Responsibility to Protect vs sovereignty: humanitarian intervention in the 21st century

ICRP BUDAPEST

Responsibility to Protect vs sovereignty: humanitarian intervention in the 21st century

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Content

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The Institute for Cultural Relations Policy has dedicated its efforts these last years to the depiction, analysis and interpretation of current trends and important events in the sphere of international politics, often putting a certain emphasis on subjects concerning human rights. A special product of these efforts are the volumes belonging to the Human Rights Issues Series, of which the seventh present volume entitled "Sovereignty vs Responsibility to Protect: Humanitarian Intervention in the 21st century" is currently available for any reader wishing to delve into the matter.

Norms of sovereignty have long been a core principle of international society, often serving a regulatory purpose and defining the way we perceive international order. According to these norms, the sovereign states, traditionally taken to be the main actors of international politics, are all considered to be formally equal. The relations among them are based on mutual recognition of their sovereignty over a defined territory and the population attached to it, while non-intervention in the domestic affairs of any recognised state is considered fundamental. However, this traditional perspective towards sovereignty is increasingly challenged by an alternative, more human-centric approach that does not deal with sovereignty in absolute terms but places human rights at the centre of attention. This current trend in both international relations theory and practice would become evident early in the Post-Cold War era when in 1992 United Nations' Secretary-General Boutros-Ghali would state in his report An Agenda for Peace that "[t]he time of absolute and exclusive sovereignty […] has passed; its theory was never matched by reality". In the

years that followed, the mass atrocities and violations of human rights in the interior of many states, as well as the inability of the United Nations for substantial intervention capable of changing the course of events, would make clear that the norms of non-intervention would need to be re-evaluated. This re-evaluation would come in the form of The Responsibility to Protect report, first produced by the International Commission on Intervention and State Sovereignty in 2001 and later endorsed by all members of the United Nations in the 2005 World Summit. The new interpretation of the concept of sovereignty, according to the report, entails a responsibility of all states towards their population – a responsibility concerning their wellbeing and their protection from any form of human rights violations. But most importantly, a responsibility that comes in the form of an obligation, since if any state fails to uphold its duty towards its citizens, the international community will have the right to take on the role of the protector and intervene in the failing state's interior.

Although the Responsibility to Protect report was initially praised by the majority of the states' representatives, one should not look past its weaknesses and the many questions it raises. The practical implementation of its principles did not always meet with success, hence the critical voices tend to increase in number. The purpose of the present Human Rights Issues volume is to delineate a thorough picture of the current situation regarding the Responsibility to Protect initiative, considering its roots and analysing its development, application and influence throughout the years. With this objective as a compass, the first part is dedicated to the

theoretical framework and history of the initiative, while the second part is a valuable collection of case studies assessing the actual success of the most important humanitarian/military intervention efforts made in the name of the Responsibility to Protect principle. Each text is designed, produced and placed following the general narrative of the volume, but can also be read and studied individually according to the needs of the reader.

As a part of the editorial team I would like to thank everyone that made the publication of this volume possible with his or her effort and contribution. I am happy to have worked with people of different nationalities, different academic backgrounds and most importantly various different perspectives on international affairs; a variety that is most evidently reflected in the writings that follow. Lastly, special thanks should be given to Marco Clementi and Christos Ziogas, whose contribution constitutes the third part of the volume – the first, associate professor of International Relations in the University of Pavia, for his interview covering the case of Libya, and the second, post-doctorate researcher in International Relations, currently teaching in Panteion University and the Hellenic Army Academy, for his insights regarding humanitarian intervention and international order.

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The concept of sovereignty, although contested and as history shows many times violated in its empirical manifestations, has shaped the political organisation of modern societies like few others. Its influence and applications can be spotted almost everywhere; from the source of the authority bestowed upon the states' police forces, to a political map in a classroom dividing colourfully but strictly the world's states. At the same time, it is one of the most important normative pillars supporting the institutions created by the international community. The various elements that point towards this unique concept, however, prove at the same time its multidimensionality and complexity. The purpose of the present article is to offer a brief delineation of the concept, dealing mainly with its normative, rather than its international law, aspects. It begins with an analysis of its most widely accepted definition, continuing with a selective presentation of the historical and theoretical landmarks that shaped the notion as we understand it today, and finally making an assessment about its current application and the challenges it faces.

Defining sovereignty

In an attempt to delineate the concept of sovereignty one would soon find out that most definitions describe it as "a supreme authority within a territory".[1] Although its meaning has undergone various changes throughout history, the aforementioned definition reflects both the core idea behind the term sovereignty at the time of its conception in early modernity, as well as to a certain extent, the way it has been perceived till today. To better comprehend what the term sovereignty entails, each of the components of the above definition - the attribute *supreme*, the nature

of *authority* in question and the concept of *territoriality* – shall be examined. But before that, it is equally important to reflect on the prerequisite political conditions for the development of such a notion.

Sovereignty is strongly linked with a distinctive political institution – the state – a form of political organisation that most societies develop at a particular stage of their evolution. In a stateless society that lacks a separated from the community centralised government, it is impossible for the notion of sovereignty to appear. The will and the customs of the community prevail, and authority relies more on moral and psychological coercion rather than organised force.[2] It is the division that is created once a society is ruled by means of the state, the division between the political community and the institution of government (which holds thereafter the political power to rule) that gives birth to questions regarding the final authority.

Although the rise of state forms is a necessary condition for the notion of sovereignty, it is not a sufficient one. State forms had emerged long before the conception of the term. As F. H. Hinsley writes in order to better understand sovereignty a distinction has to be made between the first appearances of the state as a distinctive institution and, on the other hand, the state's ability to exercise effective, legitimate and recognised by the community authority. He mentions that although the emergence of the state can be an important fact in itself, the state cannot rule effectively until its forms and outlook are not only recognised but also welcomed by the community in some degree – "and have been modified by the community to some extent."[3]

This last remark of Hinsley brings us to the first component of sovereignty's definition under examination – authority. Writing about authority Daniel Philpott differentiates it from mere coercive

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[1] Philpott, D., 2013.
[2] Hinsley, F.H., 1986, pp.1–26.
[3] Ibid, p.21.

power, since authority entails a *right* to act accordingly. Quoting philosopher R. P. Wolff, he describes authority as "the right to command and correlatively the right to be obeyed". Therefore, authority (in our case, that of a sovereign) is believed to serve the common good of the society since it is based on a mutually acknowledged source of legitimacy; whether that be natural law, a constitution or a divine mandate.[4]

However, power and authority, as Hinsley writes, are facts as old and ubiquitous as society itself. Sovereignty on the contrary is not a fact. It is a theory or assumptions about authority constructed and applied by men under certain circumstances, offering a legitimate base for action. It is "a quality they have attributed or a claim they have counterposed […] to the political power which they or other men were exercising."[5] And the main characteristic of this attributed quality is that the authority of a sovereign is considered to be *supreme*. By being supreme, it is superior to all other competing authorities within a specific realm. It is also ultimate in the sense that it is the highest in a hierarchy of authorities, and final since there is no further appeal once the sovereign has come to a decision.[6] In the words of Hinsley "the idea of sovereignty was the idea that there is a final and absolute authority in the political community […] and no final and absolute authority exists elsewhere."[7]

Now, having a better understanding of the nature of the authority the concept of sovereignty entails, one's attention should be given to the last component of the aforementioned definition, *territoriality*. What is fundamental to be mentioned at this point is that the absolute authority suggested by the term sovereignty is attached to a specific geographical territory. "Sovereignty invokes the creation of a political space, where effective decisions can be made over a circumscribed territory."[8] Furthermore, since by its own definition authority is meant to be exercised over a subject, territoriality in the case of sovereignty defines the quality by which the members of a political community are subject to the supreme authority of the sovereign - their location within a specific territory. As a principle, Philpott notes, territoriality is very powerful, defining membership in a way that may not correspond with a particular identity since the borders of a sovereign state may encompass several different religious or ethnic groups. "It is rather by simple virtue of their location within geographic borders that people belong to a state and fall under the authority of its ruler."[9]

"Supreme authority within a territory" – simple as it may seem sovereignty is a multidimensional concept. The main idea evolved through the years, influencing first the political organisation of the western societies, and later forging the structure of the contemporary international system in its entirety. It would be impossible for the development and outcomes of the concept to be fully understood outside a historical context. Hence, a selective theoretical framework of the notion is at hand; one that takes into consideration its history, roots, and evolution since its appearance in political thought in early modernity.

