assembly at the 55th session on the occasion of the Millennium, former UN Secretary-General Kofi Annan repeatedly referred to the issue of human rights violations and called on the international community to respond to crisis situations effectively by challenging Member States to unify views on the responsibility to protect, and to find a solution to the suffering of people in armed conflicts by finding a platform for the defence of humanity⁵.

In response to the call of UN Secretary-General Kofi Annan in 2000, the International Commission on Intervention and State Sovereignty was formed in

September 2000⁶, at the initiative of the Canadian government, the main purpose of the Commission was to support a comprehensive global debate on the relationship between humanitarian intervention and state sovereignty, based on reconciling the international community's duty to intervene in the face of massive violations of humanitarian norms with respect for state sovereignty.

One year after its establishment, the International Committee on Intervention and State Sovereignty issued a report in December 2001 that sought to find a conceptual and legal formula that blends respect for national sovereignty with the international community's responsibility to protect populations vulnerable to serious violations and crimes⁷. Among the general conclusions reached by the Committee was that national sovereignty must be seen in terms of responsibility, and that thinking of sovereignty as responsibility means⁸:

- The responsibility of the state to protect its citizens and ensure their safety and well-being.

- State agents are responsible for their actions and omissions.

- Local authorities are responsible to their citizens within the territorial boundaries of the state and to the international community through the United Nations and its organisations.

The Commission's report was a key reference point for the development of the responsibility to protect, and some of its most important recommendations were included in the conclusions of the High-level Panel on Threats, Challenges and Change established by former United Nations Secretary-General Kofi Annan in 2004⁹, and later in his report entitled "In Larger Freedom: Towards Development and Human Rights for All"¹⁰: Towards Development and Human Rights for All, which in turn formed the material for discussion at the 2005 World Summit¹¹.

In September 2005, at the high-level meeting of the UN General Assembly, UN Member States agreed to adopt the principle of the responsibility to protect and act accordingly. Each Member State also agreed that the international community should, where appropriate, encourage and assist States to exercise this responsibility and support the UN in establishing an early warning capacity. Furthermore, Member States decided that the international community, primarily represented by the UN, is responsible for making appropriate use of peaceful diplomatic and other means to implement this protection, if national authorities are unable to provide protection for their populations from serious violations and crimes¹².

After the adoption of the principle by the United Nations General Assembly in Articles 138-139 of the World Summit Outcome Document, it was necessary to find mechanisms to implement this principle by clarifying all its legal aspects

and means of implementation and the consequences of that responsibility, taking into account the provisions and principles of the Charter and international law, especially since the Outcome Document did not include any detailed provisions in this regard. Given the importance of the principle to improve the performance of the organisation in protecting the civilian population against mass atrocities¹³, the principle has seen remarkable development across all UN organs.

The Security Council has enshrined the principles of the Responsibility to Protect in forty-six resolutions¹⁴. The Council began this tradition with Resolution 1653 (27 January 2006) on Burundi, followed by Resolutions 1970 (2011) and 1973 (2011) on Libya, Resolution 2216 (2015) on Yemen, Resolutions 2249 (2015) and 2258 (2015) on Syria, and Resolution 2286 (2016) on health care in armed conflict, which addresses the tragic health situation in the Syrian city of Aleppo as a result of the targeting of Al-Quds Hospital there.

At the level of the Secretary-General and the UN General Assembly, the principle of the responsibility to protect has witnessed a remarkable development on the international scene since its adoption by the Security Council in 2006, due to increasing international awareness of the need to activate it as a necessary means to provide greater protection for civilian populations. Since 2009, the UN General Assembly has held regular annual dialogues on the Responsibility to Protect (R2P). The first of these dialogues culminated in the adoption of Resolution no: 63/308, on 14 September 2009.

The UN Secretary-General presents annual reports on the responsibility to protect to the UN General Assembly. The first report was issued in 2009.

The Human Rights Council has also adopted resolutions explicitly referring to the responsibility to protect, including three country-specific resolutions¹⁵.

