



The Responsibility to Protect and An Invitation to Consent: Darfur and International Human Rights Law

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ABSTRACT

In September 2005, the United Nations sponsored a World Summit to memorialize the organization's 60th Anniversary. Held at its headquarters in New York City, the Summit boasted the largest single collection of heads of state ever assembled. It was at this event that the United Nations for the first time formally embraced the proposal of the International Commission on Intervention and State Sovereignty, referred to as the "Responsibility to Protect" Doctrine, as its policy. This doctrine, which was developed at the request of the Secretary-General, reconsiders assertions of sovereignty in situations of massive human rights violations.

Under the doctrine, state sovereignty is conceptualized as conditional and to be considered sacrosanct only when a state effectively exercises its 'responsibility to protect' its citizens from human rights abuses. It allows and invites international intervention when populations are in danger of being subjected to genocide, war crimes, or crimes against humanity. And it focuses attention on the full continuum of possible 'interventions,' stressing prevention and including reconstruction and rehabilitation.

The Responsibility to Protect begins to require states to meet obligations to their own people in order to earn the inviolability of their borders. It seeks to usher the advent of a systematized multi-level response and enforcement mechanism that would disabuse human rights violators of their ability to operate with impunity over their populations, creating a political supplement to the judicial mechanisms of the international criminal law system which punish individual actors rather than states themselves. It seeks to combat the dual challenges of offending states refusing humanitarian interventions and donor states refusing to contribute troops and resources to the interventions when they are warranted.

This essay examines the first international test of the Responsibility to Protect Doctrine in the case of Darfur up to one year after the World Summit. In doing so, it reviews the recent history, theoretical underpinnings, criticisms, and current prospects of the Responsibility to Protect, explains the recent context and history of the conflict in Darfur, and applies the doctrine to the case.