Towards a world of sovereign states

The prerequisite conditions for the conceptualisation of sovereignty mentioned in the first part were met to a great extent in Europe at the time of early modernity. During late medieval times the political entities in Europe were still characterised by a decentralised political system, based mainly on feudalism's military and legal customs. But feudalism gradually gave its place to a new form of political organisation whose main attribute was an increasingly centralised government. The historical events of the period, along with the retreat of the customary society and the direct influence of the Catholic Church, as well as the many challenges posed to segmentary political entities such as the Holly Roman Empire, resulted in the rise of the early modern states, whose main

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[4] Philpott, D., 2013.
[5] Hinsley, F.H., 1986, p.1.
[6] Morris, C.W., 1998, pp.172–227.
[7] Hinsley, F.H., 1986, p.21.
[8] Moggach, D., 1999, p.174.
[9] Philpott, D., 2013.

characteristics were territoriality and exclusivity of rule.[10]

It is at this historical period, marked by the amalgam of political turbulences caused by the ongoing disputes and counterposed claims among powerful monarchs, city republics, feudalistic remnants and the Church, fuelled even more by the social and political consequences of the 16th century's Reformation, that the intellectual roots of the modern concept of sovereignty can be traced. It would be untrue to say that similar concepts describing power relations in an organised political society did not exist before. For example, the view considering the Roman emperor as *legibus solutes* (above the law), an undisputed and ultimate source of jurisdiction, could be said to be a direct antecedent of the modern notion of sovereignty.[11]

Like most of the times new political concepts are not an invention *ex nihilo* but a construction reflecting the historical development of the respective societies, and taking into account both past and contemporary conditions. Roman law and tradition undoubtedly played a key role in the political evolution of European societies. But it was indeed the challenges appearing in a Europe plunged into political instability that pushed the thinkers of the time to raise questions about final authority, what that implies and where it lies, thus forming gradually the modern concept of sovereignty as a solution of peace and balance inside and among the emerging states.

Many scholars consider the Peace of Westphalia, signed in 1648, to be the historical landmark signalling the beginning of a world of sovereign states. The end of the Thirty Years War would see the authority of the Holly Roman Emperor and the Pope curtailed in favour of newly emerged states (such as the Dutch Republic) as well as pre-existing states or principalities whose right in independent governance was recognised to a much greater extent.[12] In the new international system that would gradually emerge over the next centuries, one, and only one, political authority – the "state" – would have the right to exercise absolute sovereignty over a predetermined territory. Normatively speaking, no other authority, higher or external, could violate or intervene in its sovereign right. However, although ground-breaking and innovative in many ways, the treaty of Westphalia could not but reflect political processes and a modern way to perceive politics that had already made their appearance some centuries back.

Elements of what would later constitute a great part of the notion of sovereignty are met in the work of the Florentine statesman and philosopher Niccolò Machiavelli (1469–1527). In his book *The Prince*, Machiavelli, reflecting upon the political reality of Renaissance Italy (divided at the time into several city states), suggested the way a prince should act to secure the survival, order and wellbeing of his state. The prince would have to be prepared "not to be good", and proceed to actions that would may be perceived as evil in order to serve the interest of the state. Always acting on the principle of *raison d'etat,* the prince, in order to be effective, should have supreme authority within his realm and was not to be bound by any law, norm or custom.[13]

Equally catalytic towards the conception of sovereignty, but from a totally different angle was the theology of Martin Luther (Philpot). The ideas of the Protestant Reformation establishing the dividing line between the "realm of the spirit" and "the realm of the world" would strip the Catholic Church from its temporal powers and arbitrary role in European politics. Princes and monarchs would no longer be answerable to the will of the Pope, being thus the main responsible for the governance of their domain.[14]

However, it was not until 1576 and the publication of Jean Bodin's work *Les six livres de la Républiqure,* that the term sovereignty was coined and analysed in depth. Bodin saw in his newly composed concept the remedy that the segmented state of France needed in order to put an end to the destructive civil war between the Huguenots and the Roman Catholic French monarchy.[15] This long lasting rivalry, products of which were events like

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[10] Morris, C.W., 1998.
[11] Moggach, D., 1999, p.176.
[12] Philpott, D., 2010.
[13] Philpott, D., 2013.
[14] Ibid.
[15] Andrew, E., 2011.

Saint Bartholomew's Day Massacre in 1572, could only be solved by a supreme unrestricted ruling power that would be no subject to any external human law or authority, legally established as well as recognised and accepted by those ruled; although (unlike Machiavelli's view) bound by natural and divine law so as to serve the public interest and be distinguished by any form of negative absolutism.[16] A sovereign power that would transform France's fractured community into a unitary body politic.

Over the next century the torch was passed to another important scholar who would also consider the notion of sovereignty as the key to a well ordered and functional state. Thomas Hobbes, similarly to Bodin, experiencing the destructive results of civil war in England, portrayed the state as a massive creature, the Leviathan, to whom its citizens should transfer all their rights in the form of an abstract contract in order to secure their wellbeing. The Leviathan's authority and power, held by the sovereign monarch, would reign supreme by not being subject to any law, constitution or external interference.[17]

The concept of sovereignty continued to be extensively examined in the revolutionary age of Enlightenment. Jean Jacque Rousseau's perception of the notion, however, would differ greatly from the one of his predecessors on the basis of who is ought to be the sovereign. Dealing with the Hobbesian sovereign monarchy as a form of enslavement, Rousseau would consider the general will of the collective people within a state as the source of sovereignty, a will finding its expression in the laws and the constitution.[18] This notion of popular sovereignty, particularly enhanced by 19th century's nationalism, would be embraced later as the most legitimate, prevailing in most parts of the world up to this day.

As this selective history of the concept shows, traditionally sovereignty was understood as the prerequisite and base of internal (domestic control) and external (non-intervention) order. Throughout the past, innovative theoretical perspectives influenced its various implementations, while vice versa, historical events revealed the need for the adaptation of the notion to an evolving reality. While once a single man (a prince, a king or a monarch) was entitled as sovereign, the term was later attributed to an abstract holistic view of the state, to finally describe, in a more democratic view, the "will of the people". The political ideas and the institutions that sprung in Europe during the last three centuries found their way through colonialism to the rest of the globe. With the fall of European colonial empires in the second half of the 20th century and the independence of the ex-colonial states, the modern sovereign nation-state would become the primal recognised form of political organisation worldwide.

Current perspectives on sovereignty: practical challenges and limits

Today, norms of sovereignty are considered a fundamental principle of international relations. The driving mechanisms of the international community – diplomacy, intergovernmental organisations and institutions – are all regulated by these norms. As stated in Article 2 paragraph 1 of the UN Charter, this most important organisation and prestigious forum of diplomacy is "based on the principle of the sovereign equality of all its members". The aforementioned declaration reflects the idea that the sovereign state:

"is free to manage its internal and external affairs according to its own discretion, in so far as it is not limited by treaty or [...] common international law. The individual state has the right to give itself any constitution it pleases, to enact whatever laws it wishes regardless of their effect upon its own citizens, and to choose any system of administration. It is free to have whatever kind of military establishment it deems necessary for the purposes of its foreign policy which, in turn, it is free to determine as it sees fit."[19]

However, describing sovereignty in absolute terms could be misleading as the challenges its empirical manifestations face in the reality of international

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[16] Hinsley, F.H., 1986, pp.121–125.
[17] Philpott, D., 2013.
[18] Ibid.
[19] Morgenthau, H.J., 1948, pp. 245–246.

politics are many. Today, we can talk about various types of sovereignty, all deriving from the same traditional core notion, allowing us though to examine the concept through different perspectives. Following Stephen Krasner's conceptualisation of sovereignty, we may talk about four different ways to perceive it in the world of politics: international legal sovereignty, Westphalian sovereignty, domestic sovereignty and interdependence sovereignty.[20] Speaking about the international legal sovereignty one refers to the practices associated with mutual recognition among territorial entities that have formal juridical independence. Westphalian sovereignty, on the other hand, refers to the exclusion of external actors in domestic political affairs. Continuing, the term domestic sovereignty is used to refer to the organisation of political authority within the state and the ability of its mechanisms to exercise effective control within its borders; while interdependence sovereignty refers to the ability of the state's authorities to control and regulate movement across its borders, whether this refers to people, ideas, information or capital. As Krasner points out, despite the absolute nature of the notion, the four aspects of sovereignty do not necessarily covary, since a state can have one or more, but lack the others. Describing sovereignty as "organised hypocrisy" he stresses the fact that, although it is a norm universally recognised, at the same time it is widely violated. A closer look at the different manifestations of the concept may give away their practically blurry limits.