The fact that the UN General Assembly, the Security Council and the UN Secretary-General continue to study the issue of the responsibility to protect and find ways to activate it is extremely important and demonstrates the vitality of the issue and its important role in ending the suffering of the civilian population, who are the main victims of political conflicts driven by forces far from the scene of bloody events, and the most important thing of all is to activate the principle and apply it on the ground and remove all obstacles to its implementation.

second requirement: The Legal Basis of the Responsibility to Protect

Although the World Summit Outcome Document does not in itself represent a source of public international law, a review of paragraphs 138 and 139 of the document reveals that the principle contained therein is an affirmation of the obligation to respect and protect human rights¹⁶, as required by many international documents that oblige Member States to respect human rights in

general, including the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, the four Geneva Conventions of 1949 and their Additional Protocols and customary legal rules concerning crimes against humanity derived from international jurisprudence and the rulings of special international criminal tribunals such as the International Tribunal for the Former Yugoslavia and the Statute of the International Criminal Court, these rules require states to prevent and punish specific international crimes within the framework of conventional and customary international law and are binding on all states¹⁷.

The Convention on the Prevention and Punishment of the Crime of Genocide stipulates in Article 1 that genocide, whether committed in time of peace or in time of war, is a crime under international law that must be prevented and punished. It also stipulates the authority of states to request the United Nations to take appropriate measures in accordance with its Charter in the event that the crime of genocide occurs¹⁸, and currently the majority of states in the world are parties to that Convention, which, due to the wide acceptance of its provisions, has become part of customary international law binding on all states.

The International Court of Justice has addressed this duty stipulated in the Convention more than once by analysing and interpreting the provisions of the Convention. In its Advisory Opinion on Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide issued on 28/5/1951. The Court affirmed that the Convention was clearly intended to be universal in scope and that the principles on which it is based are recognised by civilised nations as binding on States even without any obligation under the Convention¹⁹. The obligations of a universal character intended in the Convention include condemnation of the crime of genocide and cooperation required to rid humanity of that crime²⁰.

In another case, the International Court of Justice affirmed the duty of States parties to the Genocide Convention to work to prevent the occurrence of that crime in the case of *Bosnia and Herzegovina v. Serbia* concerning the application of the Convention on the Prevention and Punishment of the Crime of Genocide; the Court found that Serbia had breached Article 1 of the Convention because it had failed to prevent the crime from occurring in a territory other than its own, belonging to a neighbouring state²¹, meaning that the prevention of genocide is a legal and justiciable obligation that holds a state responsible towards citizens of another state outside its territory, the Court also emphasised that if the United Nations plays its role in preventing the occurrence of this crime, this does not absolve States from their duty and they must also act to prevent this crime. The obligation to prevent is in fact an obligation of diligence rather than an obligation of result, meaning that States are not only obliged to succeed in

preventing the crime of genocide, but also to employ all possible means available to them to prevent the occurrence of this crime to the maximum extent possible.

Paragraph 138 of the World Summit Outcome emphasises the obligation of the international community to encourage and assist States to exercise that responsibility. This phrase implies a direct international obligation on all States to assist the territorial State to fulfil its responsibility, although the rules of international law do not normally impose obligations on a third party. However, with reference to Common Article 1 of the Geneva Conventions and Article 89 of Additional Protocol I, we find that they have incorporated the principle of respect and ensure respect²², a principle that implies positive and negative obligations. As the International Court of Justice pointed out in its advisory opinion in the case of the Legal Consequences of the Construction of the Separation Barrier in the Occupied Palestinian Territory.

The Court affirmed that Common Article 1 of the four Geneva Conventions, which includes the principle of respect and ensure respect, entails that every State party to the Convention, whether a party to the conflict or not, is obliged to ensure compliance with the requirements of the international conventions. In the context of the case, the Court found that all States are obliged not to recognise the illegal situation created by the construction of the separation wall in the Palestinian territories, are obliged not to render aid or assistance in maintaining the resulting situation, and must act, in accordance with the UN Charter and the rules of international law, to remove any obstacle resulting from the construction of the separation wall in the Occupied Palestinian Territory, furthermore, all States parties to the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 April 1949 are obligated to ensure that Israel complies with international humanitarian law. The negative obligation is for the Court not to recognise the aforementioned legal situation, while the positive obligation is to ensure that Israel complies with the provisions of international humanitarian law²³, and given that the Geneva Conventions have been ratified by most States, this Convention has become part of customary international law.

