Protection of civilians: new perspectives, old solutions, and the debate on Sovereignty and the Responsibility to Protect

Protección de civiles: nuevas perspectivas, viejas soluciones y el debate sobre la soberanía y la Responsabilidad de Proteger

Abstract: This article addresses the debate on protecting civilians and the responsibilities of states and international organizations in its implementation. The objective is to analyze, within the context of recently erupted conflicts (Ukraine and the Gaza Strip), whether the concepts of responsibility to protect and responsibility while protecting are still effective, and how states and international organizations have been assimilating and putting them into practice. The work argues that despite in-depth studies on these concepts, the international structure and issues of sovereignty directly impact the construction of efficient responses to humanitarian crises, which is reflected in human suffering.

Keywords: responsibility to protect; sovereignty; protection of civilians; Ukraine; Gaza Strip.

Resumen: El artículo aborda el debate sobre la protección de civiles y las responsabilidades de los Estados y organismos internacionales en su implementación. El objetivo es analizar, en el contexto de los conflictos que han irrumpido recientemente (en Ucrania y en la Franja de Gaza), si los conceptos de responsabilidad de proteger y responsabilidad al proteger siguen siendo eficaces y cómo los Estados y organismos internacionales los están asimilando y poniendo en práctica. El trabajo sostiene que, a pesar de la profundización de los estudios sobre estos conceptos, la estructura internacional y las cuestiones de soberanía repercuten directamente en la elaboración de respuestas eficaces a las crisis humanitarias, lo que se refleja en el sufrimiento humano.

Palabras clave: Responsabilidad de proteger; soberanía; protección de civiles; Ucrania; Franja de Gaza.

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1 INTRODUCTION

"Its goal is to protect people subjected to bullying and genocide for the last eight years. And for this we will strive for the demilitarization and denazification of Ukraine" (our translation). With these words, Russian President Vladimir Putin launched what Russia called a Special Military Operation on February 24, 2022 (Khrebtan-Hörhager, 2016; Mottaleb; Kruseman; Snapp, 2022). For scholars and organizations that study the nuances of the Responsibility to Protect (R2P), Putin's statement and the operation conducted would become a milestone, in both rhetoric and practice, in shaping Russia's perception of this norm, the result of an understanding developed since the 2000s.

In the mid-2000s, national protests in Georgia, Ukraine, and Kyrgyzstan, together with Russia's response to these movements, laid the foundation for the development of early perceptions about the role of "Mother Russia" and its former orphans. Thus emerged the embryo that, under the auspices of R2P, would nurture and construct, if not globally, at least regionally, the perception of the need to protect a cross-border Russian identity.

The Orange Revolution in Ukraine in 2004-2005, which called into question the election results and culminated in the election of a pro-European government under the leadership of Viktor Yushchenko, indirectly contributed to the construction of the narrative about the "genocide" of ethnic Russians. This narrative was reinforced by the frequent use of moral justifications, such as those employed by the North Atlantic Treaty Organization (NATO) during the intervention in Kosovo. From that moment on, this rhetoric expanded as a tool for protecting vulnerable groups against hostile governments, dialoguing with future claims for self-determination, evident in the current processes of the Donetsk People's Republic (DPR) and the Luhansk People's Republic (Kulyk, 2016; Sakwa, 2015).

A little over a year after the events in Ukraine began, the Middle East would become the scene of another episode in the Arab-Palestinian process of defining borders, sovereignty, ceasefire, and self-protection. The attack launched by Hamas against Israel and Jewish communities, comparable in scale to the 1973 Yom Kippur War, reopened the debate on R2P in areas where the validity of state sovereignty is questioned due to its nebulous boundaries.

If, on the one hand, institutions such as the Global Centre for the Responsibility to Protect (GCR2P) systematically take a position on Israel's responsibilities (GCR2P, 2023), on the other hand, these same institutions fail to clearly define the role of Hamas as a political actor and, in this case, as a perpetrator of violence and the main obstacle to building a more effective agreement for the creation of a possible Palestinian state (Benvenisti, 2012; Buchanan, 2013).

R2P once again takes center stage in this debate, as Israel invokes its precepts to ensure the protection of its civilian populations in settlements within the Gaza Strip. On the other hand, the international community criticizes and questions the limits of action of entities such as the United Nations (UN) and its Security Council (UNSC) in their attempt to ensure the protection of populations against genocide, war crimes, ethnic cleansing, and crimes against humanity,

especially in a scenario where state sovereignty and responsibility seem to orbit an interpretative void (Thakur, 2019).

