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**THE AMERICAN UNIVERSITY IN CAIRO**  
**SCHOOL OF HUMANITIES AND SOCIAL SCIENCES**  
**DEPARTMENT OF POLITICAL SCIENCE**

**Humanitarian Intervention: Before and After Responsibility to Protect (R2P)**

**Assessing the Impact of R2P**

**Thesis Advisor: Professor Marco Pinfari**

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**(800-11-3604)**

“If humanitarian intervention is, indeed, an unacceptable assault on sovereignty, how should we respond to Rwanda, to Srebrenica – to gross and systematic violations of human rights that offend every precept of our common humanity?”

UN Secretary General Kofi Annan in his 2000 Millennium Report

"I watched a little baby die today. Absolutely horrific ... No one here can understand how the international community can let this happen. ... There are just shells, rockets and tank fire pouring into civilian areas of this city, and it is just unrelenting".

*Sunday Times*’ journalist Marie Colvin from Homs, Syria, the day before she was killed by a Syrian military rocket fire.

## Abstract

The main topic of this thesis is to tackle the principle of Humanitarian intervention. Responsibility to Protect (R2P) was coined in 2001 as an evolution to the doctrine of Humanitarian Intervention (HI) with the aim to set precautions and conditions to govern the way the international community responds to humanitarian crises. The absence of defined rules or regulations to govern the international community's response to humanitarian crises has rendered the doctrine of humanitarian intervention perceived as a tool that can be used selectively by major powers to intervene in other countries according to their interests.

The case of Kosovo (1999) when NATO forces launched military attacks against the Former Yugoslavian Republic (FYR) without a mandate from the UN Security Council, made it clear that the time was ripe by then for the adoption of a principled framework for humanitarian intervention. This framework was then proposed and coined later by the International Commission on Intervention and State Sovereignty (ICISS) and named the Responsibility to Protect (R2P). However, after the launch of R2P (2001) and the adoption of R2P at the UN World Summit (2005), the developments in Libya (2011) and Syria (2011-?) revealed that R2P has not provided substantive change to the pattern of the state reactions to humanitarian crises, political interests remained the dominant factors deciding intervention in case of humanitarian crises before and after R2P

The thesis views that the launch of R2P constituted a historical opportunity to promote parameters and conditions for the international community to respond to humanitarian crisis in an automatic way away from any other considerations that could stem from particular interests or rivalry among major powers. However, the pattern of the international intervention in humanitarian crises after the R2P remained problematic.

The main hypothesis of the thesis is throughout ages political interests were the dominant motive behind the decision of international intervention in humanitarian crises. Despite the great aspirations that accompanied the adoption of R2P, the pattern of international intervention under humanitarian reasons remained under the effect of the dominance of the political interests as it used to be before the adoption of R2P.

The thesis will study different patterns of intervention in different eras before and after the adoption of R2P in order to demonstrate that political interests remained the dominant motive behind the decision of international intervention in humanitarian crises before and after R2P.

## **Conceptual Framework**

### **The Definition of Political Interests**

This thesis will adopt the definition of Hans Morgenthau regarding political interests. In his book “*Politics among Nations*”, he illustrates that the main signpost of political realism is the concept of interest defined in terms of power. He viewed that political realism stresses the rational, objective and unemotional power being the control of man over man. According to Morgenthau, statesman must think in terms of national interests, conceived as power among other powers. According to him, the popular mind, unaware of the fine distinctions of the statesman’s thinking, reasons more often than not in the simple moralistic and legalistic terms of absolute good and absolute evil. However, he argued also that politics, like society in general, is governed by objective laws that have their roots in human nature which is unchanging: therefore it is possible to develop a rational theory that reflects these objective laws.

### **The Humanitarian Intervention**

The term Humanitarian intervention will be defined in this thesis as the use of force across state borders by a state or a group of states under allegations of preventing or ending grave violation of the fundamental human rights of individuals other than their own citizens without a permission of the host state. This definition excludes non-forcible measures such as the diplomatic means or the economic sanctions, and excludes also the response to natural disasters.

### **The Responsibility to Protect (R2P):**

The International Commission on Intervention and State Sovereignty (ICISS) defines R2P as the responsibility of the state to provide protection for its own people. However, once a state becomes unable or unwilling to take such responsibility, this responsibility goes in a provisional matter to the international community.

### **The Pillars of R2P**

The ICISS report identified three main pillars for R2P: the responsibility to prevent, the responsibility to react, and the responsibility to build. However, the thesis will adopt the three pillars of the 2005 UN World Summit which are:

1. The State carries the primary responsibility for protecting populations from genocide, war crimes, crimes against humanity and ethnic cleansing, and their incitement.
2. The international community has a responsibility to encourage and assist States in fulfilling this responsibility.
3. The international community has a responsibility to use appropriate diplomatic, humanitarian and other means to protect population from these crimes. If a state is manifestly failing to protect its populations, the international community must be prepared to take collective action to protect population, in accordance with the Charter of the United Nations.

## Chapter One

### The Story of Humanitarian Intervention from the rise of the contemporary international relations till The Rise of R2P

#### 1.1 Introduction

Humanitarian intervention is currently one of the fiercely debated issues in the contemporary international relations. Although once upon time called an aberration in international relation, it is now a compelling foreign policy issue (Seybolt 2007). The current statistics of global conflicts demonstrates that the overwhelming majority of today's armed conflicts have turned throughout the twentieth century from the dominance of international armed conflicts at the beginning of the century to the dominance of non-international armed conflicts at the end of it (ICISS, International commission on Intervention and State Sovereignty 2001). More importantly, the ratio of civilians killed in non-international armed conflicts in relation to the whole numbers of civilians killed in armed conflicts (international or non-international) has increased dramatically from around one in ten at the beginning of the twentieth century to approximately nine out of ten at the end of the century. (*Ibid*, PP 13)

The debate regarding military intervention in non-international armed conflicts that have striking humanitarian dimensions has been an issue of controversy since the early rise of the contemporary international relations after the peace of Westphalia. The cases of intervention or non-intervention, or even the cases of late/ failed intervention have raised a torrent of criticism. In many cases, international intervention has created more carnage than it averted.

The selective pattern while deciding intervention in cases of humanitarian crises, as well as the rising figures of casualties resulting from non-international armed conflicts, has put the international conscience in the dilemma of how to reconcile the founding principles of the UN charter regarding the non-intervention from one hand, and the goal of "saving succeeding generations from the scourge of war" from the other.

The repetition of the cases of selective international intervention after the end of the cold war such as the reluctance to provide protection for civilians in the cases of Rwanda, the former Yugoslavian Republics, the Congo DRC...etc on the one hand, and the intervention without a prior authorization from the Security Council such as the case of Kosovo from the other, has led the international community to seek alternative solutions that respect the principle of sovereignty and non-intervention from one hand and to allow the timely international response to humanitarian crises from the other. This was the idea behind establishing the International Commission on Intervention and State Sovereignty (ICISS) that coined the principle of the Responsibility to Protect (R2P)

The “Responsibility to Protect” was invented to address certain shortcomings in its predecessor “Humanitarian Intervention”. Intervention under humanitarian allegations used to be either too selective or too late. R2P tried to set certain rules and regulations to govern the process of the use of force. However, the thesis argues that while the responsibility to protect has advanced the debate about humanitarian intervention in many key respects, the end result was that R2P became subject to some of the same pitfalls found in “humanitarian intervention”. Despite the huge aspiration that accompanied R2P and the expectations that future humanitarian interventions will be guided according to certain rules and regulations rather than mere political interests, the pattern of international interventions after R2P remained problematic.

The main hypothesis of the thesis is that throughout ages political interests were the dominant motive behind the decision of international intervention in humanitarian crises. Despite the great aspirations that accompanied the adoption of R2P, the pattern of international intervention under humanitarian reasons remained under the effect of the dominance of the political interests as it used to be before the adoption of R2P.

The thesis adopts the realist view in international relations. It argues that this selectivity in the international response before and after R2P stems from the nature of the international system itself. In the absence of a central authority to implement norms such as human rights, state's action is always determined by its interests. Although these interests may include interest in human rights, humanitarian aspects, alone these interests are rarely sufficient to motivate a state to intervene abroad. For a state to conduct forcible intervention in support of human rights, it requires the state to expend its resources and to put the lives of its military personnel at risk, something a state will not likely do in the absence of self-interest. That is why it was not surprising to notice that in many cases, the humanitarian conditions were grave, but major powers expressed little interest in intervening in such conditions because major powers did not have any political or economic interest to intervene.

Martha Finnemore argues that the realist thoughts that focus on the political or economic interests do not provide enough justifications to the rapidly multiplying cases of humanitarian intervention after the end of the Cold War (M. Finnemore, *Constructive norms of humanitarian intervention* n.d.). She argues that most, if not all, cases of humanitarian intervention occurred in countries where major powers had no national interest to intervene. She contends that none of the realist or liberal approaches provide an answer to the question what interests the intervening major powers are pursuing. According to her, Realists and most liberals do not investigate interests, they assume them (Ibid).

This thesis will provide answers to these questions through studying different cases of intervention under humanitarian causes before and after R2P. The thesis will demonstrate that political interests, not the humanitarian motives, were the main driving force for deciding international intervention. The thesis will particularly focus on two major incidents of humanitarian crises after the adoption of R2P; The NATO-

led intervention in Libya and the long lasting humanitarian crisis in Syria. Both the Libyan and Syrian governments targeted their own civilian populations and committed crimes against humanity. According to R2P's parameters, both governments were unable or unwilling to fulfill their responsibilities toward their own citizens. Despite the fact that "just cause" exists in both cases, the UN Security Council authorized military intervention against Libya, while remained reluctant to do the same with regard to the Syrian crisis.

The contrast between the international response to the two cases demonstrates this thesis argument that "R2P" is subject to many of the same pitfalls found in the principle of "humanitarian intervention". This discrepancy between the international response in the two cases illustrates the thesis hypothesis that states intervene in instances where they have an interests in intervention and the power to do so. This selectivity had plagued state actions under the frameworks of both humanitarian intervention and the responsibility to protect.

The thesis views that this discrepancy in the reaction of the international community stems, not from the differences in the humanitarian situation in both cases, but from differences in the international community's willingness to intervene. This willingness stems mainly from considerations like power and interest. As these two cases suggest, the international response varied even in circumstances that are quite comparable; R2P in both cases did not provide any consistent ground for intervention more than its predecessor the "Humanitarian Intervention".

This chapter will investigate and discuss cases of international intervention under humanitarian claims in different time limits before the adoption of R2P. The term "Humanitarian Intervention" has existed in the past centuries since the early rise of the notion of sovereign states. However, since then humanitarian intervention has been an issue of controversy, there were no rules or regulations to humanitarian intervention; states used to act according to their own perceived interests even if they claim humanitarian motives. The NATO intervention in Kosovo (1999) represented a land mark in the history of humanitarian intervention. It led many to view that the time was ripe by then for the adoption of a principled framework for humanitarian intervention, the framework that was proposed and coined later under the name of R2P by the International Commission on Intervention and State Sovereignty (ICISS).

## **1.2 The Origin of the Concept of "Humanitarian Intervention"**

It is interesting to read in history that the tension between the advocates of sanctity of state sovereignty and those calling for intervention to provide assistance beyond borders in humanitarian cases is not a new issue in international relations. The term "Humanitarian Intervention" had been used frequently in Europe in the past centuries parallel to the evolution of the concept of non-intervention in other sovereign states. (Barnett, *Empire of Humanity: A history of humanitariansim* 2011).



In fact, the concept of "Humanitarian Intervention" has emerged in the past centuries as a possible exception to the principle of non-intervention that has emerged during the same era. Hugo Grotius though argued that "war cannot be justified against other sovereigns or even against those who erred in the interpretation of Christianity or who refused to accept it". He defended the right of the state to wage war for the purpose of punishment, not only for injuries committed against the sovereign or his subjects, but also against those who "excessively violate the law of nature or of nations in regard to any person whatsoever" (*Ibid*, pp.11). In Grotius' opinion, the just war waged on behalf of the oppressed subjects of another sovereign is a legal right rather than a moral duty. (*Ibid pp.15*)

Meanwhile, there was no clear meaning for the modalities of the concept of humanitarian intervention. While some scholars rejected the whole principle, others argued that it is a legal right, while a third group viewed that international law should say a little about this matter (Chesterman 2003) Throughout these ages, there was no agreed definition for "Humanitarian Intervention". It was argued that the fundamental premise of that notion provides that outside powers may be granted the right to use force outside their borders to provide protection for people of another state when this state become unable to provide such protection or when the state authorities are the source of sufferings (Gieyrcz 2010)

In his book "*Against massacres: Humanitarian intervention in the Ottoman Empire*" David Rodingo investigated the roots of the phenomenon through examining different cases of intervention on humanitarian grounds from European history in the nineteenth century. He argued that in general when European states dealt with massacres taking place mainly in the Ottoman Empire, they ignored the abuse of human rights in their respective colonies. European diplomats in the nineteenth century demanded the Ottoman government to legislate for citizenship and equality, while in a former Ottoman territory such as Algeria, the French authorities ruled in a more despotic and discriminate way than the Ottomans had ever done.

Rodingo argues that the European states intervened militarily when the "barbaric" Ottomans used the same "savage" means to repress rebellions they systemically used in their own colonies. The British for instance, while defending the Greek sufferings during 1820's, were discussing how to deal with the insurgency in India and how to foster Catholic grievances in Ireland. The argument among many scholars of that age was that the Ottoman Empire belongs to the uncivilized orient and was not a member of the family of nations. (Rodogno, against massacre: Humanitarian intervention in the Ottoman Empire" 2012)

The following section will shed light on two milestone cases of international intervention under humanitarian allegations. The international intervention in Greece (1827), and the international intervention in Mount Lebanon (1860). These cases represent two early examples of claimed humanitarian interventions in the nineteenth century. The aim of this historical narration is to shed light on the historical evolution

of the issue of intervention in the domestic affairs of other sovereign states under humanitarian causes from the old ages till the launch of the R2P. The aim of discussing these cases of intervention is to demonstrate that the term “Humanitarian Intervention” has been frequently used in the past centuries as well as is being used nowadays. More importantly, the political factors and the international rivalry have been the dominant motives that stood behind the decision of intervention.

### **1.2.1 The International Intervention in Navarino 1827**

The joint intervention of Great Britain, France and Russia in aid of the Greek insurgents against the Ottoman rule in 1827 is frequently considered as the earliest example of a claimed humanitarian intervention (Chesterman 2003). Rodingo describes the international intervention as a "*coup d' assai*" of state practices that would crystallize through that century (Rodogno, against massacre: Humanitarian intervention in the Ottoman Empire" 2012) However, he questions whether the 1827 intervention was a genuine "humanitarian intervention" against the ethnic cleansing and other atrocities committed by the Ottomans against civilians in Greece.

Following news that widespread massacres are taking place in Greece by the Turks, Great Britain, France and Russia threatened to use force against the sovereignty of Ottoman Empire under humanitarian allegations. Russia took the first step and threatened the use force. In fact, the main factor that forced the British and the French intervention at Navarino in October 1827 was the fears from the Russian threat of a unilateral intervention against the Porte (M. Finnemore 1998). Although the justifications that Russia offered was humanitarian, part of the Russian motivations were geostrategic (*Ibid*). Russia was pursuing a general strategy of consolidating control in the Balkans and weakening the Ottomans. Britain and France opposed the Russian intervention largely because they were concerned that weakening the Ottoman Empire would be in the advantage of Russia (*Ibid*).

Rodingo illustrates that international relations rivalry at that era played an important role in prompting the Western states intervention in Greece. The possible Russian intervention if were happened would have been resulted in establishing a Russian satellite Greek state. This was the main motive behind the British intervention in Greece (Rodogno, against massacre: Humanitarian intervention in the Ottoman Empire" 2012). Also, the Egyptian occupation of Morea was able to create a new power that could threaten the British interests in the Eastern Mediterranean and its trade with India (*Ibid*).

We can conclude from the above that it was political factors and the international rivalry, not the humanitarian concerns that motivated the intervention in Greece 1827. Moreover, the treaty that was signed in London in July 1827 by the intervening powers (Great Britain, France and Russia) to coordinate the intervention sets forth clearly in its preamble the grounds on which major powers made their decision for intervention in Greek. The primary goal of intervention according to the treaty was to

fix "all the disorders and anarchy caused by the struggle which impeded the commerce of the states of Europe and gave opportunity to pirates" (Chesterman 2003). (pp 29) In that regard, it was not unexpected to learn that the modalities of intervention at Navarino did not eventually bring the relief to Greek civilian populations after intervention. Instead, it merely emphasized the interests of the intervening powers (Rodogno, against massacre: Humanitarian intervention in the Ottoman Empire" 2012)

### **1.2.2 The International Intervention in Mount Lebanon 1860**

In 1860 another international intervention in the name of humanitarian motives took place this time in Mount Lebanon which was also under the Ottomans sovereignty. The allegations this time was to put an end to the sectarian massacres between the Druze and the Maronites. Rodingo points out that the scholars of that age viewed the massacre as a consequence of native tribalism and barbarism of the Turkish role, hence, they viewed that European governments were not bound by the principles of non-intervention in their political behavior with the Ottoman Empire. (Rodogno, against massacre: Humanitarian intervention in the Ottoman Empire" 2012)

It is noteworthy that as early as 1250, Louis IX of France signed a treaty with the Maronite Christians of the Levant guaranteeing their protection as if they were French subjects, and in effect the treaty made them part of the French empire. Napoleon III thus was eager to support military intervention in part at least to placate outraged catholic opinion at home (M. Finnemore 1998). Therefore, the French in particular described events in Lebanon as the "indiscriminate and brutal slaying of Christians at the hands of the Muslim Druze" ( (Rodogno, against massacre: Humanitarian intervention in the Ottoman Empire" 2012) pp 97). They put forward the idea that the regeneration and the reconnection of the local population with civilization would provide moral grounds for intervention (M. Finnemore 1998). Russia was also eager to intervene. Therefore Britain became involved in the intervention only to prevent Russia and France from using the incidences to expand territorially (*Ibid*).

In the operational side, the intervening states claimed that the Ottoman Empire was responsible and unable/ unwilling to put an end to the massacres. Therefore, the civilized nations should intervene to halt the atrocities. On the 31<sup>st</sup> of July 1860, a conference was convened in Paris, which was attended by representatives from Austria, Great Britain, France, Prussia, Russia and the Ottoman Empire. The major powers managed to get the consent of the Ottoman Empire to receive up to 12,000 troops to the Syrian coast to contribute to establishing stability and tranquility. France offered to deploy half the number of troops immediately. Although the mission was designed at the beginning to remain for 6 months in Syria, it was extended to almost one year till June 1861. However, when the French troops reached their destination, they found that order and law had been restored by the Ottoman authorities (Chesterman 2003). According to eyewitnesses, Western fleets started by evacuating Western residences at the beginning while only a minority of refugees were saved.

(Rodogno, against massacre: Humanitarian intervention in the Ottoman Empire" 2012)

Although it could be argued that the consent of the Ottoman Empire from one side, and the limited mandate of intervening forces (6 months) from the other, would not allow historians to describe it as a classical humanitarian intervention, but it is important to keep into consideration that the *Porte* gave his consent in order to avoid worse outcomes (Chesterman 2003). We can infer from the case of intervention in Mount Lebanon that the political factors were also the main drive for intervention. The rivalry between the three major powers (Great Britain, France and Russia) was decisive in shaping the pattern of intervention. Moreover, during military intervention, major powers were keen primarily on securing its interests before looking after the refugees.

The aim of this historical narration is to shed light on the historical evolution of the issue of intervention in the domestic affairs of other sovereign states under humanitarian causes. The term "Humanitarian Intervention" has been frequently used in the past centuries as well as is being used nowadays. However, throughout these ages, there were no clear meaning for the modalities of the concept of humanitarian intervention; the international relations rivalry and economic interests played the important role in prompting major powers for intervention, that was very clear in the case of intervention in Greece (1827) when the intervening powers stated that the aim of intervention is to "fix all the disorders and anarchy caused by the struggle which impeded the commerce of the states of Europe".

In fact, from the nineteenth century till the end of the twentieth century, the cases of intervention in the affairs of other states under humanitarian causes have never ceased to recur. Rodogno argues that governments throughout history used to act according to their own perceived interests, even if they claimed other purposes. According to him what can really distinguish "Humanitarian Intervention" from other kinds of interventions is when state agents see saving the lives of strangers as an act of "moral obligation", which was not necessarily the case in the previous interventions under humanitarian claims (Rodogno, against massacre: Humanitarian intervention in the Ottoman Empire" 2012).

Therefore, the concept "Humanitarian Intervention" remained "undefined" throughout these ages. The case of Kosovo (1999) when NATO used force against the Former Yugoslavian Republic claiming humanitarian reasons without a mandate from the UN Security Council was a land mark in the history of humanitarian intervention. It made it clear that time was ripe by then for the adoption of a principled framework for humanitarian intervention. This framework then was proposed and coined later by the International Commission on Intervention and State Sovereignty (ICISS) and named the Responsibility to Protect (R2P). The following section will discuss in more details the NATO's intervention in Kosovo.

## **1.2.3 The Humanitarian Intervention in Kosovo**

### **1.2.3.1 Introduction**

The advocates of R2P and Humanitarian Intervention argue that NATO's intervention in Kosovo represented a seminal event in international relations. Despite the long lasting devastating civil war in Kosovo, the traditional international mechanisms at that time were not able to make an end to the civilian sufferings in that province. According to this camp, the NATO's intervention in Kosovo without a mandate from the Security Council demonstrated the need to establish a principled framework that governs humanitarian intervention.

The advocates of R2P argue that the debate over the legality and the legitimacy of the use of force in the case of Kosovo had made it clear that that time was ripe by then for the adoption of a principled framework for humanitarian intervention that can provide better protection for those who need it through assuring the primacy of the moral considerations over any other political interests. In a response to these calls, the Government of Canada in a collaboration with a group of major foundations announced at the General Assembly in September 2000 the establishment of the International Commission on Intervention and State Sovereignty (ICISS) which coined the doctrine of R2P.

### **1.2.3.2 Roots of the Crisis**

Kosovo holds special significance for many Albanians and Serbs. For Albanians it is the home of their national movement. For Serbs, their defeat in front of the Turkish army at the battle of Kosovo in 1389 marked the end of an era that many nationalists consider to be the "Serbia the Great" (Seybolt 2007). In the modern history, Kosovo used to be with its Albanian majority an autonomous province in the Yugoslav federation since the establishment of the federation in 1918, however, a lot of factors have contributed to the conflict in the province and the eventual dissolution of the whole Former Republic of Yugoslavia (FRY).