A sovereign state, consisting of a defined territory, a population and a seemingly functional government, emerges once a great number of the already existing sovereign states recognise it as such, inviting it thus to their club. However, in reality, this reciprocal process granting international legal sovereignty does not necessarily come with or is able itself to guarantee other types of sovereignty. For example, many Sub-Saharan states exist under a constant crisis in their interior, never having succeeded to establish actual domestic sovereignty in order to be functional. Westphalian sovereignty is also very commonly violated, since powerful states do not hesitate to use coercion or imposition towards weaker states as a form of foreign policy. Moreover, some scholars notice that interdependence sovereignty is tested greatly by globalisation, NGO's, the global market, technology and global communication networks, since the capacity of the individual state for economic and information management is shrinking.

To these challenges that the different aspects of sovereignty face another has been added lately, this time by the international community itself in its continuous effort to introduce alternative principles and norms to be encompassed or imposed worldwide, more prominent being the protection of human and minority rights. A number of conventions, treaties and covenants that followed the horrors of the two World Wars brought the issue into the spotlight, and gradually the universal obligations deriving from this effort, reflecting the growing normative consensus that states are obliged to respect human rights, would come to enjoy ever stronger legal status in the international scene.[21]

However, despite these efforts that lacked predominantly adequate juridical procedures and enforcement mechanisms in case of violations, sovereignty as a highly valued norm remained mostly intact maintaining its traditional essence, since matters of internal affairs continued to belong almost exclusively (at least on paper) in the domain and jurisdiction of each state. This changed drastically after the end of the Cold War, when during a long period of political instability, international organisations (e.g. UN, NATO) and major powers (notably USA) advocated for political and military action to protect from, ensure avoidance or punish injustice and violations of human rights inside a foreign territory. Notable demonstrations of this practice are e.g. the international coalition that fought against Iraq in the Gulf War, the interventions in Yugoslavia during and after its dissolution, as well as the interventions in Rwanda caused by the genocide against the Tutsi and the invasion of Iraq in 2003 during the War on Terror.

Even if most interventions have doubtful results and others, such us the 2003 invasion in Iraq, did

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[20] Krasner, S.D., 1999, pp.3–5.
[21] Philpott, D., 2013.

not actually succeed in eliciting broad endorsement by the international community or the UN Security Council, the whole concept of sovereignty seems to undergo a substantial revision since the 1990s. New tendencies in international relations theory and practice have stopped treating sovereignty only as an absolute and unquestionable element of the international system serving an orderly purpose, but instead have adopted a new perspective of conditional sovereignty, meaning that sovereignty is "contingent upon states fulfilling certain domestic and international obligations."[22] The UN, seeking to establish a framework of internationally sanctioned humanitarian intervention, has taken action towards this new reality as it can be seen by the adoption of the Responsibility to Protect manifesto. According to this document, which since the 2005 World Summit has been endorsed by all members of the UN, a state's sovereignty entails a responsibility to protect its population from mass atrocity crimes and human rights violations, an obligation that in case it fails to accomplish, outsiders may assume in order to ensure the protection of its citizens.[23] However, the products of this last revision remain ambiguous up to this day. The legitimacy of any called humanitarian/military intervention can be stated to be dubious most of the times, while many see these actions as another card strong states could play in the pursuit of their own national interest. As new normative rules are set out, the implications in international order could not but be inevitable.

Conclusion

This article begun by displaying the prerequisites for the conceptualisation of sovereignty and then proceeded to a brief analysis of the main components of its definition – "supreme authority within a territory". By presenting the highlights of the concept's evolution through modern history, an attempt was made to connect the classical theoretical perspectives on sovereignty since the time it was coined, to the current ones, with the purpose of showing the continuity, adaptation and strong influence of the concept. Lastly, avoiding dealing with sovereignty as an unquestionable and absolute reality in the international system, the many empirical and normative challenges it faces were pointed out. Considering the above, one would wonder if the concept of sovereignty is collapsing under the weight of the many practical limitations and current alternative normative tendencies in international relations. It is undoubtedly challenged, but it would be wrong to haste and speak about the end of sovereign states. Empirically speaking, as history shows the concept in practice has had many constrictions and has been regularly violated in all its manifestations, thus rarely reaching its absolute form of uncontested, all powerful authority within a territory suggested by the classical thinkers. Nevertheless, the same concept gave birth to the modern international system, and sovereignty still defines to a great extent the way we perceive international order. The real influence of the notion lies on the fact that states and their citizens continue (and as it seems they will continue for a long time in the future) to behave as sovereign, protecting this right of autonomy at all costs when it is (or considered to be) in their interest. The last revision of the concept, "from sovereignty as control to sovereignty as responsibility in both internal functions and external duties", is indeed a significant turn, but not an adequate one to wholly discard the traditional approach to sovereignty. This new perspective has already raised a number of important questions and doubts. Among them most prominent are questions regarding the actual point at which a state's disrespect or violation of its responsibilities makes a foreign military intervention legitimate, as well as which

[22] Etzioni, A., 2016, pp.5–20.
[23] Philpott, D., 2013.

authority is to determine that this point has been reached;[24] questions that should be clearly, sufficiently and convincingly answered if such deeply rooted norms of international relations are to be gradually altered.

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[24] Etzioni, A., 2016.

1991–2005: FIFTEEN YEARS OF HUMANITARIAN CRISIS. WHAT LED TO THE RESPONSIBILITY TO PROTECT INITIATIVE

Marta Perrone

With the end of the Cold War era in the early 1990s, the international environment experienced the beginning of a drastic transformation characterised by a new, wide set of challenges. One of the most remarkable changes that occurred during this epoch was the passage from a scenario in which inter-state wars were the most common type of conflict to the sudden predominance of intra-state struggles. This radical shift laid the foundations for one of the most critical situations with which the international arena had to start to cope with from that moment on: avoiding the outbreak of such conflicts and, where this turned out to be impossible, limiting their destructive effects to effectively *save succeeding generations from the scourge of war.[1]*

This shift from the predominance of inter-state conflicts to that of intra-state crises was accompanied by the gradual emergence of a brand-new principle labelled with the term *Responsibility to Protect.* In short, this concept refers to the duty that each state does have to protect its own population from gross human rights violations and, in case of unwillingness or inability to comply with this task from its part, the international community is allowed to intervene within the borders of the state in question to protect its population form such violations.

The development of this axiom was a necessary – and somehow *predictable* – consequence of the intra-state atrocities that have characterised the mid-1990s: in particular, the case of Rwanda in 1994 and that of Bosnia and Herzegovina one year later shook the conscience of the international community so powerfully that, by the beginning of the new millennium, not only did the Responsibility to Protect principle take shape, but it was also converted into one of the main issues

discussed and considered at the international level. That said, it is important to stress on the fact that the emergence of the concept of Responsibility to Protect has not been a spontaneous, immediate phenomenon but, rather, it has been the outcome of a relatively long process: in fact, it can be argued that this principle actually took shape both thanks to and along with the facts that occurred during the 90s and the early 2000s.

The main aim of this article is that of understanding the genesis and the evolution of the Responsibility to Protect formula from the early 1990s until 2005, that is the year in which the UN resolution 60/1 concerning the responsibility of each state in this regard has been adopted by the General Assembly. Since, as stated above, the maturation of this concept is indissolubly linked to the occurrence of a series of gross violations of human rights that took place from the 90s until the early 2000s, the reasoning developed within this paper will be supported by using as references four emblematic case studies that contributed to give shape and visibility to the Responsibility to Protect issue: Rwanda, former Yugoslavia, Iraq and Afghanistan. This work will be divided as follows: the first part will be centred on a short theoretical framework on the notion of Responsibility to Protect, then the central section of this paper will explore the genesis and the emergence of this concept by dividing its evolution into three macro-phases, namely the genesis and the initial period of reluctance towards this formula, the affirmation of the principle and the following diminishment of consensus around its adoption at the international level due to the tendency to politicise its implementation. Lastly, the final part of this article will be dedicated to a brief conclusion.