Based on these scenarios, this article seeks to reassess the limits between sovereignty and the Responsibility to Protect, the role of international organizations and their structures, and, finally, the validity of the normative structure. All these points are questioned in light of the main objective, which concludes the debate: the protection of civilians. Based on this discussion, this work aims to answer the following question: How has the Responsibility to Protect been used as a normative framework to instrumentalize international organizations and states in the protection of civilians in vulnerable situations in the debate on sovereignty? The main hypothesis is that the construction of the principle is not aligned with the international perception of state accountability and the actions of international organizations in the face of the limits of sovereignty.

This investigation takes as its case study the ongoing conflicts in Ukraine and the Gaza Strip, both treated as inter-state conflicts[1], to which, at first glance, R2P would not apply. However, debates on these conflicts have been permeated by the invocation of this instrument in various forums. This contradiction reflects the broadening of the debate on sovereignty and state responsibility, both regionally and internationally (Evans, 2016; Welsh, 2016).

Thus, the article is divided as follows: (i) a historical and conceptual review of the principle of Responsibility to Protect and its variants applied to conflicts, based on documentary and bibliographic sources; (ii) an in-depth analysis of the construction of the debate between Responsibility to Protect and the concept of sovereignty; (iii) a contextual approach to the conflicts in Ukraine and the Gaza Strip; and (iv) a conclusion that returns to the normative question and its applicability, expanding the analysis to Brazil's behavior in the conceptual construction of the current debate, contributing to Strategic Studies, especially on the Protection of Civilians as a central point, based on new literature and sources, using all available qualitative resources to understand the period under debate.

2 METHODOLOGY

This work adopts a qualitative case study design, exploratory-analytical in nature, focusing on two empirical contexts—Ukraine and the Gaza Strip—to examine the operationalization and limits of the Responsibility to Protect (R2P) and the Responsibility while Protecting (RwP). The choice of a case study allows for dense contextualization, attention to causal mechanisms, and critical dialogue with the norm, preserving the link between description and interpretation (Flyvbjerg, 2006). The qualitative approach is suitable for exploring complex

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1   For the purposes of conceptual precision in the field of International Humanitarian Law (IHL), an "international armed conflict (IAC)" is considered to exist when armed force is used between States (Article 2 common to the Geneva Conventions) and a "non-international armed conflict (NIAC)" when hostilities oppose a State and organized armed group(s) with sufficient intensity and degree of organization (Article 3 common and Protocol II). Thus, the Ukraine-Russia case is characterized as an IAC. The Israel-Hamas case involves hostilities with a non-state actor (Hamas), which would indicate NIAC, without prejudice to the concomitant application of the rules of occupation (IAC regime) in Gaza supported by part of the doctrine. References to the UN Security Council (relevant resolutions) and IHL parameters are therefore used as descriptive criteria for classification, not as political judgment. The possible influence of Hamas on the actions of the Palestinian Authority is unclear, as is the status of recognition of the Palestinian State.

phenomena, such as international norms and sovereignty, allowing for the integration of different theoretical and practical perspectives (Creswell, 2014; Denzin; Lincoln, 2011).

The literature review selected publications from 2010 onwards from databases such as Google Scholar, JSTOR, and Scopus. Key studies such as those by Bellamy (2013) and Benner (2013) were consulted, as well as reports from the Global Centre for the Responsibility to Protect (GCR2P) and the UN, such as the ICISS Report (2001) and the Report on Rwanda (United Nations, 1999). This selection allowed for a balanced analysis between theory and practice, focusing on the application of R2P in contemporary contexts. Recent studies, such as those by Thakur (2019) and Welsh (2016), were also incorporated.

The choice of case study as the central method, according to Yin (2017), enabled an in-depth analysis of the dynamics of the conflicts in Ukraine and the Gaza Strip, with an emphasis on violations of sovereignty and international responses. Stake (1995) argues that case studies are valuable for understanding nuances in complex events, such as the conflicts analyzed.

The collection focused on official documents (UN resolutions and reports), specialized literature (from 2015 onwards), and reports from research centers, with explicit criteria for temporal selection (events from 2014 onwards in Ukraine and recent cycles of escalation in Gaza) and normative relevance (R2P, RwP, sovereignty, and protection of civilians). The analysis consisted of a comparative examination guided by prior analytical questions (normative coherence, applicability, and institutional conditionalities), consistent with the case study strategy.

Although the qualitative approach allows for in-depth analysis, we acknowledge its limitations, such as subjectivity in data interpretation. To mitigate this risk, source triangulation was used, as recommended by Patton (2015), including UN documents, international commission reports, and academic articles. The choice of only two case studies limits the generalization of the findings, but Flyvbjerg (2006) suggests that case studies can provide transferable lessons for similar contexts. Future research could broaden the scope by adopting quantitative methods to complement the analysis.