Many argue that the 1988 constitutional reforms presented by Slobodan Milosevic, the former Yugoslavian president, marked the point of no return; those reforms have concentrated powers in the central capital city of Belgrade. Moreover, in 1990, Slobodan Milosevic changed the constitutional status of the province and abolished its autonomous status and its autonomous institutions; since then, the province started to be ruled centrally from Belgrade. (Barnett, *Empire of humanity* 2011)

As a result to the latest constitutional developments, nationalist sentiments and separatist movements started to grow rapidly among the people of Yugoslavia. Slovenia and Croatia took the lead declaring their own independence in 1991. In April 1992, Bosnia and Herzegovina followed them and also proclaimed its independence. However, in the Bosnian case, clashes soon broke out between its three principal

communities; Bosnian Muslims, Serbs and Croats, which led to the death of tens of thousands and the displacement of nearly 2.6 million Bosnians.

In Kosovo, the Albanian majority shared the same feelings of marginalization and suppression by the central government of Former Republic of Yugoslavia. However the goal of independence for the Kosovars at that time was far from reach. The signing of the "Dayton peace" agreement in November 1995, which ended the Bosnian war, constituted a huge trauma for Kosovo's Albanians. Dayton peace talked mainly about Bosnia and Kosovo's problem was not an issue of discussion during the negotiations. This meant for many of the Kosovo Albanians that the option of the peaceful resistance would get to nowhere. From that moment on, the tide began to turn in the favor of violent resistance (Judah 2008).

### **1.2.3.3 The Launch of the Armed Conflict in Kosovo**

The Kosovo Liberation Army (KLA) was initially founded in 1993. However, it was only in 1996 that perhaps just 150 men began to take action and launch attacks against the Serbian troops (Judah 2008). In April 1996, the KLA carried out a series of attacks against the Yugoslav Army. The central government reprisal came instantly through higher levels of indiscriminate violence against those who were suspected of being loyal to KLA and also against the ordinary Albanian civilians, which led eventually to the death and the displacement of hundreds of thousands of individuals from their villages (Barnett, Empire of humanity 2011)

This had made the decision among the militants inclined towards a much armed resistance. However, the full-scale uprising against the Serbian government needed an access to arms. In the spring of 1997, the most unexpected thing took place; the neighboring country of Albania collapsed into a complete anarchy. In the chaos that followed, the government lost its control; this had provided conducive environment for the Kosovar militants to find a source of armament. (Judah 2008)

The KLA since then began to take territories in the central region and in the west of Kosovo. More and more young people began to trek over the mountains to Albania to collect weapons. Kosovo Albanians were overtaken by mixed conflicting feelings. Fear was one of them, but euphoria was stronger. However, despite the aforementioned feelings, the KLA itself was not prepared for what was already happening, it did not really manage to exercise full control over the situation on the ground; many villages were arming themselves, and with little link to the KLA, calling themselves KLA.

### **1.2.3.4 The Engagement of the International Community**

The international community started by that time to take note of the devastating situation in Kosovo. The first UN Security Council response to the situation in Kosovo came in March 1998 (UNSC Resolution 1160) under chapter VII imposing

arms embargo on both the Serbian government and the KLA and calling parties to negotiate a political settlement.

However, both parties did not respond seriously to the UNSC resolution demands to stop violence. As a result of the continued conflict, many non-Albanian ethnic minorities from areas controlled by the KLA fled or were ethnically cleansed, others were murdered (Judah 2008). The Serbian troops in return started to dig fortifications while maintained its crackdown over the KLA-controlled areas. Villages began to be burnt and tens of thousands of civilians fled their homes. By August 3 1998, the UNHCR estimated that 200,000 Kosovars had been displaced.

It is worth noting that although the Yugoslavian Army committed grave international crimes against the ethnic Albanians in Kosovo, The Kosovo Liberation Army also committed terrorist and other grave violations of the international laws of war against the Serbs and the FRY forces. Both the ethnic Albanians and the Serbs in Kosovo were engaged in brutal crimes against each other. (Charney 1999) However, the NATO action was only directed against the Serbian troops while the KLA leaders became the officials of the new state.

Another resolution (UNSC Resolution 1199) was adopted by the UNSC in September 1998. This resolution expressed deep concern about the excessive use of force by the Serbian security forces and the Yugoslav army, and called for a ceasefire by both parties to the conflict (UN, securitycouncilreport.org 1998). The resolution had also considered the situation in Kosovo for the first time as a threat to the international peace and security. However, the resolution did not passed easily due to the harsh opposition from Russia which, while voted eventually for the resolution, its representative at the Security Council stated clearly that Russia would oppose any authorization of the use of force in Kosovo by the UNSC.

Western states therefore were convinced that the Security Council will not be highly effective in handling the devastating situation in Kosovo (Barnett, Empire of humanity 2011). They started shifting their attention towards NATO due to the Russian harsh opposition in the Security Council. In the next month, October 1998, Javier Solana, the Secretary General of NATO, stated clearly that Belgrade may face a potential military action if it does not comply with the international demands (*Ibid*)

The diplomatic initiatives however were more intensified to avoid the military option. In the same month, the Kosovo Diplomatic Observer Mission (KDOM) was established, which was later superseded by the "Kosovo Verification Mission" (KVM). The mission comprised of some of 2,000 monitors under the auspices of the Organization for Security and Cooperation in Europe (OSCE). The mission acted within the framework of the United Nations Security Council Resolution 1199, in order to verify compliance by all parties in Kosovo with UN Security Council Resolution, as well as to verify the maintenance of the ceasefire by all elements and to investigate reports of ceasefire violations (Judah 2008)

Towards the end of the year, it was clear that the aforementioned political settlement could not hold; the number of clashes between the FRY troops and KLA began to multiply. On the 14<sup>th</sup> of December six Serbian teenagers in the city of Peja were shot down. The Serbs retaliated through offensive attacks against the KLA-held village of Racak where 45 people were found dead by a trench. It appeared that they had been executed by the Serbians after they later took the village (Judah 2008)

In the wake of the Racak massacre, diplomatic efforts began another attempt through organizing a meeting between the Serbs and the Kosovo Albanians in the town of Rambouillet near Paris. The facilitators proposed a draft solution that implied that Kosovo would be an autonomous part of Serbia and that some Serbian forces will be able to stay in Kosovo, especially along the borders, but security inside the province would be guaranteed by NATO-led forces, on the same time, the KLA would have to disarm.

Some of the provisions of the proposed solution was difficult for any Yugoslav leader to accept, especially those that imply that security in the province will be maintained by NATO forces. Henry A. Kissinger described the provisions of the Rambouillet agreement as were drafted entirely in foreign chancelleries and then were imposed on both parties of the conflict by the threat of air bombardment (Buckley 2000). As expected, Milosevic rejected the plan. He refused NATO deployment in Kosovo. The Kosovo Albanians on the other side, albeit objected at the beginning to the provisions because the proposed solution did not offer them their goal of "independence", they signed the plan after making sure that the Serbian delegation will not sign the proposed agreement (Judah 2008). The Serbs proposed an entirely new proposal, but it was already too late.

Upon the failure of Rambouillet talks, the fighting and massacres renewed again. By the end of March, some 2,000 victims had already died since the beginning of the conflict, tens of thousands of Albanians were deported by train to Macedonia. Many others fled later.. (Judah 2008).

### **1.2.3.5 The launch of the Military Operations**

The UNHCR reported few days earlier to the military campaign that there were already some 250,000 displaced persons within Kosovo due to the fighting. The Kosovo Verification Mission (KVM) was pulled out. At the same time it was reported that more Serbian forces were heading then towards Kosovo. Subsequently, NATO began to launch its airstrike citing the principle of "Humanitarian Intervention" as the justification for the use of force (Barnett, Empire of humanity 2011).

Both NATO and Belgrade after a short while from the beginning of the campaign realized that they were miscalculating the endurance of each other. NATO thought that the conflict will be short lived, such as what had happened few years ago in Bosnia and Herzegovina when NATO propelled the Serbs to Dayton agreement 1995. From the other side, Milosevic also thought he could take the risk and he would get a



serious assistance and support, including perhaps military help from Russia, the thing that has never happened (Judah 2008)

Subsequently, the bombing lasted for the next 78 days, military targets as well as factories and other civilian targets that were perceived as having a dual use in Serbia and in Kosovo were destroyed. Other places were targeted in Montenegro as well (Judah 2008). Milosevic retaliated in return to NATO's bombardment through unleashing a torrent of ethnic cleansing against the ethnic Albanians (Barnett, *Empire of humanity* 2011).

Within two weeks of bombardment, over half a million of Kosovars had to leave their homes and crossed the borders into Albania, leading to the largest refugee exodus in Europe since the Second World War (Barnett, *Empire of humanity* 2011). NATO's decision to fight through launching airstrikes and to avoid ground troops was widely criticized for making it easier for Milosevic to execute his atrocities. In fact, while the war in Kosovo inflicted considerable damage on Serbia's infrastructure, it could not prevent ethnic cleansing against the ethnic Albanians. Quite the contrary, it caused also considerable collateral damage to ethnic Albanians (Aguera 2001).

The humanitarian outcome of the NATO bombing was negative. NATO airstrikes did not save any lives and caused between 600- 5000 Serbian military deaths, 400-6000 Serbian civilian deaths as well as unknown numbers of deaths among the Kosovar Albanian civilians (Seybolt 2007). Moreover, "Operation Allied Forces" had indirectly inflicted casualties upon civilians because it provoked Serbian attacks on ethnic Albanians. The report of the Independent International Commission to Identify the lessons learned from intervention in Kosovo<sup>1</sup> stated that "the pattern of the logistical arrangements made for the deportations by the Yugoslav army, paramilitary groups and the police show that this huge expulsion of Kosovo-Albanians was systematic and deliberately organized". According to the report, the NATO air campaign did not provoke the attacks on the civilian Kosovar population, but the bombing created an environment that made such an operation feasible". (Independent International Commission on Kosovo : Conflict, International Response, Lessons Learned. 2000)

The report of the International Commission stated as well that during the period of the military operations from March 24 to June 19, 1999, the estimated number of killings in the province was 10,000, the vast majority of the victims were Kosovar Albanians killed by the FRY forces. However, in the first phase of conflict before the intervention from February 1998 till March 1999, the report stated that the casualties were relatively low, The estimate numbers of the deaths during that period soared

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<sup>1</sup> The Independent Commission was funded by the government of Sweden but its members were selected by the chairman of the commission judge Richard Goldstone (South Africa) and the Co-chair Mr. Carl Tham (Sweden). The commission itself decided its mandate. The law school of New York University, the Ford Foundation, the Open society fund and the Canadian government provided assistance to the commission. See the briefing of Judge Goldstone before the United Nations <http://www.un.org/press/en/2000/20001023.kosovobrfg.doc.html>

around 1000, and around 400,000 were forced to leave their homes, most of which were internally displaced (Independent International Commission on Kosovo : Conflict, International Response, Lessons Learned. 2000).

By the end of the bombardment, the UNHCR reported that about 1.45 million Kosovo Albanians were forced to leave their homes, including 848,100 Albanians who had fled the province. The other hundreds of thousands were displaced within Kosovo. The sum of 444,600 was in Albania, 244,500 in Macedonia, 69,000 in Montenegro, and 91,057 in other countries (Judah 2008). The NATO campaign had inflicted casualties on civilians on both sides of the conflict.

The report of the Independent Commission on Kosovo stated that despite the fact that NATO made "substantial effort" to avoid civilian casualties, there were some serious mistakes, as around 500 civilians were killed due to the Western bombardment. The Commission also condemned the use of cluster bombs in the war, and the environmental damage caused by the use of depleted-uranium and by toxic leaks caused by the bombing of industrial and petroleum complexes in several cities. However, its report stated that it accepts the view of the final report of the International Criminal Tribunal for the Former Yugoslavia (ICTY) that "there is no basis in the available evidence for charging specific individuals with criminal violations of the Laws of the War during the NATO campaign".

The commission concludes that the NATO intervention in Kosovo failed to achieve its vowed aim of preventing the massive ethnic cleansing. Moreover, the Serbian people were the main losers; for them Kosovo was lost, many Serbs fled or were expelled from the province. Serbia suffered considerable economic losses and destruction of civilian infrastructure and the overall level of repression in Serbia have increased (Independent International Commission on Kosovo : Conflict, International Response, Lessons Learned. 2000)

### **1.2.3.6 The Diplomatic Efforts and the End of Hostilities**

A shift in the Russian initial stance of being an ally to Belgrade was mandatory to convince Milosevic to accept the NATO's demands to stop the airstrikes. It could be argued that Moscow deserted its traditional role as being a supporter to Belgrade because Yeltsin perceived Milosevic as cast from the same mold as the Russian communists which Yeltsin had previously confronted at home. (Yesson 1999).

On 12 May 1999, during the military operations, Moscow agreed to send Chernomyrdin, a former Russian prime minister, to Belgrade alongside with Marti Ahtessari, the former Finnish president as a representative of the Western countries, with a mission to deliver an ultimatum to Belgrade (Yesson 1999) The Russian engagement alongside the Western ultimatum has made Milosevic realize that Russia would not give up its ties with the West in order to save him. Moreover, Yesson adds that Russia even gave Milosevic an ultimatum that unless he accepted the deal, Russia

would deliver NATO a UN Security Council resolution under Chapter VII allowing ground invasion of Kosovo. (Yesson 1999).

On 3 June 1999 the same delegation headed by Victor Chernomyrdin and Martti Ahtisaari visited Belgrade again. By now Milosevic was presented with a *fait accompli*. Milosevic understood that Russia was in a no more position to help. He finally accepted the paper presented by the visiting delegation on 3 June, and the bombardment was ended on June 10, 1999 (Judah 2008)

On June 10, the Security Council adopted resolution number 1244 welcoming the acceptance of the Federal Republic of Yugoslavia of the principles of the peaceful settlement in Kosovo, the acceptance of an immediate end to violence, and a rapid withdrawal of its military, police and paramilitary forces. The resolution authorized under Chapter VII the dispatch of an international civil and security presence in Kosovo, under United Nations auspices. The resolution passed by 14 votes in favor to none against and one abstention (China). (Council 1999)

On the same day, June 10, a letter from the Secretary-General of the North Atlantic Treaty Organization was transmitted to the Security Council by the Secretary General of the UN, indicated that the security forces of the Federal Republic of Yugoslavia had begun its withdrawal from Kosovo in accordance with procedures agreed to the day before. As such, NATO air operations against the Federal Republic of Yugoslavia had been suspended.

### **1.2.3.7 The Role of Political Interests in Deciding Intervention in Kosovo**

In his book *"The new Military humanism: Lessons from Kosovo"*, Noam Chomsky described the NATO war on Yugoslavia as another rampage in the name of virtue by a rogue super power and its junior partners (Chomsky, *The new military humanism : lessons from Kosovo*. 1999). In fact, contrary to the official and mainstream media version, there are many factors that are capable of undermining the lofty proclamation of the pure humanitarian motives for NATO's intervention in Kosovo.

Chomsky views that NATO's decision to intervene in Kosovo was obligatory for two reasons; the first was the humanitarian considerations to stop ethnic cleansing; the second element was of equal importance as the first which is to establish the credibility of NATO as a global power (Chomsky, *The new military humanism : lessons from Kosovo*. 1999). Chomsky argues that the main benefit for the NATO intervention was to keep Europe under control (*Ibid*). The U.S. planners were ambivalent about the decision of the European Union to move towards a unified defense policy that will enable it to act independently of the United States (*Ibid, PP 139*). In this regard, General Wesley K. Clark, the Supreme Allied Commander of NATO in Europe, viewed the NATO air campaign has created a new legacy that will extend beyond the borders of Kosovo as it validates NATO's strength as an alliance and attests to its enduring properties (Buckley 2000) pp.253). Also, the US Secretary of Defense William Cohen at a private meeting of NATO defense ministers in

October 1998 stated that if NATO could not muster a threat to Milosevic what the point of the alliance was.

In the same context, the US National Security Advisor Samuel Berger listed among the principal purposes of bombing is to demonstrate that “NATO is a serious power” (Chomsky, *The new military humanism : lessons from Kosovo*. 1999), *pp 134*). The Director of the Policy Planning at the U.S. Department of State Morton H. Halperin outlines the rationale for NATO’s action in Kosovo by stating that the Balkan region is “the critical missing piece in the puzzle of a Europe whole and free” (Buckley 2000) *pp 224*). According to him, the vision of a united and democratic Europe is critical to the U.S. security and this cannot be fulfilled if this part of the continent remains racked by conflict. He further states that the instability in the Balkans directly affects the security of our Greek and Turkish allies in the south as well as our new NATO allies Hungary, Poland and the Czech Republic. By acting with unity and resolve, NATO reaffirmed its standing as an effective defender of stability and freedom in Europe (*Ibid*, *pp 231*).

Therefore, we can argue that the intervention in Kosovo was merely a test of NATO’s credibility and aimed at emphasizing the U.S. international leadership. Basically, there were many factors at the Western politicians back mind to justify considering the situation in Kosovo as a threat to the international peace and security. The conflict in the former Yugoslavian republics was always threatening to expand beyond the borders either through making a refugee crisis in the neighboring countries or through inviting possible intervention from regional countries such as Turkey, Greece, Italy or any other European countries in the conflict (Bardos 2005). Also, one of the perceived reasons for the NATO’s intervention was the concern that Yugoslavia carries the virus of independence from the U.S hegemony and that the perceived danger that “the rotten apple may spoil the barrel” (Chomsky, *The new military humanism : lessons from Kosovo*. 1999), *Ibid pp 136*). Serbia was an annoyance in the Balkans, unwelcome impediment to Washington efforts to complete its substantial take over Europe. (*Ibid pp 137*)

In fact, there are a lot of evidences that NATO bombardment was not undertaken directly in response to ethnic cleansing and other Serb atrocities in Kosovo as NATO alleged. NATO bombing itself has resulted in accelerating slaughter and dispossession of the Albanian Kosovars. NATO military commanders not only took these consequences to be entirely predictable, but also informed the press that the political leadership had no intent to block the Serb ethnic cleansing and that the NATO fighter jets were not designed to have such effect (Chomsky, *The new military humanism : lessons from Kosovo*. 1999) On March 27, U.S.-NATO Commanding General Wesley Clark announced that it was “entirely predictable” that Serb terror and violence would intensify after the bombing. He reported that he was not surprised by the sharp escalation of Serb terror after the bombing: “The military authorities fully anticipated the vicious approach that Milosevic would adopt, as well

as the terrible efficiency with which he would carry it out.” (Chomsky, *The new military humanism : lessons from Kosovo*. 1999)

Although Henry A. Kissinger pleaded that the rationale of the intervention in Kosovo was that the cohesion of NATO was staked on the unsustainable Rambouillet agreement (Henry A. Kissinger, *doing injury to history*, Newsweek, April 5, 1999). However, it can be argued that when the “Racak massacre”, that led to the Rambouillet conference, occurred, at the same time, the world leaders did not react to similar or worse massacres. While in Kosovo, Western sources estimated that 2000 killed on both sides in the year prior to bombing and perhaps 200,000-300,000 internal refugees, the US State Department released its report for Colombia during the same year; the figures were eerily similar as the report stated that around 2000-3000 persons were killed and around 300,000 new refugees. (Chomsky, *The new military humanism : lessons from Kosovo*. 1999)

Moreover, the US ambassador William Walker, while leading the OSCE Crime Verification Team to Racak, stated that “from what I saw, I don’t hesitate to describe the crime as a massacre and a crime against humanity and I don’t hesitate to accuse the government security forces of responsibility (Chomsky, *The new military humanism : lessons from Kosovo*. 1999) pp.41). Naomi Chomsky reveal that the same person served as the US ambassador to El-Salvador where he administered the US support that allowed the Salvadorian government to carry out extreme state terror acts that included the murder of leading Salvadorian dissident intellectuals, Jesuit priests along with their families in 1989. (*Ibid*)

During the same decade of the NATO intervention in Kosovo, the 1990’s, the Turkish repression of Kurds has been a major scandal (Chomsky, *The new military humanism : lessons from Kosovo*. 1999) The savage atrocities committed by the Turkish government were rapidly increased reaching its peaking during 1994- 1996. The toll of internally displaced persons (IDP’s) has increased substantially up to 2.5 or 3 million along with unknown numbers who have fled the country. This has continued along with the torture, destruction of some 3500 villages which are seven times higher than those in Kosovo. Moreover, some Kurdish villages were bombarded with napalm and the casualties generally estimated in the tens of thousands (*Ibid*). However, this brutal crackdown on civilians concurred with a continued support from Washington to the Turkish leadership. Washington claimed to be unable to investigate atrocities in southeast Turkey because of Turkish bans on travel to the region. At the 1993 American Academy Conference on Emerging Norms, Ernest Haas raised a simple and cogent question. He observed that NATO was during that time was intervening in Iraq and Bosnia to protect Kurds and Muslims. He questioned that “will NATO may take the same interventionist view in Turkey as it leans heavily on its Kurdish insurgents?”

From another context, the humanitarian situation in Kosovo, despite the insistence of NATO leaders that humanitarian reasons were the main motives for intervention, did not witness improvement after the end of the military operations. After the end of the

bombardment and despite the dispatch of the North Atlantic Treaty Organization's Kosovo Force (KFOR), the United Nations Interim Mission in Kosovo (UNMIK), and the myriad other organizations and states trying to bring peace, stability, human rights to Kosovo. All the above missions have utterly failed in their efforts. According to the UN High Commissioner for Refugees (UNHCR), Kosovo remained a lawless place in which the only true authority remained with the former KLA and underworld bosses. (Bardos 2005) Despite the presence of 40,000 armed soldiers after the summer of 1999, Kosovo was characterized by a high level of crime and violence. The inability to stop new wave of ethnic cleansing in Kosovo represented a major failure for the international community. According to the Independent Commission, more than half of the Serb population left the province or were later forced to leave. The remaining Serb population is living in enclaves or in divided cities.

Amnesty International reported in April 2003 that the non-Albanian ethnic communities in Kosovo have suffered from tragic and catastrophic incidents. The end result was far from becoming a tolerant society where different ethnic groups can achieve their human and civil rights, it remained a society of injustice.

More importantly, despite the fact that successive UNSC resolutions during the crisis had reaffirmed the sovereignty and the territorial integrity of the Former Republic of Yugoslavia (FRY), on January 26, 2007, eight years after the NATO intervention, the then UN Special envoy Marti Ahtissari presented a proposal for Kosovo independence (Elise 2011). Moreover on June 10, 2007, the US President George W. Bush, on a visit to Albania, declared that Kosovo should be an independent country. (*Ibid*) Therefore on 17 February 2008, the parliament of Kosovo declared the country's independence. The following day the United States, the United Kingdom, France, Albania, Turkey and many other Western countries recognized the new Republic of Kosovo (Elise 2011). By mid-2009, about 60 UN Member States recognized Kosovo as an independent country (UN.org 2008) .

Therefore, we can conclude from the above that political factors were also dominating the decision of intervention in Kosovo. While Western leaders expressed deep concerns about the atrocities in Kosovo, the same leaders turned the deaf ear regarding similar atrocities committed by their ally Turkey.