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[1] Preamble of the Charter of the United Nations, 1945.

What does *responsibility to protect* mean?
A theoretical framework

Before going more in depth in the description of the genesis and the evolution of the concept of responsibility to protect, it is necessary to give a basic, linear theoretical framework concerning the notion to support its contextualisation in the following sections of this analysis.

The definition of the concept has been officially expressed within the UN Resolution 60/1 of 2005,[2] in which it is stated that it is a duty of the state and, if necessary, of the international community *to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity.*[3]

The abovementioned statement reflects the changes that the international scenario has experienced starting from the beginning of the post-Cold War era. In fact, if the traditional definition of state sovereignty is compared to the principle of Responsibility to Protect, it is quite simple to detect the shift from the application of a state-centred to an individual-centred approach to international relations.

The root cause of this major change can be re-conducted to the acknowledged inertia of the international community before the atrocities that characterised the intra-state wars during the mid-1990s: in fact, the humanitarian crises that resulted from such clashes proved that the traditional way of managing international relations was no more sufficient to cope with the challenges posed by the post-bipolar world system. In this sense, it can be argued that the 1990s represent a turning point in the formulation of the responsibility to protect principle.

Despite the relatively broad consensus that originated around this more individual-centred approach in the last few years, however, it is quite evident and undeniable that the concept of responsibility to protect has encountered several critiques as well.

Nowadays, one of the strongest arguments against this doctrine is related to what is seen by some governments as the implicit institutionalisation within this principle of the possibility for foreign agents to intervene within their internal affairs. In fact, those who are concerned about such option basically argue that the responsibility to protect is nothing more than an expedient to authorise *non-consensual interventions*[4] within the borders of a sovereign state. This reluctance towards the full acceptance of the responsibility to protect doctrine derives from several factors, but the most visible ones are essentially two: the first is the so-called *Westphalian bias*,[5] which in this context specifically refers to the predominance of state sovereignty in its traditional sense over the international management of internal humanitarian crises, while the second is the propension to follow a distorted analysis of the concept of responsibility to protect according to which its implementation automatically translates into the institutionalisation of the unlimited intromission of foreign agents into internal matters.

The misunderstandings related to the various contrasting interpretations of this concept can be overcome by analysing more in detail the official definition of responsibility to protect. Going back to the UN Resolution 60/1, in fact, it can be noted that the parts concerning the responsibility to protect report what follows:

Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. [...] The international community should, as appropriate, encourage and help States to exercise this responsibility and support the United Nations in establishing an early warning capability. [...] we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, [...], on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities are manifestly failing to protect their populations [...].[6]

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[2] However, the definition in question appeared for the first time in the 2001 ICISS report, promoted by the Canadian government.
[3] UN Resolution 60/1. 2005 World Summit outcome, para.138.
[4] Bellamy, A.J., 2016, p.617.
[5] Tanner, F., 2010, p.211.
[6] UN Resolution 60/1. 2005 World Summit outcome, paras.138 and 139.

First of all, the above-stated definition remarks that sovereignty is not just an exclusive attribute of the state but, rather, it also implies that the latter has the responsibility to protect those who are under its control. Moreover, the first lines suggest that, in case of need to put into practice actions related to the protection of a state's population, there is a specific hierarchy of actors that have the duty to intervene: the state itself is the first agent which must act to restore a safe environment for its population and only when –and if – it proves to be unwilling or unable to do so, the international community can intervene. In addition to this, in case of international intervention, the actors that can take part in the operations are limited to those that are authorised by the UN, so appealing to the Responsibility to Protect to justify a unilateral intervention goes against the principle itself. Another aspect that results from the analysis of this passage is that, in case of international intervention within a state, the use of force is not only meant to be the last resort, but its potential implementation would be the result of an accurate case-by-case analysis.

To conclude, what additionally emerges from this passage of the resolution is that the definition of RtoP is quite precise and limited in scope, because it only refers to four categories of gross violations of human rights, namely genocide, war crimes, ethnic cleansing and crimes against humanity. The enunciation of these four instances materially poses a clear limit and consequently restricts the possibility of justifying intervention by appealing to the Responsibility to Protect principle: in this way, it follows that the critique related to the unlimited intromission within the internal affairs of a state in the name of the implementation of such formula automatically decays.

The notions expressed within this short theoretical introduction should be considered as the necessary starting point for the description of the genesis and the evolution of the Responsibility to Protect principle that will be developed in the following sections of this analysis.

Phase I: the genesis of the RtoP formula

Even if the Responsibility to Protect principle has been officially established in the early 2000s, its roots can be traced back to the formulation of the UN Charter itself: the horrors of the Second World War had more than ever highlighted the necessity for the international community to elaborate an efficient mechanism of prevention against such atrocities.

In fact, looking at the Charter in this perspective, the link between this urgency and Chapter VII of the document – namely "Action with respect to threats to the peace, breaches of the peace, and acts of aggression" – is quite straightforward. In particular, it is stated what follows:

"The Security Council shall determine the existence of any threat to the peace [...] and shall make recommendations or decide what measures shall be taken [...], to maintain or restore international peace and security."[7]

It is undeniable, however, that in the aftermath of WWII the responsibility to protect formula was still not in place and, perhaps, it can be added that the international community – despite its renewed and generalised anti-war sentiment – was still not ready neither to formulate in a clearly defined manner, nor to adopt such provisions.

Anyway, since this passage of the Charter is undoubtedly fundamental for the legitimisation of the principle itself, it can be safely argued that these two elements are connected despite their distance in time because the former proves to be one of the bases for the formulation of the latter.

However, the real turning point in the institution of the Responsibility to Protect principle came almost 50 years after the statements contained within the UN Charter: it was not a document but a set of occurrences that catalysed the advancement towards the concretisation of the RtoP formula.

In fact, the early 1990s saw the end of the Cold War era and the following imperative necessity to re-adjust the global scenario: in this context, the emergence of new world challenges proved to be inevitable and, above all, it can be noticed that the

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[7] UN Charter (1945), Chapter VII, Art. 39.

passage from *inter* to *intra-state* crises during this extremely delicate epoch of transition soon became the primary focus of the whole international community due to the brutal connotation that this considerably widespread form of conflict took.

However, the path towards the actual formulation of the concept of Responsibility to Protect was all but straightforward: the facts that marked the 1990s proved to be fundamental for the acquisition of the global awareness that the world needed an effective mechanism to protect people from crimes against humanity more than ever but, as it is nowadays clear, the last decade of the previous Century has been sadly characterised by the incapability of the international community to cope with such crises in an effective way. However, as it will be argued later, it is also due to the international community's self-evaluation of these failures that the period that will now be taken into consideration has certainly been crucial for the definitive formulation of the principle in the early years of the new Millennium.

Going back to the 1990s, the definitive collapse of the Soviet Union in 1991 in favour of the creation of the Russian Federation officially opened the beginning of the post-Cold War turn: after almost fifty years of bipolarism, the disintegration of one of the two world powers paved the way to a new era of drastic changes and challenges. In this new order, however, the world community was still visibly anchored to a traditional view of international relations: in particular, the notion of sovereignty was still conceived in traditional terms rather than as an attribute that carries with its possession not only sovereign rights, but also the duty to protect the population which stays under the jurisdiction of a state.

It is in this environment that the initial hints regarding the emergence of the RtoP took place: for instance, the 1992 UN Agenda for Peace can be considered as one of the first concrete steps towards the formulation of the principle in question. In that document, in fact, the then UN Secretary General Boutros Boutros-Ghali both remarked the urgency for the whole international community to commit to the respect of human rights and concentrated on the need to implement preventive measures to avoid the emergence of conflicts (conflict prevention) and, at the same

time, he specified that *the foundation-stone of this work is and must remain the State.*[8]

The human rights discourse had already started to gain a considerable importance in the final Cold War years, especially thanks to the global echo of international commitments to their observance, such as that expressed within the 3rd basket of the Helsinki Accords of 1975: therefore, in the early 90s, though not completely ripe yet, the respect of human rights principle already had a quite strong background for building consensus around it.