Hence, we can say that the principle enunciated in the 2005 World Summit Outcome Document is not a new approach within the framework of international law, but is derived from the principle of respect and ensuring respect, taking into account the difference between the principle of the responsibility to protect and the principle included in Common Article 1 of the Geneva Conventions in terms of the reaction to violations of this principle²⁴.

It is also possible to investigate the basis for the responsibility to protect in the Martens Clause set out in the Hague Conventions of 1899 and 1907, through

its incorporation of humanitarian legal principles and the need for public conscience, it provided additional legal protection for individuals and communities during peace and war, and was the basis of positive international human rights law and was unanimously adopted at the Hague Conference and referred to by international courts, reflecting the international conviction regarding non-conventional humanitarian law, and is considered the formal basis for the international law technique of providing protection against crimes against humanity, the Maritime Clause is referenced in Additional Protocol I of 1977, and this content is exactly what the Responsibility to Protect principle supports²⁵.

Looking at paragraph 139 of the World Summit Outcome Document, we find that it refers to the responsibility of the international community, through the United Nations, to use appropriate means, whether diplomatic, humanitarian or any other peaceful means in accordance with Chapters VI and VIII of the UN Charter, to help protect the civilian population from the four crimes. Thus, it represents an important step in the development of international law, as conventional and customary legal rules often seek to prevent and punish these crimes by imposing obligations on the territorial state, but by imposing this responsibility on the international community, the United Nations sought to create an additional and complementary layer to protect the civilian population, by imposing an obligation on the international community to assist local authorities to fulfil their obligations in that framework, and if they fail, the international community is responsible for taking steps to provide that protection by taking measures stipulated in Chapters VI and VIII of the Charter of the United Nations²⁶.

Although described as an emerging norm by the report of the International Commission on Intervention and State Sovereignty and the report of the High-Level Panel, the principle of the responsibility to protect is in fact based on well-established international legal principles in international law, primarily within international humanitarian law and international human rights law, and its implementation involves a wide range of tools and techniques, including the peaceful settlement of disputes under Chapter VI of the UN Charter, actions related to violations and threats of violations of international peace and security under Chapter VII, and actions by regional organisations and the work of regional and subregional organisations within Chapter VIII, although we cannot include it among the conventional or customary legal rules, it can be considered a legal principle among the general principles adopted by civilised countries, as it involves the reaffirmation of established principles, the most important of which is the protection of human rights. The purpose of its adoption was not to create a new formula for the protection of the civilian population, but rather to improve

the performance of the international system to achieve these purposes, but it must be acknowledged that this principle needs more regulation and time to settle as a fixed principle within the global human rights system.

The Second Topic: The possibility of expanding the scope of implementation of the responsibility to protect

When the principle of the responsibility to protect was adopted by the World Summit, the conferees agreed to narrow the scope of the principle in order to meet the acceptance of states and governments and to be an effective means of protecting the civilian population, and therefore it was confirmed in the final document that the scope of implementation of the responsibility to protect is limited to four crimes, namely: Genocide, war crimes, crimes against humanity and ethnic cleansing, and these crimes are usually referred to as mass atrocities or mass atrocity crimes; as the basis on which the responsibility to protect is built is solidarity with the victims of these crimes, but what about the thousands of people who are killed due to the deliberate negligence or inability of their governments in other cases other than the four international crimes, but what about the thousands of people who are killed due to deliberate negligence, or the inability of their governments in other cases. Therefore, a question may arise as to the extent to which the responsibility to protect can be activated in the event of natural disasters (first requirement), in addition to the spread of viruses and incurable diseases, most recently the Corona virus Covid-19 (second requirement).

