The Protection of Sovereignty and Non-Intervention in Latin America: Hesitation to accept the Responsibility to Protect

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I. The Responsibility to Protect

Where to draw the line between humanitarian intervention and the loss of sovereignty has been an important topic of discussion in the international relations field, particularly since the creation of the United Nations. Intervention has always been the little rock in the shoe of the UN. Especially since the different applications of the concept through the last century have left much to desire for the supposed role of the UN as the protector of international peace.

The deployment of the UNOSOM I in Somalia in 1993, the underwhelming response to the 1994 Rwanda genocide, the 2004-2017 Haiti intervention, and other instances, are forever present in the collective memory of the international system as clear examples of the inefficiency and inability of the UN to deal with matters of protection through intervention. There is a lack of clarity on where to draw this line between intervening to protect while respecting the sovereignty of the country or countries in conflict.

Humanitarian intervention is often defined as a military intervention conducted by a State, a group of states, or international organizations without the consent of the targeted state, and it is motivated by humanitarian concern for the people of that State (as quoted by Moravcová 2014:66). The interpretation of this concept has grown in complexity due to the panorama of the world after the Cold War. With the advent of globalization and tighter cooperation mechanisms between countries and regions in the world, and the fear of spillover effects with surrounding neighbors, traditional views of intervention and sovereignty have been challenged. The increase in civil wars, internal conflict, and massive human displacements have added to the complexity of these issues. They have narrowed down the scope of protection to the individual level in order to guarantee the security of the human first. As said by the former UN's Secretary General Kofi Annan in his 2001 Nobel Peace Prize Acceptance Speech:

> In this new century, we must start from the understanding that peace belongs not only to states or peoples, but to each and every member of those communities. The sovereignty of States must no longer be used as a shield for gross violations of human rights. Peace must

be made real and tangible in the daily existence of every individual in need. (Nobel Peace Prize Outreach 2001)

Right in the middle of the sovereignty and intervention discussion, lies an important and often controversial UN mechanism: the Responsibility to Protect (R2P). The R2P is a concept born after the creation of the International Commission on Intervention and State Sovereignty (ICISS). The R2P was approved by the UN's General Assembly during the 2005 World Summit, emphasizing that all States are responsible for the protection of their population, and if they fail or refuse to do so, the responsibility will belong to the international community (Arredondo, Rodrigues, and Serbin 2011:5). In this sense, the R2P relies on three pillars:

The responsibility of each state to protect its populations (pillar I); the responsibility of the international community to assist States in protecting their populations (pillar II); and the responsibility of the international community to protect when a State is manifestly failing to protect its populations (pillar III). (Šimonović n.d.)

The R2P has been limited in use to four main instances: "protect the populations from genocide, war crimes, ethnic cleansing and crimes against humanity". What to categorize into each one of these instances is often a debate in itself. Nevertheless, this mechanism has been considered as a promising response to the operationalization of the concept of intervention in the United Nations; although it is far from perfect and still faces harsh criticism.

Latin America is one of the regions that still debates the importance and questions the intentions of this mechanism.

II.   The R2P and Sovereignty

Since its creation, the role of the United Nations has been to "maintain international peace and security through the protection of territorial integrity, political independence, and national sovereignty of its member states" (Evans 2004:82). Within the UN Charter, articles have been dedicated to both principles of sovereignty and non-intervention, establishing not only that member states have total jurisdiction over their territories, but that states cannot intervene in the internal affairs of other states (United Nations 2021).

When the UN was created, the international security panorama was very different. As mentioned previously, problematics of the new century such as the increase of internal conflicts and civil war, the proliferation of terrorism, forced displacement and human insecurity have all contributed to the complexity of an understanding of these traditional definitions. With these new challenges, the UN is in dire need to reconcile an interpretation of the traditional with new issues, a new focus centered in the individual but acknowledging interdependence and globalization.

