Does the idea of 'Responsibility to Protect' (R2P) Re-conceptualize State Sovereignty?

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27th April, 2014

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Abbreviations

International Commission on Intervention and State Sovereignty (ICISS)

International Criminal Court (ICC)

Internally Displaced People (IDPs)

Inter Governmental Organizations (IGOs)

Non Governmental Organizations (NGOs)

Orange Democratic Movement in Kenya (ODM)

Party of National Unity in Kenya (PNU)

Responsibility to Protect (R2P)

The African Union (AU)

The European Union (EU)

The North Atlantic Treaty Organization (NATO)

United Nations (UN)

United Nations Security Council (UNSC)

Acknowledgements

I would like to express my deepest gratitude to my supervisor, Professor Herman T. Salton, for allowing me to do this senior thesis under his supervision. His guidance, knowledge, continuous encouragement, support, and motivation have made this study possible.

I also owe my sincere thanks to the second reader of this thesis, Professor Simon Clarke, for his helpful questions and suggestions, which helped me to improve this work.

Furthermore, I would also like to thank Prof. Sara N. Amin for providing me with several reference books and Ms. Katarina O'Regan for her encouragement to write and to edit this thesis.

I would also like to thank the AUW family including librarians, and Writing Center tutors for their support. A special thanks to my family, friends, and everyone else who have been supportive throughout this study.

Abstract

The idea of 'Responsibility to Protect' (R2P) is an emerging norm aimed at protecting civilians from mass atrocities. The R2P principle recognizes 'sovereignty as responsibility' and obligates states to protect civilians from harm; if the state fails to abide by its obligations, then the responsibility is transferred onto the international community. Hence the difficulty of balancing sovereignty --the fundamental principle in international relations --with R2P remains controversial. This thesis asks whether R2P is a re-conceptualization of sovereignty by looking at the concept of R2P and at its practical application. Based on the case-studies of Kenya and Libya, this thesis argues that the practical application of R2P has often diverged from its conceptual origins. The thesis also argues that while the application of R2P in Kenya illustrates a positive outcome through diplomatic negotiations, the Libya case went beyond its original mandate and resulted in regime change. Moreover, in the thesis I also suggest that the idea of R2P recognizes the obligations of sovereign states to promote multilateral diplomacy and human rights. On the basis of these case-studies and observations, my thesis comes to the conclusion that the idea of R2P does re-conceptualize sovereignty by using the concept of 'sovereignty as responsibility' to recognize the obligations of sovereign states. However, the thesis also points out that the practical application of R2P has often resulted in imperialistic tendencies that misinterpreted the idea of 'sovereignty as responsibility' as a 'right to intervene' by promoting militarism and by putting civilian lives at risk. The thesis comes to the conclusion that a proper application of the 'Just War' theory could advance military interventions under R2P by making the latter less harmful and less imperialistic in its application.

Key words: Responsibility to Protect, Sovereignty as Responsibility, Multilateral Diplomacy, Humanitarian Intervention

Introduction

"If humanitarian intervention is indeed an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica- gross and systematic violations of human rights that offended every percept of our common humanity?"[1]

-Kofi Annan

Since the 1990's we have witnessed an increasing number of humanitarian crises. Hence, Kofi Annan's question compels us to think about how we should respond to mass atrocities from a humanitarian perspective. Notably, the horrifying Rwandan genocide arguably marks the biggest failure of the international community to save 800,000 people who were slaughtered within one hundred days. While these innocent civilians were subject to mass slaughtering, rape and displacement, the international community stood idly, ignoring their responsibility to protect them. Similarly, the debacle of Somalia, the civil war in Sri Lanka, the crises in the DRC, Sudan, Libya and Syria also showed the failures of states and of the international community at large to save people trapped in conflicts.[2] Evidently, these conflicts and atrocities resulted from the fact that governments were unwilling to take necessary measures to halt violence and protect civilians. Considerable efforts from international organizations have been made, yet they have been insufficient and indeed they visibly failed to resolve these deadly conflicts due to the principle of non interference. As a result of these recurring series of horrendous atrocities, innocent civilians have been severely vulnerable.

State sovereignty, the key principle in international affairs, claims supreme authority over the territorial boundaries and political independence from external interventions.[3] This key principle is widely recognized and strictly applied in international affairs as set forth in the

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[1] Kofi A. Annan, *'We the peoples': The Role of United Nations in the Twenty-first Century*, Millennium Report of the Secretary General of the United Nations (New York: United Nations, 2000), https://www.un.org/en/events/pastevents/pdfs/We_The_Peoples.pdf.

[2] Allex J. Bellamy, *Responsibility to Protect* (London: Polity Press) 2009, 01.

[3] "Sovereignty," *Stanford Encyclopedia of Philosophy*, last modified Jun 8, 2010, http://plato.stanford.edu/entries/sovereignty/.

United Nations Charter Article 2(7). Nonetheless, because of recent violence, sovereignty is increasingly debated and questioned in the international system. Hence, international efforts have been trying to diminish the power of sovereignty, as an increasing number of scholars find this principle threatening the humankind. Recognizing the failures of the international community to respond timely during crises taking place behind the shelter of national sovereignty, the International Commission on Intervention and State Sovereignty (ICISS) guided by the former Secretary General Kofi Annan, formulated the emerging norm of a Responsibility to Protect (R2P).

The development of the concept of R2P is causing a shift in international affairs. According to R2P, sovereign states have the obligation to protect their populations from harm, and when they fail to do so, the responsibility falls onto the international community which must get involved.[4] Although the concept of R2P has the merit of raising the issue of state responsibility, its application has been highly controversial. One of the prominent debates surrounding R2P is the initiative to 're-conceptualize state sovereignty'. According to Thomas G.Weiss, Kofi Annan's effort to establish R2P is meant to "re-conceptualize sovereignty as responsibility to protect".[5] In view of this debate, the central question that this thesis aims to address is whether R2P is indeed a re-conceptualization of sovereignty. In this context, conceptualization can be defined as "deliberately looking beyond the known beliefs, assumptions, commonplace interpretations, prevailing theories, habitual conclusions and so on to see what is not yet known, or to understand what is not yet clearly understood".[6] Accordingly, in

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[4] Allex J. Bellamy, *Responsibility to Protect* (London: Polity Press, 2009), 52.
[5] Thomas George Weiss, David P. Forsythe, Roger A. Coate, and Kelly-Kate Pease. "The Theory of UN Collective Security." in *The United Nations and Changing World Politics* (Boulder, CO: Westview Press, 2014), 37.
[6] Judith A. Sedgeman "Conceptualization- the Route to Relevance and Depth."Academicpsychiatry.org, accessed on 14th April 2014,
http://www.academicpsychiatry.org/htdocs/Fidlerdocs/Education/Faculty_Development/foundations-of-learning/conceptualization.html.

this thesis by re-conceptualization I refer to a significant change in the idea of sovereignty with a new emphasis on the duties of states beyond traditional understandings of sovereignty.

The following chapters aim to address the question above by looking into the concept of R2P and its practical application. The first two chapters will explore the origins and conceptual elements of relevant principles such as state sovereignty, sovereignty as responsibility and R2P. The subsequent chapter will primarily focus on the concept of R2P followed by the case-study of Kenya, which in my opinion illustrates a positive case of multilateral application of R2P. This is then followed by an analysis of the application of R2P and by the Libyan case-study, which in my view emphasizes the negative impacts of R2P's application. Based on these two case-studies and other theoretical analyses and observations, the concluding chapter will argue that the practical application of R2P has often diverged from its conceptual origins, with considerably harmful implications. I will conclude this thesis by highlighting the fact that the idea of R2P does re-conceptualize sovereignty by using the concept of 'sovereignty as responsibility' in order to recognize and expand on the obligations to protect human rights. However, I also argue that the practical application of R2P has often resulted in imperialistic tendencies that have misinterpreted sovereignty as responsibility as a 'right to intervene' by promoting militarism and by endangering civilian lives. Last but not least, this thesis will discuss how R2P can be applied ethically despite the above mentioned imperialistic tendencies by certain states to interfere in other states' affairs, through a proper application of the Just War theory into humanitarian intervention.

Chapter I
State Sovereignty versus Sovereignty as Responsibility

Historically, there was no overarching international system to govern global affairs. However, the formation of sovereign states significantly altered the international system and its relations. It led to the emergence of a new international regime where sovereign states are considered to be the most fundamental entity. Although this principle is an abstract concept, it is foundational to international law and order. This chapter sheds light on this key principle by examining the origin, implications and importance of the concept of sovereignty as well as its recognition in the international system. Moreover, the chapter will also look at some negative implications of the concept of sovereignty and at the challenging new norm, sovereignty as responsibility, in order to understand the relationship between sovereignty and R2P.

The principle of state sovereignty is rooted in the treaty of Westphalia, which was signed in 1648 by the European powers. The Westphalian treaty ended thirty years of religious wars by defining the sovereign state and by creating a landmark in the international system.[7] This treaty provided the fundamentals of the sovereignty principle. In fact, the rationale of the idea of sovereignty founded through the Westphalian treaty was to create order and legitimacy for power, and to put an end to the violence that occurred between states over religious disputes. The treaty offered the system of sovereign states as a solution to the warring countries over religious disputes.[8] With the Westphalian treaty, the ruler of a state could determine the domestic affairs without being subject to external interventions.[9] The treaty was formulated with a set of agreed

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[7] Tischer Anuschka, "Peace of Westphalia (1648)," *Oxfordbibliographies.com*, accessed March 23, 2014, http://www.oxfordbibliographies.com/view/document/obo-9780199743292/obo-9780199743292-0073.xml.

[8] Thomas George Weiss, David P. Forsythe, Roger A. Coate, and Kelly-Kate Pease. "The Theory of UN Collective Security." in *The United Nations and Changing World Politics* (Boulder: Westview Press, 2014), 07.

[9] Farid Mirbagheri, *"*Conflicting Interests: The United Nations versus Sovereign Statehood," *Center for Global Dialogue*, Spring 2000,http://www.worlddialogue.org/content.php?id=79.

principles and provided the legal foundations for conduct between territorial boundaries.[10] As a result of the Westphalian treaty, territorial states were formed and subsequently recognition of sovereign states spread throughout the world.

The Westphalian (or conventional) sovereignty is defined as the "supreme authority within a territory"[11]. Sovereign rights are part of international law and ensure political and judicial independence within the state's territory.[12] The 'supreme authority' grants unlimited and real power to those people who are governing the state.[13] The authority also gives the right to command a community and the community is "legally subordinated"[14] to this sovereign authority, while also considered "unitary, rational and autonomous"[15] as well as absolute entities. More importantly, sovereign rights guarantee that states are not subject to external authorities. These sovereign states can have some level of interdependent sovereignty as long as the sovereign rights within the state are not questioned by any external authority.[16] Therefore, sovereign rights have a powerful influence over a state's behavior. Despite the fact that states are sovereign entities, they also have an obligation to respect each other's sovereignty, an obligation that is affirmed in international law and set forth by the United Nations Charter.

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[10] Jeremy Moses, "Sovereignty as irresponsibility? A Realist critique of the Responsibility to Protect," *Review of International Studies* 39, no. 01 (2013): 120, doi: 10.1017 S0260210512000113.

[11] "Sovereignty," *Stanford Encyclopedia of Philosophy*, last modified Jun *8, 2010, http://plato.stanford.edu/entries/sovereignty/.*

[12] Stephen D. Krasner, "Abiding Sovereignty", *International Political Science Review* 22, No. 3, (July, 2001): 232, accessed October 16, 2013, http://www.jstor.org/stable/1601484.

[13] Thomas George Weiss, David P. Forsythe, Roger A. Coate, and Kelly-Kate Pease. "The Theory of UN Collective Security," in *The United Nations and Changing World Politics* (Boulder CO: Westview Press, 2014), 07

[14] "Sovereignty," *Stanford Encyclopedia of Philosophy*, last modified *Jun 8, 2010, http://plato.stanford.edu/entries/sovereignty/.*

[15] Stephen D. Krasner, "Abiding Sovereignty", *International Political Science Review* 22, No. 3, (July,2001): 230 .

[16] *Id.* at 233.

