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Haiti Two Years After the Earthquake – A Case for the Responsibility to Protect?

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Fokus

The concept of the “responsibility to protect” is commonly understood to focus on cases of armed conflicts rather than natural disasters. The example of Haiti shows, however, that the use of this doctrine can be extended also to these cases, and the international community seems increasingly prepared for this change.

Quellen:

- ICISS, The Responsibility to Protect (2001);
- A/RES/60/1, 15.09. 2005, paras. 138-139;
- S/RES/1973, 17.03.2011, pre. paras. 4-5.

Thanks also to Heike Montag for her insightful remarks.

Two years ago today, on January 12th 2010, an earthquake with magnitude 7.3 on the Richter scale hit Haiti and caused the death of more than 250.000 people leaving a devastated country behind. Today, 10 million Haitians commemorate the 2nd anniversary of this worst day of their modern history. For international law and politics, it makes a big difference whether human suffering like the one in Haiti is the result of a natural catastrophe or of an (international) armed conflict. The doctrine of the so called “responsibility to protect”, which has become most prominent in 2011, is traditionally assumed to be applicable only where a State violently suppresses their own citizens’ rights, not in cases where these human rights occur because of natural disasters.

One wonders, however, how reasonable such a limitation of the responsibility to protect is in cases such as Haiti. From a *utilitarian* standpoint, the humanitarian consequences are often even worse in the case of natural disasters than after political upheavals. In Haiti, the humanitarian situation was certainly worse after the 2010 earthquake than after the 1991 military coup d’état. Also the *legal* motivations to restrict the use of the responsibility to protect are eroding. When the International Commission on Intervention and State Sovereignty (ICISS) developed the concept in 2001, it was tailored for the cases of genocide, war crimes, ethnic cleansing and crimes against humanity only. These cases do not fit the situation of natural disasters (although the ICISS mentions natural disasters briefly; see report at p.33); earthquakes do not distinguish between ethnicities nor do they commit war crimes.

However, 10 years after this original definition, the scope of the responsibility to protect has moved on, namely in two ways. Firstly, in 2005, the World Summit Document broadened, rightly or wrongly, the scope of the responsibility by omitting the “precautionary principles” (like “last resort” and “proportionality”) – those principles that were intended to limit the use of the doctrine. Secondly, in March 2011, the responsibility showed its “teeth” in international law for the first time, when the Security Council used the doctrine as a guiding motive in Resolution 1973 to justify the military intervention to Libya. In this resolution, the Council only referred to “gross and systematic violation of human rights” and to “the protection of civilians” (also see M. Kettemann, Bofaxe Nr. 377D of 30.03.2011). It thus recognized that human rights must not only be *respected* by a State, but at the same time, also in times of crisis beyond anyone’s control, be *protected*.

Both these examples show that the international community is prepared to extend the use of the responsibility to protect. It would only be coherent with this political tendency to also consider natural disasters like the 2010 Haiti earthquake as potential cases for the responsibility to protect: On the one side, a State does not have the (financial) capacity to address the continuing human rights violations on its own; on the other hand, the global community (States and non-State actors) is willing to step in. One might ask: Why is the responsibility to protect still relevant for Haiti today, two years after the humanitarian disaster? The answer is simple: If one came to accept the case of Haiti as a case of the responsibility to protect, it would imply to embrace all of the doctrine’s facets, in particular a possible, but often forgotten, “responsibility to rebuild”. That the fulfillment of such as responsibility is still of the highest topical importance, is clear for everyone who may visit Haiti today, or in the coming years.

Verantwortung

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