Noam Chomsky views that the new generation of internationalism merely replays old and unpleasant record of colonization. This new generation uses the same rhetoric and justifications offered by their forebears. (Chomsky, The new military humanism : lessons from Kosovo. 1999) (pp 15). This kind of new Interventionism was hailed by intellectual opinion who claimed that a new era in world affairs in which the “enlightened states” will be able to use force when they “believe it to be just,” disregarding the “restrictive old rules” and obeying “modern notions of justice” that they fashion. Therefore, the enlightened states can dedicate themselves to the mission of upholding human rights and bringing justice and freedom to suffering people everywhere, by force if necessary. He warned that there is no threat to the

international order than those particular states or group of states that set themselves up as the authoritative judges of the world common good in disregard of the views of others. (Ibid, pp 156) Therefore, according to Chomsky the right of humanitarian intervention is likely to be more frequently used in the coming years, may be with justifications or maybe not in light of the collapse of the deterrence system of the Cold War.

### **1.2.3.8 The Legal Debate on Kosovo.**

The NATO action in Kosovo received fierce criticism as it lacked a firm basis in the UN Charter, Article 2.4 of the UN Charter clearly states that “{a}ll Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations. The only accepted qualifications to the use of force according to the UN charter are found in article 51 where it is restricted within the domain of self-defense “Nothing in the present charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations”, or through the coercive measures authorized by the UN Security Council (Articles 41,42) This position was reaffirmed by the International Court of Justice when decided on the case concerning the Military and Paramilitary Activities in and against Nicaragua (Nicaragua vs. United States) that the United States of America by “certain attacks on Nicaraguan territory has acted in breach of its obligation under customary international law not to use force against another state”. (icj-cij.org 1986)

The Security Council adopted three resolutions under chapter VII of the UN charter regarding the case of Kosovo, none of which had authorized the use of force by any mean. On the contrary, those resolutions had reaffirmed the sovereignty and the territorial integrity of the Former Republic of Yugoslavia. Due to the fact that the Security Council neither authorized NATO's action before it started nor approved them subsequently in its resolution 1244, the legality of the NATO intervention remains questionable (Charney 1999).

The Former Republic of Yugoslavia brought the case of the NATO intervention in Kosovo before the International Court of Justice on 29 April 1999, accusing the NATO states of bombing the Yugoslav territory and alleging a notable violation for the obligation not to use force. The same day, it submitted a request for the indication of provisional measures asking the Court to order the United States of America to cease immediately its acts of use of force and to refrain from any act of threat or use of force against the FRY.

The Court stated in its order on June 2, 1999 that it is deeply concerned with the human tragedy, the loss of life, and the enormous suffering in Kosovo which form the background of the dispute. Regarding the issue of the legality of the use of force, the court stated that it is profoundly concerned with the use of force in Yugoslavia, which

under the present circumstances, raises very serious issues of international law, the Court deemed it is necessary to emphasize that all parties before it must act in conformity with their obligations under the United Nations Charter and other rules of international law, including the humanitarian law.

However, the court eventually dropped the case due to different procedural reasons. The case of the use of force in Kosovo presented by Yugoslavia against the United States was dropped because the latter did not accept the jurisdiction of the ICJ. Hence, the Court concluded that it does not have a jurisdiction over the dispute because one of the fundamental principles of its statute is that it cannot decide a dispute between States without the consent of those states to its jurisdiction". (icj-cij.org 1999) pp. 122

Regarding the other contentious cases, Yugoslavia against (the UK, Germany, France, Italy, Spain, Portugal, Netherlands, Canada, Belgium) the cases were dropped because the legal status of the Federal Republic of Yugoslavia within the United Nations during the period 1992-2000 was "ambiguous and open to different assessments" (icj-cij.org 1999). Following the break-up of the Socialist Federal Republic of Yugoslavia (SFRY) a declaration by the SFRY Assembly in 27 April 1992 claimed the continuation of the international legal and political personality of the SFRY by the Federal Republic of Yugoslavia. A note was sent at the same to the United Nations Secretary-General asserting the continuation by the FRY of the membership of the SFRY in the Organization. However, the Security Council resolution 777 of 1992 considered that the FRY could not continue automatically the SFRY's membership. Moreover, the General Assembly resolution 47/1 in 1992 stated that the FRY shall not participate in the work of the General Assembly.

This situation came to an end after the overthrow of Slobodan Milosevic when the Federal Republic of Yugoslavia on 27 October 2000 requested admission to membership in the United Nations, and on 1 November, by General Assembly resolution 55/12, it was so admitted. Therefore, the Court concluded that at the time when NATO intervened in Kosovo, the Applicant, Serbia and Montenegro, was not a Member of the United Nations, and consequently, was not, on that basis, a State party to the Statute of the International Court of Justice.

From another context, a committee from the UK House of Commons concluded in 2000 that NATO's military action was "of dubious legality in the current state of international law". In its analysis of the legal justifications offered by the government of the United Kingdom it viewed that although the intervention can be justified on moral grounds (publications.parliament.uk 1999) pp. 249), however the doctrine of humanitarian intervention has "a tenuous basis in the current international customary law, and that this renders NATO action legally questionable" (Ibid) (Paragraph 132). The report pleaded that the Operation Allied Force was "contrary to the specific terms of what might be termed as the basic law of the international community and the UN Charter, and this might have been avoided if the Allies had attempted to use the Uniting for Peace procedures". (Ibid) (Paragraph 128) The report concluded by



supporting the aim of establishing new principles in the United Nations governing humanitarian intervention (Paragraph 144)

In contrast to the UK's parliament approach, the German Bundestag (Parliament) acknowledged clearly that the action was not legal; however, it also justified the intervention as a "moral necessity". In this regard the German Foreign Minister Joschka Fischer, in his address to the UN General Assembly on 22 September 1999, clearly warned against viewing NATO's intervention as a "first step towards a practice of humanitarian intervention outside the UN system. According to him, this step can only be justified in this special situation and must not set a precedent for weakening the UN Security Council's monopoly on authorizing the use of force. He also viewed that the only solution is to further develop the existing United Nations system in such a way that in the future it will be able to intervene in good time in cases of very grave human rights violations within a strictly limited legal and controlled framework. (Rytter, Humanitarian Intervention without the Security Council: From San Francisco to Kosovo and Beyond 2001)

The legal debate about the NATO intervention in Kosovo arouse torrent debate in the academic circles, the advocates of the restrictive interpretation of the UN charter Article 2 (4) provide that although the legal system in which the veto power of five states is at the center may be out of date, but until the time of mutual restraint and good faith, or until the United States and others offer outright reform, this legal system is unlikely to change. Accordingly, although we may not like Article 2(4) that prevents the use of force outside the Security Council framework, a rule is a rule is a rule. (Koh 2013)

From the other side, the advocates of humanitarian intervention depicts the advocates for this restrictive interpretation of article 2 (4) as originalist/ textualist (Koh 2013) They viewed that this absolutist position does not acknowledge that the UN has multiple purposes including protecting human rights, promoting regional security, and ending the scourge of war instead flattening those purposes to a single goal "protecting sovereignty"(Ibid). Koh criticizes the calls for this strict interpretation of the provisions of law by stating that "some commentators warn:

*"let's not make it easier for policymakers to use force by saying it is legal when it's not... But let's also not make it easier for people of good will to do nothing by pretending that the law is so determinate and immutable in the face of compelling moral imperatives, that we must keep treating as illegal what may now be necessary to save lives or spur diplomacy to remove chemical weapons". (Koh 2013)*

The Independent Commission on Kosovo reached a stark and notable conclusion on this regard. It viewed that the NATO intervention in Kosovo as "*illegal but legitimate*". It was illegal because it did not receive prior approval from the United Nations Security Council. However, the intervention, according to the commission, was justified due to the fact that all diplomatic avenues had been exhausted and

because the intervention had the effect of liberating the majority population of Kosovo from a long period of oppression under Serbian rule. (Independent International Commission on Kosovo : Conflict, International Response, Lessons Learned. 2000)

More importantly, the Independent Commission on Kosovo suggests that the experience in Kosovo had uncovered the need to close the gap between the legality and the legitimacy. The Commission argued that the time was ripe by then for the adoption of a principled framework for humanitarian intervention which can be used to guide future responses to imminent humanitarian catastrophes. Subsequently, the report proposed three threshold principles, which must be satisfied in advance before any legitimate claims to humanitarian intervention can be made. These principles include: human sufferings due to human rights violations or a breakdown in the government, the presence of an overriding commitment to the direct protection of the civilian population, and the calculation that the intervention has a reasonable chance of success. (Independent International Commission on Kosovo : Conflict, International Response, Lessons Learned. 2000)

The report expressed its wish that the General Assembly of the UN could adopt such a framework in some modified form as a declaration and that the UN Charter to be adapted to this declaration. The report also advocated for the need to re-consider the reformation the main bodies of the United Nations, especially the Security Council, so that they can suit the post-Cold War environment. On the meantime, the Commission viewed that much more economic resources need to be allocated both to the pre-conflict and post-conflict measures. The report was then handed over to the Secretary-General of the United Nations Mr. Kofi Annan. The conclusions of the Independent commission on Kosovo had paved the way for the established of the International Commission for Intervention and State Sovereignty (ICISS) in the following year.

### **1.3 Conclusion**

This chapter argues that the term "Humanitarian Intervention" has existed in the past centuries since the early rise of the notion of sovereign states and non-intervention after the Peace of Westphalia. However, humanitarian Intervention has been an issue of controversy. Throughout ages there were no clear meaning for the modalities of the concept of humanitarian intervention; governments used to act according to their own perceived interests even if they claim humanitarian motives. The international relations rivalry and economic interests played the dominant role in prompting major powers for intervention. Both cases of intervention, non-intervention, or even the cases of late/ failed intervention, raised a lot of questions; in most cases there was substantial criticism of the way in which military operations were conducted.

The NATO intervention in Kosovo represented a seminal event in the contemporary international relations. It had clearly revealed the presence of a gap and the need to further develop the existing rules of the use of force in humanitarian crises at that era

of the evolution of the international law. Despite the long lasted devastating situation in the province that led to the killing and the deportation of tens of thousands of civilians, the traditional international mechanisms remained lagging far behind making an end to the civilian sufferings in the province. On another perspective, the military intervention in Kosovo had unleashed concerns that the principle of humanitarian intervention could be a double edged weapon that could be used as a tool by major powers to achieve their interests.

The aforementioned reasons had motivated the search for new mechanisms that may work to provide better protection in the humanitarian cases for those who need it through assuring the primacy of the moral considerations over the other political interests. In a response to these calls the Government of Canada, together with a group of major foundations, announced at the General Assembly in September 2000 the establishment of the International Commission on Intervention and State Sovereignty (ICISS) which later coined the doctrine of Responsibility to Protect (R2P).

## **Chapter Two**

### **The “Responsibility to Protect” as a Successor to “Humanitarian Intervention”**

We can conclude from the historical review of the first chapter that usually there were other motives rather than the sole humanitarian causes that stood behind the decisions of intervention under humanitarian allegations. The developments in the 1990s after the end of the Cold War have brought the dilemma of HI to the forefront. The international community began to undertake wide-ranging action to prevent atrocities such as that to protect Kurds in Iraq, the UN operations in Somalia and NATO intervention in Kosovo which contributed to the fierce debate regarding the legality and legitimacy of HI. By the end of the decade it was widely believed that time was ready for the adoption for alternative solutions that respect the principle of sovereignty from one side and allow the timely and effectively international response to humanitarian crises from the other.

In an attempt to promote the principle of “Humanitarian Intervention” through establishing clearer parameters and conditions for international intervention to neutralize political interest, the government of Canada together with a group of major foundations announced at the UN General Assembly in 2001 the establishment of the International Commission on Intervention and State Sovereignty (ICISS), the commission that coined the doctrine of the Responsibility to Protect (R2P). This chapter will discuss the doctrine of the Responsibility to Protect (R2P). It will also shed light on the difference between R2P and its predecessor Humanitarian Intervention. The dilemma of R2P and state sovereignty will be discussed and the differences between the two versions of R2P, the one that came out in the report of ICISS in 2001 and the one that was adopted at the UN World Summit 2005 will be highlighted.

#### **2.1 The International Commission on Intervention and State Security (ICISS)**

According to the ICISS report, the committee was designed to meet three challenges: the first one was to promote a comprehensive debate on the issue of “Humanitarian Intervention”. The second was to foster new global political consensus on how to move forward. The last objective was to find new ways of reconciling the principle of sovereignty and intervention (ICISS, International commission on Intervention and State Sovereignty 2001). The commission was co-chaired by Gareth Evans, a former minister of foreign of Australia, and Mohamed Sahnoun, a special advisor to the United Nations Secretary General, in addition to ten other distinguished members from academia and diplomacy. The final report was unanimously adopted by all its twelve members in 2001.

The ICISS defined the responsibility of the host state and the international community with regards to humanitarian crises as it is the responsibility of the state to provide

protection for its people. However, once a state becomes unable or unwilling to take such a responsibility, this responsibility goes in a provisional matter to the international community. From the other hand, in order to safeguard the state sovereignty from the opportunistic and selective intervention, ICISS established legitimacy criteria for military intervention to determine whether, when and how to intervene to ensure that military intervention when it occurs is carried out only for the humanitarian purposes with the minimal human costs. (ICISS, International commission on Intervention and State Sovereignty 2001) Para: 2.3

## **2:2 the Pillars of the Responsibility to Protect (R2P)**

The ICISS report identifies three main responsibilities for the international community to undertake when a sovereign state becomes unable or unwilling to uphold its responsibilities in cases of humanitarian crises:

1. The responsibility to prevent: through identifying the roots and the causes of the conflicts.
2. The responsibility to react: this is probably the most controversial pillar of R2P. This pillar may include, according to the ICISS, in extreme cases, the use of coercive measures such as sanctions or military intervention. However, the report was keen on stressing that the responsibility to react comes only in situations of the compelling need for human protection and in cases when preventive measures fail to resolve or contain the situation. The most controversial part in this context is that the ICISS report did not limit the right to use coercive measures exclusively to the Security Council. The ICISS report referred to other alternative mechanisms to authorize the use of force in case of a paralysis of the Security Council due to the absence of unanimity among its members. That is the main reason why the report came under fierce attacks from several scholars who viewed that this call would destabilize the international order and allows the major powers to use force in pursuance of their interests outside the umbrella of the UN. This chapter will discuss this controversial issue later in more details.
3. The responsibility to rebuild: through providing the full assistance, reconstruction and reconciliation particularly after military intervention.

## **2.3 Post intervention Obligations: the Responsibility to Rebuild**

The ICISS introduces a new element to the doctrine of humanitarian intervention which is the responsibility of the international community towards the affected regions after military intervention. The report outlines certain obligations in the post intervention phase such as peace building in order to ensure that the conditions that prompted military intervention will not repeat themselves, as well as to maintain security and development for the affected areas. (ICISS, Independent Commission on International Security and State Sovereignty 2001) (pp. 39)

However, it has be highlighted that although the report stressed out that intervention to protect human beings “must not be tainted by any suspicion that is a form of neo-colonial imperialism” (PP.45), the report refers that the suspension of sovereignty after intervention can be *de facto* for the period of intervention and the follow up but not a *de jure*. (ICISS, The international Comission On intervention and state Sovereignty. 2001) (PP. 44)<sup>2</sup> Moreover, the report while calling for establishing an “effective authority” after military intervention that is capable of providing security and stability, it did not exclude the rule of the intervening powers in establishing such an authority. Thus, the door is open for claiming that R2P does not call for the sovereign state to restore its sovereignty immediately after intervention. Instead, it called merely for establishing an "effective authority" that is capable of providing security and stability. The thesis believes that addressing a sensitive issue in such a simplistic way would intensifies the fears that R2P will also be used as a pretext for intervention by major powers as its predecessor the humanitarian intervention did.

In this context, it is worth noting that the outcome of the UN world summit 2005 that endorsed R2P has completely omitted the third pillar. Therefore it was not unexpected to perceive that the consequent UNSC resolutions that invoked R2P did not pay attention to the post intervention responsibilities. The current situation in Libya post-intervention is a major example in this regard.

#### **2.4 The Responsibility to Protect and Humanitarian Intervention: What is New?**

The ICISS report points out that the cause for this shift in terminology from right to intervene to the “Responsibility to Protect” are two reasons: the first is that R2P acknowledges that the primary responsibility of protecting civilians lies within the state authority. Only in cases when the state is unable or unwilling to perform this responsibility, it becomes the responsibility of the international community. The second one is that R2P is not just a responsibility to react, but it has two other pillars which are the responsibility to prevent and the responsibility to rebuild. Gareth Evans, the co-founder of R2P, argues that the new doctrine differs completely from its predecessor Humanitarian Intervention (Evans, Humanitarian Intervention and the Responsibility to Protect. 2013) as the former one was much narrower and called exclusively for coercive international military actions to stop an ongoing atrocity. On the other hand, R2P demands "every appropriate preventive response: be it political, diplomatic, legal, economic , or in the security sector (*Ibid*)

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<sup>2</sup> The report in this regard refers to the examples of Cambodia, Somalia and Yugoslavia “This was, for example, the objective of the Paris Accords of 1991 on Cambodia, where the device of a "Supreme National Council" with representatives of the four competing factions, transferred effective authority to the UN to run the country until elections could be held. Similarly, Yugoslavia could be said to have temporarily had its sovereignty over Kosovo suspended, though it has not lost it *de jure*”. See the ICISS report p.p 44. The ICISS argue that the overall objective of intervention is not to change constitutional arrangements, but to protect them. As the trusteeship system or military intervention endeavor to sustain forms of government compatible with the sovereignty of the state in which the enforcement has occurred but not undermining that sovereignty.

In the view of this thesis, the important added value of R2P that makes the most difference between it and its predecessor humanitarian intervention is that while the later allows the unilateral use of force under humanitarian claims, R2P, particularly in its 2005 version, stresses the importance of the Security Council authorization for legitimizing the international response to humanitarian crises. Therefore, R2P does not leave the decision for intervention open as its predecessor "Humanitarian intervention did. The ICISS report stresses in different occasions that the Security Council must be always consulted before any authorization of the use of force in any humanitarian crisis "there is no better or more appropriate body than the United Nations Security Council to authorize military intervention for human protection purposes" (pp XII). The report further stresses that "Security Council authorization should in all cases be sought prior to any military intervention action being carried out".

Furthermore, unlike the "Humanitarian intervention", the ICISS set six conditions that have to be met before to legitimize the decision of intervention. These conditions will be discussed in details in the following section. Therefore, R2P was considered to be a step forward as it set rules, parameters and conditions before making the decision for intervention, in contrary to humanitarian intervention which leaves the decision of intervention to be decided according to the wishes or the interests of the international powers. Although R2P refers to certain alternatives that maybe considered in case the Security Council becomes paralyzed, none of them justifies the unilateral use of force.

## **2.5 The ICISS Proposed Alternatives in case of the paralysis of the Security Council**

As pointed out during discussing the pillars of the ICISS version of R2P, the second pillar of R2P "the responsibility to react", in the ICISS version, did not limit the authority to use coercive measures exclusively to the Security Council. The report referred to other alternative mechanisms to authorize the use of force in case of a paralysis of the Security Council due to the absence of unanimity among its members. The following section will discuss the validity of those proposed alternatives.

### **2.5.1 Reforming the Security Council.**

First of all this is not a new mechanism but rather a new call for enhancing the work of the primary body that is responsible for maintaining international peace and security. The ICISS asserts that the Security Council authorization should in all cases sought prior to any military intervention, the Security Council should in turn deal promptly with any requests to intervene where there are allegations of large scale loss of human life or ethnic cleansing.

To allow this prompt response, the report calls for building a more credible and representative Security Council through broadening its membership to make it genuinely representative of the world diversity as well as through reforming the voting system. Regarding reforming the voting system, the ICISS proposed that the

permanent five members of the Security Council should agree on a “code of conduct” for not using their veto powers to obstruct the passage of resolutions authorizing military interventions for human protections purposes for which there is otherwise a majority support from other members to intervene.

Although it could be unrealistic to imagine any "major" amendments of the UN Charter to take place in the foreseen future in light of the status quo in the international relations, there is indeed a need to work towards a more responsible use of veto powers. More importantly, although reforming the Security Council is a step forward towards containing the probability of the unilateral use of force, it is difficult to assume that reforming the UNSC only will prevent international powers from sidestepping it.

### **2.5.2 The Potential Role of the General Assembly under the Principle of “Uniting For Peace”.**

The ICISS report proposes that the principle of “Uniting for Peace” may be invoked when the Security Council becomes paralyzed or unable to deal with humanitarian situations due to a lack of unanimity among its members. Basically, the principle of the Uniting of Peace is based on the UN General Assembly Resolution 377 (1950) which states that “in any cases where the Security Council, because of a lack of unanimity amongst its five permanent members, fails to act as required to maintain international peace and security, the General Assembly shall consider the matter immediately and may issue any recommendations it deems necessary in order to restore international peace and security”. Therefore it is necessary to have had a Security Council resolution fail to be adopted, not because of failure to achieve the required majority of nine “yes” votes in favor, but rather because at least one permanent member cast a veto which prevented the adoption of a resolution (Johnson 2014)

In fact, the concept of the “Uniting for peace” has been used in eleven or twelve times since the adoption of the UN Charter ([www.securitycouncilreports.org](http://www.securitycouncilreports.org)). It has been used as the basis for operations in Korea (1951), in Egypt (1956), in Congo (1960), as well as in other different cases. However, the “Uniting for Peace” has been very controversial since its beginning. The idea that the General Assembly substituting itself for the UNSC to recommend enforcement action in certain circumstances is highly criticized. The International Court of Justice in the “*Certain Expenses*” advisory opinion of 1962 noted that under the Charter, it is the Security Council which is given a power to impose an explicit obligation of compliance and only the Council can require enforcement by coercive action against an aggressor (p. 163). Therefore, it would be of dubious legality when the General Assembly recommended the use of coercive force in case of domestic humanitarian crises (Johnson 2014) .

### **2.5.3 The Role of Regional Organizations**



The ICISS proposed invoking the regional organizations in case of the paralysis of the Security Council. The advocates of R2P suggests that it is unrealistic to expect that the concerned regional states/ organization will rule out their tasks to seek means and forms of action to protect their national security and interests in the cases of conscience-shocking situations when the Security Council fails to discharge its responsibilities (P. Williams 2012).

In this regard, although article 52 of Chapter VIII of the UN Charter states that "Nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action", article 53 states that "no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council".

Moreover, there is nothing to suggest that the same problems that arose within the UN system will not reoccur at the regional level. This has recently been evidenced in the Arab League's role in both the Libyan and Syrian cases, where in Libya it maintained an active role since the early beginning of the crisis, in Syria the organization has been divided (Minerva 2012). On the same context, the Organization of African Unity (AU), where many humanitarian crises took place in the last century, suffers from massive shortfalls in funding and equipment and had to rely heavily on external funding and equipment. For instance, the African Union Mission in Somalia (AMISOM) had difficulties in deploying its authorized strength of 8,000 troops, largely due to financial and logistical constraints. Similarly, its former mission in Darfur, AMIS, faced serious shortfalls in military equipment, resources, and even basic supplies before the establishment of its hybrid mission with the UN (UNAMID). (Pattison 2015) Therefore the support of the international community represented through the UN system is vital in case the regional organizations in the developing countries are going to play a future role.