Sovereignty is an indispensable principle in international affairs. Sovereign states are considered as "building blocks" [17] that structure the current international system. Apart from general sovereign norms such as territorial integrity and political independence, in theory this concept provides member states with sovereign equality in the international system regardless of their wealth, power and geographical size.[18] Therefore, sovereignty is highly recognized globally, and placed under United Nations Charter as it was in the Westphalian treaty. Sovereign rights are part of international law. In fact, the latter identifies the concept of sovereignty as the principle of non-intervention, which is a corollary of the concept of sovereignty.[19] International law forbids states from intervening in another state's domestic affairs and this rule is encompassing in the United Nations Charter as set forth in Article 2(7). According to the UN Charter, UN members should avoid any intervention in other countries' domestic affairs that will infringe upon their national sovereignty. However, international law allows interventions under Chapter VII when there are serious issues threatening international peace and security.[20] By and large, therefore, state sovereignty plays a key role in international affairs directing individual states' behavior.

The traditional understanding of the Westphalian sovereignty provides a moral justification for protecting weak states from powerful states. The concept of sovereignty protects the right to self determine state affairs without any interference from other states.[21] States can choose what form of government they prefer, what culture should be practiced and developed in

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[17] *Id.* at 230.

[18] International Commission on Intervention and State Sovereignty (ICISS), (The Report of the International Commission on Intervention and State Sovereignty: The Responsibility to Protect, Ottawa, 2011, 12 Hereafter cited as ICISSS*, Responsibility to protect.*

[19] Michael Wood, "Non-Intervention (Non-interference in domestic affairs)," *The Princeton Encyclopedia of Self-Determination*, accessed on March 11 2014, http://pesd.princeton.edu/?q=node/258.

[20] Mark R. Amstutz, *International Ethics, Conceptions, Theories, and cases in Global politics* (New York: Rowman and Littlefield Publishers, 2008), 152.

[21] Allex J. Bellamy, *Responsibility to Protect* (London: Polity Press, 2009), 15-16.

their nation state in their own way. External actors or states have no right to impose on other states their perceptions on governance, culture or trade practices.[22] Therefore, the idea of self determination, resulting from the traditional understanding of sovereignty, theoretically hinders powerful states from controlling and intervening in small states.

Even though sovereignty is a core principle in the international system, it also has negative implications. According to Thomas Hobbes, sovereignty is "unlimited power".[23] This unlimited power has resulted in atrocities in recent decades, whereby governments commit violence against their own populations. Moreover, as mentioned above, sovereignty considers states as absolute and rational entities. However, as explained among others by Farid Mirbagheri, this absolutism is a "dangerous percept"[24] and the rational behavior of states has its limits. Through an example, Mirbagheri notes how Hitler believed his decisions to be rational and carried out the Holocaust in order to serve the sovereignty of the German nation.[25] Since sovereignty can lead to instances of abuse of power, the concept is widely contested. The contemporary international system is no longer willing to recognize sovereignty as an authority with unlimited power where states are oppressing their populations. In this way, sovereignty can result in endangering the states' populations and international security. This is why the basic rules of sovereignty are being increasingly challenged.

The understanding of the sovereignty principle has changed overtime. Indeed, today many scholars challenge traditional understandings of sovereignty and argue that the latter necessitate a reinterpretation. Remarkably, the development of globalization and international

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[22] *Ibid.*

[23] Jeremy Moses, "Sovereignty as irresponsibility? A Realist critique of the Responsibility to Protect." Review of International Studies 39, no. 01 (2013): 120. doi: 10.1017 S0260210512000113.

[24] Farid Mirbagheri, "Conflicting Interests: The United Nations versus Sovereign Statehood", Center for Global Dialogue, Spring 2000,http://www.worlddialogue.org/content.php?id=79.

[25] *Ibid.*

norms related to human rights contribute to challenge the concept of sovereignty.[26] Globalization has fueled the interdependency more than ever before, as well as demands for less absolute control by states. Since humanitarian issues are pressurizing the international community to take necessary actions, sovereignty has been challenged on humanitarian grounds. Hence, the struggle between protecting state sovereignty and protecting human rights is the product of recent decades, since human rights are often threatened under the shield of sovereignty.

The concept of 'sovereignty as responsibility' is one prominent outcome of this humanitarian dilemma concerning sovereignty. Highly influenced by human rights norms and state authorities' irresponsible activities, this concept emerged in the mid 1990s and was originally developed by Francis M. Deng, a Sudanese diplomat and the Secretary General on Internally Displaced People (IDPs). The idea of 'sovereignty as responsibility' originally emphasized the obligations and accountability of states towards IDPs and the concept enforces the obligations on the international community when the state fails to take over such responsibility.[27] Subsequently, the ICISS endorsed this idea into the R2P report's at its core to alleviate the tensions between sovereignty and humanitarian intervention and to expand the protection to people without limiting it to IDPs. R2P is one of the key doctrines that address the issues underpinning human rights and human security, and attempts to bridge the gap between human rights and sovereignty. Therefore, the 'responsibility to protect' norm is widely contesting the conventional sovereignty as it attempts to address the idea of 'responsible sovereignty' and human rights issues.

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[26] Stephen D. Krasner, "Abiding Sovereignty", *International Political Science Review* 22, No. 3, (July,2001): 234, accessed October 16, 2013, http://www.jstor.org/stable/1601484.

[27] Roberta Cohen, "From Sovereign Responsibility to R2P" in *The Routledge Handbook of the Responsibility to Protect*, ed. W.Andy Knight and Frazer Egerton (New York: Routledge, 2012), Kindle edition.

In conclusion, it is clear that the principle of sovereignty has persisted in international relations since the 16th Century, and that it "will not disappear, even in an idealized future world state".[28] However, constant human right violations through massacre, civil wars and conflicts challenge the principle of sovereignty, which is increasingly criticized. Nonetheless, the international system still upholds and tries to solve the tensions between human rights and traditional sovereignty while R2P as an emerging norm is trying to connect and limit the conflict between the two concepts. To understand this phenomenon better, the following chapter will look at the origins of R2P, at its key elements and at the importance of this emerging norm.

Chapter II
Responsibility to Protect: Origins and Key Principles

Ever since the Westphalian treaty was signed, sovereignty has become a prominent principle globally. However, due to a number of problematic humanitarian issues surrounding the sovereignty principle, the idea of Responsibility to Protect (R2P) was formulated to solve the problem of reconciling state sovereignty and the punishment of human rights violations inside states. Responsibility to protect is an increasingly well known doctrine that has been widely acknowledged in recent decades. This evolving doctrine is a global effort to halt mass atrocities, challenging and pushing governments to take collective actions in order to save citizens by combining the idea of sovereignty and the protection of human rights. This chapter discusses the history of the evolving norm of R2P through the establishment of the International Commission on Intervention and State Sovereignty (ICISS) and its key dimensions in order to understand the importance of the R2P concept.

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[28] Jeremy Moses, "Sovereignty as irresponsibility? A Realist Critique of the Responsibility to Protect," *Review of International Studies* 39, no. 01 (2013): 126. doi: 10.1017 S0260210512000113.

R2P: A Brief History

The massive destruction of World War II led to the emergence of a new international system with an international body, the United Nations. Having seen the effects of that terrible devastation, this international body explicitly aimed at preventing another world war. However, it failed to avoid several humanitarian crises such as Rwanda and Bosnia due to the principle of non interference and to the political unwillingness of member states. Following several global humanitarian crises and the failures of international organizations to intervene in what they saw as national affairs, the International Commission on Intervention and State Sovereignty (ICISS) was formed. Notably, NATO's intervention in Kosovo in 1999 and the controversy surrounding it persuaded former Secretary General Kofi Annan to seek a solution.[29] In his speech at the Millennium Summit in 2000, Kofi Annan addressed the dilemma of intervention with regard to state sovereignty and the principle of non intervention.[30] He urged member states to take necessary actions in order to solve the tension between human rights and sovereignty. Following his concerns about sovereignty and human rights, Canadian Prime minister Jean Chretien took over the responsibility to form the ICISS.[31]

The ICISS was tasked with outlining possible solutions to mitigate global humanitarian issues by reconciling humanitarian intervention and sovereignty. The commission was mainly administered and funded by the Canadian government. Chaired by Gareth Evans, a former Australian Foreign Minister and by Mohamed Shanoun, a former Algerian diplomat, the ICISS consisted of ten commissioners and was overseen by an advisory board.[32] Aiming at finding a solution to humanitarian crises, the ICISS held consultations around the world and had eleven

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[29] Allex J. Bellamy, *Responsibility to Protect* (London: Polity Press, 2009),02.

[30] Kofi A. Annan, *'We the peoples': The Role of United Nations in the Twenty-first Century*, Millennium Report of the Secretary General of the United Nations, (New York, United Nations, 2000), https://www.un.org/en/events/pastevents/pdfs/We_The_Peoples.pdf.

[31] Allex J. Bellamy, *Responsibility to Protect* (London: Polity Press, 2009),36.

[32] *Ibid.,* 35-38.

roundtable discussions with governments and nongovernmental organizations (NGOs). During the Geneva roundtable, Gareth Evans proposed the term 'responsibility to protect' to carry out the commission's debate surrounding sovereignty and humanitarian intervention.[33]

The roundtable consultations and discussions convened that the principle of state sovereignty also includes certain responsibilities towards a state's citizens. Moreover, the commission focused on the victims' perspective and not on the intervention party's or the perpetrator's point of view when drafting the report. [34] Eventually, the report on the Responsibility to Protect was released in 2001. Although the ICISS functioned outside the UN, in 2004 the ICISS panel came to an agreement that the Security Council should assume the primary responsibility for enforcing R2P. This agreement was also meant to make the Security Council function more effectively and to legitimize humanitarian interventions, since the majority of the member states believed that interventions should be authorized by Security Council.[35] The report received attention from the Secretary General Kofi Annan's High Level Panel in 2004, which confirmed the ICISS agreement and declared that R2P was "exercisable by the Security Council".[36]In 2005, the report on R2P was adopted by 192 member states in the UN General Assembly's World Summit. In April 2006, Security Council Resolution 1674 on the Protection of Civilians in Armed Conflict reaffirmed the "readiness" [37] to adopt the R2P when needed.

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[33] *Id.* at 38-51.

[34] *Id.* at 45.

[35] *Id.* at 36.

[36] "History and Timeline of R2P," *r2pcoalition.org,* accessed February 23, 2014, http://r2pcoalition.org/.

[37] Allex J. Bellamy, *Responsibility to Protect* (London: Polity Press, 2009,133.

R2P: Key Principles

The endorsement of R2P by the 2005 World Summit was a landmark for the international system and for the evolution of R2P. The fact that member states were ready to comply with the obligation to save populations at risk and to halt other Rwandas was notable. The World Summit's outcome document, called 'Responsibility to Protect', included three key pillars. First, a state has a responsibility to protect its own population from crimes such as genocides, war, ethnic cleansing, and crimes again humanity. Second, the international community should to assist states that are fulfilling their obligation. And finally, UN member states should take timely and decisive action under the Chapter VI and Chapter VII when the state in question is failing to protect its own population. Apart from these three fundamental pillars, the concept of R2P addresses the following three key responsibilities: responsibility to prevent, responsibility to react and responsibility to rebuild. [38] I shall consider them in turn.

As previously mentioned, preventing deadly conflicts is one of the main goals of the United Nations. Hence, including the 'responsibility to prevent' in the R2P agenda was widely regarded as important. In fact, responsibility to prevent is identified as the most critical dimension of R2P, since the primary objective of the concept of R2P is not reaction but prevention.[39] The ICISS has identified three measures under the prevention dimension, namely, early warning, tackling root causes of the conflict and direct prevention.[40] Since the deadly conflicts in Rwanda, Bosnia and Darfur were widely predicted, the commission insisted that accurate early warnings should be established in order to halt mass atrocities. The ICISS suggested that the UN to take appropriate measures to collect and analyze information from

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[38] Damien Rogers, "Review Essay: Transforming R2P from Rhetoric to Reality." *Genocide Studies and Prevention* 5, no. 1 (2010): 106, accessed April 16, 2014, http://muse.jhu.edu/.

[39] ICISSS*, Responsibility to protect*, XII.