In summary, the qualitative approach and case studies are adequate for examining the interaction between sovereignty and the protection of civilians, but further research should be conducted using mixed methods to provide a more comprehensive overview (Tashakkori; Teddlie, 2010).

3 THE CONSTRUCTION OF THE CONCEPT OF THE RESPONSIBILITY TO PROTECT AND ITS VARIATIONS

The 1990s were a milestone in the development of the discussion on the protection of civilians. The traumatic experiences of genocide in Rwanda and Srebrenica, as well as the conflicts in Angola, Burundi, East Timor, and Congo, highlighted the United Nations' inability to intervene effectively to prevent atrocities. These events exposed the weaknesses of the international architecture for protecting vulnerable populations and prompted the emergence of new concepts of intervention and shared sovereignty (Bellamy, 2013).

The genocide in Rwanda, in which over 800,000 people were killed between April and July 1994, was a turning point. The commander of the UN Assistance Mission for Rwanda (UNAMIR), Roméo Dallaire, repeatedly warned of the imminent risk of genocide, but the

UN response was insufficient, with the troop contingent being reduced rather than increased, leaving the populations unprotected. The failure in Rwanda prompted deep reflection on the international community's effectiveness in fulfilling its moral obligation to prevent genocide and mass atrocities (Melvern, 2004; United Nations, 1999).

Similarly, the 1995 Srebrenica massacre during the Bosnian War marked the failure of UN peacekeeping forces, who were unable to prevent the murder of thousands of Bosnian Muslims. These episodes became symbols of the UN's institutional and political limitations in taking preventive action, resulting in severe criticism of its inaction (Silva, 2011).

These events paved the way for discussion of the Responsibility to Protect, which was formalized in the early 2000s. The formulation of the concept was influenced by precursors such as *le droit d'ingérence humanitaire*, proposed by Bernard Kouchner, and the concept of Human Security, presented in the 1994 *Human Development Report* (UNDP, 1994). Human Security expanded the notion of protection, which included not only military security, but also basic health, food, and education needs. The doctrine of "Just War," advocated by Tony Blair during the intervention in Kosovo, reinforced the idea that states and international organizations had a moral obligation to intervene to prevent massive human rights violations, even if this meant violating state sovereignty (Andersson, 2019; Rhoads; Welsh, 2019).

The creation of the International Commission on Intervention and State Sovereignty (ICISS) in 2000 was a milestone in the advancement of the R2P concept. Under Canada's leadership, the *Responsibility to Protect* report, published in 2001, established three fundamental dimensions: the primary responsibility of a state to protect its population; the responsibility of the international community to help the state take the necessary measures for protection; and the responsibility of the international community to use "diplomatic, humanitarian, and other appropriate peaceful means" to help protect the population if the state fails to do so, with the collective use of force under a UNSC mandate as a last resort (Avezov, 2013).

This innovative concept subverted the traditional notion of absolute sovereignty by arguing that state sovereignty is conditional on the state's ability to protect its population. Otherwise, international intervention would be justified to prevent atrocity crimes such as genocide, war crimes, and crimes against humanity (Bellamy, 2013; Evans, 2009).

Despite its formal recognition by the UN General Assembly in 2005, the application of R2P faced considerable challenges. Fears that the concept would be exploited by Western powers as a pretext for unilateral and politically motivated interventions generated criticism, particularly from developing countries that saw R2P as a potential threat to their sovereignty. Selectivity in the application of R2P, particularly in conflicts where the strategic interests of major powers were at stake, reinforced this perception of injustice and arbitrary use of the concept. A clear example is the intervention in Libya in 2011, which, although initially conducted under the pretext of protecting civilians, quickly evolved into a campaign for regime change, increasing mistrust about the use of R2P as a cover for specific political agendas (Bellamy, 2011).

The intervention in Libya exposed the need to introduce safeguards to prevent R2P from being used as an instrument of interference in the internal affairs of states, which led,

in 2011, to the Brazilian proposal for Responsibility while Protecting. RwP, therefore, offers a more cautious approach, imposing strict limits on military intervention and requiring that all diplomatic and peaceful options be exhausted before the use of force (Avezov, 2013; Evans, 2016; Kenkel, 2012).

In this scenario, criticism of the application of R2P and fears that it would be abused led to the emergence of a variant proposed by Brazil in 2011, Responsibility while Protecting. The concept was introduced by then-President Dilma Rousseff during the opening of the UN General Assembly with the aim of improving R2P, establishing clearer criteria for the use of force, and ensuring accountability in military interventions. RwP proposed the need for greater oversight of operations conducted under R2P, emphasizing that the use of force should be a last resort, with priority given to diplomatic and peaceful solutions. In addition, Brazil stressed the importance of assessing the impacts of interventions, seeking to prevent international actions from aggravating the humanitarian crises they were intended to resolve (Benner, 2013; Rodríguez Villa, 2021).