Anyway, it is right in the 1992 UN annual report that a sort of embryonic form of Responsibility to Protect can be traced: the basic elements of the RtoP doctrine, such as the necessity to commit to the respect of human rights and the primary *responsibility* of the state to be the first actor engaged in this sense are in fact already contained within this document. Moreover, what emerges already from a fast reading of the 1992 Agenda for Peace is the presence among its lines of one of the first affirmations of the individual-centred approach to international relations. The concepts expressed by Boutros Boutros-Ghali within this annual address were undoubtedly revolutionary and-at least in theory – they were welcomed by the post-Cold War world stage as words of hope and of universal validity but, in reality, it is evident that the RtoP acceptance and implementation still had a long way to go: this lack of coincidence between the words of the UN Secretary General and the actions of the international community became sadly concrete and visible in 1994, namely the year in which the Rwandan genocide took place.

As far as the case of Rwanda is concerned, the facts that occurred within its borders in the mid-1990s profoundly shook the conscience of the world community and shocked the global public opinion in an unprecedented manner. To be clear, however, the genocide that was conducted by the Hutu majority towards the Tutsi minority was the coronation of a long-lived and well-known history of ethnic tensions among these two groups: the extremely violent and despicable connotation that this highly conflictual relation ultimately took place in April 1994 in Rwanda soon gained attention from the outside for its atrocious features and the reports concerning the advancement of the

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[8] Agenda for Peace 1992, para. 17.

genocide were in no way hidden or not known but, rather, particularly thanks to the role of the media, they were under the attention of the whole globe.

Even so, despite the general worldwide acceptance of principles such as the absolute prioritisation of human rights protection, conflict prevention and peaceful coexistence, – in short, all the concepts enumerated within the 1992 Agenda for Peace – in 1994 the international community proved its total absence of preparation and its clear reluctance to intervene in the management of intra-state crises such as the Rwandan one: on the contrary, the world community remained paralysed before the advancement of the atrocities within the country and, when a weak and completely ineffective UN-approved international response came to reverse the situation, the genocide had already shifted to an advanced state. As soon as this intra-state conflict ceased, the global public opinion agreed on the fact that *too little* had been done *too late* to stop the horrors that had taken place in Rwanda and the world started to be pervaded by a strong, collective will to avoid such atrocious facts to happen ever again anywhere in the world.

In fact, it soon became clear to the international arena that the Rwandan crisis could have been avoided by using effective conflict prevention tools or, at least, it could have been contained thanks to the implementation of an *ad hoc* plan for international intervention. The greatest reason why the global community did not intervene in Rwanda ultimately was the widespread, strong attachment to the traditional concept of sovereignty, which presupposed the absolute non-intromission in the affairs of a state recognised as sovereign by any external actor. These facts soon became the symbol of the failure and the total incompetence of the international community to realise its project of absolute prioritisation of human rights protection and conflict prevention, since it proved to be unable to cope effectively with gross human rights violations such as the one that was put in place in Rwanda in 1994.

To conclude, it can be argued that not only did the case of Rwanda represent a major failure of the ambitious plans of world peace and human rights respect that the international community had enthusiastically formulated and generally approved in the years preceding this catastrophe but, as it will be argued more in depth in the following section, it also represented a turning point in the path towards the concretisation of the RtoP principle.

Phase II: the affirmation of the principle

As anticipated in the previous paragraph, the reluctance of the international community to intervene in Rwanda in 1994 represented in a way a turning point in the evolution of the Responsibility to Protect principle, since the attitude of the outside world towards the Rwandan genocide when it was still ongoing and the *ex post* self-evaluation of the international community of its own immobilism had paved the way to a new approach towards the management of intra-state crises where gross violations of human rights were taking place.

After the 1994 facts, the world stage proved to be more concerned than ever about the re-occurrence of that set of atrocities: it was tangible that the idea that something more had to be done in this sense at the global level became a widespread sentiment in the mid-1990s. However, it was equally visible that the international community approach towards the management of such events and, more generally, towards intra-state crises was still inappropriate because there was no clarity on who had to act, when it had to act, and how it had to act: to make a long story short, the general consensus around the need to prevent the whole world from experiencing this class of atrocities again was not accompanied by an equally strong commitment to concretely solve all the organisational fallacies that were in place in that respect.

An outstanding example of this huge discrepancy can be found in the case of former Yugoslavia, in which a series of multi-ethnic conflicts affected the region in question approximately from 1991 to 2001. In this case more than in the Rwandan one, the intra-state conflict that characterised the Yugoslavian territory could be not only prevented, but largely predicted as well, since what later assumed the aspect of a civil war that was fought in the whole country was the result of the sum of a series of regional confrontations that did not occur at the same moment but that, rather, followed one another in a sort of *domino effect*.

Even in the Yugoslavian case, the main dispute around which the confrontations took place was of

ethnic connotation: the international community soon became well-aware of the nature and the severity of such phenomena but, once again, it proved unable to effectively intervene to prevent these extremely violent confrontations from happening, especially in the first half of the Yugoslavian conflict.

The lesson of Rwanda in 1994 made the global arena more aware of its lack of effectiveness in responding to such despicable occurrences, but the proof that there was still a long way to go to correctly and concretely implement preventive measures to avoid such gross human rights violations from happening again came in the summer of 1995 when, in former Yugoslavia, the Bosnian conflict largely trespassed the threshold of acceptability and gained the attention of the global public opinion due to the occurrence of one of the darkest pages of the history of the 1990s within its borders.

During the summer of 1995, in the Bosnian town of Srebrenica, which had been recently declared a UN safe area, the Serb forces executed the male Muslim population – which represented an ethnic minority in the area – with the clear intent to operate a genocide. The shock caused by this event was possibly even stronger than that triggered by the Rwandan case, because it proved once again the total incapability of the international community to protect people from such catastrophes: the UN, due to a complete lack of organisation and preparation to cope with events of this sort, proved to be totally unable to preserve the respect of human rights in situations of conflict. After the occurrence of two major humanitarian crises in less than one year, it was clear at the global level that it was about time to overcome the indecisiveness, the lack of coordination and of strategic action of the past.

In reality, however, the efforts towards a more effective coordination and an acceptable level of preparedness to contrast humanitarian crises from happening still lacked a concrete implementation from the UN. In fact, when in 1998 the Kosovan conflict started to assume an extremely dangerous connotation, the UNSC limited itself to condemn such occurrences but, even when it became clear that diplomatic, non-violent means could never have been sufficient to put an end to the hostilities in that area, it did not authorise any intervention. Paradoxically, it was right thanks to this (in)action of the UN that the RtoP formula started to concretely take shape: in 1999, before the UNSC non-authorisation of any kind of direct intervention in Kosovo, NATO forces intervened anyway in the area in the name of what can be defined as a *moral imperative* to avoid further gross human rights violations. Despite the fact that, in that occasion, the NATO intervention clearly went against the UNSC provisions a generalised belief in the fact that, in that context, *NATO's actions were illegal but legitimate*[9] started to be shared by a great part of the global public.

Of course, the NATO intervention in Kosovo was not universally seen as a legitimate action, but two things cannot be denied: in the first place, that moment represented a watershed in the consolidation of the RtoP principle and, secondly, the facts of 1999 contributed to make more and more state actors aware of the imperative need for the international community *to look beyond the framework of States, and beneath the surface of nations or communities*[10] to effectively overcome crises such as those that had sadly characterised the 90s.

However, despite the presence of a considerable number of supporters, this new trend also encountered some critiques expressed by those who saw in this human-centred approach nothing more than a justification to violate the principle of state sovereignty. In addressing such perplexities, the then-UN Secretary General K. Annan posed the following question to the whole international community in his well-known Millennium Report*: […] if humanitarian intervention is, […], an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica – to gross and systematic violations of human rights that offend every precept of our common humanity?*[11]

By doing so, he practically affirmed that the time for a necessary revolution of the treatment of cases of gross human rights violations had finally come, therefore the world had to get ready to embark in

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[9] S. Gholiagha, 2015, p.1076.

[10] Taken from K. Annan 2001 speech of acceptance of the Nobel Prize.

[11] K. Annan (27/03/2000), "We the peoples: the role of the United Nations in the twenty-first century", para. 217.

such change in favour of the protection of the individual which, especially after the violations that had characterised the mid-90s, had gained a role of paramount importance.

