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## **«RESPONSIBILITY TO PROTECT»**

Since the Peace of Westphalia in 1648, there has been an international covenant in place to respect the autonomy and sovereignty of states. Before the Westphalian system was in place, states could coerce other states without the need for justification. The treaty of Westphalia adopted the idea of Cultural relativism and sovereign equality, and made non-interference an international norm. The 'Responsibility to Protect' makes an adjustment to this norm by suggesting that the principle of non-intervention is invalidated under certain conditions, for instance, when a state commits or does not prevent or act to end certain breaches of international law such as genocide, ethnic cleansing, systematic rape, etc.

Respect for the human rights of the people of the world has become one of the basic principles of international law.

It should be mentioned that, so long as «human rights and fundamental freedoms» became permanent feature of the UN Charter, then probably problems, which arise on this base are not «within the domestic jurisdiction of the state» any more.

During the twentieth century and the rise of internationally recognized human rights, at least 170 million deaths resulted from internal state conflicts, where tyrannical regimes murdered their own citizens.

In the 2005 World Summit Outcome Document, the General Assembly endorsed the existence of Responsibility to Protect in cases of genocide, war crimes, ethnic cleansing, and crimes against humanity. A year later, the Security Council reaffirmed this principle by passing a thematic resolution.

The R2P report changed the sovereignty vs. intervention debate by standing that sovereignty entails responsibility. States are entrusted with the primary responsibility to protect and provide security to their citizens. If the state is «unable or unwilling» to meet that primary responsibility, the burden shifts to the international community to ensure that population is protected.

What is international community? The end of the XX<sup>th</sup> century provided us more answers to this question, than it was expected. It can be either single state, or unity of states.

Chapter VIII of the UN Charter allows «regional arrangements or agencies» to play a role in the maintenance of international peace and security as long as their actions are consistent with the UN's purposes and principles. Specifically Art. 52(1) requires regional organizations to «make every effort to achieve pacific settlement of local disputes... before referring them to the Security Council». Although regional organizations can respond issues before referring them to the SC, Art. 53(1) requires SC approval before the regional organization takes action.

Despite the explicit language of Art. 53 requiring SC authorization, precedent speaks to the contrary. The case in point is the Economic Community of West African States (ECOWAS) mission in Liberia.

ECOWAS is a regional organization composed of fifteen West African states whose mandate is to promote economic integration, political cooperation, and self-reliance in West Africa. In 1989, warlord Charles Taylor and a group of dissidents fomented a devastating civil war in Liberia as they raged across the countryside acquiring more and more territory from the American-backed Liberian Government. The United States, the Organization of African Unity (OAU), and the United Nations resisted appeals to intervene with military force to assist the people of Liberia.

When negotiation efforts failed, the ECOWAS Standing Mediation Committee established an ECOWAS Cease-fire Monitoring Group (ECOMOG) for Liberia. ECOMOG was created to halt the «wanton destruction of human life and property... [and]... massive damage... being caused by the armed conflict to the stability and survival of the entire Liberian nation». ECOMOG was to stop the war and restore law and order in the country. Although ECOWAS justified ECOMOG's intervention into Liberia on humanitarian grounds, it was very keenly that peace would have to be obtained by force.

Despite the surge in violence and death-surrounding the intervention as well as the lack of legal justification under the UN Charter, the UN ultimately supported the regional invasion. Between 1991 and 1996, the Security Council adopted fifteen resolutions commending ECOWAS for its efforts in Liberia. Importantly, not one of those resolutions referenced ECOMOG's use of force as offensive. Rather, the resolutions exempted ECOWAS from a complete weapons embargo and authorized the United Nations Observer Mission in Liberia (UNOMIL) to monitor and verify the ECOWAS orchestrated peace agreement. Accordingly, the SC placed a «retroactive de jure seal» on the ECOWAS intervention.

ECOWAS intervened in Liberia under the banner of humanitarian intervention and without SC authorization. However, this mission was the first time the international community supported the intervention of a regional organization in an internal conflict. Humanitarian disasters in Rwanda, Kosovo, Bosnia and Herzegovina, and Southern Ossetia have concentrated attention not on the immunities of sovereign governments but their responsibilities, both to their own people and to the wider international community.

Regional organizations like ECOWAS are in a beneficial position to both call attention to human catastrophes and to react if the UN abdicates its R2P. In closely applying the exceptional circumstances criteria to the facts of a developing crisis, regional organizations can justify military intervention with or without backing the UN. When the prerequisite criteria are met, the intervening force is capable of ending the conflict, stabilizing the area, and building a durable peace that promotes good governance and sustainable development. In so doing, *ex post facto* authorization from the SC,

or the GA under the Uniting for Peace procedures, becomes a strong possibility warranting the associated risks of unilateral regional action.

As a conclusion could be mentioned that future implementation of R2P by way of alternative path to right authority will not save hundreds of thousands already killed in Liberia. For them the international community has already failed. But as far as it could be seen shift of international attention from the principle of state sovereignty to the principle of reaffirmation the faith in fundamental human rights and freedoms is aimed to avoid such massacres in future.

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## **ТЕРРИТОРИЯ И ДРУГИЕ ПРОСТРАНСТВА В МЕЖДУНАРОДНОМ ПРАВЕ**

Международные отношения представляют собой конкретные связи между государствами по поводу обмена материальными и духовными ценностями, существующие на данный момент. Территория является одним из необходимых признаков государства. На протяжении всей истории велись непрерывные войны за территорию. Защита территории — одна из главных задач государства. В современном международном праве утвердились такие важнейшие принципы, как неприменение силы, территориальная целостность, нерушимость границ. Развитие науки и техники дали возможность широко использовать пространства и ресурсы, лежащие за пределами государственных границ. Они приобрели большое значение для экономики, транспорта, связи и безопасности, что обусловило развитие международно-правового регулирования в соответствующих областях. После распада СССР вопрос территории, государственной границы был очень актуален. Как современника этих событий меня интересует эта тема, поэтому для своего доклада я выбрал данную тему.

В первую очередь территория — это один из трех основных признаков государства. Однако определение территории государства, объема его прав в отношении экономической зоны, шельфа и пр. — задача, прежде всего, не внутреннего, а международного права, согласно которому территория — это весь земной шар с его сухопутной и водной поверхностью, а также недрами, воздушным и космическим пространством. Под территорией в международном праве понимается пространство с определенным правовым режимом — часть земного шара (сухопутная, водная территории, недра и т.д.), а также космическое пространство и небесные тела. Иногда применяется термин «условная территория», к которой относят расположенные вне пределов государственной территории объекты: воздушные, морские, речные суда, космические корабли, станции и другие космические объекты,