The evolution of R2P and RwP reveals a broader conceptual debate on how to balance the sovereignty of states with the international responsibility to protect civilians. The concept of "sovereignty as responsibility," proposed by Francis Deng *et al.* (1996), was an essential step in this direction, as it established that sovereignty cannot be used as a shield to commit atrocities. R2P, in this context, is seen as an extension of this principle by arguing that the international community has the right—and the duty—to intervene when a state fails to protect its population from atrocious crimes (Evans, 2009; Trindade, 2020).

However, the practical application of R2P still faces significant challenges, especially in conflicts of an inter-state nature and in interventions that require UNSC authorization. The use of the veto by permanent members of the Council often blocks rapid and effective action to prevent or stop mass atrocities, as seen in the cases of Syria and Yemen. This institutional limitation has raised questions about R2P's ability to fulfill its promises, leading to calls for reform of the UNSC to make it more responsive and less susceptible to political deadlocks that prevent the protection of civilians (Bellamy; Dunne, 2016; Janzekovic; Silander, 2013).

A central aspect of the criticism regarding R2P is the issue of selectivity in its application. Recent studies indicate that the implementation of this policy tends to be more effective in contexts where there is strategic interest on the part of the major powers, while in less strategic regions, such as sub-Saharan Africa, the international response is often slower and less robust. The perception that R2P is applied unevenly remains a barrier to its universal acceptance, reinforcing the need for more robust accountability mechanisms, such as the concept of RwP proposed by Brazil (Bellamy; Luck, 2018; Ribeiro, 2019).

RwP also introduces the principle of continuous accountability during military operations, something that was lacking in the original R2P concept. The requirement that any military intervention be accompanied by constant monitoring by the UNSC based on periodic reports aims to ensure that international actions do not exceed their initial mandates. Although this control is seen as a way to protect state sovereignty and prevent abuses, it can also delay rapid responses in situations of genocide or crimes

against humanity, as was observed in the Syrian Civil War (Luck, 2009; Popovski, 2018; Thakur, 2019).

Additionally, the debate on R2P also raises questions about the effectiveness of international bodies in promoting humanitarian interventions that respect state sovereignty while preventing atrocity crimes. The suggestion that R2P can be exploited for political interests highlights the need for greater clarity in its operating principles and more transparent coordination between the actors involved, including states, international organizations, and civil society, to ensure that the focus remains on protecting civilians and preventing human rights violations (Evans, 2009; Trindade, 2020).

It should be noted that this extremely sensitive issue has raised several questions, which, despite being longstanding, still remain without a fully accepted definition. Among them is the difficulty of limiting the boundaries of state responsibility and, consequently, the notion of sovereignty and the responsibility of the international community, represented by its international and regional organizations. There is also debate about the extent to which the international community can trust the state to protect its population, and the extent to which the decisions of the international community should be subordinate to the process exercised by the permanent members of the UNSC, whose national agendas sometimes override international interests, which would lead to the use of the Responsibility to Protect as an interventionist mechanism. These issues have been strongly criticized regarding the limits of adopting this responsibility in intra-state conflicts.

The evolution of these concepts shows that, although R2P has been an important advance, there is still a gap between the principles and their practical application. The discussion on how to ensure the effectiveness of R2P without compromising the sovereignty of states remains one of the main dilemmas in the contemporary international arena. For R2P and RwP to be effective, it will be necessary not only to strengthen institutional mechanisms, but also to promote greater trust among states in the responsible use of these tools, ensuring that interventions are carried out on the basis of clear legal criteria and with adequate international oversight.

4 THE RESPONSIBILITY TO PROTECT VERSUS THE RESPONSIBILITY WHILE PROTECTING AND THE DILEMMA OF SOVEREIGNTY

The concept of sovereignty traditionally refers to the supreme authority of a state over its territory and the non-interference of other states in its internal affairs. Since the Peace of Westphalia in 1648, state sovereignty has been the foundation of the international order. This classical view of sovereignty is based on political independence, territorial integrity, and the exclusive authority of states to make internal decisions without external interference (Krasner, 1999). However, globalization, interdependence between states, and demands for universal human rights have begun to challenge this rigid conception. The concept of sovereignty has evolved, especially with the emergence of R2P, which proposes sovereignty conditional on the responsibility to protect one's own population from mass atrocities.

