

The Notions of the Responsibility to Protect and the Protection of Civilians in Armed Conflict: Detecting Their Association and Its Impact Upon International Law

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Abstract

The article focuses on the recent trend evidenced in United Nations and State practice towards associating the responsibility to protect with the protection of civilians in armed conflict. It analyzes whether such a trend is well-founded by shedding light on the common and distinct features of the two notions. In addition, it examines the normative impacts of such association on international law, mainly on international humanitarian law since the protection of civilians in armed conflict is founded upon this law. The article concludes that, although the responsibility to protect and the protection of civilians in armed conflict share similar features, such as the ultimate objective that they pursue and the general content of their protection, a closer look reveals significant differences between the two notions, mainly due to their specific underlying logic. It observes that their association has precisely led to export the reaction aspects peculiar to the responsibility to protect into the field of the protection of civilians in armed conflict. Such association may have the potential not only to influence the nature of the responsibility to protect by enabling it to evolve from a political to a legal concept, but also and more probably to have an impact on international humanitarian law. This could have the advantage of both clarifying and putting the accent on the possibility and necessity of coercive intervention of the international community in case of violations of the international humanitarian law rules related to the protection of civilians. However, such evolution is not without risk for this law. In particular, it may affect its neutral nature or lead to conflate the primary and collective responsibility that it provides with the ones under the responsibility to protect.

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