## **2.6 The Dilemma of R2P and Sovereignty.**

The ICISS report pointed out that the main theme of discussion was the controversial issue of state sovereignty in case of humanitarian crisis. It stressed in several parts of the report that the new doctrine is not directed against the old sacred notion of state sovereignty. According to the report in a dangerous world marked by overwhelming inequalities of power and resources, sovereignty is, for many states, the best, and sometimes their only line of defense. For many states and people, sovereignty is also recognition of their equal worth and dignity, a protection for their unique identity and even their national freedom. Moreover, it is an affirmation of their right to shape and determine their own destiny. (ICISS, The international Commission On intervention and state Sovereignty. 2001) (Paragraph 1.32, pp 7)

The report states that in most cases international peace and security could be served if all states abstain from intervening or interfering in the domestic affairs of other states.

(ICISS, The international Commission On intervention and state Sovereignty. 2001) (pp.75). In the meantime, the report viewed that there are exceptional circumstances in which the very interest of all states requires them to react to cases that genuinely shock the conscience of mankind. According to the report, even the strongest advocates of states sovereignty don't claim any allegations of unlimited power of a state to do whatever it wants to do with its own population (Paragraph 1.35, PP. 8).

The advocates of R2P were keen on arguing that R2P does not contradict with state sovereignty. Francis Deng in his book "*Sovereignty as responsibility: Conflict management in Africa*", stressed the importance of the doctrine of the "state" and its functions, "Although the state is under pressure from above and below, it will continue to be a central factor in national and international affairs". (Deng 1996) *PP. (Preface xxi)* He shared the same view as the ICISS did later that sovereignty, as a privilege, entails also responsibilities and that sovereignty stresses the responsibility of the state to protect its civilians within its territories. Therefore, states acting irresponsibly lose this privilege in a provisional manner and become subject for international intervention. The affected state will resume its sovereignty immediately after the end of these extraordinary conditions.

Stevie Martin even argued that state sovereignty and the R2P are codependent and that the *raison d'être* of sovereignty is because of the state responsibility to protect its own citizens (Martin, *Sovereignty and the Responsibility to Protect: Mutually exclusive or codependant?* 2011). Therefore, R2P assists a state in legitimately exercising its sovereignty (*Ibid*). Moreover, Stevie Martin argues that the notion of sovereignty carrying certain responsibilities has been an accepted element of realism for at least as long as the norm of non-intervention. In his way to demonstrate his view, Martin cites the writings of some of the most ardent advocates of the contemporary notion of sovereignty and non-intervention. Specifically, the theories of Thomas Hobbes, John Locke and Jean-Jacques Rousseau, He pleaded that through understanding the writings of those founders, we can understand that the notion of sovereignty carrying certain responsibilities has been an accepted element of sovereignty for at least as long as the norm of non-intervention (*Ibid*).

However, the concept of R2P drew negative reactions from many governments in Asia and Latin America. They perceived the concept as a legitimization of military intervention for strong states against weak ones (Seybolt 2007). In fact, the international intervention after the adoption of R2P reveals that international intervention was too early in the case of Libya and never happened in many other cases including the Syrian case. Moreover, the fears of the developing countries were borne out in 2003 when the USA tried to justify its invasion of Iraq in humanitarian terms after their initial justification that Saddam Hussein possessed weapons of mass destruction turned out to be false (Seybolt 2007). Therefore, the skepticism and antagonism of the developing countries could be viewed from the scope that the new doctrine will be used as a tool by powerful countries to intervene selectively in the affairs of the weak was enhanced.

The ICISS in a way to demonstrate its respect to the principle of state sovereignty it set certain parameters and conditions that have to be fulfilled before any intervention can take place. Those parameters stress the conditionality and the provisional nature of any military intervention. These parameters are:

- A. **Just cause:** in order to have a just cause, there must be a large scale loss of life, whether actual or apprehended. Or a large scale ethnic cleansing, actual or apprehended.
- B. **Right intention:** the primary purpose of intervention must be to halt or to avert human sufferings.
- C. **Last resort:** every diplomatic and non- military avenue must have been explored before making the decision of intervention.
- D. **Proportional means:** the scale, duration and intensity of the planned military intervention should be the minimum to secure humanitarian objectives.
- E. **Reasonable prospects:** military intervention can only be justified if it stands on a reasonable chance of success. Also, the military intervention can only be justified when the consequences of non-intervention is worse than military intervention.
- F. **Right authority:** This element, as was discussed before, the most controversial element of these precautions. The report stressed out that there is no better or more appropriate body than the UN Security Council to authorize military intervention for human protection purposes, it states clearly that the UN Security Council authorization should in all cases be sought prior to any military intervention. However, The ICISS viewed that if the Security Council fails to discharge its responsibilities in addressing conscience shocking crises, there should be other alternatives to decide for intervention. This controversy was discussed in the previous section.

It is worth noting that the ICISS criteria for the use of force is merely representing a replication of the just war criteria<sup>3</sup> (Glanville 2012). The ICISS criteria, like the

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<sup>3</sup> The Just war criteria provide a framework to evaluate the resort to war as a means of settling dispute between groups. Generally, the just war criteria evaluates the use of force by asking whether force is justified and , if so, how it maybe carried out. These questions, the whether and the how questions, are assessed in light of two sets of moral criteria, the jus ad bellum and the jus in Bello respectively. The Jus in bello criteria include the following:

- Just cause: A just war is occasioned by the need to defend international law, innocent victims of aggrerssion, or sovereign territory.
- Competent authority: the representative (s) of the community must declare war and marshal defense.
- Right interntion: the aim of war should be to reestablish relationships of peace and fairness among relevant parties.
- Last resort: Diplomatic efforts must be reasonably tried and found wanting before authorities' resort to lethal force.
- Reasonable hope for success: Rash, Futile, or irrational resort to force is prohibited.
- Relative justice: Neither side in war has monopoly on absolute justice in defence of its cause.
- proportionality: the foreseen risk of war must not outweigh the foreseen values. War must be worth it, morally speaking, given the stakes and values involved.

former just war criteria, are ambiguous and loose as it raises many questions, such as what are the threshold of gross abuses for human rights? Although this thesis views that these parameters still represent a step forward towards setting criteria and conditions to govern the use of force in cases of humanitarian crises, the thesis believes also that those criteria still do not live up to the level of clear standards and conditions for the international community to mechanize the decisions of international intervention and keep it away from political considerations.

The Russian intervention in Georgia (2008) and the French proposed intervention in Myanmar at the same year highlighted the need for improving and clarifying the ambiguity about the aforementioned criteria. In 2008, Georgia launched a military operation aimed at restoring the "constitutional order" in South Ossetia. In a prompt response by the Russian government, it deployed its military forces and pushed the Georgian army outside South Ossetia. Russia claimed that its intervention is justified by the principle of R2P as the Georgian army committed mass atrocities during its invasion of South Ossetia. However, the Russian unilateral intervention gained little support from the international community and its argument that its reaction came in line with the R2P received little support at that time. (Bellamy 2010)

Also, the French proposal for humanitarian intervention in Myanmar after a disastrous cyclone struck the country in 2008 represents another example on the absence of a clear understanding of R2P. The Government of Myanmar denied the access of the international humanitarian agencies to the affected areas. In response to this stance, the French foreign minister proposed invoking R2P; however the French proposal also received very little support from the international community. The counter argument was that R2P cannot be used in the case of natural disasters.

## **2.7 The 2005 UN World Summit Outcome Document.**

The UN World Summit 2005 adopted in its articles 138, 139 a modified version of R2P as part of its millennium declaration. These articles are often referred to as the "protection clauses". It was agreed by all the 150 participating member states. The protection clause explicitly states that each individual state has the responsibility to protect its population from atrocities such as genocide, war crimes, ethnic cleansing and crimes against humanity. The text further spells out the obligation of the international community to help states exercise this responsibility, in addition to supporting the United Nations in establishing its own warning system. The three pillars as was stipulated in the "Outcome Document of the 2005 UN World Summit" were:

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From the other side, the "How" question, *jus in Bello*, focuses on the morality of means: which method are permissible in pursuit of a justified action. Therefore not all actions are appropriate in pursuit of one's goals. There are two main criteria enshrines in the *Jus in bello*: discrimination and proportionality... See Richard B. Milller, *legitimization, justification, and the politics of rescue* pp 384

1. The State carries the primary responsibility for protecting populations from genocide, war crimes, crimes against humanity and ethnic cleansing, and their incitement.
2. The international community has a responsibility to encourage and assist states in fulfilling this responsibility.
3. The international community has a responsibility to use appropriate diplomatic, humanitarian and other means to protect population from these crimes. If a state is manifestly failing to protect its populations, the international community must be prepared to take collective action to protect population, in accordance with the Charter of the United Nations.

The protection clauses constitute the first worldwide officially recognized document that spells out the concept of R2P which can indicate an increasing awareness of the responsibilities of both the host state and the international community towards humanitarian crises. However, member states managed to dilute the language offered previously by the ICISS.

Several states during the negotiations of the 2005 World Summit expressed concern that the language of the ICISS would facilitate self-interested interference by powerful states in the domestic affairs of the weak (Glanville 2012). Consequently, the final agreement expressly tied intervention to the authority of the Security Council. Moreover, not only was the scope of intervention restrained, but also the notion that such intervention was a collective international responsibility rather than a discretionary right was emphasized (*Ibid*)

The United States, in particular, was determined to retain its freedom to decide when and where to intervene in a response to mass atrocities and humanitarian crises. Thus, it sought to reject any suggestion that it might bear a legal obligation to act in a particular way when other states failed to protect their populations (Glanville 2012).

Therefore, the final outcome of the World Summit document was loose and vague especially those provisions regarding the coercive measures comparing to that of the ICISS. The outcome document omitted the language of the ICISS related to the use of force for protection. Also, the ICISS alternatives on how to react to humanitarian situation when the Security Council gets paralyzed by the absence of consensus among its members were also dropped. Therefore, the protection clause of the 2005 millennium declaration *de facto* rules out any forms of intervention, whether collective or individual, without the consent of the UN Security Council (Gieyrcz 2010) Moreover, the commitment of the international community in the post-conflict era was completely dropped as well.

In the net conclusion, member states were keen on not to offer any specific criteria on intervention, therefore the negotiation process at the World Summit on the protection clauses ended up that the decision on intervention will be made exclusively by the Security Council and on a case by case basis (Glanville 2012). The thesis views that

the absence of any reference to criteria of intervention such as that was presented by the ICISS, albeit was general and loose, represented a setback in the process of the development of the international response to humanitarian crises.

The UN General Assembly debated the Secretary-General's report in July 2009. Although it accepted the idea of implementing R2P, there was no agreement on the legal obligations of the concept. The conclusion was that every state has a legal responsibility to protect its own citizens, but no legally binding obligations to protect citizens of other states beyond its borders were adopted (M. Nuruzzaman, *The "Responsibility to Protect" Doctrine: Revived in Libya, Buried in Syria*. 2013) Therefore, the version of the "moral" responsibility to protect, as put in the 2005 World Summit Outcome Document, was emphasized.

From 2001 to 2011, R2P remained dormant; it was not invoked with regard to the situations in Darfur, Gaza or Somalia despite evidences of war crimes and crimes against humanity committed by internal and/or external parties. The Security Council expressed its support for R2P for the first time in resolution 1674 adopted in April 2006, which emphasizes the language of articles 138 and 139 of the World Summit Outcome Document. However, two permanent members of the Council, China and Russia, and three non-permanent members, Algeria, Brazil, and the Philippines, expressed reservations. (M. Nuruzzaman, *The "Responsibility to Protect" Doctrine: Revived in Libya, Buried in Syria*. 2013)

However, from the other side, it is important also not to underestimate the outcomes of the 2005 World Summit as the first worldwide officially endorsed document that spells out the concept of R2P. This development let the advocates of R2P argue that it represents a new norm in the international relations.

The global endorsement of the 2005 version of R2P has led the aspirations of the advocates of the R2P to go very high. Ramesh Thakur and Thomas Weiss argued that no idea in the international normative arena has moved faster than the R2P. Before the launch of R2P, the notion of using military force when a sovereign state acted irresponsibly towards its citizens was simply too far from the mainstream of the accepted international norms; as the international order was firmly grounded in the inviolability of sovereignty. From the other side, states were more attuned to their own unique political interests than to humanitarian imperatives. However, according to them, since the launch of R2P in 2001, the domestic and international jurisdictions are becoming blurring, which became most evident with the willingness and sometimes authorized by the United Nations or by regional organizations to shelve sacrosanct sovereignty through using military force for human protection purposes. According to the advocates R2P the most significant achievement of R2P is to fill the "crucial normative gap". (G and Weiss, *R2P: From Idea to Norm-and Action?* 2009). However, as this thesis will demonstrate the reality on the ground indicates that the pattern of humanitarian international intervention after R2P has not changed so much and that R2P did very little in this regard.

Martha Finnemore and Kathryn Sikkink argue that the international norms have a "life cycle" (Finnemore 1998). They identify three stages for norm's life cycle. The first stage is the "norm emergence" in which norm entrepreneurs (the ICISS in the case of R2P) attempt to convince a critical mass of states to embrace the new norm. The second stage is characterized by what they describe as "norm cascades" through the rest of the states. This second stage occurs when the norm reaches a threshold or a tipping point after the norm entrepreneurs manage to persuade a critical mass of states to adopt it. Finnemore suggests that the norm tipping or critical mass rarely occurs before one third of the total states of the system accept it. The norm entered its last stage when it becomes widely accepted, making conformity with the norm almost automatic. It occurs when the norm acquire the "taking for granted quality" and becomes no longer a matter of broad public debate (*Ibid*) This thesis argues that R2P in its 2005 World version which strengthens the prevention over the coercive elements has become widely accepted in international relations and that it lies in this second stage of Finnemore and Sikkink's norms life cycle.

In conclusion, the thesis views that despite the big aspirations that accompanied the launch of R2P, the misuse of the R2P in the case of Libya and the non-use of the doctrine in Syria had resulted in a gradual change in the international embracement of the norm, from the initial welcoming and the adoption of the doctrine in the 2005 World summit till the current suspicions that were manifested in the debate over the Syrian case at the Security Council.

## **2.8 The feedback on R2P**

Since its adoption, R2P has laid a stone in the watershed of the long lasting debate regarding the international response to the humanitarian crises. The advocates of R2P viewed that it presented a historic challenge to the primacy of sovereignty in international relations (Fermor Winter 2012/13 ). Fermor argues that the protection clauses represent the high watermark of a tide that started with the foundation of the UN and the adoption of the Universal Declaration of Human Rights in 1945 and 1948 respectively. According to him, in the protection clauses, heads of states and governments signed up commitments that challenge the primacy of sovereignty (*Ibid*).

However, from the other side, despite the fact that there is a punch of international documents on R2P that speak of the collective responsibility of states to protect populations beyond their borders, R2P till this moment does not provide any binding legal implications on states (Glanville 2012). From a legal perspective, none of the various statement and resolutions on R2P can be treated as generating binding legal obligations under the classic sources of international law delineated in article 38 of the Statute of the International Court of Justice; which are international conventions, international custom or general principles of law (*Ibid*). Although some legal scholars accept that General Assembly and Security Council resolutions can contribute to the interpretation of international law, others continue to insist that such sources at their

best merely play a contributory role in the gradual development of customary international law (*Ibid*).

More importantly, the most claimed authoritative of the documents on R2P, the 2005 World Summit Outcome Document, is merely a restatement of the already existing norms and standards for the use of force enshrined in the UN Charter and a watering down of the language used previously in the ICISS. Therefore, there is little ground for concluding that in the protection clauses, states intended it to establish new legal obligations for the protection of populations beyond borders (Glanville 2012). R2P can represent at best a kind of soft law obligation on the UN member states

In the same context, it was seen that the new doctrine did not provide substantial added value to existing rules for intervention. Alan Kuperman, for instance, argued that the new doctrine is merely an "old wine in a new bottle". According to him, the norm of preventive actions in addition to coercive military intervention emerged earlier than the ICISS report, especially in the decade following the end of the Cold War when Western countries had the luxury to prioritize humanitarianism. In the 1990's, the international community did undertake wide-ranging actions to prevent atrocities such as that to protect Kurds in Iraq, the UN operations in Somalia and Kosovo which were conducted prior to the adoption of R2P. Thus, according to Kuperman the formalization of R2P did little more than to apply a new name to this international norm. (Kuperman 2011)

From another context, the advocates of R2P were keen on emphasizing that R2P is in the best interest of the developing countries. They argued that people of developing countries will primarily benefit if interventions are motivated only by humanitarian concerns and that they will suffer the most in case atrocities are committed on a wide scale and the international community refuses or fails to provide support or help (Thakur, R2P after Libya and Syria: Engaging Emerging Powers. 2013) However, the ICISS report itself discriminates between the rich and the poor states. Article 4.42 of the report excludes the permanent five members of the Security Council where the obligation to intervene would not apply even if all the conditions for intervention were met. The great powers are free to treat their citizens in any way they like, but not the weaker powers who must comply with the R2P norm to protect (M. Nuruzzaman, The "Responsibility to Protect" Doctrine: Revived in Libya, Buried in Syria. 2013). Therefore, there is a window to argue that R2P mixes up humanitarian causes with realpolitik and it merely promotes Western warmongering under a humanitarian umbrella (*Ibid*).

In fact, the concept of R2P drew negative reactions from many governments in Asia and Latin America. They perceived the concept as a legitimization of military intervention for strong states against weak ones (Seybolt 2007). The international experience after the adoption of R2P reveals that international intervention was too early in the case of Libya and never happened in many other cases including the Syrian case. The fears of the developing countries were borne out in 2003 when the



USA tried to justify its invasion of Iraq in humanitarian terms after their initial justification that Saddam Hussein possessed weapons of mass destruction turned out to be false. (Seybolt 2007). Therefore, the skepticism and antagonism of the developing countries could be viewed from the scope that the new doctrine will be used as a tool by powerful countries to intervene selectively in the affairs of the weak was enhanced.

Russia as one of the permanent members of the Security Council although expressed acceptance to the first pillar of R2P that 'sovereignty confers not just rights, but also responsibility, Moscow remained adamant that the basis for action should be the second pillar of prevention, rather than recourse to coercive intervention under the third pillar which must be implemented solely through the Security Council as a last resort (Davies 2015). Derek Avere and Lance Davies argue that Russia's role in the Libya and Syria crises reflects an approach rooted in the 2005 World Summit Outcome document and situated within a statist international legal framework that privileges the sovereignty of states. This position does not exclude humanitarian considerations, but pleads for the inviolability of national sovereignty' as the fundamental basis of international order (*Ibid*)

It is worth noting that it is not only the developing in addition to Russia and China that show skepticism regarding R2P, the attitude of the United States regarding R2P was also reluctant and lukewarm. We can reveal from the statements of the US officials that there are fears that the new doctrine may oblige the U.S to intervene in certain domestic crisis that it has no intent to intervene. During drafting the 2005 outcome document, the U.S. ambassador to the UN, John Bolton, issued a communiqué acknowledging that states might have a legal obligation to protect their own populations. However, he insisted that the responsibility of the international community to protect is merely a "moral responsibility" (Glanville 2012). He firmly declared that the U.S. does not accept that either the United Nations as a whole, or the Security Council, or individual states, have an obligation to intervene under international law (*Ibid*).

Therefore, by the end of the negotiations the concluding results with respect to invoking Chapter VII enforcement measures was that member states merely declared that they were prepared to take collective actions on a case-by-case basis and in accordance with UN Charter, so they did not explicitly accept that they had an obligation to do so. That is why the thesis argue that the net result of R2P did not provide a substantial changes to the current dilemma of how to react in cases of humanitarian crises in case of a paralysis of the Security Council.

## **2.9 Conclusion**

The dominance of the political interests and the absence of defined rules or regulations to govern the international community's response to humanitarian crises have advanced the call for adopting a principled framework for humanitarian

intervention; the framework that was proposed and coined in 2001 by the International Commission on Intervention and State Sovereignty (ICISS) and named the Responsibility to Protect (R2P).

Despite the huge aspirations that accompanied the launch of the Responsibility to Protect, R2P remained subject to the same pitfalls as the doctrine of “Humanitarian Intervention”. The ICISS criteria for the use of force are merely representing a replication of the just war criteria which were ambiguous, ineffective and raises many questions more than it answers. The ICISS alternatives in case of the paralysis of the Security Council were very subjective and controversial; they were later dropped down later during discussing the doctrine in the UN 2005 World Summit. This chapter views therefore that R2P does not provide substantive added value more than the humanitarian intervention did. This chapter argues that in the absence of a central authority to implement norms such as human rights, the state actions will be dominated by its interests and that pattern of humanitarian intervention will remain selective and governed by political considerations.

## Chapter Three

### The Responsibility to Protect in the Libyan Case

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#### 3.1 Introduction

The UN authorized international intervention in Libya represents a stark development in the short history of the R2P. UNSC resolution 1973 marks the first time the council authorizes the use of force for humanitarian protection purposes against the will of a functioning state (Bellamy 2011). However, despite the initial optimism that had accompanied invoking R2P for the first time, the developments in Libya during and after intervention indicated, in the thesis' view, that R2P has not succeeded in establishing new rules and conditions for intervention to neutralize the dominant role of the political interests while deciding intervention in case of humanitarian crisis.

This chapter argues that political consideration has also played the major role in motivating NATO's intervention in Libya. Humanitarian motives while partly was employed in the decision on how to deal with Libya, they represented merely a necessary but not a sufficient cause for intervention. This chapter will demonstrate that the humanitarian discourse of NATO amounted to no more than justificatory propaganda. Interests defined as power was the motivating factor behind the NATO operations in Libya, not the humanitarian goals. The NATO insistence on pursuing the goal of regime change instead of merely working to protect civilians as enshrined by the UNSC resolution, as well as the irresponsible post intervention policies, demonstrates that it was the political consideration that mainly motivated the international intervention, not the humanitarian ones. Therefore this chapter argues that R2P did not provide any substantive added value more than its predecessor the "Humanitarian Intervention" did.

#### 3.2 The Beginning of the Story

Colonel Muammar El-Qaddafi's 42 years rule had been characterized by a strict limitation on civil liberties, human rights abuses, and the use of torture against his opponents (Silander 2013). On February 2011, Qaddafi's regime came under threat by popular uprisings instigated by the Libyan people who took to streets in the eastern province of Benghazi demanding substantial change to the political and social structure of the regime (*ibid*). Colonel Qaddafi in return described the protesters as "cockroaches" for whom he vowed to search "house to house". He declared publicly that the protesters would be "hunted down door to door and executed" and that there will be "no mercy and no pity shown" (Zifacak 2012) His use of the word was eerily reminiscent of the same words used in a similar context in Rwanda by the Hutu radio prior to the massacre of Tutsi in 1994, the massacres that, among other, had propelled the coining of R2P later on (*Ibid*).