R2P reflects this transformation by establishing that sovereignty is not an absolute right, but rather a responsibility. According to this new approach, when a state fails to protect its

citizens from genocide, crimes against humanity, war crimes, or ethnic cleansing, the international community has a duty to intervene to ensure such protection, as provided for in the report of the International Commission on Intervention and State Sovereignty (2001). This paradigm shift, advocated by authors such as Gareth Evans (2009), highlights "sovereignty as responsibility," arguing that states have obligations to their populations and that if these obligations are not fulfilled, the legitimacy of sovereignty can be questioned and even suspended in the name of protecting universal human rights (Evans, 2009; Trindade, 2020). Natalie Oman (2019) adds a philosophical perspective to the issue, emphasizing that sovereignty should be seen not only as a function of power but also as a moral obligation to protect the fundamental rights of individuals within the state territory.

However, the flexibility of sovereignty proposed by R2P faces criticism, especially from countries in the Global South, which see the concept as a way to justify selective interventions. Sarka Kolmasova (2024) argues that advocacy networks have been instrumental in the construction and circulation of the R2P norm, influencing how the concept is interpreted and applied globally. However, this flexibility is often perceived as a risk by states that fear that R2P could serve as a pretext for external interventions driven by geopolitical interests rather than purely humanitarian ones.

The ICISS report sought to harmonize the views of the Northern and Southern hemispheres, but the attempt to sidestep the issue of military intervention was not entirely successful. The report defined three dimensions: responsibility to prevent, responsibility to respond, and responsibility to rebuild. The dimension of responsibility to respond was associated with intervention, especially in discussions on the UN General Assembly's Uniting for Peace, triggered when the UNSC is paralyzed. This mechanism was criticized by the then Brazilian Minister of Foreign Affairs, Celso Amorim, in 2004, due to its legal fragility, which could affect countries in the Southern Hemisphere, considering the UNSC veto as an instrument of control over interventions (Bellamy, 2013; Brazil, 2004; Kolmasova, 2024).

The institutionalization of R2P took place in 2005, during the UN's 60th World Summit, and was driven by the involvement of various actors (United Nations, 2005). Charles T. Hunt and Phil Orchard (2020) describe this process as a consolidation of international norms that underwent a process of contestation and adaptation. Four factors were essential: the engagement of the Canadian government; the adoption of R2P by the High-Level Panel on Threats, Challenges, and Change; the African consensus on R2P; and the report written by George Mitchell and Newt Gingrich (2005) on UN reform (Bellamy, 2006).

Ramesh Thakur (2019), in his analysis, reviews the origins and controversies of R2P, highlighting how the implementation of the norm faced a series of challenges related to its universal acceptance and selective application. Despite adaptations, R2P has failed to win the full confidence of all states. The need for approval by the UNSC and the narrow focus on genocide, ethnic cleansing, crimes against humanity, and war crimes were not enough to dispel fears of political manipulation.

The ambiguity of R2P, which oscillates between being a concept, a principle, or an emerging norm, continues to generate discussion. Richard Illingworth (2024) proposes that strengthening R2P requires a cosmopolitan approach that balances global and local

interests, promoting a transitional regime of shared responsibility between states and the international community. Cecilia Jacob and Martin Mennecke (2020) also argue that for R2P to be successfully implemented, ongoing dialogue about its normative foundations and practical application is necessary.

The antinomy between law and sovereignty in the international arena also emerges from the debate on the legitimacy of UNSC actions. The fact that the state targeted for intervention most often does not have a permanent seat on the UNSC raises concerns about impartiality in decision-making. Additionally, the legal immunity guaranteed by the UN Charter (United Nations, 1945) and the lack of accountability of the state targeted for intervention for acts committed increase criticism of the accountability of the actions of the UN and the UNSC. David Lanz (2020) explores the selective application of R2P in the case of Darfur, demonstrating how the conflict went from being a global cause to a neglected issue, highlighting the limitations of the concept in practice.

The International Court of Justice (ICJ), as interpreter of the UN Charter, plays a crucial role in preserving international legality. However, the absence of clear accountability mechanisms in the UN system and the reluctance of international courts to recognize the responsibility of the UNSC remain obstacles. In 2008, the European Court of Justice declared Regulation No. 881/2002, resulting from UNSC Resolution No. 1267, null and void, recognizing that the power of the UNSC was limited by European fundamental rights, setting precedents for questioning the legitimacy of some UN resolutions (Oman, 2019; Trindade, 2013).

In response to criticism of interventions authorized under the protective framework of R2P, the Responsibility while Protecting was conceived to strengthen oversight and accountability and to affirm that state sovereignty must be respected and the use of force reserved as a last resort (Busser, 2020; Rodríguez Villa, 2021). When presenting it, Brazil also pointed out the inadequacy of oversight and accountability mechanisms in military interventions and advocated for more robust mechanisms to ensure the legality and legitimacy of responses, preserving sovereignty whenever possible. Conceived as a complement to R2P, RwP seeks continuous monitoring of operations and respect for sovereignty, functioning, moreover, as a vector of normative change by promoting more robust accountability and rebalancing power asymmetries in the international system (Hamann; Muggah, 2013; Jacob; Mennecke, 2020).