First requirement: The applicability of the principle in cases of natural disasters often results in situations of inequality

This fuels existing disparities and increases the vulnerability of the population. The protection of these people is of paramount importance, and the balance between providing humanitarian assistance and upholding human rights is critical. However, this balance can be difficult to maintain in practice, as the types of actors involved in disaster relief tend to specialise in assistance rather than because the perception of some actors that emphasises protection may undermine their ability to provide assistance and not protection.

The international law governing disaster response has established a complex set of rules governing the initiation of relief and the issues of access to relief, as well as the provision of assistance, and the provision of assistance itself. Relief assistance is usually initiated on the basis of a request for assistance from the affected country and is based on the consent of the affected country. Although any duty to provide assistance is limited to specific agreements, there is some recognition of the parties' obligation to provide assistance to the injured party in the context of a specific agreement without the consent of the injured party ²⁷.

A number of specific criteria are included in a number of the above-mentioned treaties. National legislation contains provisions that cover and facilitate the entry of relief personnel into the territory of the receiving state, including facilitating access to visas, entry visas, and access to a visa or passport, with their professional qualifications, allowing the entry of goods used for relief, as well as facilitating customs clearance procedures...²⁸ etc.

Conversely, consideration of the protection of persons in disasters is an essential component of a comprehensive international disaster relief system. While it is well established that protection remains the primary responsibility of the receiving State, additional actors can play an important role to the extent recognised by international law.

Existing international human rights obligations form the core of protection in the context of disasters. While a number of non-binding instruments suggest the existence of a right to international assistance by way of a challenge in the context of disasters, the International Covenant on Civil and Political Rights does not express an opinion on this point. Disaster protection activities include ensuring humanitarian access to victims and establishing safe zones. Some mechanisms, such as the concept of humanitarian space and the establishment of relief corridors, allow the recipient State to provide humanitarian assistance to victims and establish safe zones for humanitarian assistance²⁹.

However, it is increasingly accepted that a complete system of international disaster relief must include protection and assistance. It is the primary responsibility of each State, by virtue of respect for the sovereignty and territorial integrity of the assisted State, to care for the victims of natural disasters and other emergencies occurring in its territory³⁰. The question arises: To what extent should other actors, including assisting States and other members of the international community (international organisations and NGOs) be involved in protection activities in the context of disasters? In addition to situations where third States have an obligation, under specific agreements, to provide assistance, more generally, external actors can play a prominent role in protection activities in the context of disasters in circumstances where local coping capacity is failing, leaving the receiving State unable - or nearly unable - to meet the needs of people in its disaster-affected territory.

A large-scale disaster to which the assisted state fails to respond may constitute a threat to international peace and security, and disaster relief measures may therefore be authorised under Chapter VII of the UN Charter³¹.

This possibility was endorsed by Article III of the Assistance Resolution adopted by the Council of the International Institute of Humanitarian Law in April 1993, as well as Principle VII of the Guidelines on the Right to Humanitarian

Assistance adopted by the Governing Council of the San Remo International Institute of International Humanitarian Law at its April 1993 session. The Security Council has been authorising aid within a recipient State without its consent with increasing frequency, albeit not in the context of disasters per se (Security Council resolutions 688, 770, 794, 929).

While protection is a concept that takes on different meanings in different contexts, and there is no one-size-fits-all definition, the unique situation created by disasters leads to a customised concept of protection, including, for example, opportunities for humanitarian assistance to victims, ensuring safe zones, providing adequate and immediate relief and ensuring respect for human rights³².

The scope of protection of relevant human rights during a natural disaster is extensive. For example, among the rights most likely to be threatened in the immediate aftermath of a disaster are the right to life, the right to food, the right to health and medical services, the right to water, and the right to adequate housing, clothing and sanitation. During the long-term post-disaster recovery phase, rights that may be particularly affected include the right to education, the right to work, the right to non-discrimination, the right to be free from arbitrary arrest and detention, and the right to freedom of expression³³. Although the doctrine of R2P originated in the context of armed conflict and is therefore not relevant to this particular study, it is briefly explored here because some of its attendant ideas may reflect a similar concept relevant to the protection of persons in disasters.