[40] Allex J. Bellamy, *Responsibility to Protect* (London: Polity Press, 2009), 53.

member states with the view of tackling predictable conflicts. Preventing the root causes of conflicts are identified under political, economical, legal and military dimensions. Direct prevention refers to the Secretary General's preventive diplomacy, the use of positive and negative economic stimulus by the Security Council, and the fact of imposing legal sanctions with various means and preventive deployment.[41]

The question of how we should react or respond during a conflict is always challenging. Nonetheless, R2P is addressing this issue under the responsibility to react dimension setting a 'just cause threshold' and restricting intervention only to "extreme cases".[42] The interventions under the 'just cause threshold' are justified when there are serious issues such as 'large scale loss of life' either deliberately or unintentionally conducted by states and 'large scale 'ethnic cleansing'.[43] Together with the just cause threshold, the commission also crafted precautionary principles in order to make the correct decision in regard to intervention. Precautionary principles include right intention, military intervention as the last resort, proportional means and the reasonable expectation of gaining success through intervention.[44]

In addition to the precautionary principles, the reaction dimension also considers the issue of legitimate authority. Authorization of humanitarian intervention lies with the Security Council, but the report states that the P5 members should not use their veto power to achieve their national interests in an event of a humanitarian emergency. However, should the SC fail to act timely during a conflict that lies under the just cause threshold, the issue can be approached through the General Assembly's Emergency Special Session, called 'Uniting for Peace'. If this

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[41] *Ibid.,* 53.
[42] *Id.* at 54.
[43] ICISSS, *Responsibility to protect*, XII.
[44] *Ibid.,* XII.

approach also fails, the issues should be considered by regional organizations.[45] Thus, the principles under the reaction dimension in theory provide an agenda to overcome the divisions and political interest of super powers, and to react decisively as well as in a timely manner during humanitarian emergencies.

Since preventing mass atrocities is one of the UN's primary goals, peace building efforts are also at the core of the UN's functions. The R2P's scope is not limited to preventing and reacting to grave humanitarian crises, so R2P has added the rebuilding aspect to the report and has recognized the responsibility to rebuild post-conflict communities. It goes beyond saving lives and focuses on rebuilding the post-conflict communities through promoting 'good governance' and 'sustainable development' to achieve long-lasting peace. Hence, under this dimension, the interveners are required to consider three aspects: security, justice, and reconciliation and development.[46] The report also states that the interveners have a moral authority to assist these war-torn communities to establish security forces, judicial institutions and assure legal rights for the refugees. The interveners should also focus on economic development to foster economic growth. Above all, the responsibility should be transferred to the local authorities as soon as possible.[47]

By and large, the R2P report expresses a moral warning that is up to the international community, potential interveners, the media, regional organizations and responsible non-governmental organizations to save innocent civilian lives. The report sets out recommendations for responsible authorities and institutions to tackle humanitarian emergencies. Although the report's contents are widely acknowledged, in this thesis I argue that the practical application of R2P has not fulfilled its theoretical goals during humanitarian crises. For this reason, the

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[45] *Ibid.,* XII.
[46] Allex J. Bellamy, *Responsibility to Protect* (London: Polity Press, 2009), 55.
[47] *Ibid.*, 59.

following chapters will show that while the basic concept of R2P is solid and convincing, its practical application has often failed to save civilians lives.

Chapter III
The concept of R2P

The Responsibility to Protect principle is one outcome of the global struggle for peace. R2P outlines the vital importance of protecting civilian life and promoting global peace and security, for the formulation of R2P is always referred to humanitarian emergencies. Even though R2P is an abstract concept, it has real-life implications and has gained attention from the international community and states. Although this principle does not completely halt mass atrocities, the concept is indeed vital and significant. It has provided a comprehensive agenda to prevent conflicts, to react during conflicts and to rebuild war-tone communities. This chapter will mainly discuss what I regard as the positive aspects of R2P, focusing in particular on five factors. First, the concept of R2P recognizes duties of sovereign authorities. Second, it provides an opportunity to halt mass atrocities. Third, it necessitates moral obligations and legalizes them. Fourth, it provides a strong commitment to protect universal human rights. And fifthly and lastly, R2P promotes the idea of a new diplomacy through a focus on human security.

1. *R2P: Looking Beyond a Traditional Idea of Sovereignty*

The inviolable Westphalian sovereignty became a prominent problem during the 20th century, given that sovereign states started to use their power to mistreat and murder people inside their own territories. According to the principle of R2P, sovereign states often neglect the obligations towards their citizens, but use the concept of sovereignty to restrict external interference. However, since its inception, the concept of R2P has examined how sovereignty is

being misused and claims that sovereignty bears the responsibility to protect citizens. R2P claims that sovereignty has its limits and argues that sovereignty does not give absolute power to practice anything that the ruling authority desires, particularly in cases of human rights violation.

States can be considered as the primary guarantors of security and well being of their citizens. Accordingly, R2P emphasizes the necessity to change from "sovereignty as control" to "sovereignty as responsibility".[48] By asserting that states are the best guarantors of the safety of their citizens, R2P recognizes the responsibilities that sovereign states obtain, which is not understood under the traditional concept of sovereignty. Moreover, the idea of R2P with its focus on the need for a conceptual change from control to responsibility, calls for attention on human security inside territories. The concept also asserts that understanding sovereignty as responsibility strengthens sovereignty by increasing the impact on human rights and human security.[49] As a result, focusing on human rights and human security are embedded as responsibilities of a sovereign state. R2P asserts that preserving human rights within a sovereign state actually strengthens (rather than weakening) sovereignty itself.

As mentioned above, sovereignty was originally understood only as a principle to rule over the population and restrict the influence of external authorities. Nonetheless, since R2P claims that sovereignty has limits, the international community, regional institutions, and nongovernmental organizations are also obligated to address human rights violations. As Ramesh Thakur states, "The abuse of sovereignty at the expense of human security must not be tolerated".[50] Since R2P addresses issues that concerned sovereignty, violence or abuses occurring inside sovereign states are being increasingly deemed illegitimate and questioned.

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[48] ICISSS, *Responsibility to protect*, 13.
[49] *Id.* at 14-15.
[50] Ramesh Thakur and Mary Ellen O'Connell, "Fragile States - the R2P controversy," *dandc.eu*, February 22, 2008, http://www.dandc.eu/en/article/pros-and-cons-responsibility-protect.

Thus, the International community and NGOs are considering issues related to human security and individual rights more than ever before, because the concept of R2P has created a forum to debate human rights violations inside sovereign territories. Moreover, this concept has also directed individuals to understand that sovereign power is no longer an absolute power, but comes with obligations. Hence, individuals, diaspora and civil society members can and should call out for international or other regional assistance when their state either fails or is unwilling to protect individuals' human rights.

More importantly, classifying sovereignty as a responsibility is indeed a strong and persuasive concept, with the result that R2P expands beyond the traditional understanding of sovereignty. It indicates that sovereignty should not be used to control and commit violence against one's population, but involves the responsibility to protect and guard one's own people. Until the end of the 1990's, perpetrators of wars and genocides were feeling safe under the shelter of the sovereign norm.[51] These perpetrators thought that they were not subject to any other higher authorities, nor were they responsible to save and protect their own civilians from harm. However, the emergence of the R2P concept formulated a legal and coercive barrier to those who carried out atrocities harming their own populations. As a result of the R2P concept, there has thus been a shift from the conventional understanding of sovereignty to a broader understanding of the sovereignty principle which includes the protection of human rights.

2. *R2P as an opportunity to halt mass atrocities*

The series of continuing tragedies in the latter half of 20th century such as Rwanda and Bosnia marked the failure of the United Nations and its member states to respond timely to manmade disasters. The evolving R2P concept advocates correcting such incidents by rebuilding those communities and taking preventative measures to prevent other tragedies from happening.

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[51] *Ibid.*

As explained by Samuel Atuobi, R2P provides an opportunity for member states to share the "burden"[52] between states and the international community, and the concept gives a chance for "capacity-building at the national and international levels"[53] to prevent conflicts and the loss of civilian lives. In fact, the emergence of the R2P concept has impacted almost all conflict prevention strategies, conventions, organizations. They refer to R2P to enhance their agendas and strategies. For instance, the African Union is restructuring their agendas as well as the documents referring to R2P in order to tackle and prevent conflicts in the region.[54] Such initiatives reinforce the organizations and allow states to have a better understanding of their obligations in preventing large-scale disasters.

Moreover, considering why R2P was formulated recognizes the opportunity that R2P offers. The birth of R2P's took place at a time when there were several debates going on regarding humanitarian crises and interventions. Since R2P offers a "framework for action"[55] during humanitarian crises, it should be considered seriously as an opportunity to respond to humanitarian emergencies. The concept of R2P is not completely successful in halting mass atrocities such as genocide, war crimes, crimes against humanity and ethnic cleansing. It is an initiative to prevent such atrocities from taking place. Although the concept is still evolving, the thought that states and the international community should take seriously their responsibility to protect people is highly significant. Hence, the member states of the international community could and should use the R2P concept as an opportunity to save people and stop another Rwandas from taking place. On the whole, I argue that the concept of R2P is an opportunity to

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[52] Samuel Atuobi , "The Responsibility to Protect: the time to act is now," *Kofi Annan International Peacekeeping Center, Policy Brief* 1,(2009): 01-04, http://responsibilitytoprotect.org/KAIPTC_Sep2009.pdf.
[53] *Ibid.,* 03.
[54] *Ibid.*
[55] Frazer Egerton, "What is right with R2P?" in *The Routledge Handbook of the Responsibility to Protect*, ed. W.Andy Knight and Frazer Egerton (New York: Routledge, 2012), Kindle edition.

correct the mistakes that states have committed by ignoring the responsibility to save and assist their own people during times of grave humanitarian need.

3. R2P Necessitates and Legalizes Moral Obligations

The co-chairs of the ICISS, Gareth Evans and Mohamed Sahnoun, state that "Moral appeals inspire and legitimize in almost any political environment".[56] Similarly, the core concept of R2P is a moral appeal to states and to the international community to address the sufferings of innocent people. The moral responsibility was strong and persuasive enough to make all 192 member states ratify the report in the 2005 World Summit. R2P imposes moral obligations in several ways: first, it assigns moral obligations to states and the international community through a duty for states and for the international community to protect and assist people in need. According to R2P, a state has the responsibility to protect its own population from atrocities and the international community should take the responsibility to assist such victims when a state is failing to do so.

Another case where R2P attributes moral obligation is the approval of intervention through the UN General Assembly in the absence of Security Council authorization.[57] The Rwandan genocide exemplifies the failure of the Security Council to take timely and decisive action. Therefore, taking the moral obligations into account, the concept of R2P allows the General Assembly to authorize intervention since the Security Council often ignores the moral responsibility in the face of the political interests of its member states. Moreover, since the responsibilities of R2P are not limited to the states' representatives, civil society, IGOs and

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[56] Gareth Evans and Mohamed Sahnoun, "The Responsibility to Protect," *Foreign Affairs* 81, no 06 (2002): 109, responsibilitytoprotect.org/ICISS%20Report.pdf.

[57] ICISSS, *Responsibility to protect,* 48.

NGOs are also obliged to enforce the concept of R2P. The latter obligates relevant actors to respond and react to conflicts, so that the moral principles are shared among relevant parties.

As Evans and Sahnoun state, R2P not only calls for moral obligations, it legalizes them. The fact that the UN takes primary responsibility in authorizing R2P enhances the "moral legitimacy" of the organization.[58] The United Nations is widely respected for its legitimacy and credibility, and since the UN has the power to mediate global affairs using the moral and political authority, the UN's authorization of R2P has legalized the application of R2P. The adaptation of Security Council resolution 1674 in 2006 affirms the legalization of the moral obligations under the international law. As a result, when states are not willing to fulfill the obligations which are required, the international community can take legal actions against the rulers of those states. The precautionary principles in R2P also set the moral and legal foundations for interventions although they are not applied ethically. Since the primary purpose of intervention is to stop human sufferings, R2P considers legal tools such as right intervention, last resort, proportional means and reasonable prospect, all of which can be considered to be derived from the Just War tradition. By outlining certain moral obligations, therefore, R2P has codified these duties within the international law to take appropriate measures during humanitarian emergencies.

4. *R2P As a Strong Commitment to Protect Universal Human Rights*

Legal obligations that are endorsed in human rights declarations and conventions are one of the foundations of R2P.[59] Accordingly, the humanitarian imperative embedded in the R2P concept is a significant effort to guarantee human rights within territories. Even though the member states of the UN have ratified the Universal Declaration of Human Rights as well as

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[58] *Id. at* 52.
[59] *Id. at* XI.

other conventions, states continue to fail to guarantee human rights inside their territories. State representatives often speak of sovereign rights of states when human rights are being violated inside their territories. In such context, R2P gives more importance to human rights than to the rights of states.[60] R2P upholds civilian human rights when these are mistreated by their own governments, but specifies that humanitarian interventions should not be used to overrule weak states.[61] By focusing on the victim's perspectives despite the intervener's perceptions, R2P reaches out to guarantee the human rights of those victims. In fact, the formulation of R2P arose as a solution to the ongoing debate around sovereignty and human rights since the post-Cold War period. Because the principle of R2P challenges the absolute sovereign norms and pressures states to protect human rights, this remarkable and evolving idea calls for the commitment to fulfill the obligations and to enforce the principle.