However, despite the positive reception of RwP, there is a lack of normative tools that translate the principles of the concept into practical actions. The debate on how to operationalize RwP remains a challenge. The lack of significant progress has led to a gradual erosion of the impact of this proposal. Timo Kivimäki (2023) points out that the protection of civilians in fragile states requires an integrated approach that combines political, military, and humanitarian responses to address violence.

The main criticism of the application of RwP is that, by requiring a rigid sequence of diplomatic actions before any military intervention, it can create obstacles to the rapid protection of civilians. In crisis situations, such as the conflict in Syria, delays in action can result in more civilian casualties, exacerbating human rights violations. This is because RwP requires not only the exhaustion of all diplomatic means, but also a continuous and detailed analysis of the

consequences of intervention, which, in scenarios of imminent violence, may be unfeasible (Avezov, 2013; Orford, 2011; Paris, 2014).

Another important point raised by RwP is the accountability of international actors for collateral damage during interventions. However, in complex conflicts such as the one in Syria, where both the government and opposition forces are involved in atrocities, it would be almost impossible to ensure that military operations do not exacerbate instability. The emphasis on minimizing harm is commendable, but the absence of effective verification mechanisms may limit the effectiveness of RwP in crises such as these, especially when the geopolitical interests of international powers override the need for humanitarian intervention (Mamdani, 2009; Marks; Cooper, 2010; Rieff, 2014).

Furthermore, the issue of civilian protection still oscillates between tactical and strategic protection. Policymakers and military commanders need to balance these two approaches to ensure effective protection in conflict situations. This includes accepting the risks and uncertainties involved, ensuring the connection between the political and strategic levels, and committing to the international legality of military actions, whether defensive or offensive. Only with this integration will it be possible to move forward in implementing more effective actions to protect civilians in conflict situations, avoiding the mistakes of previous interventions.

5 THE CONFLICTS IN GAZA AND UKRAINE AND THE CURRENT OUTLINES OF THE DILEMMA OVER RESPONSIBILITY TO PROTECT VERSUS SOVEREIGNTY

The application of R2P in conflicts such as those in Ukraine and the Gaza Strip depends on complex diplomatic negotiations between states, as well as the political will to act. R2P seeks to prevent genocide, war crimes, ethnic cleansing, and crimes against humanity, assuming that states must protect their populations from these atrocities. When they fail, the international community has a duty to intervene to ensure this protection. Gore, Camp, and Chu (2023) argue that the international response to the Ukrainian crisis must align with R2P obligations, with the aim of preventing further war crimes and protecting civilians.

The conflicts in Ukraine and Gaza, which include numerous human rights violations and suffering inflicted on civilians, have reignited the debate on the application of R2P. In both cases, there is a dichotomy in interpretations of civilian protection that has direct implications for state sovereignty. Kolmasova (2024) points out that R2P is shaped by advocacy networks, which influence both state responses and the involvement of international organizations, making the implementation process even more complex in geopolitical contexts.

In the Ukrainian conflict, Russia's invasion in 2014 and annexation of Crimea, followed by the conflicts in Donetsk and Luhansk, were justified by the Russian government as a necessity to protect ethnic Russian populations, who were allegedly being targeted for genocide by the Ukrainian government. This narrative subverted the principle of R2P, turning it into a justification for military interventions that violate Ukrainian sovereignty. Sauer (2016) argues that this use of R2P for territorial expansion and political influence shows the limitations of the norm in interstate conflicts, especially when powerful actors, such as Russia, use the concept to advance their geopolitical interests.

The inertia of the UNSC, caused by Russia's use of its veto, has also blocked any attempt to resolve or mitigate the conflict through multilateral mechanisms. Barber (2022) points out that this institutional paralysis reveals a critical flaw in the global governance model, as it prevents the effective application of R2P. Furthermore, previous attempts to send UN peacekeeping missions to the occupied regions have not prospered due to disagreements among the major powers, as noted by the editors of PLoS Medicine (PLoS Medicine Editors, 2022), which has contributed to the continuation of human rights violations in eastern Ukraine.