Based on these facts, it is clear that everyone has the right to request and receive humanitarian aid to preserve life and dignity from the competent authorities or from national or international governmental or non-governmental organisations because the protection of persons who are victims of disasters suggests a broader concept in that they face a situation of distinct reality with specific needs that need to be addressed. In addition to victims, there is also a need to take into account the multiple range of actors involved in disaster situations.

The concept of disaster, which is not a legal term, and the way it is categorised affects the scope of the topic. Accordingly, a number of consequences arise from a broad approach to protection, looking at issues related to the different phases of a disaster, which correspond to the concepts of prevention and mitigation; response; and rehabilitation as principles underlying the responsibility to protect, but are not necessarily identical to them³⁴, suggesting the need for careful consideration of the appropriateness and relevance of expanding the scope of the concept of the responsibility to protect, and recognising the responsibility to protect in the context of protecting and assisting persons in the event of disasters is not a new topic in international law. There is a special relationship between the

concept of protection of persons affected by disasters, the rights and obligations associated with it, and the regimes affecting protection found in international humanitarian law, international human rights law, and international law relating to refugees and internally displaced persons. These regimes are complementary, based on the fundamental premise that persons should be protected in all circumstances and emphasise the fundamental universality of humanitarian principles.

second requirement: The applicability of the principle in epidemics and pandemics by applying it to the COVID-19 pandemic

Pandemic outbreaks are a subset of health emergency events, part of a group of unexpected disease events that challenge public health systems globally on an ongoing basis, which has shifted public health from a humanitarian focus at the national and international levels to a security focus, with consequent changes in priorities. Since the initial deliberations in 1946 on the establishment of the World Health Organisation (WHO), there has been a strong link between public health and international security. The phrase “healthy security” appeared in a 1994 report by the United Nations Development Programme (UNDP), which argued that following the end of the Cold War, a new frame of reference was needed that moved away from state-centred security perspectives to a more human-centred approach³⁵. Especially with the first meeting of the Global Health Security Initiative, formed after the 2001 anthrax letters, a new political initiative launched at a meeting of ministers from Canada, France, Germany, Italy, Japan, the United Kingdom, the United States and Mexico, along with representatives of the European Commission and the World Health Organisation, to address the threat of bioterrorism; this initiative sent strong political signals that the health and security fields are beginning to converge more closely to better address future pandemic threats and hazards.

With the outbreak of the COVID-19 crisis in December 2019, diseases have emerged not only as traditional clinical or public health issues, but also as more pervasive threats to national, and even international, security.

This is not to say that all health issues are security threats, but certain diseases have begun to feature prominently on international security agendas, and there is certainly a subset of diseases that attract a more comprehensive and sustained security concern because these diseases can quickly cause significant levels of morbidity and mortality, severe economic shocks, and can trigger widespread fear and social unrest in populations.

The corona virus has led to great human suffering. It has caused the suspension of air, sea and land transport in most parts of the world, the closure of borders between countries, the imposition of quarantine on the population, the

cancellation of international and local cultural and sports meetings and activities, the closure of shops and facilities, the paralysis of study and work, the collapse of stock exchanges, the spread of panic among people, and sometimes social chaos.

Thus, the high human death toll due to the new corona virus disease, which, as of the date of writing these lines, has reached more than 772 million infected people around the world and more than six and a half million deaths, is a war toll as described by some state leaders³⁶, although it is not evidence of a deliberate outbreak of the disease, and therefore the World Health Organization announced, on 11/2/2020, its transformation into a pandemic that threatens the fate of the entire world and raises international concern, the components of international human life have been affected by the Corona pandemic, as this health crisis has created various threats to global human life, or what is known as human security, at all economic, social, political, cultural and other levels. Meeting the material and health needs of human beings, sustainable growth and sustainable development are among the pillars of human security, which has broken away from the concept of national security from the last century, and human security focuses on the individual, his rights and security from all the various economic, social and environmental risks, followed by the right to education, justice, good governance, job opportunities and poverty eradication.