5. *R2P as Promoting A New Form of Diplomacy, in particular Human Security*

By its definition, diplomacy is the "the management of international relations by negotiation; the methods by which these relations are adjusted and managed by ambassadors and envoys".[62] Diplomacy can also be divided into two methods: old diplomacy, i.e. diplomacy during the eighteenth and the nineteenth century, and new diplomacy, i.e. diplomacy during the post-World War I.[63] Factors like self determination, public accountability and collective security facilitated the transition from old to new diplomacy. With this shift, the new diplomacy addresses concerns beyond state security, focusing in particular on 'human security', whereas,

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[60] Mark Notaras and Vesselin Popovski, "The Responsibility to Protect," *un.edu*, April o4 2011, http://unu.edu/publications/articles/responsibility-to-protect-and-the-protection-of-civilians.html.

[61] ICISSS, *Responsibility to protect*, 02.

[62] Pauline Kerr and Geoffrey Wiseman, *Diplomacy in a Globalized World: Theories and Practices* (Oxford and New York: Oxford University Press, 2012), 01.

[63] Corneliu Bjola and Markus Kornprobst, Understanding International Diplomacy: Theory, Practice and Ethics (London: Routledge, 2013), 216-217.

old diplomacy was restricted to sovereign states' security issues.[64] In the most basic sense, human security means the security of people's physical and economical well being along with the assurance of their fundamental human rights.[65] Human security is prioritized in the international political agendas since the 1990s to address the vulnerabilities that people are facing around the world.

The fact that R2P advocates both human security and human rights has given the concept of R2P a new diplomatic value. Indeed, the formulation of the R2P can be seen as a collaborative effort of international diplomacy to solve issues related to humanitarian crises. The R2P report states that human security "has created additional demands and expectations in relation to the way states treat their own people. And many new actors are playing international roles previously more or less the exclusive preserve of states."[66] Accordingly, R2P has opened up a forum to debate and negotiate issues related to human security. In other words, the principle can be seen as the latest attempt of diplomacy to address issues related to humanitarian issues. Hence, the concept of R2P fosters a new form of diplomacy through the focus on human security.

Although this chapter has argued that R2P has several advantages in theory, the concept is often criticized by those who argue that it allows powerful states to intervene freely by giving them "too much" power, [67] and by favoring their interventions through concept that is ambiguous in both its policies and in its recommendations.[68] More importantly, the articulation of the R2P

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[64] Herman T. Salton, "The Interdiciplinarity of Multilateral Diplomacy." (Class lecture at the Multilateral Diplomacy: Politics, Power and Persuasion Class at Asian University for Women, Chittagong, Bangladesh, February 17, 2014).

[65] ICISSS, *Responsibility to prot*ect, 15.

[66] *Ibid.,* 07.

[67] Allex J. Bellamy, *Responsibility to Protect* (London: Polity Press), 2009, 59.

[68] *Ibid.,* 57-64.

concept is considered as "Old wine in new bottles"[69], allowing imperialism and external interventions in other forms through a re-characterization of sovereignty, while R2P is dismissed by others as a "political catchword"[70] that has gained rapid reactions from the international community. This thesis asks whether the concept of R2P has enabled powerful governments to take unilateral steps to justify their ulterior intentions and interventions, with the result that the negative aspects of R2P may have contributed to its harmful application. The next two chapters will look at the practical application of R2P in some detail, illustrating first the positive aspects of the concept of R2P in Kenya, and then the negative application of the same concept in Libya.

Case Study I
Applying the concept of R2P during the crisis in Kenya: a success of R2P's implementation

The Kenyan Context and International Response

The crisis in Kenya in 2007-08 was a result of the presidential election held on December 27, 2007. Mwai Kibaki, representing the Party of National Unity (PNU) from the Kikuyu ethnic group, was elected as president of Kenya. However, due to controversial electoral procedures, the supporters of Kibaki's opponent, Raila Odinga representing the Orange Democratic Movement (ODM) from the Luo ethnic community, denounced the results. These supporters rioted in several districts of Kenya attacking the Kikuyu population.[71] The response from the Kikuyu group was also violent and the clashes from both sides resulted in approximately 1,000

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[69] Carsten Stahn "Responsibility to Protect: Political Rhetoric or Emerging Legal Norm," *The American Journal of International Law* 101, no. 1 (2007): 102, accessed November 30, 2013, http://www.jstor.org/stable/4149826.

[70] *Ibid.,* 120.

[71] Thomas G. Weiss, "Halting Atrocities in Kenya," *Global Center for the Responsibility to Protect*, (2010): 20, http://www.globalr2p.org/media/files/kenya-fpa-weiss.pdf.

deaths and the displacement of 500,000 people.[72] Kenya has a wide ethnic diversity and among them the majority Kikuyu ethnic group comprised 22% of the population, while the Luo comprised 13% of the population.[73] With the Mwai Kibaki gaining power in 2002, the Kikuyus benefitted from economic gains and nepotism, whereas the minority ethnic groups were discriminated against on political and economical grounds. By the end of the presidential elections, violence was fueled as a result of decades of impunity, corruption, nepotism, inequality and acts of fraud behind the presidential elections.[74]

The escalating violence targeting ethnic groups alarmed the international community about another possible 'ethnic cleansing' in Africa. The international community responded rapidly to address the needs of the victims and the regional instability. The African Union (AU) led by the former UN Secretary General Kofi Annan, the UNSC, the US and the EU mediated negotiations with the conflicting parties.[75] UN Secretary-General Ban Ki-moon obliged them to take action and classified the post-election violence in Kenya as an issue that should be addressed referring to R2P. By the end of the negotiations, the two belligerent parties adopted a power-sharing mandate establishing the first coalition government in Kenya. Subsequently, the opposition party leader, Raila Odinga, was appointed as prime minister.[76] Following the success in halting massive atrocities, the application of R2P in Kenya was widely recognized as the first

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[72] "Kenya-Ballots to Bullets: Organized Political Violence and Kenya's Crisis of Governance," *Human Rights Watch* 20, no 1 (A) (2008): 2. http://www.responsibilitytoprotect.org/files/Kenya.pdf.

[73] Johannes Langer, "The Responsibility to Protect: Kenya's Post-Electoral Crisis," *Journal of International Service,* (2011): 8.

[74] Thomas G. Weiss, "Halting Atrocities in Kenya," *Global Center for the Responsibility to Protect*, (2010): 20,http://www.globalr2p.org/media/files/kenya-fpa-weiss.pdf.

[75] Naomi Kikoler, "Keynote paper: Responsibility to protect," *Refugee Studies Center* (2009): 08, file:///C:/Users/Acer/Downloads/dp-responsibility-to-protect-2009.pdf.

[76] Alex J. Bellamy*, "*The Responsibility to Protect—Five Years On,*" Ethics and International Affairs* 24, no. 2 (2010):153.

successful implementation of the concept of R2P. This case study analysis focuses on how the concept of R2P contributed to halting atrocities in Kenya.

Implementation of the R2P Ideal

Looking through the prism of R2P, the international actors took the responsibility in their own hands since the Kenyan government failed to respond timely to halt violence in the country. Nonetheless, before they did so, the international community requested Kenyan authorities to take all necessary steps to stop violence, but the authorities failed to act accordingly.[77] The concept of R2P recognizes that sovereignty has limits and this idea was applied in the context of Kenya. Kenyan sovereignty was undermined as the Kenyan government failed to protect civilians from ongoing clashes. As R2P asserts, the international community took initiatives to rescue and protect Kenyans from violence, initiating diplomatic negotiations when the Kenyan government failed to to do so. Had the international community not taken actions against the bloodshed in Kenya by leaving the issue aside as a matter of Kenyan sovereignty, another Rwandan genocide might have taken place. Hence, the application of R2P in the Kenyan context depicts its application beyond the traditional understandings of sovereignty.

1. *Successfully applying the prevention dimension of R2P*

The prevention aspect is considered as the "single most important dimension" [78] of R2P. Using the direct or operational prevention strategy in R2P, the mediators should bring the conflicting parties to a "consensual solution" [79]. This method demands a rapid solution to avert

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[77] Thomas G. Weiss, "Halting Atrocities in Kenya," *Global Center for the Responsibility to Protect*, (2010): 21. http://www.globalr2p.org/media/files/kenya-fpa-weiss.pdf.

[78] Lawrence Woocher, "Responsibility to Prevent: Towards a Strategy," in *The Routledge Handbook of the Responsibility to Protect*, ed. W.Andy Knight and Frazer Egerton (New York: Routledge, 2012), Kindle edition.

[79] *Ibid.,*

conflict. In the case of Kenya, the mediators took the direct or operational prevention strategy to avoid catastrophe. Likewise, the most important dimension that R2P has advocated in the context of Kenya is the "proximate prevention".[80] The latter enabled the international actors to prevent a mass atrocity, while also resulting in minor damage rather than a massive disaster harming people on a massive scale. Moreover, the proximate prevention has also left the international community with a good image since Kenya has been regarded as a successful implementation of R2P. As a result of that, the prevention dimension of R2P has contributed to lessen the harm.[81]

2. *Using R2P as an opportunity to halt violence*

Several African states such as Rwanda, Somalia and Darfur have witnessed grave humanitarian emergencies since the 19th century and the international community failed to respond timely. Kenya is another African state which was almost subject to ethnic cleansing in the aftermath of the presidential elections in 2007. Moreover, the context of violence portrayed a similar situation like that in Rwanda, where violence took place as a result of a power struggle between two ethnic groups. Thus, taking the opportunity provided by the concept of R2P, the international community was able to intervene in Kenya and stop another genocidal incident. Undoubtedly the application of R2P was to protect and respect universal human rights. Even though the Kenyan government has ratified human rights treaties such as the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and Peoples' Rights, the Kenyan government systematically failed to abide by the human rights enshrined in

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[80] Thomas G. Weiss, "Halting Atrocities in Kenya," Global Center for the Responsibility to Protect, (2010) :19, http://www.globalr2p.org/media/files/kenya-fpa-weiss.pdf.

[81] Naomi Kikoler, "Keynote paper: Responsibility to protect," *Refugee Studies Center* (2009): 1-17. file:///C:/Users/Acer/Downloads/dp-responsibility-to-protect-2009.pdf.

these treaties. The government also failed to conduct free and fair elections.[82] The ideal of R2P in the context of gross human rights violation assisted the international community to ensure the human rights within Kenyan borders, when the government was failing to protect the lives of its own civilians.

3. *Inducing the international community's moral obligations*

As mentioned in the preceding chapter, the concept of R2P facilitates a moral obligation. According to Professor Thomas G. Weiss, the use of R2P "contributed a sense of urgency, motivating Africans, the U.S. and the EU to the fray with seriousness and due speed".[83] Moral obligations behind the R2P agenda evoked the international community to take urgent steps. Consequently, the international community including the regional bodies, human rights organizations, neighboring countries and the UN considered the crisis as an issue threatening humanity as well as regional security. Therefore, all relevant actors recognized their obligations under both the second and third pillars of R2P, and took timely and decisive diplomatic actions. Moreover, the underlying moral obligation in R2P also proves the credibility of R2P as well as the effectiveness of the concept. For instance, Kofi Annan mentioned that "effective external responses prove that the responsibility to protect can work". [84] This statement from the key mediator of the negotiations enhances the validity of R2P and strengthens the concept. The latter has achieved a success during the Kenyan crisis.

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[82] "Kenya-Ballots to Bullets: Organized Political Violence and Kenya's Crisis of Governance," *Human Rights Watch* 20, no 1 (A) (2008): 21. http://www.responsibilitytoprotect.org/files/Kenya.pdf.

[83] Thomas G. Weiss, "Halting Atrocities in Kenya," *Global Center for the Responsibility to Protect*, (2010): 24, http://www.globalr2p.org/media/files/kenya-fpa-weiss.pdf.

[84] Naomi Kikoler, "Keynote paper: Responsibility to protect." *Refugee Studies Center* (2009): 08 file:///C:/Users/Acer/Downloads/dp-responsibility-to-protect-2009.pdf.