Soon, the number of protestors killed soared from hundreds to more than one thousand. This violent crackdown by the regime forces on the protestors had resulted in a gradual shift in the peaceful character of the demonstrations towards a more violent one. The level of violence had then escalated later into a devastating civil war in which armed rebel forces demanded bringing the regime down. However, Qaddafi forces started to gain strength and territory during their march towards the opposition's stronghold of Benghazi. The opposition was weak and unorganized to the extent that it might be swept away in Benghazi. The prospect of massacre and atrocity in Libya against the civilian "cockroaches" at the hands of the regime's military forces was clear and made the international community become deeply alarmed (*Ibid*).

The United Nations High Commissioner for Human Rights at that time Navanethem Pillay described the situation in Libya as "shocking and brutal". According to her, this brutality had been the characteristic of the Libyan leadership for more than four decades. She urged both the UN Security Council and Human Rights Council (UNHRC) to respond to those atrocities. On February 25, the Human Rights Council established a fact-finding committee to examine the unfolding events and urged the General Assembly to expel Libya from Security Council membership. On March 1, The General Assembly suspended the Libyan membership. (Zifacak 2012)

### ***3.3 Resolution 1970***

On February 26, in a prompt response by the Security Council in the wake of crackdown on protestors, a swift and decisive action was taken only ten days after the beginning of the demonstrations. Tough Measures were imposed on the Libyan regime through adopting UNSC resolution 1970. The resolution was unanimously adopted under article 4.1 under chapter VII of the UN charter.

The Security Council resolution, while reaffirming in the preamble its strong commitment to the sovereignty, independence, territorial integrity and the national unity of the Libyan Arab Jamahiriya, deplored what is described as "gross and systematic violation of human rights in Libya". The resolution demanded an end to the violence, imposed arms embargo on the country, and a travel ban and assets freeze on the family of Muammar Al-Qaddafi as well as certain governmental officials. Furthermore, the resolution expressed hope that those responsible for grave crimes would be held accountable and finally decided to refer the situation to the International Criminal Court ([un.org/press/en/2011/sc10187.doc](http://un.org/press/en/2011/sc10187.doc) 2011). The Security Council made it clear for the first time that the demands of the resolution are derived from the responsibility of the Libyan government to protect its own people.

In a dramatic step, the Libyan ambassador to the UN defected from the regime and called upon the UN member states to recognize the Libyan Interim Council as the legitimate Libyan authority. In a sentimental comment after the adoption of the 1970 resolution, the Libyan representative at the UN stated that the Council's action

represented a moral support for his people and was a signal that an end must be put to the fascist regime in Tripoli (un.org/press/en/2011/sc10187.doc 2011).

The Qaddafi regime responded through ignoring the UNSC resolution and launched sustained attacks on the opposition strongholds; however, they were unable to achieve a decisive victory over the dispersed and rapidly mobile rebel forces. However at the same time, the opposition forces started gradually losing the momentum under Qaddafi's tanks, aircraft, and heavy armaments attacks (Silander 2013). Therefore, calls for assistance were raised by the rebel leaders to ask for military support from the international community under allegation of the lack of the military resources needed to repel attacks on civilians. The final outcome was that resolution 1970 had not had the effect of providing protection for civilians the international community hoped for. Subsequently, the debate within the UN was that if no further actions were taken, then the widespread abuse against Libyan civilians would continue unabated. (*Ibid*)

### **3.4 Resolution 1973**

On March, 12, 2011, a major watershed in the incidents of the Libyan revolution took place. The Arab League, the regional organization, unanimously adopted a resolution that expressed concern over Qaddafi's use of military forces against civilians. At the same time, it suspended the Libyan membership at the Arab League. More importantly, the Arab League requested the UN Security Council to impose a no-fly zone over Libya with the aim of stopping attacks against civilians.

In response to the Arab League's call, and an appeal from the UN Secretary-General Ban-Ki, the Security Council adopted a new resolution; UNSC resolution 1973, on 17 March 2011, only after twenty days from the adoption of the former resolution UNSC resolution 1970. The UNSC resolution was adopted by 10 votes and 5 abstentions. The manner of voting could be broken down as follows: countries that voted in favor of the resolution were mainly the Western countries; the United States, Great Britain, France, Portugal and Bosnia and Herzegovina, plus the regional Arab and African countries; Lebanon, South Africa, Nigeria, Gabon. From the other side, the countries that abstained were Russia, China, in addition to the emerging developing countries Brazil and India. Germany had a unique position as it boycotted the Western consensus for the first time and abstained from voting. (Berenskoetter, aught between Kosovo and Iraq: Understanding Germany's Abstention on Libya n.d.).

The UNSC resolution 1973 was very clear in referring to the doctrine of the Responsibility to Protect (R2P). It stressed that it is the responsibility of the Libyan authorities to protect the Libyan population and affirmed that the parties to armed conflicts bear the primary responsibility to take all feasible steps to ensure the protection of civilians. The resolution also expressed grave concern at the deteriorating situation, the heavy civilian casualties and considered that the widespread and systematic attacks taking place in the Libyan Arab Jamahiriya against

civilian population may amount to "crimes against humanity". (<http://www.un.org/press/en/2011/sc10200.doc.htm> 2011).

In fact, the prompt manner the Security Council reacted to the Libyan situation had surprised many. Equally or even more appalling human sufferings in Bahrain, Syria and Yemen were ignored for an unexpectedly long time. It took nearly a year for the same Council to pass a resolution on Yemen that called for, not to impose coercive actions, but for a Yemenis-led political reconciliation process. This double standard policy in dealing with similar grave situations raised so many questions regarding the presence of real standards for dealing with humanitarian situations.

The most important and controversial provision of the resolution was that it authorized member states acting nationally or through regional organizations or arrangements to take "all necessary measures to protect civilians and civilian populated areas under threat of attack". In the same context, the resolution decided to establish a ban on all flights in the airspace of the Libyan Arab Jamahiriya in order to protect civilians. However, the resolution was very clear in refusing any kind of foreign occupation of any form in any part of the Libyan territory. ([un.org/press/en/2011/sc10200.doc](http://www.un.org/press/en/2011/sc10200.doc))

The wording and phrases used in the provisions that authorized intervention in the resolution were shocking to many. The standard phrases used in the previous UNSC resolutions regarding imposing coercive measures to provide protection for civilians under attack was to "protect civilians under imminent threat of physical violence". (Nasser-Eddine, How R2P failed Syria. 2012) Thus accordingly, it had intentionally dropped the word "imminent". Much more, it included a more expansive concept of "civilian populated areas". This provided a reason to defend the civilian populated areas that were not necessarily in imminent danger from Qaddafi's troops. In the same context, no explanation of the phrase "all necessary means" was provided. Therefore, the wording of the resolution was ambiguous enough to be interpreted both narrowly and broadly (*Ibid*). The Indian representative at the UNSC stated that the controversial and ambiguous nature of the resolution was the reason behind the abstention of one third of the Security Council members to the UNSC resolution 1973 although the same Security Council members did not have a problem with the earlier one which imposed sanctions and referred the Qaddafi regime to the ICC.

### **3.5 The Launch of the Military Operations**

Immediately after the adoption of the UNSC Resolution 1973 France took the international lead on how to address the Libyan crisis. On March 17, 2011, on the day after the final vote, the then French Foreign Minister held a press conference on Libya where he referred that the credibility and honor of the international community was at stake and called for an immediate response by the international community (Juppe 2011) A summit convened in Paris two days later to "support the Libyan people". The meetings had resulted in an agreement in which France, the United States, the UK,

Italy, Qatar, Belgium, Canada, Denmark, Norway, and Spain agreed to take all necessary action, including military, consistent with UNSCR 1973, to implement the no-fly provision of UNSC resolution 1973 (State 2011).

Immediately, a military coalition under the umbrella of NATO began bombing Libyan governmental positions. The NATO air forces took out Libya's air defense systems to halt its capacity to launch air strikes on the opposition strongholds (Zifacak 2012). However, it became clear after two months from the initial NATO's aerial bombing that the Libyan regime resistance was stronger than what had been anticipated. Thus, NATO appeared to be stuck in second gear. (Zifacak 2012) The NATO's military leadership became increasingly convinced that the objectives of the military campaign cannot be achieved unless the Libyan leadership was toppled (*Ibid*). In this regard, the mandate of the UNSC resolution 1973 authorized the use of all necessary means.

By the end of the operations, it was clear that it was the Libyan opposition rebels who took the advantage of the NATO action (Nasser-Eddine, How R2P failed Syria. 2012). The NATO acted as the air force of the anti-Gaddafi rebels. Furthermore, France supplied arms to the rebel fighters in a clear violation of UNSC resolutions 1970 and 1973 that imposed an arms embargo on all parties in Libya (*Ibid*). This has led the Indian ambassador to the UN "Hardeep Singh" to refer to NATO as the "armed wing" of Libyan opposition (*Ibid*).

The West's broad interpretation of the resolution was criticized by the Russian Foreign Minister Sergei Lavrov who viewed NATO's intervention has not been sanctioned by the UNSC resolution and that the military operations had gone further than expected (Silander 2013). The Chinese government also accused France, the UK, and the USA of acting beyond the scope of the resolution. The Chinese foreign ministry spokeswoman "Jiang Yu" stated that "the implementation of the Security Council resolution is meant to offer humanitarian protection, rather than engender a greater humanitarian disaster". That is why, she concluded, the Chinese government accuses the West of defending its interest in an attempt to gain control over Libyan oil resources rather than pursuing humanitarian goals (*Ibid*).

### **3.6 The role of Political Interests in the NATO Intervention in Libya**

The NATO-led intervention in Libya unleashed a torrent debate regarding invoking the doctrine of R2P for the first time. In fact, the UN-authorized intervention in Libya constituted a watershed in the history of R2P. From the launch of R2P in 2001 till 2011, R2P remained dormant. For instance, R2P was not invoked in many other cases that needed international intervention such as in Darfur, Gaza or Somalia despite the presence of suspicions of war crimes and crimes against humanity (M. Nuruzzaman, The "Responsibility to Protect" Doctrine: Revived in Libya, Buried in Syria. 2013). At the beginning of the incidents in Libya, the UN Secretary General Ban Ki-moon considered that the intervention in Libya had marked the "coming of age of the

Responsibility to Protect". (Morris, Libya and Syria: R2P and the spectre of the swinging pendulum. 2013)

Although the adoption of the UNSC resolution 1973 has indicated the important role that R2P has come to play in international politics (Silander 2013), the debate within the Security Council regarding the NATO-led intervention in Libya and the incidents in the aftermath of intervention had revealed the need to clarify the ambiguity of R2P. One third of the UNSC members abstained from voting on the UNSC Resolution 1973. The representative of the Russian Federation at the UNSC stated that he had abstained because many questions remained unanswered, including how the mandate would be enforced and by whom, and what the limits of engagement would be. The Russian representative called for alternative means to engage in Libya as the military force could lead to negative consequences in Libya and for the region in general (<http://www.un.org/press/en/2011/sc10200.doc.htm> 2011).

Developing countries members of the Security Council, such as Brazil and India, expressed also strong concerns over mandating the use of force. The representative of India explained his abstention through stating that "today's resolution is based on very little clear information, including a lack of certainty regarding who was going to enforce the measures" (<http://www.un.org/press/en/2011/sc10200.doc.htm> 2011). The representative of Brazil shared the same view, he stated that the resolution contemplated measures that went beyond that call and that the measures approved by the resolution could exacerbate the current tensions on the ground and will cause more harm to the civilians that the international community is committed to protecting (*Ibid*).

In fact, the statements of Western officials regarding the aim of intervention have aggravated the already existed fears that R2P is merely a tool that is used to mask the political goals of the major powers. Their statements did not show respect to the delicate line between the goal of protecting civilians enshrined in the UNSC resolution and the goal of regime change. The US representative at the Security Council stated; "the United States views that Qaddafi has lost his legitimacy and that there is no justification for Qaddafi's leadership (*Ibid*). The same stance replicated in the statements of the French minister of foreign affairs during debating the resolution at the Security Council. He maintained; "the inaction in Libya would not only be a humanitarian disaster, but would also send a message to "other totalitarian regimes" that their brutality would go unanswered" (*Ibid*).

At the beginning of the uprising, the African Union initiated a reconciliation process between Qaddafi regime and the rebels in April 2011. However, France, Britain and the USA did everything to effectively sabotage the reconciliation process. On April 15, 2011, the British Prime Minister David Cameron, former French president Nicolas Sarkozy, and the US President Barack Obama published a joint statement rejecting Qaddafi playing any role in any future arrangements in Libya, as if they put themselves in the position of being the actual deciders in Libya with the rebels



playing a secondary role. (M. Nuruzzaman, The “Responsibility to Protect” Doctrine: Revived in Libya, Buried in Syria. 2013)

Although the aims and objectives of R2P revolve around providing protection for civilians in armed conflict, and therefore pursuing the goal of regime is illegal, the advocates of the NATO intervention in Libya pleads that paragraph 4 of UNSC resolution 1973 which authorizes “the use of all necessary means to protect civilians” entails not just stopping international crimes, but it authorizes also stopping Qaddafi’s forces from winning the civil war in Libya. Moreover, they argued that the UNSC resolution 1973 does not prohibit the targeting of Qaddafi himself but allows it where this is deemed necessary to protect civilians and civilian populated areas (Akande, What does UN Security Council Resolution 1973 permit? 2011).

However, despite this previous argument, there is general acknowledgment that NATO intervention in Libya went far beyond the initial objectives of protecting civilians enshrined in the UNSC resolution 1973 (Zifacak 2012). Ramesh Thakur, one of the founders of R2P, viewed that the UN resolution 1973 was crafted both to authorize and to delimit the scope of intervention (Thakur, R2P after Libya and Syria: Engaging Emerging Powers, 2013) Thus, according to him, although ignoring the restrictions in the UNSC resolution 1973 could have been justified on the basis of necessity and efficiency, the insistence by NATO members that they fully adhered to the UN mandate as the resolution allowed “the use of all necessary measures to protect civilians” is not credible (*Ibid*). Therefore targeting Qaddafi forces directly, as well as violating the UN’s arms embargo by supplying weaponry to the rebels, constituted a transparent effort of regime change. The UN resolution cannot become the pretext for imposing external political preferences such as regime change (*Ibid*).

In the same context, Gareth Evans, the co-chair of the ICISS commission, viewed that although R2P’s application in Libya had been an apparent success, many would have been much more comfortable if NATO had been confined to its role; so after neutralizing the Libyan air force and halting the ground forces marching to Benghazi, to keep its brief mandate in maintaining the no-fly zone and being prepared to attack whenever civilians or civilian areas were being put at risk by reachable targets. (Evans, Interview: The R2P Balance Sheet after Libya’ in The Responsibility to Protect: Challenges and Opportunities in light of the Libyan Intervention. 2011)

This chapter argues that political consideration played the major role in motivating the NATO intervention. The humanitarian motives indeed played a part in the decision to intervene in Libya. However, the humanitarian concerns represent a necessary but not a sufficient cause for intervention (Fermor Winter 2012/13 ). Indeed Qaddafi was a tyrant. However, the intervening states maintained close relations with Qaddafi until his hold on power became doubtful under the mass demonstrations against him. Immediately afterwards, the NATO states broke with Qaddafi. This remarkable suddenness of the Western break with Qaddafi makes this break appear hypocritical and opportunistic, rather than morally based (Gibbs 2016)

The UN Human Rights Council's Report of the International Commission of Inquiry on Libya presented evidence of international crimes, specifically crimes against humanity and war crimes committed by Qaddafi's forces in Libya. Despite the aforementioned reports on the commitment of war atrocities in Libya, the inclination of many within the Pentagon and the White House in the early days of the incidents had been to avoid military involvement in Libya (Fermor Winter 2012/13 ).

Basically, Libya has a strategic geopolitical status within the calculations of the Western policy makers for many reasons. The first one is that although Libya is not located in the Arabian/Persian Gulf, its hydrocarbon reserves place it in the top ten of world oil reserves with 39.1 billion barrels according to the 2006 British Petroleum statistical review of World Energy. It additionally enjoys significant exploitable reserves of natural gas. European countries especially Germany and Italy were highly dependent on Libyan hydrocarbons (Fermor Winter 2012/13 ).

The second reason was that Colonel Qaddafi over his 42 year existence was more than a minor irritant to NATO. He even continued to cause difficulties in the post-December 2003 period of improved relations. The Libyan regime was perceived as a rogue regime by successive US administrations. Therefore, the use of force would help in toppling a regime that constitutes a threat to the US Security (Fernandes 2013). Policy makers in NATO countries came to realize that an opportunity to effectively install a more reliable and pliable regime in Libya had presented itself, with all the benefits that might bring in terms of reliable access to huge hydrocarbon reserves (Fermor Winter 2012/13 )

More importantly, with the launch of the demonstrations of the Arab Spring there was widespread anxiety among the business community about the unrest that was sweeping the Arab world, oil companies have welcomed Western military intervention as a stabilizing factor for Libyan oil; and also as a show of force for the whole Arab world, to demonstrate that Western powers still exert control (Gibbs 2016).

The French President Nicholas Sarkozy and the British Prime Minister David Cameron were the frontrunners among NATO leaders in calling for intervention. France in particular has been one of the strongest advocates calling for recognizing the legitimacy of the Benghazi-based rebels. According to the STRATFOR Global Intelligence Center, the French interests in the Libyan intervention can be categorized into two main categories: domestic politics and intra-European relations. The domestic political interest was that French President wanted to represent his administration as standing in the same line with the Arab Spring revolution. At the onset of the Arab Spring, Paris stalled on recognizing the protesters in Tunisia and Egypt as legitimate. For instance in the Tunisian case, the French Foreign Minister Michele Alliot Marie offered the Tunisian government official help in dealing with the protesters. Three days later, the Tunisian President Zine El Abidine Ben Ali was forced to flee the country. The French President has his own Muslim voters to

consider, including a sizable minority from North Africa. This audience had a particularly negative reaction to Paris' handling of the revolution in Tunisia. Therefore the French intervention could be perceived from the lens of overcompensation for an initially European handling of the Arab spring revolutions.

The other motive for the French enthusiasm for intervention according to the STRATFOR Global Intelligence Center was that France aimed from its intervention to reassert its role as the most militarily capable European power. Since late 2009, under the effect of the Greek economic crises, Germany has sought to use its economic power to reshape EU institutions to its own liking. Although Germany has worked to keep France apprised of the reforms on every step of the way, French public opinion saw that Paris has had to take a backseat and accept most of Germany's decisions as a *fait accompli*. The criticism has been leveled against Sarkozy of having been reduced to Merkel's yes-man. Thus, the intervention in Libya was a way to reassert to the French people and Europe that France still leads the Continent on foreign and military affairs. Therefore, if Europe intends to be taken seriously as a global power, it will need the French military power.

In fact, France had many other interests in Libya considering Libya's largely unexplored energy reserves. French energy major Total used to exist in Libya during Qaddafi but not to the same extent as Italian "ENI" or even German "Wintershall". But the situation could be improved, French energy companies could stand to profit from helping rebels take power in Tripoli. The military sales were another aspect to be looked through. After the European Union lifted its arms embargo against Libya on 2004, Paris has benefited between 2004 and 2011 approximately half a billion dollars worth of arms. However, in 2010 alone, the Italian government was in negotiation for more than a billion dollars out of arms sales to Tripoli, and it seemed that the Rome-Tripoli relationship was overtaking Paris' efforts in Libya prior to the intervention.

Great Britain has not been as aggressive about pushing for the Libya intervention as France, but it still has been at the forefront of the coalition. London has also significant interest in Libya, namely energy. STRATFOR Global Intelligence Center points out that till 2010, the British energy major British Petroleum (BP) had no production in Libya although in 2007 it agreed with Tripoli to drill onshore and offshore wells under a one billion deal. The negotiations were finalized after the Scottish government decided to release Lockerbie convicted Abdel Baset Al-Megrahi on humanitarian grounds in August 2009. Al-Megrahi was expected to die of prostate cancer within months of his release but presumably was still alive till 2011. The British government came under heavy criticism for Al-Megrahi's release. British media speculated that the decision represented an effort to kick-start BP's production in Libya. BP announced in 2009 that it planned to invest 20 billion in Libyan oil production over the next 20 years. However, till 2011 no progress was achieved in this regard.

The May 2010 Macondo well disaster in the Gulf of Mexico made BP in a vulnerable situation. The United States accounted for a quarter of BP's total hydrocarbon production in 2010. The disaster cost BP 17.7 billion worth of losses in 2010, and the company also has had to set up a 20 billion compensation fund. Estimates of potential further spill-related costs range between 38 billion and 60 billion, making BP's future in the United States uncertain. Therefore the BP's Libya strategy was more urgent. The disaster also allowed BP's competitors to complain about its potential future offshore operations. The Italian Foreign Minister Franco Frattini argued that until the investigation into the Macondo well disaster is completed, BP should refrain from drilling off Libya's shore in the Mediterranean Sea. The complaint was more than likely an attempt by ENI to complicate BP's Libya operations by questioning its environmental record in North America. Therefore, with no oil production in Libya and arms sales, London could gain by the removal of Qaddafi and that the United Kingdom could substantially benefit from new leadership in Tripoli.

Italy enjoyed a privileged relationship with Qaddafi, from energy to weapon sales to its being a main destination for Qaddafi's investments. However, Italy was the third largest component in the international coalition in Libya. Italy has been one of Qaddafi's major arms suppliers since the EU arms embargo was lifted in 2004, a step for which Italy strongly lobbied. Italy was in the process of negotiating a 1.05 billion-worth of military contracts before the rebellion began in Libya. On the same context, the cozy relationship has allowed Rome to negotiate a deal on securing its seas from an unchecked influx of migrants, both a national security and domestic political issue.

Geographically, Italy is one of the closest European countries to Libya, with the island of Lampedusa, a destination of choice for migrants fleeing North African, only 225 kilometers from Libya. Because of its geographic proximity, the energy company ENI began operating there in 1959 and never left the country, even when the rest of the West rebuffed Qaddafi in the 1980s due to his association with terrorism. This commitment to Libya allowed Rome to negotiate lucrative energy and arms contracts after the sanctions on Libya were lifted in 2003. Till 2011, ENI had a number of key energy assets in Libya, Libya accounts for some 15 percent of ENI's total global hydrocarbons output, with oil production of 108,000 barrels per day and natural gas production of 8.1 billion cubic meters in 2009.

Despite the lucrative relations with the Qaddafi regime, Italy supported the coalition against Qaddafi. The Italian air force conduct patrols over Libyan airspace and Italy offered the use of seven Italian airbases to the coalition aircrafts. STRATFOR Global Intelligence Center argues that the reasons for this shift in Italian government position from Qaddafi because Rome did not want the Libyan intervention to be a Paris-London affair particularly when the United States withdraws from leading the operations, leaving Italy's energy and security interests at the mercy of two countries looking to gain the upper hand in the post-Qaddafi Libya. However, Rome continued to hedge its policy. Rome has emphasized that its jets operating over Libya had

managed to jam Libyan air defense radar networks “without firing a single shot,” according to an Italian air force announcement on March 22, 2011.