The R2P functions under three pillars, it is within the last pillar (the responsibility of the international community to protect when a State is manifestly failing to protect its populations) that some Latin American countries have expressed concerns. Although the other pillars of the R2P present alternatives that can guide the UN to guarantee the safety of their member state's populations without the necessity of direct intervention, the acceptance of the possibility of intervention in the third pillar is a problem. Although the mere conception of the R2P was heavily championed by Latin American countries such as Argentina, Chile, Guatemala and Mexico (Arredondo et al. 2011:5), the region has showed its skepticism regarding to the utility of the R2P and its motives, primarily because of its implications on sovereignty (Gómez 2015:28). The current countries expressing a total rejection to the R2P are Cuba, Venezuela and Nicaragua (Serrano and Murillo S. 2017:92), which aligns with their strong anti-imperialist and protectionists views.

III.   Latin America and the Responsibility to Protect

The potential intervention by international organizations or other external actors in favor of certain populations represents a major setback for the foreign policies of many Latin American countries (Montero Bagatella 2015:214). Latin America is a region that has almost entirely been affected by colonialism, slavery, unwanted foreign intervention, military dictatorships and atrocious crimes. This historical background is key to understand the positions of many of its countries towards the adoption of the R2P.

From this background, two main factors that have shaped the views of the region are foreign intervention and military dictatorship. The legacy of foreign intervention has made the countries to be wary, defensive and to resist towards any indication or intent of interference. Finally, the *"mano dura"* dictatorships that took place in the region over the last century resulted in mass atrocities, extrajudicial killings, forced disappearances and displacement that until today have left

unanswered questions for the families of the affected. These two factors have made the region to become a huge advocate of international law, in particular the principle of non-intervention.

Latin American countries have been included in the R2P discussions since its beginning, and have been key to the debate of national sovereignty. Particularly, the region has been vocal towards the role of the debate of how the Global South perceives the North and the West as actors exercising their "monopoly of power and privilege to excuse its own lack of a sense of international responsibility" (Thakur 2006). For example, in the particular case of Mexico, the R2P in itself is against the primary elements of the country's foreign policy: self-determination and non-intervention (Rosas 2007). Mexico and Brazil have been very open about their sovereignty concerns and have even expressed their intentions on becoming permanent members of the Security Council, as they believe more representation from the Global South is needed in the UN.

Although a few countries are still against the R2P and some others have expressed concerns, the region still advocates the limited use of the R2P and intends to keep cooperating to find an option suitable for everyone. The democratization and integration process Latin America experienced during the 90s has shaped the region into one of cooperation through regional mechanisms such as the Organization of American States, with Third-Party Courts to settle issues between countries and the use of Observatories for the protection of Human Rights. After the mass atrocities of the past century, prevention mechanisms in which the Inter American System is involved has resulted in good practices and valuable experience that can be shared with the UN. The past of these democracies is there as a reminder to find ways to cooperate to prevent atrocious crimes from happening again to any of their neighbors.

Latin America is aware of the benefits of pursuing the protection of human rights in the region. Currently, this part of the world experiences many challenges concerning human security. Massive migration, hunger, human displacement, climate change and violence are present at a degree in all the countries of Latin America. Today, the main threat the region faces is chronic violence due to organized crime. As of 2017, Latin America had 8% of the worldwide population but held 33% of the worldwide homicides (Aguirre and Muggah 2018). These problems have a great risk of becoming spillover issues that can bring instability to the region. A potential alignment of their view regarding to until when cooperation becomes intervention can help prevent this.

IV.   Conclusion

The presence of Latin American countries in the creation and following debates of the R2P is key towards a proper inclusion of different views of the conceptualization of the term. The regional experience and the historical background have many valuable lessons that can be shared with the UN. Nevertheless, for the entire region to fully accept the R2P there are some challenges that need to be addressed. From the UN side, there needs to be a clear delimitation of the concepts of sovereignty and intervention under the R2P, as well as a clear operationalization of said intervention. On the Latin American side, the region still has plenty to do regarding the level of prioritization they intend to give to national security over regional security. Until Latin America as a whole cannot reconcile their views on intervention and the level of flexibility they intend to allow to it, the R2P will remain as a controversial instrument of the UN in the region.

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