4. *Successful diplomatic efforts and negotiations*

The application of R2P in Kenya marks another milestone by using diplomatic rather than military means. In fact, R2P advocates peaceful means limiting military means as the last resort.[85] The use of a military intervention could have intensified the brutality of the conflict as was arguably the case during the Iraq and Libyan intervention. Hence, avoiding military intervention and using peaceful diplomatic negotiations contributed to settle the crisis in a discreet manner. Rather than military involvement, diplomatic pressure managed to bring the belligerent parties to the negotiating table. Notably, the involvement of several international actors is substantial in the context of the Kenyan crisis. Considerable amount of diplomatic engagement was put in when responding to the conflict. Human Rights Watch names the international mediation as a "model of diplomatic action under the 'Responsibility to Protect' principles adopted by the UN".[86] Also as Kofi Annan stated, the effective collective diplomatic responses has enabled R2P to be successful in Kenya.[87] Thus, this diplomatic efforts concerning human security in the crisis of Kenya has fostered diplomacy without the employment of military means.

Controversy surrounding R2P's application in Kenya

Despite the success of R2P in Kenya, its application is critiqued on several grounds. First, critics question the appropriateness of R2P in Kenya since the number of killings was relatively small, whereas R2P was missing in places like Somalia where mass scales killings

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[85] Thomas G. Weiss, "Halting Atrocities in Kenya." Global Center for the Resposnibilty to Protect, (2010) :17-30. 18 http://www.globalr2p.org/media/files/kenya-fpa-weiss.pdf

[86] "Kenya-Ballots to Bullets: Organized Political Violence and Kenya's Crisis of Governance." *Human Rights Watch* 20, no 1 (A) (2008): 1-78 67. http://www.responsibilitytoprotect.org/files/Kenya.pdf

[87] Allex J.Bellamy, *Global Politics and the Responsibility to Protect: From Words to Deeds* (London and New York: Routledge, 2011), 54

were ignored by external actors. Skeptics also state that R2P played a "marginal role".[88] They

argue that the AU took the primary role to halt atrocities in the context of Kenya, rather than

R2P. Also, they state that the success of the external intervention was possible because they had

the consent of the Kenyan state for intervention. Moreover, the direct or operational prevention

strategy is critiqued on the basis of the late response in Kenya.[89] Critics claim that the

international community could have responded earlier to stop the violence and the killings.

Furthermore, post-conflict conciliation is recognized as a challenging process, for although

preventing the post-election violence succeeded, the mediation process did not guarantee that

further violence would not take place.

Is R2P a successful story in Kenya and what can be learned from it?

Regardless of above criticisms, the application of R2P halted another atrocity in Africa

due to the international community's readiness and motivations to prevent violence. Moreover,

as R2P advocates, the Kenyan rulers also recognized their obligation of protecting civilians.

Nonetheless, to address further post-conflict complications in the country, it is clear that the

rebuilding dimension of R2P should be implemented. Although several changes have been made

in Kenya's constitution in terms of electoral procedures and the establishment of a land

commission, executive power is still vested under the president.[90] As executive presidential

power could lead to further violence or even to dictatorial power, one possible action that could

be implemented is to reduce the president's power and hand over some to the prime minister.

Additionally, the International Criminal Court (ICC) has also taken actions against the

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[88] *Id.* at 55.

[89] Johannes Langer, "The Responsibility to Protect: Kenya's Post-Electoral Crisis." *Journal of International Service,* (2011): 16.

[90] "The Responsibility to Protect and Kenya: Past Successes and Current Challenges," *Global Center for the Responsibility to Protect, August 13 2010, http://www.globalr2p.org/media/files/the-responsibility-to-protect-and-kenya-past-successes-and-current-challenges.pdf* .

perpetrators of the post-electoral violence in Kenya. Six leading politicians were accused under the ICC for post-election crisis.[91] This is considered as a landmark in Kenya since impunity is widespread for Kenyans.

Conclusion

In sum, the use of R2P in Kenya revealed the effectiveness of collective diplomacy and international support during a humanitarian emergency. It also proved that taking actions during an incitement of a catastrophe is better than reacting after it reaches its threshold. The application of R2P in the Kenya crisis can serve as an example to handle other humanitarian emergencies and stop massive man-made disasters. Therefore, the application of R2P in Kenya was an accomplishment since it made it clear that the concept can halt mass atrocities through diplomatic means and thus avoid other Rwandas. This case-study also exemplifies that the application of R2P does not always have negative impacts, but on the contrary that there are indeed instances where its application can work consistently with its ideal.

Chapter IV
The Application of R2P

The previous chapter has pointed out how the concept of R2P provides a moral agenda for humanitarian assistance, recognizing the responsibilities of sovereign states and providing an opportunity to all relevant actors to take steps to protect human rights and promote diplomatic engagements. However, as Pauline Kerr and Geoffrey Wiseman put it, "Good words are a mask for the concealment of bad deeds".[92] Here, good words could be referred to the ideal of R2P and

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[91] Jeffrey Gettleman and Marlise Simons, "International Court Seeks Indictments in Kenya Vote Violence," *nytimes.com,* December 15 2010, http://www.nytimes.com/2010/12/15/world/africa/15kenya.html?pagewanted=all&_r=1&.

[92] Pauline Kerr and Geoffrey Wiseman, *Diplomacy in a Globalized World: Theories and Practices* (Oxford and New York: Oxford University Press, 2012), 04.

the bad deeds could be referred to the application of the R2P. This is not to claim that all

applications of R2P are bad, of course, for there are instances such as Kenya where it was a

success. However, often the application of R2P has not been encouraging and has even

negatively affected humanitarian affairs to the extent that the application of R2P often diverges

from its ideal. This section looks at how the application of R2P often falls short of the

humanitarian intent which it is supposed to endorse in theory and can become an imperialist

doctrine that misuses the concept to fulfill the political interests of powerful countries. It will

also look at how the practice infringes sovereignty and endangers victims by promoting military

operations and by escalating intra-state violence. The chapter will then proceed to consider the

case study of the Libyan intervention in 2011 and will highlight the negative implications of R2P

in practice.

How the application of R2P often infringes upon sovereignty

Although the underlying goal of R2P is to recognize the responsibilities associated with

sovereignty, the application of R2P often infringes upon sovereignty. As mentioned earlier in

this thesis, the latter is considered as the most fundamental pillar of the international system, yet

through the recent application of R2P it can be said that the principle of non intervention has

been violated. At the same time, it is crucial to have humanitarian intervention when sovereign

states are unwilling or unable to avert human suffering. Still, recent foreign interventions in weak

states that are subject to humanitarian crises have decreased the value of sovereignty. In fact,

there are several costs of this decreasing respect for sovereignty.[93] When respect for a state's

sovereignty declines, the legitimacy of sovereign authority also declines and the legitimacy of

domestic jurisdiction is questioned. Sharing sovereign power with the other external powerful

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[93] Eva Maria Jellinek, "The Impact of the Responsibility to Protect on State Behavior: An Analysis," (master's thesis, University of Toronto, 2012), 36 https://tspace.library.utoronto.ca/bitstream/1807/33255/1/Jellinek_Eva_M_201211_LLM_Thesis.pdf.

states endangers the state's sovereignty since the powerful states impose their values on weak states. Once sovereign authority is harmed and infringed by external powers, it is hard for the country to rebuild the sovereign norms since it will be always scrutinized by external powers. Therefore, the less powerful state is strategically subject to imperial practices and values.

Coercive actions taken in the name of R2P such as economic sanctions, coercive diplomacy and military intervention have also undermined sovereignty in several supposedly R2P missions.[94] For example, the foreign intervention in Haiti after the political crisis of 2004 exemplifies the effects of destabilizing sovereignty due to a harmful economic embargo, a blockage of humanitarian aid and a regime change in the country under the direct influence of the US, France and Canada. The intervention and actions taken on behalf of R2P have severely hampered the sovereignty, economy and civilian security of Haiti.[95] More importantly, in less powerful states such as Haiti, sovereign principles are undermined under the foreign interventions whereas powerful states are very protective of their own sovereignty for several reasons.[96] At the same time, while the sovereignty norm which is widely respected under the UN Charter is being critically undermined, actions are justified on the basis of R2P.[97] Hence, even though the concept of R2P attempts to strengthen sovereignty by defining it as 'sovereignty as responsibility' in theory, it actually often weakens it in practice by infringing upon territorial integrity on the pretext of humanitarianism.

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[94] Anthony Fenton, "Haiti and the Dangers of Responsibility to Protect," *globalpolicy.org,* January 03, 2009, http://www.globalpolicy.org/component/content/article/154/26083.html.

[95] Jooneed Khan, "Riots Expose Canada's Haiti Adventure as Sham," *globalpolicy.org*, May 21, 2008, http://www.globalpolicy.org/component/content/article/154/26072.html.

[96] Diana Johonstone, "Responsibility to protect is a Power Play," *globalpolicy.org, January 25,2013, http://www.globalpolicy.org/qhumanitarianq-intervention/52236-responsibility-to-protect-is-a-power-play.html?itemid=id.*

[97] Edward. S. Herman, "Responsibility to Protect" (R2P): An Instrument of Aggression. Bogus Doctrine Designed to Undermine the Foundations of International Law," *Global Research,* October 30, 2013, http://www.globalresearch.ca/r2p-as-an-instrument-of-aggression/5356195.

R2P promoting new militarism

Kofi Annan stated that when it comes to humanitarian intervention, people immediately think of war, but he proved that is always not the case as seen in Kenya. However, undeniably most of the interventions do take a militaristic approach and this means war, which is deadly as well as brutal. Military interventions to date have actually worsened the condition of the failed states during humanitarian crisis. Any means used to protect the civilians trapped in conflict zones are to protect them, not to endanger and harm them more. However, this has not been the case in recent decades. Skeptics of R2P point out that the application of R2P promotes a "new militarism"[98] on humanitarian grounds and contributes to 'collateral damage of war' by creating larger disasters in conflicts zones.[99] When the civilians trapped in war zones are subject to foreign military intervention, they are exposed to danger from internal state attacks and external interveners' attacks. Hence military actions do not fully secure them and maximize humanitarian progress; instead, military intervention provides a "false sense of security"[100] rather than providing a real safe environment to war victims. Indeed, war intensifies human sufferings due to collateral damage, even if such militaristic approaches are often justified on humanitarian grounds. When war causes more harm than good, it is unethical to justify military intervention.

Since the application is not put into practice according to the R2P principle, the latter itself has become problematic. In fact, the principles endorsed by the R2P doctrine are not actualized in real life during military interventions. Evidently, right intention under precautionary principles should embrace the humanitarian intention. However, thus far many interventions have been politically motivated. Moreover, R2P is used as a "new way to

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[98] Ramesh Thakur and Mary Ellen O'Connell, "Fragile States - the R2P controversy," *dandc.eu*, February, 22, 2008, http://www.dandc.eu/en/article/pros-and-cons-responsibility-protect.
[99] *Ibid.,*
[100] *Ibid.,*

rationalize aggression"[101] by using it as a tool of aggression which completely opposes the right intention. The West and other powerful states use the humanitarian imperative in the name of R2P to broaden their ulterior political motives through military actions.[102] Military interventions should be the last option and the proportional means should maximize the main objective of the intervention, namely, human security. However, interveners often maximize their political and economical goals regardless of human security. Under reasonable prospects, military intervention is only justified it can bring about success. It is not justified if such intervention causes more harm than good. However, armed intervention often does cause more harm to the people on the ground than good, yet such intervention is often justified through the concept of R2P.

Misuse of R2P and the politicized application of R2P

In addition to harmful militaristic approaches, the application of R2P is sometimes misused unilaterally by overriding the right authority principle endorsed in R2P. Additionally, it is not homogeneously applied in contexts where humanitarian assistance is necessary because of the self-interests of powerful states. The Russian invasion in Georgia in 2008 is one example where the idea of R2P was misused to justify the acts of one of the world's superpowers. The military attacks launched between Georgia and South Ossetia triggered Russia, a regional super power, to take the matter in to its own hands. Russia invaded Georgia and later justified this invasion referring R2P and stated that the reason was to avert genocidal acts.[103]Although this invasion was not justified in international law, Russia was not the first and won't be the last to intervene unilaterally and to misapply the concept of R2P. The United States intervened in Iraq

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[101] Steven Fake and Kevin Funk, "R2P: Disciplining Mice, Freeing the Lions," *Foreign Policy in Focus,* March 23, 2009, http://fpif.org/r2p_disciplining_the_mice_freeing_the_lions/.