The French and British keenness on expanding their energy and business interests once rebels assume power in Libya explains Rome’s reluctance to allow France to lead a command structure concurrent with NATO’s. Rebel leaders themselves have stressed that economic ties will be calibrated to reflect the support that the various European countries have offered the grassroots uprising. These sorts of statements are what Rome feared the most. As a response, the press in Italy has claimed that Rome was seeking an official NATO role in the intervention so as to prevent French-UK “activism”. Replacing Qaddafi with a rebel leadership grateful to London and Paris but suspicious of Rome would threaten Italian interests. Also his replacement with an unknown regime or unstable environment that resembles the tribal warlords of Somalia would lead to unchecked migration flows and an insecure business environment. In the same time participating in the coalition was risky too, as Qaddafi could wind up clinging to power and deciding to seek revenge against Italy for joining forces with the United States, France and United Kingdom against him despite the 2008 friendship treaty.

In light of the aforementioned; the thesis concludes that there are solid grounds to argue that the humanitarian discourse of NATO amounts to no more than justificatory propaganda. Interests defined as power was the motivating factor behind NATO operation not the humanitarian goals. Basically, NATO’s intervention in Libya was not in line with the original spirit of R2P (M. Nuruzzaman, The “Responsibility to Protect” Doctrine: Revived in Libya, Buried in Syria. 2013). Mohamed Nuruzzaman argues that the incidents in Libya had even produced irreparable damages to the R2P doctrine in three distinct ways; the first one is the quick resort to military force as force was used with an astonishing speed in clear violation of the ICISS report provisions which stresses that force can be used as the last resort. The second is the double commission of war crimes and crimes against humanity, the last but not least is what he describes as the morally and ethically unacceptable post-intervention policy towards Libya as NATO had left Libya after intervention plagued with internal divisions and the absence of unification or reconciliation efforts between the different opposition factions (*Ibid*).

Regarding the last point, the current situation in Libya five year after intervention remains gloomy by all means. There is an unprecedented deterioration in all fields in Libya whether in the humanitarian or the security aspects. The former Special Representative of the UNSG to Libya Bernardino Leon, during his briefing to the Security Council three years after the international intervention in Libya gave a bleak assessment of the overall situation in Libya. He stated that Libya is “getting very close to the point of no return”. He referred to the UN Office for the Coordination of Humanitarian Affairs (UNOCHA) estimates that two million people may have been affected by the conflict in Libya. More than 330,000 are considered to be particularly at risk, with the sum of 37,000 refugees and asylum-seekers. He further stressed that

extremist groups with radical ideologies, associated with al-Qaeda have been on the rise since the end of the armed conflict in 2011, the Islamic state has found fertile ground in the growing post-revolution political instability, capitalizing also on the weakness of state institutions and state security sector. The steady influx of foreign nationals has bolstered its ranks and now threatens to introduce yet another dimension to the conflict in Libya. (<http://unsmil.unmissions.org> 2015)

In fact, the response of the international community in the post intervention period was very minimal and came only after six months from the launch of the military operations through establishing the UN Support Mission for Libya (UNSMIL). However, after three years from the establishment of UNSMIL, the head of the UN mission stated before the Security Council that despite the initial sense of optimism that accompanied the mission's establishment, the critical situation has brought the country closer to the brink of a protracted conflict and that the Libyan people find themselves nowhere closer to realizing their hopes and aspirations for a better future. (<http://www.un.org/press/en/2015/sc11788>. 2015)

Therefore, as the thesis argues, the dominance of the political interests over the humanitarian motives has damaged the initial optimism that accompanied invoking R2P for the first time. As Thakur successfully argued that the gaps between the initial expectations of R2P and the absence of accountability between those who mandated the intervention and those who executed it has tarnished the image of R2P (Thakur, R2P after Libya and Syria: Engaging Emerging Powers, 2013)

### **3.7 Conclusion**

The NATO intervention in Libya represented a stark development in the short history of R2P. UNSC resolution 1973 marks the first time the council authorizes the use of force for humanitarian protection purposes against the will of a functioning state (Bellamy 2011). However, despite the initial optimism that had accompanied invoking R2P for the first time, the developments in the Libyan case during and after intervention indicated, in the thesis view, that R2P has not succeeded in establishing new rules and conditions for intervention to neutralize the dominant role of the political interests while deciding intervention in case of humanitarian crisis.

The NATO insistence on pursuing the goal of regime change instead of merely working to protect civilians as enshrined by the UNSC resolution, as well as the irresponsible post intervention policies demonstrate that it was the political consideration that mainly motivate the international intervention in Libya not the humanitarian ones. Humanitarian motives while played a part in the decision of intervention, it represented merely a necessary but not a sufficient cause for intervention. The humanitarian discourse of NATO amounted to no more than justificatory propaganda. Interests defined as power was the motivating factor behind the NATO operations in Libya.

## Chapter Four

### The Non-Intervention in Syria and its Negative Impact on R2P

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**"The human cost of the ongoing conflict in the Syrian Arab Republic is immeasurable. The Syrian state has manifestly failed to protect its citizens from mass atrocities. War crimes and crimes against humanity have been committed on a massive scale. Many Syrians have suffered multiple violations and abuses from different actors. The scale of human suffering has grown as the conflict has escalated".**

*The report of the Independent International Commission of Inquiry on the Syrian Arab Republic released in February 2015.*

#### **4.1 Introduction**

The ongoing civilian suffering in Syria represents a stark example on the current vulnerable status of the R2P, it re-affirms the thesis' argument that R2P has failed in establishing clear conditions and parameters for intervention in case of humanitarian crises. Despite the fact that consecutive international reports stated clearly that the Syrian regime is unable or unwilling to protect its people, no collective action was taken by the international community according to the R2P. The failure of the international community to halt civilian sufferings or to reach a political solution in Syria indicates that the mechanism of the international response to the incidents of mass atrocities is still flawed.

The reluctance of the international community to respond to the Syrian crisis compared to the NATO's prompt engagement in Libya, has triggered comparisons between the two cases. Despite that Bashar al-Assad has been also fighting anti-regime protestors as Qaddafi did, and despite the fact that Syria witnesses humanitarian conditions similar or even worse than that in Libya, the Syrian case has provoked less international and regional enthusiasm for intervention. Therefore, critics rightfully questioned why the international community responded briskly and forcefully in the oil-rich Libya but have failed to take a similar attitude towards Syria (Isaac n.d.).

The long lasting standstill with regards to the Syrian crisis in comparison to the hasty intervention in the case of Libya has made commentators seek justifications for the reasons why the international responsibility was not invoked in Syria alongside the Libyan case. The negative shadows of absence of the international community response to the Syrian case had led to the conclusion that it was not the R2P itself that explained the action in Libya and the inaction in Syria. (T. G. Weiss, *Military Humanitarianism: Syria Hasn't Killed It* 2014) Other factors such as the geopolitical factors, the regional alignment, the sectarian diversity and the unity of the opposition

was decisive rather than the sole humanitarian causes in making the decision of intervention in Libya which were absent in Syria (*Ibid*)

This chapter will discuss the current gloomy situation of the R2P in light of the lack of the international community will/ability for collective intervention in Syria. It will start by going back to the beginning of the incidences in March 2011 when peaceful demonstrators took down to streets demanding political changes. The chapter will shed light on the current humanitarian situation in Syria after more than five years from the beginning of the crisis as was documented by the reports of UN organizations. Although the international reports stated clearly that Syrian regime is unable or unwilling to protect its civilians, no collective action was taken by the international community according to the international responsibility principle.

#### **4.2 The Beginning of the Story and the Humanitarian Scene in Syria**

Protests erupted in Syria in February 2011 immediately after those that had occurred in Tunisia and Egypt. Protests raised initially demands in relation to issues such as poverty, lack of freedom, democracy, restrictions upon freedom of expression...etc. (Zifcak, The responsibility to protect after Libya and Syria. 2012) In mid-March, large peaceful demonstrations erupted in the city of *Dara'a* in southern Syria after a group of children were detained and tortured by government intelligence agents due to accusations of painting anti-government graffiti on public buildings (*Ibid*). According to the report of the Independent International Commission of Inquiry on the Syrian Arab Republic, although the protests were peaceful at the beginning, the Syrian government forces responded through opening fire on the demonstrators (UNHRC 2015) As a consequence, protests spread all over the country.

The demonstrations were further met with a violent, often lethal, response from the government. The Syrian government argued that the protesters were merely terrorist groups which had opened fire at their forces (UNHRC 2015). In April 2011, a report by the UN High Commissioner for Human Rights (UNHCHR) reported the use of artillery fire against unarmed civilians, arbitrary arrests, the torture of protesters, lawyers, journalists, human rights defenders and others. The UNHCR report referred also to incidents of shooting of medical personnel in their attempts to aid the wounded, raids against hospitals and mosques.

Accordingly, on April 29 2011, due to the deteriorating situation, the Human Rights Council adopted Resolution S-16/1 which strongly condemns the use of lethal violence against peaceful protesters, it called the Syrian government immediately to put an end to any and all human rights abuses, demanding the immediate release of all political prisoners and the permission of the international reporters to Syria (Zifcak, The responsibility to protect after Libya and Syria. 2012)

In a trial to placate both the protestors and the international community, President Bashar al-Assad, formed a new government on the 16<sup>th</sup> of April, lifted the state of emergency that had been in place since 1963, and recognized the right to peaceful



protest but under strict regulations. However, the public saw the aforementioned reformations as too little and too late (*Ibid*). One week later, the largest demonstrations yet to be seen had occurred across the country. More than one hundred people were killed in the aftermath of the demonstrations due to the violent crackdown. The regime started since then to deploy the army backed by armored personnel to quell the demonstration. (*Ibid*)

By the end of 2011, the peaceful demonstrations of the Arab Spring in Syria had mutated into a bloody armed uprising and then to a fully-fledged civil war (Zifcak, The responsibility to protect after Libya and Syria. 2012). The report of the independent commission stated that "the situation has degenerated from legitimate popular aspirations into a conflagration of an unparalleled scale and magnitude of civil war". By February 2012, after one year from the eruption of the protests without materializing any of its demands, the peaceful demonstration has mutated into a civil war. Armed groups continued to attack government-held neighborhoods and areas. The report of the independent commission states that the conduct of the actors is characterized by a complete lack of adherence to the norms of international law.

It is believed that currently there are around one thousand opposition armed groups working in Syria, commanding an estimated 100,000 fighters. However, many of those groups are small and operate on a local level, but a number have emerged as powerful forces with affiliates across the country or formed alliances with other groups that share a similar agenda. The director of the US National Intelligence, James Clapper in February 2014 estimated the strength of the insurgency in Syria at somewhere between 75,000 or 80,000 or up to 110,000 to 115,000 insurgents, who are organized into more than 1,500 groups of widely varying political leanings. (service 2014)

Starting from the year 2014, the scene in Syria was getting worse and stained by the predominance of the extremist Islamist groups; two extreme armed groups, the Islamic State in Iraq and Sham (ISIS) and Jabhat Al-Nusra, have gained supremacy over the other mainstream opposition groups. The two armed militias were designated as terrorist groups by the UNSC resolution 2170 (2014). Throughout 2014, ISIS took over large parts of the north-eastern regions in Syria. It has recently made inroads in Hama and Homs governorates. In June 2014, ISIS proclaimed itself a "caliphate state" (UNHRC 2015).

The anti-government armed groups have also intentionally targeted civilian localities either in retaliation for government operations or owing to perceived support of those localities for the government. Minority groups considered to be harboring government loyalties or perceived as benefiting from government support have also been attacked by non-State armed groups. (UNHRC 2015) Unfortunately, this tragic scene all over Syria remained the main character of the Syrian scene till the moment when this thesis was written.

In light of the aforementioned tragedy, on the 5th of February 2015, a report by the Independent International Commission of Inquiry in the Syrian Arab Republic stated that since the eruption of the incidences in Syria, more than 10 million Syrians have fled their homes which amount to almost half of the country's population. More than three million people, most of which women and children, have fled the Syrian Arab Republic to the neighbouring countries. A further 6.5 million people are believed to be internally displaced. Moreover, an estimated number of 10.8 million are in a need for humanitarian assistance inside the Syrian Arab Republic, with 4.6 million living under siege or in hard-to-access areas (UNHRC 2015)

Another tragedy took place in Syria, on 21 August 2013 media reported that chemical weapons were used during attacks on civilians at *Al-Ghouta* (Reif Damascus) and Khan Al-Assal (Aleppo). The chemical weapons, according to the opposition, were used by the government forces and had resulted in over 1,000 men, women and scores of children facing a most horrible death (Mendes 2013 ). The Security Council in return adopted unanimously resolution 2118 in September 2013, in which it required the verification and the destruction of chemical weapons stockpiles. A report released by a fact-finding mission appointed by the Organization for the Prohibition of Chemical Weapons (OPCW) to examine the alleged uses of chemical gases as a weapon in Syria found that according to the evidence gathered and the laboratory results obtained, there are evidences constituting "compelling confirmation" that a toxic chemical was used "systematically and repeatedly" as a weapon in Syria.

The report of the OPCW refers that chemical weapons have been used in the ongoing conflict between the parties in the Syrian Arab Republic, not only in the *Al-Ghouta* area of Damascus on 21 August 2013, but also on a smaller scale in *Jobar* on 24 August 2013, Saraqueb on 29 April 2013, Ashrafiyah Sahnaya on 25 August 2013 and Khan Al-Assal on 19 March 2013 (Nations 2013). The report indicated that from the evidences available concerning the nature, quality and quantity of the agents used "The perpetrators are likely had access to the chemical weapons stockpile of the Syrian military". However, the report could not specify the party that lies behind those chemical attacks was (Nations 2013).

In case the allegations that the Syrian regime was behind those chemical attacks were proven, the incident of the usage of chemical weapons in Syria would have been violating the norm of the ban of the use of chemical weapon in non-international armed conflict (Stahn, *Between Law-breaking and Law-making: Syria, Humanitarian Intervention and 'What the Law Ought to Be.* 2014). This norm is a fundamental norm of international law. The use of chemical weapons is prohibited under different bodies of law, including international humanitarian law and international criminal law (*Ibid*). This could be qualified both as a crime against humanity and a war crime (*Ibid*). However, the whole incidents ended up by the acceptance of the Syrian regime to dismantle its chemical arsenal while the killing and atrocities went unabated.

### **4.3 The International Response to the Syrian Crisis**

As we can conclude from the previous section, the situation in Syria can be deemed as presenting a textbook case for R2P. The ICISS report indicated that a legitimate humanitarian intervention must have a "just cause". In the case of Syria, a *prima facie* case consists of well- documented evidence from multiple independent sources that Al-Assad regime was unable and unwilling to provide protection for his people. Moreover, there are evidences that Al-Assad's forces had intentionally committed mass atrocities. However, we will see in this section that R2P remained unable to live up to the gravity of the situation on the ground. Although a number of initiatives have been introduced to put an end to the five year old conflict in the Syrian Arab Republic to date, they all have fallen short of achieving a political solution.

This section provides that despite the presence of an international consensus on the gravity of the humanitarian situation, R2P guidelines still are not able to mobilize the international community to react to the gravity of the situation. From the beginning of the incidents, the international community has been divided in the Syrian case. The US, EU, and most Arab countries have called on Assad to step down. On the other side, Russia, China, Iran and even some Latin American countries continued to see this as an unaccepted interference in the domestic affairs of a sovereign country. (Nasser-Eddine, How R2P failed Syria 2012)

The UN Secretary General first briefed the council on the deteriorating situation in Syria on April 27 2011. The Council while took note of the deteriorating situation on the ground, resolved urgently to dispatch a mission to Syria to investigate all alleged human rights violations, and called upon the Syrian government to cooperate with its inquiries. However, neither the Security Council's nor the Human Rights Council's condemnation had any effect on the ground; the killing became more prevalent, the demonstrations grew larger and more widespread. (Zifcak, The responsibility to protect after Libya and Syria. 2012)

Western nations sought further intervention more than what was mentioned in the resolution. In September 2011, six month after the beginning of demonstrations, four countries; France, the UK, Germany and Portugal took the lead and proposed a resolution that condemns the grave and systematic violations of human rights and the use of force against civilians by the Syrian authorities, the proposed draft resolution did not include any provisions that call for coercive measures. On October 4, nine members voted in favor of the draft resolution, four non-P5 members abstained (Brazil, India, Lebanon and South Africa) and two Permanent members (China and Russia) voted against the proposal.

Russia mentioned four claims for its veto: First, the resolution did not pay enough respect to Syria's national sovereignty and territorial integrity. Second, the resolution was founded upon the logic of confrontation not the logic of calling for a peaceful settlement of the crisis. Third, Russia asserted that both sides bear the responsibility of the violence in Syria. Fourth, Russia referred to the NATO intervention in the case

of Libya and referred to its possible implications in the case of Syria (Zifcak, The responsibility to protect after Libya and Syria. 2012).

In the same context, emerging developing countries, such as Brazil and India remained to adopt their position that casts doubts upon the aims and applicability of the R2P. The two countries abstained also during the deliberations on the Libyan case. South Africa joined them in the Syrian crisis this time and abstained as well as. It seems that it was the regional African alignment that prevented South Africa from abstaining on the resolution of Libya. Russia, China, India, Brazil and South Africa were clear in expressing their concern that a Security Council resolution should not seek to dictate the nature of the political reform to be imposed on the Syrian government as it should remain a domestic issue, they sought to remove what they saw as muscular language in the draft resolution (Zifcak, The responsibility to protect after Libya and Syria. 2012)

The Arab League decided to take the lead this time. The initial serious involvement of the Arab League began on the 16<sup>th</sup> of November 2011. It strongly intervened through suspending the Syrian membership in the league and gave the Syrian government an ultimatum to comply with the terms of a detailed initiative in three days or it would face economic and political sanctions. The sanctions were subsequently imposed. The key elements of the initiative were an immediate cessation of the violence, the withdrawal of Syrian military forces from the cities, the process of the political reform should be accelerated and kept to a strict timeline; a serious dialogue should be opened with representatives of the Syrian opposition and finally a team of observers from the Arab League should be allowed to enter the country as soon as possible to monitor the Syrian regime compliance with the initiative's terms. The League also urged its members to summon their ambassadors from Damascus. On the 22<sup>nd</sup> of December 2011, the Syrian government agreed to receive 150 Arab League monitors. They were deployed throughout the country to determine the extent of the compliance of the Syrian authorities with the Arab League initiative. However, by the end of 2011, their presence does not seem to have had any impact on reducing the violence whatsoever. (Zifacak 2012)

Throughout January 2012, the Security Council met again to engage in negotiations aiming at adopting a new resolution. The foundation for the negotiations this time was a draft resolution presented by the Arab League. At the heart of the draft resolution laid a plan for the transition of power. The plan called for the Syrian president to delegate his authorities to his vice president, the formation of a national unity government, and that the new government to hold transparent and free parliamentary and presidential elections under international observation. The draft resolution also urged the Syrian government to cooperate with the Arab League's observer mission; it encouraged all states in the region to impose economic sanctions upon the al-Assad regime and proposed that the regime's implementation of a Security Council resolution be reviewed within 15 days of its adoption and that the Security Council

should consider the adoption of further measures to stop the violence. (Zifcak, The responsibility to protect after Libya and Syria. 2012)

The Arab League's draft resolutions did not pass voting. Russia and China expressed major concerns regarding the resolution. They viewed that the demand for President Assad to stand aside would constitute a substantial incursion upon Syrian sovereignty. Moreover, the provision that allows the Security Council might take further, unspecified- measures against the regime can be a hidden invitation for external military intervention resembles the Libyan case (Zifacak 2012)

In the last attempt to save the Arab proposal, Morocco, the then Arab member of the Council, proposed another diluted resolution. The resolution stated explicitly in the preamble that nothing in the resolution authorizes coercive measures to be taken against Syria pursuant to article 42 of the UN Charter. The detailed steps towards the transition of power in Syria contained in the Arab League draft were removed. The paragraphs encouraging states to impose sanctions upon Syria disappeared. In its final form, the resolution demanded that Syrian authorities withdraw all military and militia forces from cities and towns and allow full and unhindered access to the League of Arab State monitors. Finally, it supported an inclusive, Syrian-led political process to address the Syrian people's legitimate aspirations. (Zifacak 2012)

The vote on the resolution was scheduled for the 4<sup>th</sup> of February 2012. On the eve of February 4, the Syrian authorities launched rocket attacks upon the rebel-held city of *Homs* without distinction between rebel fighters and civilians. It was one of the bloodiest days since the beginning of the uprising, the total number of the killed people soared around six thousands (Zifcak, The responsibility to protect after Libya and Syria. 2012). On the morning of the 4<sup>th</sup> of February, the draft Security Council resolution was put to the voting, thirteen Security Council members voted in favor of it. However, Russia and China vetoed it. The Russian and Chinese delegations described the resolution as unbalanced. The reason behind their veto was because that the resolution failed to condemn both the Syrian authorities and the armed rebels equally. Both countries accused Western nations of masking their intent to seek regime change in Damascus. (*Ibid*)

Till the moment this thesis was written, despite the notable initiatives that were introduced to reach a political solution, and despite the fact that some of these initiatives were launched under the umbrella of the UN system such as the Geneva process or the six point peace plan of the UN Special Envoy Kofi Anan, unfortunately all those initiatives faced the same fate as the previous UN resolutions. The Security Council, due to the absence of the consensus among the major powers, failed to pass any decisive resolution that was able to make an end to the civilian sufferings in Syria.

On the 27<sup>th</sup> of March 2012 a notable initiative was presented by the Joint Special Envoy of the United Nations and the League of Arab States on the Syrian crisis, Kofi

Annan. The six-point peace plan principally called upon the government of the Syrian Arab Republic to engage in an inclusive political process, to cease military hostilities, and to allow humanitarian aid to areas affected by the fighting. Al- Assad regime agreed to the six-point plan. Subsequently, the Security Council adopted resolution 2042 on April 14, 2012, supporting the ceasefire. A week later, another Security Council resolution 2043 was adopted establishing the UN Supervision Mission in Syria (UNSMIS) and the deployment of up to 300 additional unarmed military observers (P. R. Williams, preventing mass atrocities crimes, the Responsibility to Protect and the Syrian case. 2012). However, despite the initial optimism when both parties, the regime and the opposition, declared their preparedness to abide by the plan, on 16 June 2012 the mission was suspended when the hostilities remained unabated.

Another important event in the attempts to find a political solution to the crisis was what is known as the "Geneva communiqué" or the final communiqué of the Action Group for Syria that was signed in June 2012. This communiqué remains one of the most serious attempts and a reference for those who are willing to seek a political solution to the conflict. The communiqué provides a road map for a peaceful transfer of power through the establishment of a Transitional Governing Body (TGB) with executive powers.