To conclude, the humanitarian crises of the 1990s had the effect of making the international stage aware that the new global settlement necessarily implied a change in the traditional conception of international relations and, most importantly, in the traditional notion of sovereignty in favour of a more effective way of conducting humanitarian intervention: a widespread – but not universally accepted – moral consensus on the necessity of overcoming such limitations in extreme cases to preserve human rights respect ultimately proved to be the main foundation of both the RtoP doctrine and, more generally, of the shift from the state-centred to the individual-centred approach that has been registered in the international arena. However, as it will be argued in the following section of this paper, the legitimisation of the RtoP formula in the early 2000s would soon be substituted by a sudden decrease in the consensus around this doctrine due to its politicisation.

Phase III: the consequences of the politicisation of the RtoP

The early days of the new Millennium not only represent the period in which the responsibility to protect principle was finally formulated in a clear manner, but they may be also seen as a timespan in which the enunciation of such doctrine reached a relatively strong, generally-shared consensus and a considerable amount of attention from the international scene, which showed its overall optimism in the beginning of a new era characterised by the absence of gross human rights violations.

In fact, it is in this environment that the question posed by K. Annan in his well-known Millennium agenda-quoted in the previous section of this paper – was implicitly answered by the 2001 report of the International Commission on Intervention and State Sovereignty (ICISS), in which a first definition of what RtoP means has been formulated: *"State sovereignty implies responsibility, and the primary responsibility for the protection of its people lies with the state itself. Where a population is suffering serious harm, […] and the state […] is unwilling or unable to halt or avert it, the principle of non-intervention yields to the international responsibility to protect."*[12]

Thanks to this clarification, the international arena finally had a first, general guideline to take as a reference in case of need to determine whether the principle of non-intervention had to be respected or not when it came to the protection of the population of the conflicting state.

However, what had at first represented a victorious step for the individual-centred approach advocates rapidly lost a considerable amount of consensus by the end of 2001: this sudden reversal of the situation was triggered by the politicisation of the RtoP doctrine, which occurred after the 9/11 terroristic attacks and the following US-led operations in Afghanistan in 2001 and in Iraq in 2003 in the name of what has been labelled with the expression *war on terror*.

The work on the settlement of a humanitarian intervention agenda, which had characterised most of the 90s and the early 2000s, had been severely damaged by this decision: the reason behind such deterioration does not lie on the US intervention in itself but, rather, it is due to the rhetoric used by the Bush administration to justify the invasion of Afghanistan and Iraq. To be clear, the US utilised the language typical of the humanitarian discourse to justify what surely was not a humanitarian intervention but, rather, an attack conducted for self-defence purposes: even so, however, the US kept on justifying the two abovementioned interventions by appealing to the persistence in these two countries of the perpetration of gross human rights violations by their respective integralist regimes.

The validation of this analysis of the genuine reasons behind the American intervention in Afghanistan in 2001 is easily detectable if the UN recognition of the US-led offensive as an act of self-defence[13] is taken into account.

Despite the fact that, in the end, the American intervention in Afghanistan was not imputable to

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[12] ICISS Report, 2001, p.XI.
[13] UNSC res.1386/2001.

any humanitarian cause, the US kept on justifying its actions by both using a typical RtoP rhetoric and by affirming that the primary reason for the intervention in Afghanistan was that of freeing the Afghans from the oppressive Taliban rule. As far as Iraq is concerned, instead, the 2003 US-led offensive and the following invasion were not backed by any UNSC resolution but, rather, they represented one of the most widely contested operations of the last decades: the excuse behind such attack was attributed to the necessity to stop Iraq from supporting terroristic groups and from acquiring the necessary tools to get to the possession of weapons of mass-destruction. Once again, the US appealed to the need to conduct and ultimately win the so-called war on terror to justify its actions.

The constant reference to the expression "war on terror", combined with the use of the rhetoric originally belonging to the humanitarian intervention discourse, contributed to create a significant degree of confusion on what those terms actually meant: it is also due to this factor that the consensus around the RtoP doctrine registered a consistent decrease in the early 2000s.

Perhaps more than in the Afghan case, the US-led intervention in Iraq had disastrous effects on the advancement in both the acceptance of the Responsibility to Protect doctrine and on its image: the American offensive in Iraq seemed to be the concretisation of the fear that the most sceptics towards the humanitarian intervention principle had already expressed several times in the past, namely the possibility for the strongest states to use it as an excuse to intervene in the affairs of the weakest ones.

To make a long story short, *the use of humanitarian justifications to defend the invasion of Iraq was widely perceived as "abuse".[14]*

It goes without saying that the indiscriminate use of the terms pertaining to the Responsibility to Protect realm created not only a generalised sentiment of suspicion towards the principle, but also contributed to increase the level of ambiguity and misunderstandings concerning the RtoP itself, since it had been too often juxtaposed to the Bush doctrine and to the cornerstone of its rhetoric,

namely the *war on terror*: therefore, the humanitarian discourse soon turned out to be politicised.

It is in this international environment mainly characterised by scepticism towards humanitarian interventionism that the UN Resolution 60/1 of 2005 was conceived. As it has been pointed out previously, this document contains an updated formulation of the concept of Responsibility to Protect, in which the cases that are eligible for intervention and the obligation to act in accordance with both the Charter and the prescriptions of International Law are clearly stated.

More generally, it can be argued that this resolution practically represents a visible attempt to re-legitimise the RtoP principle: in fact, it is noteworthy that the various references to the duty of all states to act internationally without supplanting the UN prescriptions are strongly affirmed and easily detectable. To give an example of this new, firm attitude, it can be useful to quote one of the passages of the document in question which best describes it:

"We [...] reaffirm the authority of the Security Council to mandate coercive action to maintain and restore international peace and security. We stress the importance of acting in accordance with the purposes and principles of the Charter."[15]

Despite this attempt made by the United Nations to relaunch the project of full legitimisation of the humanitarian intervention doctrine, however, such effort did not manage to completely persuade the world community in this sense.

To conclude, it can be argued that the politicisation of the Responsibility to Protect principle operated in the aftermath of 9/11 severely damaged its image and contributed to drastically decrease the consensus around it, which, instead, had started to become quite consistent in the late 90s. At the same time, it must not be neglected that, in 2005, the UN Resolution 60/1 emerged as the maturation of the concept in question, since it better specified the nature, the application and the limits of the whole principle. Given such premises, however, the critiques that characterise the RtoP debate prove that, although it cannot be denied that nowadays such initiative is of crucial importance, neither the

[14] Bellamy, A. J., 2006, p.38.
[15] UN Res. 60/1, 2005, para.79.

obligation to follow the prescriptions of the UN Charter, nor the restricted scope of legitimate intervention affirmed by the 2005 official definition of Responsibility to Protect resulted effective in fully convincing the members of the international community to finally abandon their sceptic attitude towards its full implementation.

Conclusion

The Responsibility to Protect initiative emerged as a response to the post-Cold War need to resettle the international stage in the most suitable way to cope with the new challenges with which the world had to start to confront from that moment on.

As it has been argued, the path towards its maturation has not been automatic but, rather, it has been the result of a relatively long and tortuous process that finally culminated in the 2005 official definition of the principle provided by the UN Resolution 60/1.

This analysis is meant to represent a modest contribution to the reconstruction of the main stages that led to the consolidation of the Responsibility to Protect principle. To do so, the periodisation of such phenomena has been divided into three macro-phases: the first, corresponding to the early 90s, has been associated with the emergence of the need to find a way to manage intra-state crises effectively, the second,

corresponding to the late 90s, has been associated with the affirmation of the principle and the third, corresponding to the early 2000s, has been associated with the crisis of credibility of the RtoP principle and, later, with its successive official formulation in 2005. Moreover, this conventional division has been accompanied by the inclusion of four case studies within the overall reconstruction of the genesis and the evolution of the principle, namely Rwanda, Former Yugoslavia, Afghanistan and Iraq.

What emerged from the analysis operated within this analysis is that, going through its path towards maturation, the responsibility to protect principle has been subject to a series of adjustments and to a fluctuating yet considerable amount of both consensus and critics to it. Such conclusions have been justified by looking at the facts that shaped and re-shaped the concept of Responsibility to Protect through the years that have been examined for the purposes of this paper.