The conflict in Gaza presents a different but equally challenging dynamic for R2P. The ongoing violence between Israel and Palestinian militias, particularly Hamas, intensified in 2023 following attacks on Israeli civilians, which reopened the debate on the protection of civilians in conflict zones. The occupation of Gaza and Israeli settlements have led to an overlap of responsibilities between international humanitarian law (IHL) and R2P. Jaber and Bantekas (2023) argue that, in the case of Gaza, IHL may be more appropriate than R2P for addressing responsibilities for the protection of civilians, given the complexity of the occupation and the absence of a fully functional Palestinian state.

Israel's military response to Hamas' activities, characterized by attacks that often do not distinguish between combatants and civilians, has raised concerns about violations of international norms of proportionality and necessity, as provided for by IHL. However, Israel's occupation of the territories in Gaza creates an unbalanced dynamic in terms of sovereignty and the protection of civilians, with Israel assuming responsibility for the security not only of its own citizens but also of the Palestinian population. Rieff (2014) notes that the application of R2P in Gaza is limited by this duality and the overlap of norms, hindering a consistent approach to the protection of civilians amid conflict.

In addition, the internal dispute between Hamas and the Palestinian Authority (PA) fragments the capacity to protect Palestinians in Gaza, creating a zone of diffuse responsibility in which neither Hamas nor the PA fully assumes responsibility for protecting the civilian population. In a news article published on the website of the Global Centre for the Responsibility to Protect (GCR2P, 2023), it is argued that this fragmentation, combined with the lack of international recognition of Hamas as a legitimate government, prevents the effective application of R2P in the territory. The ongoing violence and Hamas' use of civilians as human shields further complicate the application of R2P and the international response.

Another critical issue in the case of Gaza is the absence of a clear actor that can be held responsible for the protection of civilians. The application of R2P is hampered by the absence of a centralized government that effectively controls the territory. Reports from the Office of the High Commissioner for Human Rights covering the period from November 2023 to April 2024 document serious violations of human rights and IHL committed by different parties, highlighting systematic limitations in the protection of civilians (United Nations, 2024). The lack of consensus on governance authority in Gaza also creates a gray area where R2P cannot be implemented clearly or effectively.

Finally, the fragmentation of power structures and the dispute over sovereignty in Gaza create an accountability vacuum that compromises the protection of civilians. This absence of a central actor responsible for enforcing R2P, coupled with the use of civilians as shields in military

operations, makes the situation in Gaza extremely complex. Alexander (2024) notes that the limitations of international law in the Gaza conflict, especially with regard to R2P, indicate the need for new approaches to ensure the protection of populations in protracted conflicts where state sovereignty is fragmented or contested.

In both cases, the application of R2P faces intrinsic challenges related to sovereignty and international politics. While the conflict in Ukraine highlights the limitations of global governance and the instrumentalization of R2P by hegemonic powers, the conflict in Gaza exemplifies the complexity of applying the norm in a context of internal fragmentation and disputes over legitimacy. R2P, while vital, continues to face significant obstacles in its practical implementation, especially in scenarios where sovereignty is contested or fragmented, as highlighted by Adams *et al.* (2022).

6 CONCLUSIONS

The central question of this article was to understand how the principle of Responsibility to Protect (R2P) has been used as a normative framework to instrumentalize international organizations and states in the protection of civilians in vulnerable situations in the debate on sovereignty. The analysis shows that, although R2P has been widely adopted as a fundamental principle in the protection of civilians, its practical application faces several challenges, especially regarding national sovereignty and the geopolitical interests of global powers. Sovereignty, as has been reiterated by different states, often acts as an obstacle to intervention, resulting in constant tension between the need to protect and respect for state autonomy.

State sovereignty is often invoked as a reason to resist external interventions, especially when geopolitical interests are involved, hindering the application of R2P. However, R2P cannot be seen as an unrestricted invitation for intervention, but rather as a balance between the protection of civilians and the sovereignty of states. Barber (2022) points out that for R2P to fulfill its purpose, it is necessary to reform the institutions that currently limit its application, such as the UNSC, whose structure and veto power allow national interests to override the greater good of protecting civilians.

The application of R2P, especially in the conflicts in Ukraine and the Gaza Strip, reveals that the instrumentalization of the principle as a normative framework has been limited by the lack of control mechanisms to ensure its consistent and effective implementation. In the case of Ukraine, the Russian narrative of "protecting" ethnic Russian populations in Donetsk and Luhansk exemplifies how R2P can be distorted to justify violations of sovereignty. Sauer (2016) argues that this selective use of R2P undermines the credibility of the principle, particularly in interstate conflicts where the geopolitical interests of major powers, such as Russia, hinder any meaningful international intervention. The Russian veto in the UNSC prevents any coordinated response, revealing the limitations of the current global governance system.