Although Geneva communiqué provided a reference and a framework for a political settlement, contentious issues remained unresolved, including the scope and nature of the opposition's representation in any transitional arrangement and al-Assad's role and authorities in the transitional phase. Those issues remain deeply contentious in any further negotiations. After years of negotiations and persistent diplomatic initiatives, the Syrian crisis remains far from reaching a political solution.

As discussed above, the international community tried multiple rounds of UN-brokered peace plans. On the contrary, the violence in Syria has continued to intensify, attacks on civilians have increased, and the regime has started to rely on heavy military weapons such as cluster bombs and helicopter gunships (P. R. Williams, preventing mass atrocities crimes, the Responsibility to Protect and the Syrian case. 2012). Therefore, in light of the aforementioned, the thesis argues that R2P does not provide substantive added value.

#### **4.4 The Role of Political Considerations in the Syrian Crisis.**

The absence of the international response to the humanitarian crisis in Syria casts serious negative shadows on both the credibility and applicability of R2P. Zifcak viewed that the current state of paralysis of the Security Council had affected the "credibility of R2P" (Zifcak, The responsibility to protect after Libya and Syria. 2012), while Nuruzzaman argued that although R2P had come of age with NATO's intervention in Libya, it has had a tragic death with the Security Council's inability to initiate actions on Syria (M. Nuruzzaman 2013). According to Nuruzzaman, the death

of R2P in Syria has been rendered inevitable by NATO's abuses in Libya, and therefore the doctrine is doomed to a bleak future (*Ibid*).

The reality on the ground reveals that after Libya, R2P has stalled; it has not been used in Syria or Yemen or in any other places where more egregious crimes against humanity were and are being committed (M. Nuruzzaman 2013). Justin Morris observed that during the Security Council debates over Syria the reference to the R2P has been limited (Morris, *Libya and Syria: R2P and the spectre of the swinging pendulum*, , 2013) He illustrates that the statements made during UNSC deliberations over Syria suggest that R2P did little to galvanize states to uphold their responsibilities and therefore he argued that the effect of R2P was far smaller than is often claimed. During the twelve publicly recorded meetings between October 2011 and April 2013, explicit or clear references to the R2P were made by only seven Council members: Colombia, France, Togo, Rwanda, Japan (twice) and Brazil. It is notable that those members mentioned only the first and second pillars of the responsibilities. On the same context, the only explicit Russian and Chinese reference to R2P in the UNSC was made when both countries suggested that the international community was alarmed by the prospect that Libya might become a model for future actions of NATO in implementing the responsibility to protect (*Ibid*).

In fact, the Syrian crisis has highlighted the current limitations of R2P (P. R. Williams, *preventing mass atrocities crimes, the Responsibility to Protect and the Syrian case*. 2012) It was argued that the lack of action in the Syrian case will not only affect R2P but it will further damage the credibility of the UN and its institutions, as well as who rely on it to play an effective role in the protection of human rights (Nasser-Eddine, *How R2P failed Syria* 2012)

The ICISS report states that for the international intervention to occur according to R2P it should have reasonable prospects of success in halting or averting the humanitarian suffering. It asserts that the consequences of action should not be worse than the consequences of inaction (*ICISS, pp XII*). In this regard several comments have been made on how "difficult" and "different" the Syrian case is; for instance, Gareth Evans, the Co-founder of the R2P, noted that Syria has a very different geopolitical environment from the Libyan case, a strong Syrian armed forces, a strong Russian commitment to the Assad regime, no Arab League unanimity in favor of tough actions is existing, which means that any intervention would be difficult and bloody. (Nasser-Eddine, *How R2P failed Syria* 2012)

Indeed, the Syrian scene is much more complicated than Libya. There are significant minorities in Syria: the Christians, the Druze, the Kurds and, above all the Alawites, who are in varying degrees might see al-Assad regime as a better option than the unknown and feared alternatives (I. Williams 2012) These fears are based on the sense that in the case of an international intervention there are increasing prospects of imploding Syria with different Sunni, Alawite, Druze creating their own safe havens within the country's borders. This could result also in inviting extremists from

different countries to have a safe haven in a region that is very close to Europe (Mendes 2013 ).

However, after five years of the conflict without an adequate response from international community, these fears have in fact become a reality. More importantly, it can be argued that if the R2P cannot provide an international mechanism that is capable of halting atrocities in a massive crisis such as the Syrian crisis, so what is the aim or what is the use of R2P then? This thesis views that inventing a responsible mechanism for humanitarian intervention that prioritizes the humanitarian factors over the political ones would have been able to save lives and bloodshed in Syria and would have been able also to keep the unity and the diversity of the Syrian state rather than the current ongoing civil war in Syria.

Unfortunately, it was of much striking to see the extent of the negative influence of the NATO intervention in Libya during the UN Security Council's deliberations over Syria. (Morris, Libya and Syria:R2P and the spectre of the swinging pendulum, , 2013) The Russian representative insisted to his fellow Council members that "the situation in Syria cannot be discussed in the Council separately from the Libyan experience". The Libyan case has been cited as a reason for not applying R2P in the case of Syria. The Russian and Chinese representatives had received assurances prior to NATO's action in Libya, however such assurances were not respected (*Ibid*). (Nasser-Eddine, How R2P failed Syria 2012) Therefore, eventually it was the Syrians who have paid the price of NATO excesses in Libya. (Thakur, R2P after Libya and Syria: Engaging Emerging Powers 2013)

Moreover, the NATO's prompt engagement in Libya compared to the reluctance of international engagement in the Syrian case has inevitably triggered comparisons between the two cases. Despite Bashar al-Assad has been also fighting anti-regime protestors as Qaddafi did, and despite that Syria witness humanitarian condition similar or even worse than that in Libya, the Syrian case has provoked less international and regional enthusiasm for intervention. Therefore critics questioned why the international community responded briskly and forcefully in the oil-rich Libya but have failed to take a similar attitude towards Syria (Isaac n.d.)

The long lasting standstill with regards to the Syrian crisis, compared to the hasty intervention in the case of Libya, has made commentators seek justifications for the reasons why the international responsibility was not invoked in Syria alongside the Libyan pattern. The negative shadows of the Syrian case had raised the argument that it was not the R2P itself that explained the action in Libya and the inaction in Syria (T. G. Weiss, Military Humanitarianism: Syria Hasn't Killed It 2014). Other factors, such as the geopolitical factors, the regional alignment, the sectarian diversity and the unity of the opposition was decisive rather than the sole humanitarian causes in making the decision of intervention in Libya which were absent in Syria (*Ibid*)



The Russian and the Chinese positions from the Syrian case can be perceived from the scope of the statements of their representatives at the Security Council. The Russian and the Chinese representatives as continued to block any resolution with muscular provisions in Syria, criticized the use of pseudo-humanitarianism as a pretext for intervention such as what happened in Libya. They pleaded that they refuse any externally imposed solutions that could dictate the shape of the political transformation in a sovereign country (I. Williams 2012)

In fact, the Russian and Chinese position towards Humanitarian Intervention and R2P can be framed within a rational argument rooted in statist international law (Davies 2015). In his first presidential address to the Russian Federation's Federal Assembly in 2000, Russian President Putin emphasized that the action by the Western powers under the pretext of humanitarian intervention was often no more than mere attempts to infringe the sovereign rights of states and a legacy of the Cold War (*Ibid*).

The Syrian case reflected an important development in Russia's foreign policy. The accretion of the Russian material power and diplomatic weight in recent years has reinforced certain assumptions of the Russian role in shaping the international order. Russia is aware that the future response of the international community to humanitarian intervention and R2P will be shaped by the outcome of the Syria conflict (Davies 2015). Therefore, it has invested enormous political capital in the conflict. The Russian stance has been accompanied by value-based narratives which fundamentally challenge Western liberalism (*Ibid.*)

The domestic and foreign political interests of Russia played an important role in shaping its position towards the Syrian case. Basically, Russia aimed from its policy in Syria to strengthen its international and regional influence and affirming its legitimacy in the changing global order (Fermor Winter 2012/13 ). Regarding the global and the regional influence in the Middle East, the Russian only Mediterranean naval base at the Syrian coastal city Tartus and its newly built airbase near Latakia, alongside with the significant trade relationships with Syria under al-Assad regime, weigh heavily in the Russian calculations towards the Syrian crisis. (Davies 2015).

More importantly, the Russian commitment to a global order which praises sovereignty of incumbent rulers remains to a large extent an external expression of the Russian domestic state order. At the Russian domestic sphere, there is an overwhelming conviction that since the fall of Slobodan Milosevic in 2000 and especially after the 2004 "Orange Revolution" in Ukraine, the U.S and the EU are engineering the overthrow of governments they find unsuitable. The Russian leadership feared that something similar could happen to Russia itself through encouraging revolutions in one of the republics of the Russian Federation to weaken or to dismantle it. A scenario that is close to what happened in 1991 during the fall of the Soviet Union (Fermor Winter 2012/13 ). Therefore, the message of Russia by standing up for the Syrian regime is that neither the West nor even the UN is able to

change a government of a sovereign country. Such factors combine to count in the mind of Russian leaders than the lives of many thousands of Syrian civilians (*Ibid*)

Therefore, in light of the aforementioned, Russia persistently rejected the idea that Syria is a failed state or the claims that the Syrian rebel groups constitute a coherent force capable of taking over al-Assad regime. Russia pleaded that the only unifying factor for the rebels is their insistence on al-Assad's removal (Davies 2015). It described the conflict there as a civil war where external intervention would result only in a spiral of violence and potential spillover into the wider region (*Ibid*). However, Moscow reiterated in the meantime that its goal is not to protect al-Assad himself but its position stems from fears over the possible disintegration of Syria as a sovereign, independent, multi-confessional and multiethnic state.

Russia fears also that a regime change there may either bring Sunni radical groups to power or may create a power vacuum in this very vital location in the Middle East (*Ibid*). Indeed, no government wants to see Al-Assad regime replaced by a radical Sunni jihadist one. This is exactly the basic common interest that all governments are concerned whether pro-Assad, anti-Assad, or even neutral share.

The pragmatism and rationality have also shaped the US policy towards the Syrian case. The US policy in Syria was a reflection to both the domestic political determinants, as well as the international and regional equations. Basically, the US administration does not want the American army to get bogged down in the Syrian quagmire (Katz 2013). Unlike the Libyan case, without boots on the ground, the air forces attacks alone will not be able to make an end to the Syrian conflict. More importantly, the Obama administration while dealing with the Syrian crisis shares serious concerns over Israeli security that served as a motivation for the USA not to intervene in Syria. Although al-Assad regime being closely allied to two of Israel's strongest adversaries, Iran and Hezbollah, Israel highly appreciates the fact that al-Assad regime both under Hafez and his son Bashar has kept the Syrian-Israeli border quiet since the 1973 Arab-Israeli War. Israel fears that if the Assad regime falls down, it will be replaced by Sunni Jihadists regime that will be hostile and that conflict along the Syrian-Israeli border might well re-emerge (Katz 2013).

From the other side, the regional equations in the Middle East are even more sophisticated. The conflict in Syria has changed into a proxy war that reflects the Sunni-Shi'a polarization in the region. The Arab countries in the gulf region are seeking a Syria militarily and diplomatically cut off from Iran. Iran from its side is determined not to let Bashar al-Assad fall as that has the potential of seriously disturbing the regional strategic balance against Tehran (Katz 2013).

In light of the current deadlock of the Security Council and the inability of the international community to discharge its responsibilities to end the atrocities against the civilians in Syria, it was argued that the current development sounds the death knell for the R2P. Currently, it is not only Russia and China that opposed to authorize

a resolution that allows a possible intervention; major emerging developing countries started to shift their positions through expressing suspicions from the consequences of a possible intervention that could imitate the Libyan experience. Therefore, it was argued that the R2P is dead.

However, despite the gloomy situation of R2P, this thesis adopts the argument of Ramesh Thakur that it would be premature to conclude that R2P can be branded as “RIP”. The external interventions were frequent in the past before the adoption of the R2P, and most likely will occur in the future. The choice thereafter is not if intervention would take place but whether it would be provisional or rule based (Thakur, R2P after Libya and Syria: Engaging Emerging Powers, 2013).

This thesis argues that although the developments after the adoption of R2P reveal the parameters and condition for the international response to humanitarian crises presented by the ICISS are not sufficient to mobilize and to guide international response, these parameters are a step forward in rendering the future decisions for intervention more rule-based instead of being merely dominated by political interests.

#### **4.5 Conclusion**

The ongoing civilian suffering in Syria represents a stark example on the current vulnerable status of R2P. It re-affirms the thesis' argument that R2P has not succeeded in establishing agreed upon conditions and methods for intervention in cases of humanitarian crises. Despite the fact that consecutive international reports stated clearly that the Syrian regime is unable or unwilling to protect its civilians, which is a prerequisite for the international response, no collective action was taken by the international community according to the R2P. The failure of the international community to halt civilian sufferings or reaching a political solution in Syria indicates that the mechanism of the international response to the incidents of mass atrocities is still flawed.

More importantly, the NATO's prompt engagement in Libya compared to the reluctance to the engagement in the Syrian case has triggered the comparisons between the two cases. Despite Bashar al-Assad has been also fighting anti-regime protestors as Qaddafi did, and despite that Syria witness humanitarian condition similar or even worse than that in Libya, the Syrian case has provoked less international and regional enthusiasm for intervention. Therefore, critics questioned why the international community responded briskly and forcefully in the oil-rich Libya but have failed to take a similar attitude towards Syria (Isaac n.d.)

The long lasting standstill with regards to the Syrian Crisis in comparing to the hasty intervention in the case of Libya has made commentators seek justifications for the reasons why the international responsibility was not invoked in Syria alongside the Libyan pattern. The negative shadows of the Syrian case had led to the argument that it was not the R2P itself that explained the action in Libya and the inaction in Syria (T. G. Weiss, Military Humanitarianism: Syria Hasn't Killed It 2014), other factors

such as the geopolitical factors, the regional alignment, the sectarian diversity and the unity of the opposition was decisive rather than the sole humanitarian causes in making the decision of intervention in Libya which were absent in Syria (*Ibid*)

## Chapter Five

### The Lessons Learned and the Way Forward

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**"If, in those dark days and hours leading up to the genocide in Rwanda, a coalition of states had been prepared to act in defense of the Tutsi population, but did not receive prompt Security Council authorization, should such a coalition have stood aside and allowed the horror to unfold?"**

The former UN Secretary-General Kofi Anan's speech to the General Assembly, September 1999.

Despite the big aspirations that accompanied the launch of R2P that the international community would finally assume its responsibility in responding to humanitarian crises, unfortunately the misuse of the R2P in the case of Libya in addition, the current deadlock in Syria reveal that the international community remains at the same standing point after fifteen years from adoption of the R2P.

#### 5.1 The Lessons Learned.

The concept of "Humanitarian Intervention" existed in the past centuries since the early rise of the notion of sovereign states. However, throughout these ages, it has been an issue of controversy. Throughout centuries, there was no clear meaning for the modalities of the concept of humanitarian intervention; governments used to act according to their own perceived interests even if they claim humanitarian motives. The cases of intervention, non-intervention, and even the cases of late/ failed intervention, raised a lot of criticism. The international relations rivalry and political interests played the dominant role in prompting major powers for intervention.

Following the tragedies in Rwanda and the Balkans in the 1990s, the international community began to seriously debate how to react effectively when human rights are grossly and systematically violated. Before the end of the twentieth century, a landmark case of using force under humanitarian allegations took place. The United States and its NATO allies decided to intervene militarily against the sovereignty of the former Republic of Yugoslavia without a Security Council authorization claiming humanitarian grounds for their intervention. The NATO action in Kosovo received fierce criticism as it lacked a firm basis in the UN Charter. The Security Council adopted three resolutions under Chapter VII with regard to Kosovo, none of which had authorized the use of force by any mean. On the contrary, these resolutions had reaffirmed the sovereignty and the territorial integrity of the Former Republic of Yugoslavia.

NATO intervention in Kosovo had revealed by that time the need to establish rules and regulations to the use of force in the case of humanitarian crises. Despite the massive humanitarian crisis, the killing and the deportation of hundreds of thousands

of civilians, the international mechanisms were not able to provide an end to the civilian sufferings and the reaction came eventually outside the UN umbrella.

The debate about the legality and the legitimacy of NATO action in Kosovo led the government of Sweden to establish of the Independent Commission on Kosovo. The Independent International Commission on Kosovo reached a stark conclusion on the NATO's action. It viewed that the NATO intervention in Kosovo was "illegal but legitimate". It was illegal because it did not receive prior approval from the United Nations Security Council. However, the intervention according to the commission was justified in light of the fact that all diplomatic avenues had been exhausted.

The Independent Commission on Kosovo suggests that the experience in Kosovo had uncovered the need to close the gap between the legality and the legitimacy. The Commission argued that "the time was ripe by then for the adoption of a principled framework for humanitarian intervention which can be used to guide future responses to imminent humanitarian catastrophes. The report expressed its wish that the General Assembly of the UN could adopt such a framework in some modified form as a declaration and that the UN Charter to be adapted to this declaration.

The following year after the NATO intervention in Kosovo and in an attempt to promote the principles of "Humanitarian Intervention" through establishing clearer parameters and conditions for international intervention, the government of Canada together with a group of major foundations announced at the General Assembly of the UN the establishment of the International Commission on Intervention and State Sovereignty (ICISS). The ICISS coined later the Doctrine of the Responsibility to Protect (R2P).

The Responsibility to Protect was invented to addresses certain shortcomings in its predecessor Humanitarian Intervention. Intervention under humanitarian cases used to be too selective or too late. R2P tried to set certain rules and regulations to govern the process of the use of force. However, the thesis argues that while R2P advanced the debate about humanitarian intervention in many key respects, the end results was that R2P became subject to some of the same pitfalls as humanitarian intervention did. Despite the huge aspiration that had accompanied the launch of R2P that the future humanitarian intervention will be guided be certain rules and regulations rather than the mere political interests, the pattern of international intervention after R2P remained to be selective and interest-based.

The ICISS report proposed certain alternatives in case of the paralysis of the Security Council but those alternatives were very controversial and later were omitted during discussing the doctrine at the UN 2005 World Summit. Moreover, the ICISS criteria for the use of force merely represents a replication of the "just war" criteria which were itself ineffective and ambiguous as it raised many questions more than it answers. Therefore, this thesis argues that R2P do not provide substantive added value more the humanitarian intervention did.

The most claimed authoritative document on R2P, the 2005 World Summit Outcome document, is merely a restatement of the already existing norms and standards for the use of force enshrined in the UN Charter. Therefore, there is a little ground for concluding that in the protection clauses, states intended to establish new legal obligations for the protection of populations beyond borders. R2P can represent at best a kind of soft law obligation on the UN member states.

Despite the fact that there is a bunch of international documents on R2P that speaks of the collective responsibility of states to protect populations beyond their borders, R2P till this moment does not provide any binding legal implications on states (Glanville 2012). From a legal perspective, none of the various statement and resolutions on R2P can be treated as generating binding legal obligations under the classic sources of international law. Although a group of legal scholars accept that General Assembly and Security Council resolutions can contribute to the interpretation of international law, others continue to insist that such sources at their best merely play a contributory role in the gradual development of customary international law (Ibid).

The advocates of R2P were keen on emphasizing that R2P is in the best interest of the developing countries, (Thakur, R2P after Libya and Syria: Engaging Emerging Powers. 2013). However, the concept of R2P drew negative reactions from many governments in Asia and Latin America. They perceived the concept as a legitimization of military intervention for strong states against weak ones (Seybolt 2007). The international experience after the adoption of R2P reveals that international intervention was too early in the case of Libya and never happened in many other cases including the Syrian case. Moreover, the fears of the developing countries were borne out in 2003 when the USA tried to justify its invasion of Iraq in humanitarian terms after their initial justification that Saddam Hussein possessed weapons of mass destruction turned out to be false (Seybolt 2007). Therefore, the skepticism and antagonism of the developing countries could be viewed from the scope that the new doctrine will be used as a tool by powerful countries to intervene selectively in the affairs of the weak

The NATO-led intervention in Libya unleashed a fierce debate regarding invoking the doctrine of R2P for the first time. In fact, the UN-authorized intervention in Libya constituted a watershed in the history of R2P; from the launch of R2P in 2001 till 2011 R2P remained dormant. For instance, R2P was not invoked in many other cases that needed international intervention such as in Darfur, Gaza or Somalia despite the suspicions that war crimes and crimes against humanity were committed (M. Nuruzzaman, The "Responsibility to Protect" Doctrine: Revived in Libya, Buried in Syria. 2013). At the beginning of the incidents in Libya, the UN Secretary General Ban Ki-moon considered that the intervention in Libya had marked the "coming of age of the Responsibility to Protect". (Morris, Libya and Syria: R2P and the specter of the swinging pendulum. 2013)

However, despite the initial optimism that had accompanied invoking R2P for the first time, the developments in the Libyan case during and after intervention indicate- in the thesis view- that R2P has not succeeded in establishing new rules or conditions for intervention to neutralize the dominant role of the political interests while deciding intervention in case of humanitarian crisis. The NATO insistence on pursuing the goal of regime change instead of merely working to protect civilians as enshrined by the UNSC resolution demonstrated that it were the political considerations that mainly motivate the international intervention not the humanitarian ones.

In fact, the statements of western officials regarding the aim of intervention have aggravated the already existed concerns that R2P is merely a tool that is used to mask the political goals of the major powers. Their statements did not show respect to the delicate line between the goal of protecting civilians enshrined in the UNSC resolution and the goal of regime change. On 15 April 2011, the British Prime Minister David Cameron, former French president Nicolas Sarkozy, and the US President Barack Obama published a joint statement rejecting Qaddafi playing any role in any future arrangements in Libya, as if they put themselves in the position of being the actual deciders in Libya with the rebels playing a secondary role. (M. Nuruzzaman, The “Responsibility to Protect” Doctrine: Revived in Libya, Buried in Syria. 2013)

The aims and objectives of R2P merely revolve around providing protection for civilians in armed conflicts; therefore, the goal of regime change is illegal. There is general acknowledgment that NATO attacks went far beyond the initial objectives of protecting civilians enshrined in the UNSC Resolution 1973. The UNSC resolutions should not be used as a pretext for imposing external political preferences, such as regime change. Targeting Qaddafi forces directly, as well as violating the UN’s arms embargo by supplying weaponry to the rebels constituted a transparent effort of regime change.

The current situation in Libya refutes the allegations of the humanitarian motives of intervention. After five years from intervention, the humanitarian situation remains by all means gloomy. There is an unprecedented deterioration in all fields in Libya whether in the humanitarian or the security aspects. The former Special Representative of the UNSG to Libya Bernardino Leon on his briefing to the Security Council three years after intervention stated that Libya is “getting very close to the point of no return”.

The humanitarian motives indeed played a part in the decision to intervene. However, this thesis argues that political consideration played the major role in motivating the NATO intervention in Libya. The humanitarian concerns represent a necessary but not a sufficient cause for intervention (Fermor Winter 2012/13 ). Therefore in light for aforementioned gloomy picture in Libya, the thesis believes that there are solid grounds to argue that the humanitarian discourse of NATO amounts to no more than



justificatory propaganda. Interests defined as power were the motivating factor behind NATO intervention not the humanitarian goals.