[102] *Ibid.*

[103] Allex J.Bellamy, *Global Politics and the Responsibility to Protect: From Words to Deeds* (London and New York: Routledge, 2011), 55-56.

in 2003 and France sought to intervene in Myanmar in the wake of the cyclone Nargis in 2008.

As Eric A. Heinze puts it, these unilateral interventions signify "the lengths that states will go to

make bad behavior look less bad"[104] as powerful governments prioritizing moral responsibilities

on their foreign policies intervening in other countries non-consensually does not address the

problem in the country and does not justify such actions.

When several unilateral actors use R2P to justify their intervention, R2P is not applied

effectively where it is necessary for political reasons. R2P was not imposed on Iraq when the

American intervention in 2003 killed almost 400,000 people and displaced 1.3 million.[105] [106]

Moreover, many Western governments, particularly the advocates of R2P including Canada,

Australia, Germany and Netherlands, are allied with Israel and have denied around 1,200

causalities in Palestine when the death toll was rising in the country. Meanwhile, these countries

ignored Israel's human rights abuses claiming that the 'Goldstone report' on such abuses was

biased.[107]These kinds of actions are viewed as "double-standards" [108] and discriminatory based

on political alliances and self-interests of powerful countries. It also illustrates the power politics

and coalitions disregarding civilian protection during humanitarian emergencies. When countries

that advocate R2P misuse it for their own self interests, it is very unlikely that R2P will serve the

people who need protection form an external authority.

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[104] Eric A. Heinz, "Humanitarian Intervention, the Responsibility to Protect, and Confused Legitimacy," *Human Rights and Human Welfare* 11, (2011):24.
[105] "Iraq: the Human Cost," *MIT Center for International Studies*, accessed March 23, 2014, http://web.mit.edu/humancostiraq/.
[106] "Timeline of recent ISRAEL- Gaza violence," *CBC News*, November 26, 2012, http://www.cbsnews.com/news/timeline-of-recent-israel-gaza-violence/.
[107] Allex J.Bellamy, *Global Politics and the Responsibility to Protect: From Words to Deeds* (London and New York: Routledge, 2011), 59
[108] *Id.* at 60

From an IR realist point of view, humanitarian intervention is "the pursuit of self-interest dressed up as ethical action"[109]. It is unethical when powerful states manipulate the mandates and invade small or failed states to accomplish their ulterior political interests. NATO, for instance, is a political and a military alliance and is regarded as a legitimate intervener.[110] [111] However, although its interventions have not always been justified.[112] NATO is primarily backed by powers like Britain, France and the United States, and it intervenes in countries undergoing humanitarian crises. Since this organization mainly serves the political interests of its member states, it is unlikely that the great NATO powers will only care about humankind. After intervening in states using intense military approaches, powerful nations justify and legalize their illegitimate interventions based on R2P.[113] However, the use of military might from international organizations such as NATO to save civilians does not necessarily save the people, and therefore, cannot be considered ethical. This is all the more so since R2P is often used as a scapegoat to cover up "imperial violence"[114] produced by great powers' wars. As a matter of fact, "war is political"[115].

Theoretically, R2P is considered not to be an intervener's right, but practically it has become so and justifies unauthorized and unjust interventions. In fact, anyone can and has the

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[109] Chris Brown and Kirsten Ainley, *Understanding International Relations* (Hampshire and New York: Palgrave Macmillan Publishers, 2009*)*, 240.

[110] Eric A. Heinz, "Humanitarian Intervention , the Responsibility to Protect, and Confused Legitimacy," *Human Rights and Human Welfare* 11, (2011): 28.

[111] "What is NATO?" *NATO.int*, accessed on March 23, 2014, http://www.nato.int/nato-welcome/index.html.

[112] Eric A. Heinz, "Humanitarian Intervention , the Responsibility to Protect, and Confused Legitimacy," Human Rights and Human Welfare 11, (2011):28.

[113] *Id.* at 25.

[114] Edward. S. Herman, "Responsibility to Protect" (R2P): An Instrument of Aggression. Bogus Doctrine Designed to Undermine the Foundations of International Law", *Global Research,* October 30, 2013.

[115] Alex de Waal, "No Such thing as Humanitarian Intervention: Why we need to think how to realize the Responsibility to Protect" in Wartime," *Global Policy Forum*, March 21, 2007, http://www.globalpolicy.org/component/content/article/154/26062.html.

capability to misuse any doctrine.[116] Frequently, the intervening parties manipulate the R2P

principle for their political gains, predominantly the Western superpowers and other powerful

governments. Since there are often hidden motives behind the humanitarian objectives,

interventions cannot accomplish the human protection during crisis. Although the formulation of

R2P was to serve the whole mankind, it has been practically applied as a Western tool and

militaristically as "an instrument of aggression"[117] to dominate and interfere in weak or failed

states affairs. As stated above, in certain contexts, R2P was controlled by the super powers in the

Security Council. For instance it is possible to argue that the US took urgent steps regarding the

Kenyan crisis because Kenya is an "anchor"[118] for the US political and economical interests.

Above all the functioning of the United Nations itself is often controlled by United States even

more than the other P-4 members. Therefore, US foreign policy dominates even during

humanitarian crises and the application of R2P is subject to political realities by politicizing

humanitarian interventions and by ignoring the calls of weak states where great powers do not

have an interest.

R2P may contribute to unexpected tragedies

Oftentimes, the application of R2P fails to save people trapped in conflict zones and has

also contributed to unexpected tragedies. Alan J. Kuperman identifies this negative aspect of

R2P as the 'moral hazard theory'. According to Kuperman, R2P generates unexpected costs of

interventions. Therefore, he argues that R2P "unintentionally put others in danger".[119] In fact, the

application of R2P has the tendency to cause 'genocidal violence' inside states because rebels

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[116] *Ibid.*

[117] Edward. S. Herman, "Responsibility to Protect" (R2P): An Instrument of Aggression. Bogus Doctrine Designed to Undermine the Foundations of International Law," *Global Research,* October 30, 2013.

[118] Thomas M. Woods, "Kenya's Stability Is an Important U.S. Priority**,**" *The Heritage Foundation*, March 14, 2008, http://www.heritage.org/research/reports/2008/03/kenyas-stability-is-an-important-us-priority.

[119] Alan J. Kuperman, "Rethinking the Responsibility to Protect," *The whitehead Journal of Diplomacy and International relations* (2009):19

violently attack civilians in order to attract international attention.[120] Primarily focusing on the crisis in Darfur, he illustrates the unexpected cost of the R2P's application. Under the R2P norm, the United States led international efforts and tried to halt the prolonged civil war in Sudan. As a result of these international efforts, the Sudanese government agreed to share power with the rebel groups. However, this solution provoked violence from the rebels who were expecting external interventions.[121] Consequently, despite the positive outcome of the R2P's application in Darfur, it resulted in 250,000 deaths and in the displacement of 2.5 million.[122] Since foreign interventions often help the rebels to attain their political goals, R2P encourages violence targeting civilians. Therefore, R2P does not fully maximize civilian protection; instead, it often generates more violence putting civilians under rebel attacks. The intervening parties should thus carefully consider the unexpected costs of external interventions when applying R2P to humanitarian crisis.

R2P and neo- imperialism

Even though the concept of R2P has positive implications, the concept itself is often recognized as 'old wine in new bottles'.[123] Similarly, the application of R2P can hide imperial tendencies and humanitarian intervention can be seen as the "latest tactic of neo-colonialism"[124] or "latest brand name of imperialism"[125]. Since the ideal of R2P strongly encourages

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[120] Allex J.Bellamy, *Global Politics and the Responsibility to Protect: From Words to Deeds* (London and New York: Routledge, 2011), 53.

[121] Alan J. Kuperman, "Rethinking the Responsibility to Protect," *The whitehead Journal of Diplomacy and International relations* (2009):19.

[122] Allex J.Bellamy, *Global Politics and the Responsibility to Protect: From Words to Deeds.*(London and New York: Routledge, 2011), 53.

[123] Eric A.Heinz, "Humanitarian Intervention, the Responsibility to Protect, and Confused Legitimacy," Human Rights and Human Welfare 11, (2011): 21.

[124] James Traub, "Absolute Fiction: The Perversion of Sovereignty," *World Affairs Journal*, March 4, 2009, http://worldaffairsjournal.org/article/absolute-fiction-perversion-sovereignty.

[125] Anthony Fenton, ""Legalized Imperialism": "Responsibility to Protect" and the Dubious Case of Haiti," *Global Policy Forum*, December 03, 2005, http://www.globalpolicy.org/component/content/article/154/26059.html.

humanitarian intervention, R2P can also be named as a latest form of imperialism. Western and powerful governments favoring humanitarian intervention are also the main advocates of R2P. These governments have the capacity to impose their economic and political choices over weak states justifying their intervention under R2P, for "any principle of intervention can be readily abused… or become a charter of imperial occupation".[126] Likewise, the R2P doctrine is being abused and misapplied to achieve self-interests of the powerful nations, while the virtues of R2P have been blighted by an imperialistic tendency to impose values like democratization, peace building and liberal policies.[127] Also when R2P is put into practice, it is often Western or former colonial powers that dominated its application. In this sense, foreign interventions can be seen as imperialism in humanitarian disguise with selective and self- interest policies that mainly serve the powerful nations.

Although R2P recognizes 'sovereignty as responsibility' moving away from 'right to intervene,' powerful states exercise more rights over the weak states referring to the responsibility to protect. Although the change in language from 'right to intervene' to 'responsible sovereignty' was to lessen the fear about neo colonialism from the developing world, in reality the application itself is often imperialistic and puts small states in an insecure position by granting more responsibilities and rights to the influential Western governments[128]. Furthermore, legalizing the moral obligations endorsed in the R2P report under United Nations Charter is considered as a positive aspect of R2P. Since the application of R2P often portrays an imperial rather than the humanitarian motive, it is often tantamount to legalizing imperialism.[129]

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[126] Alex de Waal, "No Such thing as Humanitarian Intervention: Why we need to think how to realize the Responsibility to Protect" in Wartime," *Global Policy Forum*, March 21, 2007.

[127] Allex J. Bellamy, *Responsibility to Protect* (London: Polity Press, 2009), 167-179.

[128] Jeremy Moses, "Sovereignty as irresponsibility? A Realist critique of the Responsibility to Protect." *Review of International Studies* 39, no. 01 (2013): 117.

[129] Anthony Fenton, ""Legalized Imperialism": "Responsibility to Protect" and the Dubious Case of Haiti," Global Policy Forum, December 03, 2005.

Since these great powers continue to abuse humanitarian intervention, a new emerging concept of "humanitarian imperialism" [130] and "moral critique"[131] clearly exemplifies how the great powers are "using human rights to sell war"[132]. In fact, the idea of human rights and humanitarian imperative are being used as a rationalization to cover up the imperial practices of the super powers. Hence, to achieve a positive outcome from R2P's, the application of the 'humanitarian imperialism' should be replaced with a humanitarian intention, and then enforce R2P as a moral norm to save innocent lives.

Conclusion

The R2P norm that was formulated to eradicate human sufferings has often provoked imperialistic aspects and propagated human sufferings in humanitarian crises. The use of military means contributes to increasing violence and R2P has often enabled the great powers to cover their self-interests. Moreover, unilateral interventions and politically motivated interventions are overriding the theoretical principles endorsed in the original R2P report. Unfortunately, the application R2P encourages violence that is meant to be prevented by its application. By and large, the intervening governments' imperialist agendas and practices during and after humanitarian crises invoke neo-colonial and imperial tendencies. Consequently, the R2P norm and its application are increasingly questioned since R2P is not contributing to halting atrocities in a humanitarian manner by creating a secure world for the less powerful states. If the implementation of R2P continues to be a power play and to be practiced in an imperialist way, it will either wither away gradually, perhaps sooner than expected. The subsequent case study

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[130] Jean Bricmont, "Humanitarian Imperialism: Using Human Rights to Sell War," *Monthly Review Press*, April 19, 2014, http://monthlyreview.org/press/books/pb1471/.
[131] *Ibid.*
[132] *Ibid.*

analysis will discuss more in detail about the harmful application of R2P in reference to the

NATO intervention in Libya in 2011.