Finally, the analysis provided within this work is meant to suggest that, by looking at the period of time that has seen the emergence and the consolidation of the Responsibility to Protect principle, it can be argued that the full and general acceptance of its implementation will be ensured only by the strict adherence to the prescriptions made in this respect within the UN Resolution 60/1 at the global level.

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RESPONSIBILITY TO PROTECT IN A FEW WORDS

Júlia Barnabás

The history of RtoP

"I also believe that, if we are to take human rights seriously, we must embrace the concept of 'the responsibility to protect,' as a basis for collective action to prevent and stop instances of genocide, war crimes, and crimes against humanity. This is not meant as a way to bypass sovereignty, since each State remains, first and foremost, responsible for protecting its citizens. But when national authorities are unwilling or unable to do so, the international community, through the Security Council, should be able to act, and must be ready to do so."[1] – Kofi Annan (Message to the Council of Europe Summit, Warsaw, 16 May 2005)

The concept of RtoP has emerged at first in the aftermath of the tragedies in Rwanda and the Balkans in the 1990's. These events questioned how the international community can effectively react in cases of mass atrocities and human rights violations and whether it is legal to intervene in the territory of a sovereign state for humanitarian purposes? Referring to our common humanity, Secretary-General Kofi Annan has declared that the international society must respond to systematic violations of human rights, in its Millennium Report of 2000.[2]

To answer the above-mentioned questions, the Canadian Government has formed the International Commission on Intervention and State Sovereignty (ICISS) that has created the expression "responsibility to protect". According to their understanding the sovereignty of the state is a positive obligation which means that its primary responsibility is protecting the people within its borders. If a state fails to accomplish these duties, the broader international community must react.[3]

In 2004 the *Report of the High-level Panel on Threats, Challenges and Chan ge* has been created which allows military intervention as a last resort, with the authorisation by the UN Security Council, bearing in mind the principle of proportionality. The report *"In larger freedom"* reinforced the approaches of the High-level Panel while adding some more proposed criteria, such as the seriousness of the threat.[4]

Finally, in the framework of the *2005 United Nations World Summit*, Member States have agreed on the responsibility of each constituents. This means that when peaceful means – such as diplomatic or humanitarian tools – are not adequate, the international community as a whole have the right of interference. However, the intervention must be based on the UN Charter and it have to be accepted through the Security Council which works on a case-by-case basis and in cooperation with regional organisations.[5]

The *2009 Report of the Secretary-General* emphasises the importance of prevention and that of the early and flexible response. Three pillars outline the structure in which RtoP should be implemented:[6]

"(1.) The State carries the primary responsibility for protecting populations from genocide, war crimes, crimes against humanity and ethnic cleansing, and their incitement;

(2.) The international community has a responsibility to encourage and assist States in fulfilling this responsibility;

(3.) The international community has a responsibility to use appropriate diplomatic, humanita-

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[1] Quotable Quotes, 2005.
[2] UN, 2012.
[3] Ibid.
[4] Ibid.
[5] Ibid.
[6] Ibid.

rian and other means to protect populations from these crimes. If a State is manifestly failing to protect its populations, the international community must be prepared to take collective action to protect populations, in accordance with the UN Charter.''[7]

The aim of the report *"Early warning, assessment and the responsibility to protect"* (2010) was to work out effective ways to improve the UN's capacities of early warnings and balanced responses. The United Nations is targeting to work not only on a global but also on a regional level, meaning that the RtoP concept is universal but *"each region will operationalize the principle at its own pace and in its own way.''*[8]

The Special Adviser on the Prevention of Genocide (Juan Méndez from 2004 and Francis Deng from 2007) is collecting data about serious violation of human rights and is making recommendations to the Security Council. Whereas, the Special Adviser on the Responsibility to Protect is responsible for the further development of the concept and for the dialogue with the Member States. In 2010 the Secretary General tried to institutionalise the collaboration of the two advisers through establishing the joint office on Genocide Prevention and on Responsibility to Protect.[9]

Legal framework

RtoP is a doctrine of prevention as it requires states to take positive actions to prevent genocide, war crimes, crimes against humanity and ethnic cleansing. As RtoP itself does not have a strong legal basis, it lies upon the norms of the international law and so as on the principles of international human rights. If RtoP alone does not constitute a legal framework the question emerges which juridical framework will determine whether a state should interfere in the territory of another sovereign? To answer the question we must have an insight into those international agreements and customs based on which states should apply the RtoP principle.[10]

2005 World Summit Outcome Document

The result of the 2005 high-level UN Summit meeting is the World Summit Document which disposes of Paragraphs 138 and 139 that define the basics of the RtoP principle. According their provisions "*Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity*". They imply the obligation of states also to prevent those crimes. It puts a responsibility on the international community as a whole, as it must "*encourage and help States to exercise this responsibility and support the United Nations in establishing an early warning capability*." Through the United Nations Security Council and in accordance with Chapter VI and VIII of the Charter they must be ready to take collective action if peaceful means are found to be inadequate.[11]

International Law Commission's Articles of State Responsibility

Article 40 of the International Law Commission's Report is a peremptory or *jus cogens* norm from which no derogation is permitted. Thus the breach of an obligation means a failure for a state to accomplish its international responsibilities. According to Article 41 states have a positive duty in cooperating through lawful means to bring to the end the breach of the obligation. As a negative requirement, they neither cannot recognise the unlawful situation nor render aid or assistance in maintaining the situation.[12]

Article 2-3 of ICCRP

The International Covenant on Civil and Political Rights is also significant from the point of view of RtoP, as in its Article 2 and 3 it requires states to

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[7] Ibid.
[8] Ibid.
[9] Ibid.
[10] Rosenberg, S.P, 2009, pp.442–477.
[11] United Nations Office (n.d.)
[12] Rosenberg, S.P, 2009, pp.442–477.; UN ILC, 2001.

take positive measures to guarantee the lives of those within its jurisdiction. They must ensure the rights of all the individual "*without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status*". States have to provide possibilities of judicial remedy with competent authorities.[13]

Rome Statute's Codification

The primary rules of international law on genocide, war crimes, and crimes against humanity are codified in the 2002 Rome Statute of the International Criminal Court. Article I says out that genocide is a crime that states need to prevent and punish, at the same time. As stated in Article VIII of the Convention states have the possibility to call upon UN organs in order to prevent or suppress genocide. Article IX provides a framework for states to bring other states before the International Court of Justice. However, it addresses rather to individual than to state responsibility. It is only from the 2007 *Bosnia v. Serbia decision* that the issue of state responsibility has started to become more significant next to individual criminal responsibility.[14]

Bosnia v. Serbia decision

The Nuremberg Trials and the Genocide Convention in 1948 have recognised individual criminal responsibility, but only after the decision of International Court of Justice about the Bosnia v. Serbia case states may in fact be responsible for the commitments of genocide. Bosnia sued the government of Serbia and asked the ICJ to find out whether it has violated the Genocide Convention. The Court found Belgrade guilty as it has failed to prevent and punish the mass murder in Srebrenica. States have an obligation of due diligence, which means that they need to take all the measures in

their power when there is a serious risk of genocide.[15]

Summary of its application

Darfur, Sudan (2003-present)

The Darfur War is an ongoing conflict which has erupted when the Sudan Liberation Army (SLA) with the Justice and Equality Movement started to accuse and attack the government of oppressing black Africans in favour of Arabs. The response of Khartoum was mobilising "self-defence" militias. On one hand, Darfur owes its tensions mainly due to disagreements over land and grazing rights between nomadic Arabs and farmers from the Fur, Massalet and Zaghawa communities. On the other hand, the central elite is claiming and Islamic Arab identity in opposition to the Nuba people of the southern Kordofan.[16]

In 2005 a peace agreement was reached between the Sudan People's Liberation Movement/Army and the government of Sudanese President Omar al-Bashir, supported by the Intergovernmental Authority on Development, the United States, United Kingdom, Norway and Italy. With nearly 99% of South Sudanese in favour of independence South Sudan has become a separate country in 2011. Nonetheless, owing to the 60 different ethnic groups of South Sudan protracted-peace could not be hold.[17]