The ongoing civilian suffering in Syria represents another stark example on the current vulnerable status of the R2P. It re-affirms the thesis' argument that R2P has not succeeded in establishing clear conditions and parameters for intervention in case of humanitarian crises. Despite the fact that consecutive international reports stated clearly that the Syrian regime is unable or unwilling to protect its civilians, which is a prerequisite for the international response, the failure of the international community to halt civilian sufferings or reaching a political solution in Syria indicate that the mechanism of the international response to the incidents of mass atrocities is still flawed.

The NATO's prompt engagement in Libya compared to the international community reluctance to engage in Syria triggered comparisons between the two cases. Despite that Bashar Al-Assad has committed mass atrocities as Qaddafi did, and despite the fact that Syria witness humanitarian condition similar or even worse than that in Libya, the Syrian case has provoked less international and regional enthusiasm for intervention. The non-intervention in Syria raised questions why the international community responded briskly and forcefully in the oil-rich Libya but has failed to take a similar attitude towards Syria (Isaac n.d.).

The long lasting still with regards to the Syrian Crisis in comparing to the hasty intervention in the case of Libya has made commentators seek justifications. The lack of the international community response to the Syrian case has advanced the argument that it was not the R2P itself that explained the action in Libya and the inaction in Syria (T. G. Weiss, *Military Humanitarianism: Syria Hasn't Killed It* 2014), other factors such as the geopolitical factors, the regional alignment, the sectarian diversity and the unity of the opposition was decisive rather than the sole humanitarian causes in making the decision of intervention in Libya which were absent in Syria (Ibid).

The lack of an international response to the humanitarian crisis in Syria casts serious negative shadows on both the credibility and applicability of the R2P. Zifcak viewed that the current state of paralysis of the Security Council had affected the credibility of R2P (Zifcak, *The responsibility to protect after Libya and Syria*. 2012), while Nuruzzaman argues that although the R2P had come of age with NATO's intervention in Libya, it has had a tragic death with the Security Council's inability to initiate actions on Syria. Nuruzzaman argues that the death of R2P in Syria has been rendered inevitable by NATO's abuses in Libya, and therefore the doctrine is doomed to a bleak future. The reality on the ground reveals that after Libya R2P has stalled; it has not been used in Syria or Yemen or in any other places where more egregious crimes against humanity were and are being committed. (M. Nuruzzaman 2013).

This thesis argues that through studying the two main cases of intervention/nonintervention under humanitarian reasons after R2P, political interests, not the

humanitarian motives, were the main driving factors for deciding international intervention. The patterns of humanitarian intervention after R2P remain selective and dominated by political interests that as it used to be before R2P.

The thesis basically adopts the realist view in international relations. It argues that this selectivity in the international response before and after R2P, as was demonstrated in the thesis' chapters, stems from the nature of the international system itself. In the absence of a central authority to implement norms such as Humanitarian Intervention or human rights, the state's action will be dominated by its interests. Although these interests may include an interest in human rights, humanitarian interests, these interests alone are rarely sufficient to motivate a state to intervene abroad. For a state to conduct forcible intervention in support of human rights, it requires the state to expend its resources and place the lives of its military personnel at risk, something a state will not likely do in the absence of self-interest. That is why it was not surprising to see that in many cases where the humanitarian factor was grave but no political or economic concerns of foreign powers, states expressed little interest in forceful intervention.

Martha Finnemore argues that the realist thoughts that focus on the political or economic interests does not provide enough justifications to the rapidly multiplying cases of humanitarian intervention after the end of the Cold War. She argues that many or most cases of intervention occur in states of negligible political or economic importance to the interveners and in countries there has no national interests for the states bearing the burden of military intervention in most if not all of these cases. She argues that none of realist or liberal approaches provide an answer to the question what interests are intervening states pursuing. According to her, realism and most liberals do not investigate interests; they assume them. (M. Finnemore, *Constructive norms of humanitarian intervention* n.d.).

However, the thesis claims that it has demonstrated in its chapters that political interests dominated the international community response to humanitarian crises. States remain to intervene in cases where they have interests in intervention and the power to do so. This selectivity plagued state actions under the frameworks of both "humanitarian intervention" and the "responsibility to protect". The thesis views that this discrepancy in the reaction of the international community stems not from differences in the humanitarian situations of different cases, but from differences in the international community's interest to intervene. This interest stems mainly from considerations such power and hegemony. As the cases of intervention in Syria and Libya suggest, the international response varied even in circumstances that are quite comparable. Therefore, we can conclude that R2P did not provide consistent ground for intervention in humanitarian crises rather than the humanitarian intervention.

## **5.2 R2P is not a Dead Idea**

In light of the current deadlock of the Security Council and its inability to discharge its responsibilities to end the atrocities against civilians in Syria, it was argued that the current developments sound the death knell for the R2P. However, this thesis argues that although the developments after the adoption of R2P reveal that the parameters and the conditions for the international response to humanitarian crises presented by the ICISS were not sufficient to mobilize and to guide international response, the thesis views that the launch of R2P constituted a historical opportunity to promote parameters and conditions for the international community to respond to humanitarian crisis in an automatic way away from any other considerations that could stem from particular interests or rivalry among major powers.

In fact, despite the multiple setbacks of R2P after Libya and Syria, the thesis argues that there is still growing concern at the international fora to the importance of strengthening and enhancing the parameters and the conditions of R2P. The Security Council during one year (from the 22<sup>nd</sup> of January 2015 till the 27<sup>th</sup> of January 2016) adopted 13 different resolutions that have references to R2P, these resolutions indicate increasing awareness of the international community towards the responsibilities of the sovereign states, as well as the international community on the protection of civilians in armed conflicts.

Moreover, from 2009 till 2015 the General Assembly of the United Nations organized annual panel discussions on the topic of the Responsibility to Protect. On 26 February 2016, the president of the UN General Assembly convened a thematic Panel discussion to mark the tenth anniversary of the adoption of the Responsibility to Protect at the 2005 World Summit. Over 100 member states attended the event. The majority of statements emphasized the importance of prioritizing prevention by strengthening early warning systems and enhancing international coordination when responding to risks of potential mass atrocities ([www.UN.org](http://www.UN.org)).

In the same context, fifty members of the General Assembly from both the global south and the global north, which constitutes more than one quarter of the UN members, appointed a National Focal Point for the R2P to participate in the Global “R2P Focal Point Network”. Rwanda was the 50th member to appoint a senior-level official as an R2P focal point to participate in the Global Network of R2P.

Nowadays there are increasing numbers of international networks for the prevention of atrocity crimes, such as the Global R2P Focal Point Network, the Regional Committee at the International Conference of the Great Lakes Region, the Latin American Network on Genocide and Mass Atrocity Prevention and the Global Action against Mass Atrocity Crimes. They are all helping in identifying ways to assist states to better protect their populations and they are all actively enhancing the understanding of risk factors and help preventing a downward spiral towards systematic violence.

Therefore, we can argue, as the UN Deputy Secretary-General Jan Eliasson's did during the General Assembly's thematic panel discussion titled "R2P From commitment to implementation", that despite the different setback of the R2P, the conceptual, political and institutional development of the R2P constitutes constant work in progress. Thus, the thesis concludes that the door is still open to enhance the work for developing the R2P.

### **5.3 The way forward**

In light of the current vulnerable situation of R2P, many ideas were introduced to enhance the effectiveness of R2P. In this regard, Brazil introduced what it labeled as the "Responsibility While Protecting" (RwP) as a new doctrine aims at providing better strict regulations before and after the use of force.

The RWP proposal was introduced in November 2011 during the debate over the NATO intervention in Libya and whether the UNSC mandate had been extended or not. The permanent delegate of Brazil to the UN presented a letter to the United Nations Secretariat calling for what is labeled as the "Responsibility While Protecting." The proposal aimed at presenting some parameters and conditions to govern and to oversee the process of the use of force in cases humanitarian crises.

The Brazilian paper proposed two key principles. The first one is to formulate an agreed upon set of guidelines to help the UNSC to achieve consensus in the future debate over humanitarian crises, otherwise to seek another alternative in case of the Security Council paralysis through invoking the role of the General Assembly via the "Uniting For Peace". The second element of the proposal is through monitoring and reviewing the authorization of the use of force, as well as the post intervention mechanisms, in order to ensure that the Council has an oversight role over the operations during implementing the post conflict reconstruction phase.

The Brazilian proposal (RWP) was outlined in the letter by the permanent representative of Brazil to the United Nations to the UN Secretary General as such:

- R2P and RwP should evolve together based on agreed fundamental principles.
- The international community should stress that prevention is always the best policy; meanwhile the international community must be rigorous in its efforts to exhaust all peaceful means available.
- The use of force must always be authorized by the Security Council in accordance with Chapter XII of the charter. However, in exceptional circumstances, the General Assembly could authorize intervention under Resolution 377 (Uniting for Peace).
- In the event of the use of force, actions must be judicious, proportionate and limited to the objectives established by the UNSC. Those objectives must be observed throughout the entire length of the authorization from the adoption of the resolution to the suspension of the authorization by a new mandate.

- Finally, the Security Council must ensure the accountability of those to whom authority is granted to resort to force. (UNSG 2011)

We can infer from the above that the Brazilian proposal is merely general principles to guide the process of issuing the authorization of the use of force and then to monitor the steps of intervention without going into the details. These general principles include the call to formulate an agreed upon set of guidelines to help in the future debate over intervention in humanitarian crises, the proposal to monitor and to review the post intervention mechanisms, and finally to ensure that the UNSC has an oversight role over the operations during implementing the post conflict reconstruction phase. The paper itself does not provide answers on how to implement those guidelines and principles.

However, the aforementioned ideas constitute - in the view of this thesis - a brave call for further developing the existing rules and conditions to guide the use of force under humanitarian allegations rather than a call for a brand new doctrine. The doctrine of RWP highlights almost the same principles of R2P such as the primacy of the preventive measures over other pillars of intervention, as well as the supremacy of the role of the Security Council in maintaining international peace and security. What is important about the Brazilian paper - in the view of this thesis - is that it threw a stone in the still water of the Responsibility to Protect after Libya and Syria to initialize a debate on how to move forward in light of the current vulnerable status of R2P after the two cases.

#### **5:4 A Call for an International Conference on the R2P**

Finally, in light of the weakness of R2P, the thesis calls for an international conference to address the current vulnerability of R2P and the way to move forward. The incidents of the Libyan and Syria had demonstrated the need for a "legitimacy criteria" to guide decisions whether on authorizing or overseeing the international military intervention and its consequences.

The report of the ICISS proposed certain principles and precautions for a military intervention under humanitarian reason to be legitimate, such as the just cause, the presence of right intention and the presence of reasonable aspects of success in halting the civilian sufferings. However, these criteria are merely replication of the "just war" criteria which were itself ineffective and leaves the future cases of intervention to be judged according to wide range of different considerations.

The variation of the international community's response in the cases of Libya and Syria had revealed that these criteria simply do not live up to the level of clear standards and conditions as it can be variably interpreted from one situation to another. What is really needed, in the view of this thesis, is to reach a consensus on adequate legitimate criteria for intervention to act as guidance for the Security Council during implementing its mandate to maintaining international peace and security. Those new parameters should be applicable to different conflicts in order to

render the decision of international intervention rule based and keep it away from the risk of manipulation by political interests.

## **Bibliography**

- Aguera, Martin. "Air Power Paradox: NATO's Misuse of Military Force in Kosovo and its Consequences, Small Wars & Insurgencies". 2001.
- Akande, Dapo. "Does SC Resolution 1973 Permit Coalition Military Support for the Libyan Rebels?" Blog of the European Journal of International Law, 2013.
- Akande, Dapo. "What does UN Security Council Resolution 1973 permit?" Blog of the European Journal of the International Law, 2011.
- Annan, Kofi. "Kofi Annan's address on receiving the Mac-Arthur Award for international Justice." New York, 2008.
- Ayoub, Mohamed. "Humanitarian Intervention and state sovereignty." International Journal of Human Rights, 2002: 81-102.
- Bardos, Gordon N. "Containing Kosovo." Mediterranean Quarterly, 2005: 17-43.
- Barnett, Micheal. Empire of humanity. Cornell University Press, 2011.
- BBC. Syria crisis: Where key countries stand. October 20, 2015. <http://www.bbc.com/news/world-middle-east-23849587> (accessed November 13, 2015).
- Berenskoetter, Felix. "Caught between Kosovo and Iraq: Understanding Germany's Abstention on Libya." The international Affairs at the LSE, 2011.
- Buckley, William Joseph. Kosovo, Contending voices On Balkan interventions. Wm. B. Eerdmans Publishing Co, 2000
- Burra, Srinivas. "The Bizarre Proposal for "Humanitarian" Military Intervention in Syria." Economic & Political Weekly, 2013.
- Charney, Jonathan. "Anticipatory Humanitarian Intervention in Kosovo." The American Journal of International Law, 1999: 834-841.
- Chesterman, Simon. "Just war or just peace? Humanitarian intervention and international law". Oxford University Press, 2003.
- Chomsky, Noam. "The Crimes of 'Intcom'." Foreign Policy, 2002.
- Council, Security. "Security Council Press Release." Press Release, New York, 1999.
- Deng, Francis. Sovereignty as a responsibility, conflict management in Africa. Washington: the Brookings institution, 1996.

- Davies, Derek Avere and Lance. "Russia, humanitarian intervention and the Responsibility to Protect: the case of Syria." *International Affairs*, 2015: 813-834.
- Elise, Robert. *Historical Dictionary of Kosovo*. USA: Scarecrow Press, 2011.
- Elshtain, Jean Bethke. *New Wine old bottle*. Indiana: University of Notre dam, 1998.
- French embassy, Ottawa: Press conference given by Aalin Juppe. March 17, 2011. <http://www.ambafrance-ca.org/Libya-Adoption-of-resolution-1973>
- Evans, Gareth. "Humanitarian Intervention and the Responsibility to Protect." *International Security*, 2013: 199–214.
- Evans, Gareth. "Interview: The R2P Balance Sheet after Libya. The Responsibility to Protect: Challenges and Opportunities in light of the Libyan Intervention." *International Relations*, 2011.
- Fermor, Christopher. "NATO's decision to intervene in Libya (2011): Realist principles or humanitarian norms?." *Journal of Politics & International Studies*, Winter 2012/13 : 326.
- Fernandes, Terence. *Theoretical Approach to Understanding NATO Intervention in Libya*. E international relations students , 2013.
- Finnemore, Martha. "Constructive norms of humanitarian intervention." *International Organization* , 1998: 887-917
- Finnemore, M and Sikkink, K. "'International Norm Dynamics and Political Chnge.'" *International Organization*, 1998: 887-917.
- Forde, Steve. *Thucydides on Peace, the realist traditions and the contemporary international relations*. Louisiana: Louisiana State University, 2007.
- Franceschet, Antonio. "Sovereignty and freedom: Immanuel Kant's liberal internationalist legacy." *Review of International Studies*, 2001: 209-228.
- G, Ramesh Thakur and Thomas, and Weiss. "R2P: From Idea to Norm-and Action?" *Global Responsibility to Protect*, 2009: 22-53.
- Gibbs, David N. *Power Politics, NATO, and the Libyan Intervention*. 2016.
- Gierycz, Dorota. "From Humanitarian Intervention to Responsibility to Protect. Vol. 29, No. 2, August." *Criminal Justice Ethics*, August 2010: 110-128.
- Greg Russel. *Morgentau's political realism and the ethics of evil*. Louisiana: Louisiana state University Press, 2007.



- Glanville, Luke. "The Responsibility to Protect Beyond Borders." *Human Rights Law Review* , 2012.
- Guardian, The US accuses Russia of 'throwing gasoline on fire of Syrian civil war. September 30, 2015.
- Hehir, Aidan. "NATO's "Humanitarian Intervention" in Kosovo: Legal Precedent or Aberration?" *Journal of Human Rights*, 2009: 245-264.
- Held, David. "The Changing Structure of International Law: Sovereignty Transformed?" *Polity.co .uk*, 2003.
- Hobbes, Thomas. *Leviathan*. National Library of Canada, 2005.
- ICISS, the international commission on Intervention and State Sovereignty. Ottawa: the International Development Research Centre, 2001.
- Independent International Commission on Kosovo: Conflict, International Response, Lessons Learned. Oxford: Oxford University Press, 2000.
- Isaac, Sally Khalifa. "NATO's Intervention in Libya: Assessment and Implications.
- J.H. Murray, Alastair. *Reconstructing Realism*. Edinbrough: Keele University Press, 1997.
- Johnson, Larry D. "Uniting for Peace: Does it Still serve Any useful Purpose? ." *American Society of International Law*, 2014.
- Judah, Tim. *Kosovo: What Everyone Needs to Know*. USA: Oxford University Press, 2008.
- Katz, Mark N. "U.S. Policy toward Syria: Making the Best of a Bad Situation?" *Widrow Wilson's view point magazine* , 2013
- Kauppi, Paul R. Viotti. Mark V. *International Relations Theory*. Peson Longman, 2012.
- Koh, Harold Hongju. "Syria and the Law of Humanitarian Intervention (Part III – A Reply)." *Blog of European Journal of international law*, 2013: 1.
- Kuperman, A. "R2P: Catchy name for a fading norm." *Global Review of Ethno politics*, 2011: 125-128.
- Martin, Stevie. "Sovereignty and the Responsibility to Protect: Mutually exclusive or codependent?" *Griffith Law Review*, 2011.
- Mendes, Errol. "The cost of non-intervention in Syria." *Ottawa Citizen*. 2013.
- Minerva, Nassereddine. "How R2P failed Syria." *FJHP*, 2012.

- Moegenthau, Hans J. “Sixth Principles of Political Realism.” 1946.
- Mohamed, Saira. “Syria, the United Nations, and the Responsibility to Protect” American Society of International Law, 2012: 223-226.
- Morgenthau, Hans. Scientific man versus power politics. Chicago: Chicago University Press, p.249, 1946.
- Morris, Justin. “Libya and Syria: R2P and the spectre of the swinging pendulum.” The Royal Institute of International Affairs, 2013.
- Nations, United. “United Nations Mission to Investigate Allegations on the use of chemical weapons in Syria.” 2013.
- Nuruzzaman, Mohammed. “The “Responsibility to Protect” Doctrine: Revived in Libya, Buried in Syria.” Insight Turkey, 2013: 57-66.
- Oppenheim, L. International Law A treatise. New Jersey: The law book exchange, 2005.
- Pattison, James. “Humanitarian Intervention and the Responsibility to Protect : Who Should Intervene?” Oxford, 2015.
- Pawlyk, Andrew Tilghman and Oriana. U.S. vs. Russia: What a war would look like between the world's most fearsome militaries . October 05, 2015.
- Prokhovnik, Raja. the state of liberal sovereignty. the British journal of politics and international relations, 1999.
- publications.parliament.uk. www.publications.parliament.uk.
- Rieff, David. “R2P, R.I.P.” New York Times, 2011.
- Rodogno, David. “Against massacre: Humanitarian intervention in the Ottoman Empire”. Princeton University Press, 2012.
- Rytter, Jens Elo. “Humanitarian Intervention without the Security Council: From San Francisco to Kosovo and Beyond.” Nordic Journal of International Law, 2001: 121–160.
- Scheid, Don E. The Ethics of Armed Humanitarian Intervention. Cambridge University Press, 2014.
- Congressional Research service. “Armed Conflict in Syria: Overview and U.S. Response.” 2014.
- service, Congressional Research. “Armed Conflict in Syria: Overview and U.S. Response.” 2014.

- Seybolt, Taylor B. Humanitarian military intervention, the conditions for success and failure. Oxford University Press, 2007.
- Shipman, Tim. "Now it IS regime change: Cameron, Obama and Sarkozy promise to keep bombing Libya until Gaddafi is gone." Daily Mail, 2011.
- Silander, Daniel. "R2P: Principle and Practice? The UNSC on Libya." Journal of Applied Security Research, 2013: 262-284.
- Small, Michael. Washington University Global Studies Law Review, 2013.
- Stahn, Carsten. "Between Law-breaking and Law-making: Syria, Humanitarian Intervention and 'What the Law Ought to Be.'" Journal of Conflict & Security Law, 2014: 25–48.
- State, US department of. Paris Summit for the Support to the Libyan People: Communique. March 19, 2011. <http://www.state.gov/p/eur/rls/or/158663.htm> (accessed October 2015).
- Steven Forde. The realist traditions and contemporary international relations. Louisiana: Louisiana state university, 2007.
- Thakur, Ramesh. "R2P after Libya and Syria: Engaging Emerging Powers." The Washington Quarterly, 36:2, , DOI, 2013: 61-76.
- Thompson, Helen. "The Case for External Sovereignty." European Journal of International Relations (European Journal of International Relations.), 2006: 251–274.
- UN. securitycouncilreport.org. 1998. securitycouncilreport.org.
- UN press release. 1999 24 March, <http://www.un.org/press/en/1999/sgsm6938.doc.htm>.
- UNHRC. "Report of the Independent International Commission of Inquiry on the Syrian Arab Republic." 2015.
- "The Universal Declaration of Human Rights." 1948.
- UNSG, the Permanent Representative of Brazil to the. "A letter from the Permanent Representative of Brazil to the UNSG." November 2011.
- Virginia, University, Miller Center. <http://millercenter.org/president/speeches/speech-3932>
- Walker, Thomas. "Two Faces of Liberalism: Kant, Paine, and the Question of Intervention." International Studies Quarterly, 2008: 52.
- Walz, Kenneth. Man, the state and War: theoretical analysis. Colombia University press, 2001.

- Weber, Cynthia. *International Relations theory*. London: Routledge, 2001.
- Weiss, Thomas G. "RtoP Alive and Well after Libya". *Ethics and International Affairs*, 2011.
- Weiss, Thomas G. "Military Humanitarianism: Syria Hasn't Killed It." *the Washington Quartely*, 2014: 7-20.
- Weiss.T, Rama.M. ".R2P's the Missing link, culture." *Global Responsibility to ptotect*, 2011: 451-472.
- Wheele, Nicholas J. "Reflections on the legality and legitimacy of NATO intervention in Kosovo." *International Journal of Human Rights*, 2000: 144-163.
- Williams, Ian. "Applying "Responsibility to Protect" to Syria No Cakewalk." *Washington Report on Middle East Affairs*, 2012: 35-36.
- Williams, Paul R. "preventing mass atrocities crimes, the Responsibility to Protect and the Syrian case." *Journal of International Law*, 2012.
- [www.theguardian.com](http://www.theguardian.com). 2015 16-February.
- Yesson, Erik. "NATO and Russia in Kosovo." *The RUSI Journal*, 1999: 20-26.
- Zifacak, Spencer. "The responsibility to protect after Libya and Syria". 59-93, *Melbourne Journal of international law*, 2012.