Case Study Analysis II
Applying the concept of R2P during the crisis in Libya: a harmful application of R2P's implementation

The urge and necessity of helping populations at risk are laudable. However, when the

impulse comes along with hidden motives and violent means, it is hard to justify the actions on

the basis of humanitarian pretext. According to the advocates of R2P, the world had the chance

to witness a "classical humanitarian intervention" [133] authorized under the emerging R2P norm

during the Libyan crisis. However, the outcome of this intervention was merely a military

success and not a humanitarian one. Regardless of this partial success, it has been condemned for

several negative implications during and after intervention. For that reason, although the Security

Council referred to R2P when authorizing the intervention and the advocates of R2P claim that it

was an application of R2P, affirming the responsibility to protect its civilians, some argue that

Libyan intervention is not in fact an application of R2P but rather an abuse of it in the form of

regime change. The subsequent analysis in this case study will focus on two questions about the

Libya case. Why is the intervention referred to as a case of R2P and why it is argued that it is not

an operation falling under the R2P principle? My analysis will discuss two main issues, first

looking at the positive outcomes of the intervention and secondly at its harmful or the negative

outcomes.

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[133] James Pattison, "Introduction: Roundtable: Libya, R2P, and Humanitarian Intervention," *Ethics and International Affairs* 25, no 3 (2011): 251, doi: 10.1017/SO892679411000189.

The Libyan Context and the International Response

In 2011, the Libyan uprising resulted in another mass atrocity heavily influenced by the Arab Spring after an attempt to overthrow the autocratic government ruled by Colonel Muammar Gaddafi. The Civilian uprising against Gaddafi was repressed by using lethal violence against the rebels. Colonel Gaddafi dehumanized the protesters as "cockroaches" [134] (as during the Rwandan genocide) and ordered his forces and supporters to kill the protesters who were rioting against the government. Violence against civilians amounted to 'crimes against humanity' since government forces used fatal military force to suppress the rebellions. Alarmed by the brutal violence inside the regime, Libya's civil society called for international support. Similarly, the African Union, Arab League and the Organization of the Islamic Conference also demanded international assistance at the regional level. [135]

Prior to the use of military force, the Security Council did try several peaceful enforcement measures such as imposing sanctions, arms embargos, travel bans, assets freeze on the dictator's family members as well as on the members of the government, referring the perpetrators to the International Criminal Court (ICC) and suspension of the regime from the Human rights Council. [136] Following the intensity of the crisis and the failure of peaceful enforcements, the Security Council adopted the Resolution 1973, which entailed the enforcement of an immediate ceasefire and no-fly zone on Libya. The Security Council also authorized the use of "all necessary means" [137] to protect the civilians at risk. Led by the United States, the UK and France, NATO took over the mission selectively supporting the rebels and intensified the civil war. With the death of Gaddafi, the mission came to an end on October 2011. Following the

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[134] "The Crisis in Libya," *International Coalition for the Responsibility to Protect*, accessed on 12 March, 2014, http://www.responsibilitytoprotect.org/index.php/crises/crisis-in-libya#initial.

[135] *Ibid.*

[136] "UNSC resolution 1973 (2011)", *United Nations*, accessed on March 17, 2011, https://www.un.org/News/Press/docs/2011/sc10200.doc.htm

[137] *Ibid.*

ousting of Gaddafi's regime, the intervening parties attempted to establish civil institutions. Accordingly, a transitional government came into power aimed at transforming the regime into a democratic system. The transitional government handed its power over to the newly elected national assembly following the elections held in July 2012.[138]

Why the Libyan intervention is considered as a success of R2P? (Positive outcomes)

Regardless of the negative outcomes of the intervention that will be discussed below, the Libyan intervention was successful in military terms under a few but crucial principles of R2P. First and foremost, the intervention met the just cause threshold, the first and the most important principles for military intervention under R2P. Escalating violence inside the Libyan territory, and the unwillingness of the regime to halt violence, evoked fears of a genocide. The leader's ruthless response to the rebels and the word that resembled the dehumanization of civilians calling them as "cockroaches" [139] foreshowed a large scale disaster ahead. Hence, taking a foresight of 'large scale loss of life' into consideration, the foreign involvement can be seen as a morally acceptable intervention. Moreover, scholars and advocates of R2P claim that the last resort under the precautionary principles was also met, since the UN Security-Council tried several other peaceful means such as arms embargos, travel bans and referring the perpetrators to the International Criminal Court. Nonetheless, the last resort principle is questionable since skeptics claim that such peaceful measures were "barely attempted", [140] and the just cause is hardly acceptable since it does not provide a justification for regime change in the country. [141]

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[138] "Libya Profile," *BBC.com*, last modified 18 March 2014, http://www.bbc.com/news/world-africa-13754897.

[139] James Pattison, "The Ethics of Humanitarian Intervention in Libya," *Ethics and International Affairs* 25, no 3, (2011): 272 doi: 10:1017/S0892679411000256.

[140] Mary Ellen O'Connell, "How to lose a Revolution," *E-International Relations*, October 03, 2011, http://www.e-ir.info/2011/10/03/how-to-lose-a-revolution/.

[141] *Ibid.*

Although the right intention is not maximized due to ulterior strategic interests, the NATO and the countries that backed the intervention attest that their prime interest was to save civilians from the Muammar Gaddafi's brutal attacks.[142] Along with the main objective of saving innocent lives, the intervention was accompanied by strong support and calls from civil society and regional organizations. According to the R2P report, such support from relevant actors does fit in to the "sub-components" [143] of right intention. Hence, a right intention criterion could be said to have been partially followed. Moreover, right authority was also present as the UN Security-Council authorized the intervention under the Resolution 1973. This was also the first military operation authorized by the UNSC under R2P. Gareth Evans, the leading supporter of R2P and the chair of the ICISS, affirmed that Libyan intervention was "working exactly as it was supposed to, with nothing else in issue but stopping and continuing imminent mass atrocity crimes".[144] Even though this sounds problematic in the light of negative outcomes of the intervention, his statement reflects how R2P sought to end an atrocity taking place.

The use of military means was the principal controversy surrounding Libya. However, as Ramesh Thakur argues, the United Nations itself is not a "pacifist organization" [145] preaching non violent means at all costs. He also argues that the United Nations implemented the collective security norm to address the atrocity in Libya, while R2P was helpful in military operations during humanitarian interventions.[146] Clearly war is atrocious, but in the case of Libya the use of military force seemed to be necessary to defeat Colonel Gaddafi and to protect civilians.

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[142] James Pattison, "The Ethics of Humanitarian Intervention in Libya," *Ethics and International Affairs* 25, no 3, (2011): 273 doi: 10:1017/S0892679411000256.

[143] ICISSS, *Responsibility to protect,* 36.

[144] James Pattison, "The Ethics of Humanitarian Intervention in Libya," *Ethics and International Affairs* 25, no 3, (2011): 277 doi: 10:1017/S0892679411000256.

[145] Ramesh Thakur, "R2P, Libya and International Politics as the Struggle for Competing Normative Architectures," *The Responsibility to Protect: 2011- E-International Relations,* September 2011,www.e-ir.info/wp-content/uploads/R2P.pdf.

[146] *Ibid.*

Although NATO went beyond the UN Charter and mandate, according to this view the use of force was justified in the case of Libya because it intended to protect civilians from harm. [147] This leads to the conclusion by James Pattison that "saving some lives is better than saving none"[148]. In fact, the success of the Libyan intervention can be said to illustrate the success of a classical humanitarian intervention that falls under the emerging norm of R2P. Despite the unauthorized regime change, the intervention has contributed to saving civilians from a mass atrocity in a state that was unwilling to take the responsibility.

Why the Libyan intervention is considered as a failure of R2P (Negative outcomes)

- *Regime change*

The intervention in Libya opened itself to criticism due to the regime change in the aftermath of the intervention. The R2P report clearly states that the overthrow of a regime is not a "legitimate objective, although disabling that regime's capacity to harm its own people may be essential".[149] However, evidently Libya underwent regime change violating the principles of R2P. It is argued that forceful regime change is more dangerous and harmful than humanitarian interventions.[150] Change in state administration risks civilian's lives and creates instability in socio economic conditions in the state. It can also lead to instability inside the state and within the region.[151] Furthermore, the intervention in Libya went beyond the R2P agenda to conduct regime change, and this directly affected R2P and the Security Council since the latter did not authorize regime change, a circumstance that has significant impact on the sovereignty of the state and at the international level. Libyan sovereignty and the principle of non-interference were thus critically violated because of the forcible regime change. This also illustrates the lack of

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[147] *Ibid.*
[148] See James Pattison, "The Ethics of Humanitarian Intervention in Libya," pg. 277
[149] ICISSS, *Responsibility to protect*, 35
[150] See James Pattison, "The Ethics of Humanitarian Intervention in Libya," pg. 273
[151] *Ibid.*

respect by interveners -- especially the US, Britain and France --, for international law. Hence, great powers taking the right to regime change in other countries under the guise of humanitarianism puts the territorial integrity and political independence of states in jeopardy.

As a consequence of Western- backed regime change, in the long-run electoral procedures under democracy that often encourages 'winner-take all' and liberal policies that can create huge income disparities may result in renewed protests and conflicts.[152] Libyans are currently facing long-term consequences of Western-driven regime change. Increased corruption, regular violence, and absence of pure democracy have destabilized the states' political system as well as civilians' socio economical conditions.[153] Even after the intervention, the country remains under the pressure of the interveners since the Western coalition helped the current authority to gain power. Therefore, Libya lacks independence, which of course provokes neo-colonialism and imperial practices due to the influence of foreign power.[154]

Moreover, it is reported that the current government is unwilling to investigate NATO's attacks on civilians.[155] This act shows the regime's dependence on the Western powers. Hence, it is very unlikely that the current regime will protect the Libyans as opposed to its good relations with the West. In the end, normal civilians have not gained as much from the humanitarian intervention. Furthermore, the regime change in Libya in the name of humanitarianism has reduced the credibility of the intervention and its legitimacy will continue to be questioned. In

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[152] Terry Nardin, "From Right to Intervene to Duty to Protect: Michael Walzer on Humanitarian Intervention," *European Journal of International Law* 24,no 1 (2013): 78, doi: 10.1093/ejil/chs085.

[153] Peter Beaumont, "One Year on: chaotic Libya reveals the perils of humanitarian intervention," *The Gurdian.com*, February 19, 2012, http://www.theguardian.com/commentisfree/2012/feb/19/peter-beaumont-libya-intervention-gaddafi.

[154] David Gibbs, "Libya and the New Warmongering," *Foreign Policy in Focus*, January 12, 2012, http://fpif.org/libya_and_the_new_warmongering/.

[155] C.J Chivers and Eric Schmitt, "In Strikes on Libya by NATO, an Unspoken Civilian Toll," *The New York Times,* December 17, 2011, http://www.nytimes.com/2011/12/18/world/africa/scores-of-unintended-casualties-in-nato-war-in-libya.html?pagewanted=all&_r=0.

this context, Libya exemplifies how easily mandates can be manipulated and international norms violated in order to achieve the political and economical interests of influential states.

• *Use of lethal military force and the human cost of war*

As mentioned earlier in the chapter, a military response results in a large number of causalities. Military intervention generates an insecure environment especially for civilians and as seen in Libya, the NATO led military response was problematic. During targeted killings, NATO air strikes killed and injured dozens of civilians and NATO is unwilling to address such causalities.[156] Also, while Libyans were unaware and being killed from bombs and missiles, the Western governments took preventive measures to protect their citizens by evacuating them before the war.[157] The Western states who led the war knew that people on ground were in danger, but did not take sufficient measures to protect the Libyans on ground. These selective preventive measures and the lack of accountability illustrate the imperial practices of the Western powers in Libyan context.

The whole idea of R2P is to save human lives including the foreigners on the ground. However, the Libyan intervention shows that theory is only related to practice in terms of justification. In fact, the ideal of a 'responsibility to protect' is often practiced as 'right to intervene' in small states. As the military intervention was not able to maximize civilian security and indeed intensified the human sufferings, it can be said that the intervention failed to attain its human protection objective. In its place, Western-backed military capacity was used to attain political and economical interests of the coalition. Intervention is indeed crucial and necessary; however, if intervention is contributing to instability and exceeds its mandate, it is very problematic.

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[156] *Ibid.*

[157] Asli U Bali and Ziad Abu- Rish, "The drawbacks of intervention in Libya," *Al Jazeera*, last modified: March 20, 2011, http://www.aljazeera.com/indepth/opinion/2011/03/201132093458329910.html.