The creation of oversight mechanisms for UNSC resolutions, such as the proposal presented by France and Mexico to limit the use of the veto in cases of genocide and war crimes, is essential for R2P to remain relevant in the international context. The United Nations Office

on Genocide Prevention and the Responsibility to Protect (United Nations, n.d.) points out that these reforms are necessary to ensure that the protection of civilians is prioritized over geopolitical interests.

The need to reform the UNSC has been widely discussed in the context of the application of R2P and RwP. One of the main barriers to the implementation of these doctrines is the use of the veto power by permanent members of the UNSC, which, as mentioned above, prevents coordinated action for the protection of civilians, even in cases of genocide or war crimes. The absence of normative criteria restricting the use of the veto, especially in humanitarian matters, has been criticized by several experts, who point to the UNSC's inertia in crises such as that of Syria, where the Russian veto blocked any attempt at intervention (Luck, 2009; O'Brien; Sinclair, 2011; Popovski, 2016).

These reforms are essential to ensure that the UNSC becomes a more representative and effective body in protecting civilians. In addition, increasing the number of permanent members to include countries from the Global South could bring greater balance to decisions and prevent the geopolitical interests of regional powers from hindering the application of universal humanitarian principles (Popovski, 2018; Puley, 2005; Reinold, 2010).

In the case of Gaza, the application of R2P faces a number of complexities. The fragmentation of Palestinian authority, divided between Hamas and the Palestinian Authority (PA), creates a vacuum of power and responsibility that prevents the consistent implementation of R2P. Jaber and Bantekas (2023) point out that, although IHL can regulate the Israeli occupation, the overlap between IHL and R2P creates uncertainty as to who is responsible for protection. Furthermore, the absence of a central actor that can be held accountable further aggravates the situation.

Based on the analysis of the two conflicts, it is clear that R2P, as a normative framework, has been used in a limited way by international organizations and states due to its structural vulnerabilities and lack of effective control mechanisms. The editors of PLoS Medicine (2022) argue that regional arrangements, such as the African Union, could play a more significant role in legitimizing interventions before they become unilateral actions, which could minimize the impacts of the politicization of R2P.

In this context, Brazil plays a crucial role. With the introduction of Responsibility while Protecting, Brazil presented an alternative vision, proposing that R2P be complemented by more robust accountability and oversight mechanisms. Thakur (2019) points out that, if implemented, RwP could help balance the need for intervention with the obligation to ensure that sovereignty interests are not arbitrarily undermined. Brazil's experience in peacekeeping missions, such as Minustah in Haiti, offers a practical example of how the concept of Smart Power can be applied to promote peace and the protection of civilians without resorting to disproportionate military action.

Adams *et al*. (2022) also emphasize that, in both conflicts, the implementation of R2P was compromised by the lack of international consensus on how to apply it fairly. However, Brazil has the opportunity to use its diplomatic experience and commitment to multilateralism to promote reforms in the UNSC that make R2P more effective. By advocating for UNSC reform and seeking greater representation in global decision-making, Brazil can contribute significantly

to strengthening the role of R2P in protecting civilians, ensuring that it is not merely an instrument of selective intervention.

This article explored how the principle of Responsibility to Protect has been instrumentalized to protect civilians in vulnerable situations, but also revealed that without structural reforms in global governance mechanisms, R2P will continue to be applied unevenly. From this perspective, there is a window of opportunity that can be reopened, with Brazil as the driving force. This perception can break consolidated paradigms, such as the actions of the UNSC, which has little effectiveness in resolving belligerent interests and more in the interests of its permanent members, decided unilaterally through the power of veto. The principles put forward by Brazil have not been further developed by any nation or forum, so the country can still use its democratic and thoughtful perspective on state relations and the context of civilian protection to promote more than just the insertion of new rules of conduct at the United Nations: it is an opportunity to advocate for an expanded UNSC with greater representation of the 193 UN member states.

To this end, this article presents a flexible line of reasoning that highlights nuances between the Responsibility to Protect and the Responsibility while Protecting, in addition to placing the issue of civilian protection under the question of who is responsible for the protection and to what extent this discussion can trivialize the Westphalian state system, established in 1648, which legitimized state sovereignty, a sovereign power, and a people within geographical boundaries, under an international system based on the balance of power.

Finally, Brazil can and should strengthen the discussion on the protection of civilians, positioning itself to reap future benefits from its participation in the regional and international scenario, influencing more decisively the decisions of the UNSC, in a political-strategic way, bringing with it the discussion on a profound reformulation of the Council's structure. However, there is undoubtedly a powerful temporal component to this discussion: inertia can be a complicating factor for Brazil's aspirations, leading another nation or forum to build the legal basis for the Brazilian proposal and take the lead in the international discourse, or even allow the insertion of other responses that would undermine Brazil's aspirations.

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