As this virus spreads at a stronger and faster pace around the world, governments are trying hard to limit its spread and confront its repercussions through legal measures and strict precautionary measures to preserve the health, safety and security of citizens, and the countries of the world varied in the degree of containment of this international epidemic according to the degree of efficiency of the health system and the adequacy of the health stock.

Taking measures to contain the virus as it poses a serious threat to the right to life and security is a responsibility of states under international human rights law³⁷.

The UN Secretary-General's Appeal for a Global Ceasefire, issued on 23 March 2020, urged warring parties around the world to cease hostilities to facilitate the delivery of humanitarian aid and make way for diplomacy. Emphasising that now, more than ever, the world must unite in its efforts to overcome COVID-19, the global ceasefire called for by the UN aims to allow states to focus on this vital work, and is an important reminder that in times of war and peace, alike, states have a duty to ensure security and access to healthcare. The appeal was widely echoed and endorsed by 180 Member States, a non-member observer state of the UN, numerous regional organisations, NGOs and civil society organizations³⁸.

In July, the Security Council adopted Resolution 2532, calling for a 90-day pause in all armed conflicts for humanitarian reasons, with the exception of military operations conducted in the context of counter-terrorism operations, to address the COVID-19 pandemic, explaining that the new virus is likely to endanger the maintenance of international peace and security and could hinder peacebuilding and development gains in post-conflict countries ³⁹.

In light of the health crisis the world is witnessing as a result of the outbreak of the deadly corona virus, international human rights law provides protection for the individual from epidemics, and under this law, states have three types of obligations: respecting human rights, including the right to health, protecting these rights by preventing third parties from violating them, and fulfilling these obligations by requiring states to provide assistance to materialise positive rights.

International law in the face of pandemics is based on fundamental human rights, including protection from arbitrary deprivation of life and the right of everyone to the enjoyment of the highest attainable standard of physical and mental health ⁴⁰.

The affected State bears the primary responsibility for the prevention, treatment and control of epidemic diseases. According to Comment 14 on the right to health: “When a State has taken all reasonable steps to the maximum extent of its available resources, but for reasons beyond its control is still unable to fulfil its obligations, it bears no responsibility...”. However, human rights bodies have found that many states are not only unable, but sometimes reluctant and sometimes deliberately failing to fulfil their obligations in the vast majority of cases, which constitutes a violation of human rights.

Indeed, even when resources are limited, a state cannot justify failing to fulfil any of its core obligations, which include the provision of basic levels of health care ⁴¹.

Based on this, and in the context of our talk about epidemics and pandemics and their impact on people's lives, if the aim of applying the principle of the responsibility to protect in its current version is to protect the civilian population from the four brutal crimes: genocide, war crimes, crimes against humanity and ethnic cleansing, what is the difference between people dying and killing in a systematic manner in an armed conflict, and others being exterminated through the spread of the deadly corona virus disease. Especially since the international response to combat the Corona virus falls under the responsibility to prevent within the framework of the responsibility to protect, as prevention is the cornerstone of the national, regional, and international response to the disease ⁴².

Today, the Corona virus, which hit the world and spread in record time and suddenly, has shown that pandemics may exceed the risks and repercussions of

various wars (international and internal) in terms of casualties, or the financial, economic, social and political crises and results, in fact they may cause a real rift in international peace and destabilise global stability, and this is perhaps what the UN Secretary General felt when he said, describing the pandemic (Corona) as “the greatest test the world has faced since the formation of the United Nations”⁴³.

In this regard, while the corona virus was sneaking from one country to another, criticisms were directed at Chinese measures that violate human rights. Some media outlets focused their attention on what lockdowns and movement restrictions mean for human rights, recalling the Chinese record in this regard from the Tian'anmen incident to the present moment. It is notable that the Chinese authorities are letting Chinese Muslim Uighurs die without providing them with treatment⁴⁴, which has led to the belief that the Chinese government is committing crimes against humanity against the civilian population. If it is proven that the government is denying treatment to the population as part of a systematic and large-scale plan that makes the government's action a crime against humanity, or that the government is unwilling or unable to protect its population, then it is not the first step to apply the principle as long as its application leads to the protection of the civilian population.