- *Hidden motives behind the intervention*

Strategic and economic interests cannot be considered as a 'right intention' to intervene in another state, even for humanitarian purposes. However, such actions are justified with reference to R2P and Libya is a notable example for this. NATO's intervention in Libya exemplifies the political realities concealed under the humanitarian umbrella. The Western coalition, the US, the UK and France, was deeply in favor of the intervention in Libya since the intervention was strategically useful for economic and political gains. On economic terms, the oil market and stability was a priority.[158] It is also reported that arms companies based in Europe benefitted from the intervention owing to the arms deal behind the military intervention.[159] In fact, the war in Libya was good business for the interveners. Moreover, the Libyan intervention demonstrates Western policies' anomaly and their high inclination on self-interests.[160] Politically, several issues illustrate the strategic benefits and self-interests following the intervention. The military coalition under NATO, particularly the United States, focused on spreading US hegemony in the region and double standard bilateral political deals with Saudi Arabia have shown the perils of an imperialist intervention. [161] [162] Furthermore, the US was strongly supporting the intervention in Libya claiming that Washington was deeply concerned about the people in Libya, whereas the US is continuously ignoring humanitarian issues in the Gaza strip.[163]

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[158] *Ibid.*

[159] Paul Rogers, "Libya: victory, tragedy and Legacy," *Open Democracy*, 3 November 2011, www.opendemocracy.net/paul-rogers/libya-victory-tragedy-legacy.

[160] See James Pattison, "The Ethics of Humanitarian Intervention in Libya," pg. 276.

[161] Asli U Bali and Ziad Abu- Rish, "The drawbacks of intervention in Libya," *Al Jazeera*, last modified: March 20, 2011, http://www.aljazeera.com/indepth/opinion/2011/03/201132093458329910.html.

[162] Marjorie Cohn, "Responsibility to Protect- The cases of Libya and Ivory Coast," *global research.org* , May 16, 2011, http://www.globalresearch.ca/the-responsibility-to-protect-the-cases-of-libya-and-ivory-coast/24799.

[163] *Ibid.*

Taken as a whole, both economic and political interests of the war makers exemplify the promotion of militarism which destabilize the regional and international security harming the international law, as well as state sovereignty. The political purpose of the intervention in Libya was also hidden behind R2P, a prominent corollary to humanitarianism. Hence, the hidden strategic, economical and self-interests behind the coalition's intervention shows how R2P serves as an imperialist agenda to the powerful nations to attain their self interests. The overlapping self interests and humanitarian intervention are morally problematic. Hence, the Libyan intervention does not fall under the 'right intention' given the ulterior motives behind the invasion. In fact, humanitarian interventions are similar to foreign aid which comes with strings attached. Nonetheless, humanitarianism can be said to be more dangerous than financial aid due to the military might and hidden political motives of the powerful nations. Therefore, how we can respond to humanitarian crises still remain unanswered; however, I will look in to a possible recommendation at the end of the thesis.

Conclusion

In sum, Libya illustrates the dangerous application of R2P. Considering the fact that the NATO intervention clearly went beyond R2P principles and due to the large number of human causalities, the intervention is not considered by some as an application of R2P. However, supporters of R2P and humanitarian intervention still try to justify the intervention with reference to R2P.It is considered as the first R2P operation applied against a state when the state was unwilling to protect civilians. Following the R2P norm, the international community -- predominantly the Western powers -- took over the responsibility to protect the people on ground. However, their way of putting R2P into practice was not solely for humanitarian purposes. In fact, for them war (humanitarian war) was a special mechanism to gain power and

influence. "War and balance of power stand together or perhaps, fall together,"[164] and these powerful states used the war in Libya to balance their power in political and economic conditions.

Thus, militarism and humanitarianism have become a prevailing tendency to balance the power of the most influential states. In the case of Libya, the US, the UK and France used the tactic of "arms racing"[165] and political "alliance"[166] to regain the political and military influence, thus illustrating their imperialistic inclinations. Undoubtedly, the increasing tendency of mixing militarism with humanitarian intervention, particularly R2P, in pursuit of self-interests will hamper international norms. While R2P challenges the concept of sovereignty, the harmful application of R2P will eventually challenge the principle of R2P. Hence, it is dangerous to mix great powers states' interests with the idea of R2P.

Conclusion

Sovereignty is inviolable in international affairs, yet at the same time humanitarian intervention is necessary when sovereign states are reluctant to save their populations. R2P advocates a responsible conception of sovereignty by recognizing states' duties to their citizens. In effect, a state has the primary responsibility to protect its civilians, but when the state fails to do so, R2P permits humanitarian intervention by assigning the responsibility to the international community. However, despite the laudable intentions rooted in the R2P principle, it has been criticized on the basis of the importance and the respect for territorial integrity. The central question to my thesis has been whether the idea of R2P re-conceptualizes state sovereignty. To

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[164] Chris Brown and Kirsten Ainley, *Understanding International Relations* (Hampshire and New York: Palgrave Macmillan Publishers, 2009*)*,107

[165] *Id.* at 109

[166] *Id.* at 109

address this question I have looked at the discrepancy between the theory and the practice of R2P. This concluding chapter will refer back to Kofi Annan's question mentioned in the introductory chapter on how to respond to humanitarian crises while balancing sovereignty and human rights, and will outline my concluding thoughts, making the point that R2P can indeed be applied justly rather than in an imperialistic manner.

Undoubtedly, sovereignty is an important principle in international relations. I do not deny the fact that territorial integrity is inviolable as it is fundamental to international relations. However, compared to the reality of suffering people, abstract territorial boundaries and sovereign norms are less significant. Certainly, sovereignty should no longer imply that a state can practice absolute authority harming its own population. Given the horrendous atrocities including genocides and civil wars during the recent decades, R2P identifies this idea and adopts a moral as well as a legal agenda to persuade states and international actors to be responsible for their acts. The concept of 'sovereignty as responsibility' which was initially formulated to protect the internally displaced populations was integrated into R2P to protect everybody without limiting the protection to internally displaced people. As mentioned previously, the idea of 'sovereignty as responsibility' is not limited to a government's accountability to their people, but it also applies to the international community. Hence, by integrating this idea of responsible sovereignty, R2P facilitates the sharing of the responsibility to protect people at the domestic as well as international levels. It obligates the international community to take necessary action when states abandon their responsibility. Moreover, R2P has strengthened international relations lately, since R2P codifies moral values and ethical dimensions into international law and aims to uphold human rights providing a diplomatic forum to debate about humanitarian issues.

In Kenya, the idea of R2P enabled the international community to take decisive diplomatic action to mitigate escalating violence inside the country. The Kenyan case

exemplifies how R2P was actualized during a failure of the state to take appropriate measures to protect its own people. It is also worth pointing out how the diplomatic negotiations and international efforts worked in the context of Kenya. Diplomatic negotiations there were less harmful to civilians compared to the military intervention in Libya. Hence, the application of R2P in Kenya suggests that the ideal of R2P can indeed have positive outcomes through peaceful settlements, by keeping military response as a last resort. It would not have been possible to achieve the humanitarian objectives in Kenya without the norm of R2P. Moreover, R2P embracing the idea of sovereignty as responsibility could make international interventions legal and morally acceptable. In my opinion, R2P re-conceptualizes the idea of sovereignty to the extent that it recognizes the duty of sovereign states towards their citizens. In fact, considering the fundamentals of R2P such as sovereignty as responsibility, moral values, humanitarianism and multilateral diplomacy, it is apparent that the R2P norm is credible as well as logical in theory. However, the application of R2P has often fallen short of the expectations--it could have been laudable if it had been applied according to the standards of the concept.

In contrast to the Kenyan example, as seen in the preceding chapter and the case study on Libya, the application of R2P does not always fulfill the humanitarian impulse embedded in the concept. Regardless of the positive aspects of the R2P ideal, the application has often turned out to be imperialistic and used as a tool to promote militarism and the self interests of powerful states.R2P can also lead to the collateral damage of war and to other unintended consequences (such as provoking rebellions) that put civilians at risk . In fact, based on the case of Libya and other examples such as Haiti and Russia in Georgia, I foresee that the members of the P-5 and other powerful nations will often advocate military responses and political interference under the guise of R2P. Moreover, the repeated involvement of NATO in humanitarian operations can endanger civilians. In the long run, and tragically, this might make R2P less credible due to

actions like regime change going beyond the mandate. These cases illustrate how R2P is being misused by powerful nations and their allies for their political and economic interests.

Indeed, the invocation of R2P has not always proved to be a balanced solution for addressing humanitarian crises. Instead, it has contributed to propagate double standards, spreading Western political influence and militarism under the disguise of humanitarianism. Looking at these empirical examples from a moral perspective, the application has often been unethical given the negative consequences of interventions. Recent foreign humanitarian interventions under the norm of R2P have often infringed upon sovereignty by misinterpreting the idea of 'sovereignty as responsibility' as a 'right to intervene in weak states' affairs. Hence, although territorial integrity is an abstract principle, it remains a powerful weapon which protects weak states from powerful states. However, it has been critically undermined and damaged by R2P. Although I claimed that territorial boundaries are less significant compared to saving human lives, territorial integrity should not be infringed upon in the disguise of humanitarianism to attain other the hidden motives of powerful nations. Sovereignty ensures international order and stability; if this core norm is violated, the anarchy of the international order will increase. Therefore, foreign humanitarian interventions should carefully consider the cost of violating territorial integrity and should refrain from misinterpreting the responsibility to protect as a right to intervene.

As mentioned above, R2P's expansion of sovereignty to recognize the obligations to save civilians has often been misused and abused. It is used as an instrument to influence political power, democratic norms as well as liberal policies. I thus find that the concept of 'sovereignty as responsibility' is used as a 'right to intervene' into other territories by powerful states. Therefore, I recognize that the idea of sovereignty as responsibility has been misinterpreted often in its application where powerful states have geo-political and economical interests. Moreover, it

is also evident that the idea of responsibility to protect is missing in some contexts due to the political disputes as seen in Iraq and the Gaza strip. Therefore, it is difficult to state that the responsibility to protect principle is applied universally. The recent application of R2P is not closely related to its ideal, but rather it deviates from it and is used as a tool to intrude in other states' affairs.

Eventually, what remains unresolved is how to approach the problem of balancing sovereignty and humanitarian intervention. It remains unresolved because there is no precise approach that could balance the idea of sovereignty and intervention. Although I cannot provide a solution to the problem in this thesis, my research has implications for an application of just war theory and the just-sanction doctrine in humanitarian intervention. In this context, the Just war theory and the just-sanction doctrine provide a useful and less controversial framework to humanitarian intervention. Hypothetically, humanitarian wars are fought to alleviate human sufferings and sanctions are imposed to punish the atrocities by regimes and leaders, but in effect, both these measures aggravate human sufferings. If humanitarian wars are fought to balance political power and other strategic reasons, they are morally impermissible and the same applies to sanctions. Actions that are taken to alleviate human sufferings do not necessarily alleviate the burden of people who are trapped in war zones. Although these two measures do not contribute entirely to alleviate human sufferings, one fair approach could be applying the 'just war' tradition to humanitarian wars and just-sanctions doctrine while imposing sanctions.

With reference to humanitarian wars, the 'just war' tradition attributes for protection of vulnerable civilians at risk, acting against particular acts that are considered to be wrong and punishing perpetrators. Furthermore, the just-sanction doctrine aims to protect vulnerable people

from economic hardships, only targeting the perpetrators. [167] By and large, both just war theory and just-sanction doctrine aim to limit innocent civilians' sufferings. Hence, the application of just war theory to humanitarian wars and the just-sanction doctrine can lessen the impact of humanitarian intervention on civilians. Even though several theories from the just war tradition are already embraced in the R2P principle, they are deficient in their application. Although it is beyond the scope of this thesis to examine the just war theory and how its contribution can make R2P more effective, I look forward to conducting further research on this subject in the future.

In conclusion, looking back to the question of former Secretary General Kofi Annan about how to respond to these crises, doing so would be difficult if ethical motivations are missing. Although R2P is formulated to balance the problem of sovereignty with intervention, the application is often unjust and imbalanced. Thus, only if genuine humanitarian motivations exist, rather than ulterior strategic political and economic motives, the application of R2P can be close to the ideal and thus laudable. This of course requires a great effort and a commitment from powerful states which raises the question of whether it is realistic. It is commonly said that actions speak louder than words and this remains true in international relations as well as in the application of R2P. The repeated misuse of R2P in practice has lessened the credibility of the concept of R2P, for its merit lies in actions more than in theory.

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[167] Mark R. Amstutz, *International Ethics, Conceptions, Theories, and cases in Global politics* (New York: Rowman and Littlefield Publishers, 2008),186

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