

The International Criminal Court and the Responsibility to Protect

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The international law principle of the “responsibility to protect” compels the international community to take measures to protect populations from atrocious crimes where a state fails in its obligations. Stefano Marinelli skilfully analyses the interaction between the International Criminal Court and the “responsibility to protect” concept in this book. The work’s central theme demonstrates a positive correlation between the Court and the principle. In establishing this relationship, emphasis is placed on the overriding objective of the Court and the concept, which is to halt the commission of the core crimes of international law. The approach adopted by the work is to study this relationship from two broad perspectives. It initially explores the locus of the Court as an instrument to be utilised by the United Nations Security Council in combatting atrocity crimes and the Council’s response to these crimes within the context of the responsibility to protect. The subsequent substantive chapters then explore the practice of the Court within the concepts of judicial deterrence, *ius ad bellum*, and state sovereignty and their interaction with the responsibility to protect. Whereas other scholars have comprehensively studied some of these issues, the author provides a novel outlook within the specific context of the correlation between the Court’s mandate and the responsibility to protect.

It is generally determined that a lack of a comprehensive formulation of the principle, especially the absence of a clear definition and legal framework of action, and the International Criminal Court’s lack of enforcement mechanisms and susceptibility to political interference, are practical and methodological hindrances to a positive correlation between the two. The book concludes that a perfect synergy between the Court and the concept cannot be attained, nor should it be desired. This is premised on the observation that the concept has not introduced a new legal obligation under international law, while several challenges to its authority besiege the Court. Whereas the issues faced by the Court and the concept are related, the solutions are not. Accordingly, the author advocates for a parallel pursuit of their objectives without any interaction as the most effective way of contributing to protecting populations from atrocity crimes. Notwithstanding the practical implications of a comparative study between an international legal institution and a concept still in evolution, the work is a critical addition to the literature on international criminal and humanitarian law. It provides a valuable reference not only to those who engage in interdisciplinary, international law studies but also those who formulate policies that actively contribute to the international community’s response to instances of mass violence.

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