Conclusion

The principle of the responsibility to protect is one of the most important emerging legal concepts that enjoys wide and accelerated acceptance as it represents the last steps of international efforts to achieve real humanitarian protection, especially since the principle of the responsibility to protect was not intended to find a means to prevent, punish or implement justice in relation to the commission of international crimes as much as it is a means to eliminate the serious harm suffered by the population, first and foremost, it is a moral duty to save human life, this duty exists regardless of whether the threat to life is caused by internationally recognised crimes or other events. We therefore believe that the application of the principle should be expanded, not on the basis of its inclusion of cases that were not included in the final document of the World Summit, but on the basis of considering the consequences that arise after the disaster, particularly those that arise from the refusal of the Government concerned to assist its population, indifferent to the violations of their rights.

In light of our study of the legal basis of the principle of responsibility and the possibility of expanding its application to humanitarian crises, through which we tried to trace the efforts of the United Nations and the international community in enshrining these emerging values and principles, and explored the extent to which this principle can be expanded to end violations, protect people, empower

them and enhance their security, we came up with a set of findings, which we present with some suggestions, as follows:

Findings

1- The concept of "Responsibility to Protect" is based on several overlapping principles: The first is the responsibility of states to protect their citizens against genocide, war crimes, crimes against humanity, the crime of aggression, gross violations of human rights, epidemics, hunger and other disasters. If a state faces difficulties in providing protection to its citizens due to disability, lack of resources or other reasons, the international community has a duty to intervene to help the state concerned to build its own capabilities, This means building early warning means for crises, mediating conflict situations between different political parties, strengthening measures related to human security, and mobilising influential forces towards the protection of individuals and groups. If the state refuses assistance and cooperation or efforts are unsuccessful, the responsibility for protection shifts to the international community, which has the responsibility to provide protection for civilians by all possible means, including direct military intervention.

2- The principle of the responsibility to protect finds its legal basis in the international obligation to respect human rights and fundamental freedoms as a legal duty based on clear and specific legal sources, centred as a general principle in various universal and regional conventions.

3- The principle of the responsibility to protect has undergone a life cycle that includes three stages: the theoretical emergence of the principle, then the resistance of this principle to be shaped and enshrined in the principles and provisions of international law, and finally the international community's absorption and formal adoption of this principle, and it remains for this principle to prove its stability and suitability for practice.

4- The reasons for applying the principle are limited to the commission of one of the atrocity crimes exclusively mentioned in the World Summit Outcome Document, namely genocide, war crimes, crimes against humanity and the crime of ethnic cleansing, however, there are trends that call for the need to expand its application, especially when there is suspicion that one of these crimes was committed during natural and humanitarian disasters and in times of epidemics and pandemics, and not to adhere to the literal text of paragraph 138 when interpreting its application framework.

Suggestions

In light of the above-mentioned findings and in order to contribute to proposing some solutions to the issues addressed by the research, we offer the following suggestions:

1- Working to establish a clear relationship between human rights issues and the maintenance of international peace and security so that the nature and exercise of the principle of the responsibility to protect is within the parameters that ensure that this principle remains within the framework of international legitimacy.

2-The widespread violations to which the civilian population is subjected and which constitute one of the forms of atrocity crimes may not be limited to the direct commission of such crimes against them, we need to expand the application of the principle to include cases in which states deliberately exercise a policy of negligence and negligence against their populations, crimes against humanity, war crimes, ethnic cleansing and genocide may be committed through other forms, such as deliberately not delivering relief to environmentally stricken areas or not allowing medical assistance to reach the needy and other aspects of violations, so the interpretation of the responsibility to protect must be expanded and strict controls must be adopted to govern.

3- A neutral and impartial body should determine the existence of gross violations of human rights, preferably an organ within the United Nations such as the Human Rights Council, information and assistance provided by human rights NGOs or the reports of relevant regional organizations can also be used as a guide.

4- Operationally, the principle of R2P can be placed on the global security agenda on a regular basis as a consistent basis for examining gains or adjusting shortcomings and harmonising inconsistencies.

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