According to several critics the answer of the international community to the crisis was not adequate since the UN Security Council and the AU Peace and Security Council have taken only "ad hoc" steps instead of a strategic approach to the crisis. There has been several UNSC Resolutions about the disarmament and the insurance of security, however, the UN usually failed to monitor the implementation of its demands and the instruments were slow, ineffective and sparing.[18] In 2015, an internationally mediated agreement was signed, that resulted in the formation of a very

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[13] General Assembly resolution 2200A (XXI) of 16 December 1966. International Covenant on Civil and Political Rights.
[14] Rosenberg, S.P, 2009, pp.442–477.; Rome Statute of the International Criminal Court, Articles 1, 8, 9.
[15] Rosenberg, S.P, 2009, pp.442–477.
[16] BBC News, 2010; De Waal, A., 2007.
[17] Williams, J., 2017.
[18] De Waal, A., 2007.

weak central government of South Sudan and in mass atrocities in Juba. President Kiir has rejected US proposal of sending four thousand peacekeepers and together with Vice President Machar they declared that they will hinder any reconciliation attempt of the international community. This case reflects to the deficiencies of the RtoP principle and the international society itself, as the two leaders were able to take advantage from the elusive UN and international legal system.[19]

Libya (2011 – present)

One of the most well-known moment of the Arab Spring is the February of 2011 when civilians has begun political protest against Muammar Gaddafi 41-year reign. The regime has answered with armed forces that has finally escalated into a civil war. Not just Tripoli but the international community, regional and sub-regional bodies reacted with different economic, political and military means.[20]

Various civil society groups from all around the world referred to the RtoP principle in asking early actions from regional actors, individual states and UN bodies. The Organisation of the Islamic Conference (OIC) and the African Union (AU) wanted stronger measures in order to protect the civilians and the AU adopted a "Roadmap" for peace to end up the aggression and to take political reforms. However, it has been rejected by the National Transitional Council. The African Union has been criticised for being too slow and it has both supported NATO air-strikes and rejected arrest warrants for Gaddafi by the ICC. The African Court on Human and People's Rights has ordered provisional measures and its first ruling against a state. The Gulf Cooperation Council and the League of Arab States were imposing a no-fly zone over Libya and it was mandated by a UNSC Resolution in 1973. Arms embargo, travel ban on Gaddafi and his family and asset freezes have been imposed by the EU. Member States, such as the

UK, the US, Switzerland, Australia, Canada were introducing disparate sanctions. An interim opposition government, the National Transitional Council has been established and recognised by the Contact Group, the League of Arab States, the UN General Assembly and the AU on the 20th of September, the latest.[21]

The Special Advisers on the Prevention of Genocide and the Responsibility to Protect reminded the Libyan government about its responsibilities to protect its citizens and the Human Rights Council adopted Resolution S-15/2 which asked to stop the massive human rights violation. On the 1st of March the General Assembly suspended the membership of Libya to the Council. The HRC and the International Commission of Inquiry declared the perpetration of crimes against humanity on the 1st of June. Resolution 1970 – imposing travel bans, asset freezes, arms embargo…- has been accepted unanimously on the 26th of February, which referred to RtoP for the first time since the 2006 Resolution about Darfur. It has been followed by Resolution 1973 that established a no-fly zone and authorised Member States to take "all necessary measures", from which China, Russia, India, Brazil and Germany abstained.[22]

Côte d'Ivoire (2002–2007, 2011) – A success story?

Ivory Coast has gained independence from France in 1960, which was followed by an economic prosperity in the late 1990's. But a civil war from 2002 to 2007 has divided the country in two parts, the government-held south (Abidjan) against the rebel-held north (Outtara) which consist mostly of Muslim immigrants (businessmen and traders). A political turmoil has been escalated by the elections of November 2010 when Outtara has become the president of the country. Previous president Gbagbo have not recognised the results as he thought that the results have been manipulated by the north. The US, the EU, the AU, and the

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[19] Rossi, C., 2016.
[20] International Coalition for the Responsibility to Protect. "The crisis in Libya"
[21] Ibid.
[22] Ibid.

ECOWAS were supporting Outtara and urged Gbagbo to go.[23]

The United Nations Operation in Côte d'Ivoire (UNOIC) has been established in 2004 by UN Resolution 1528.[24] After 13 years, finally in 2017 the mission has been closed, leaving behind a stable and prosperous country that can be interpreted as a success story in the history of the United Nations "peacekeeping missions". The country has even launched a campaign for a non-permanent seat in the UNSC for 2018–19, which has proved to be successful.[25] The International Peace Institute (IPI) deduced the conclusions from the experiences of Côte d'Ivoire for a better crisis management in the future. First of all, the UN and the government of Ivory Coast were efficiently cooperating in their political priorities of the exit strategy, which was also early enough in design. The support of the local population has been a significant element due to the social campaigns organised by UNOCI and the National Chamber of Kings and Traditional Chiefs. There has been a collaboration between UNOCI and UNMIL (United Nations Mission in Liberia) in exchanging information and analysis. The international community showed engagement and firmness throughout the peace process, including organi-sations such as the UN, the AU or the ECOWAS. Even if the situation in the state now seems to be relatively stable, it is the coming presidential election in 2020 that will tell whether a sustainable peace can be maintained in Côte d'Ivoire.[26]

Yemen (2011, 2015-present)

In 2014, the Houthis (Shia population in Northeast Yemen) together with military forces loyal to President Ali Abdullah Saleh and the General People's Congress took control over several governorates of Yemen. As answer, during the March of 2015, Saudi Arabia, the United Arab Emirates and other 8 countries requested for regional military intervention. The alliance between the troops of Saleh and the Houthis broke down, Saleh started to collaborate with the Saudi-UAE coalition, but he was soon found to be killed. In spite of that, the conflicts escalated further between the Yemeni government's Southern Transitional Council (STE) and the separatists with the UAE. As the Houthis and the government-allied forces have targeted civilian infrastructure, more than 2 million of Yemenis have been displaced and three quarter of the population is in the need of humanitarian assistance. Saudi Arabia together with the United Arab Emirates are providing support to the regional military coalition, and the Houthis are mainly supported by Iran, however other armed groups, like AQAP and ISIS are also present in the conflict. Unfortunately, all the parties seems to be unwilling or unable to fulfil their Responsibility to Protect.[27]

The 2011 UNSC Resolution condemned the actions of the President and drew the attention to its primary responsibility to protect its population. Remaining without any results, in November 2014 the UN imposed arms embargos against the Houthi leaders and supporters of the former-president, asking them to withdraw from the militarily seized areas. This Resolution has been renewed this year. A Group of Eminent International and Regional Experts has been established by the Human Rights Council in order to report the human rights situation in Yemen. 2 events of the same importance happened this year, on the one hand Martin Griffiths has become the UN Special Envoy for Yemen. On the other hand, UNSC adopted a Presidential Statement that calls for the upholding of the International Humanitarian Law (IHL) and for unhindered humanitarian and commercial access.[28]

Syria (2011-present)

Since 2011 there has been an ongoing conflict in Syria, between the government of the Shia Alawite Bashar al-Assad and the opposition groups the

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[23] Purefoy, C., 2011.
[24] Shaban, A.R.A., 2017.
[25] IPI, 2017; APR News, 2018.
[26] IPI meeting brief (n.d.)
[27] Globalr2p.org "Yemen" (n.d.)
[28] Ibid.

majority of which is Sunni, each party gaining support from different regional and international actors. The rise of the terrorist group called Islamic State gave further dimensions to the crisis. War crimes are being committed, chemical weapons are being in use, causing a severe humanitarian crisis. As part of the Arab Spring, the civil war in Syria has begun as an uprising against a dictatorship that has transformed into a proxy-war, meaning that regional and world powers are backing the adverse parties. While Iran and Russia and the Hezbollah are providing military means, credit and oil transfers to the Syrian government; Turkey, Saudi Arabia, Qatar, Jordan, the US, the UK and France are trying empower the Sunni-dominated opposition.[29]

Despite of the attempts to resolve the crisis, the life of millions is still endangered due to the incompetence of the Assad-led government to protect its citizens and the lack of an explicit and effective answer from the international community. In March 2011 UN-Secretary General Ban-Ki Moon, and the High Representative for Human Rights transferred the situation to the International Criminal Court. 23 resolutions on humanitarian access, peace talks and chemical weapons have passed since 2013, none of them which has been fully implemented. Furthermore, Russia and China vetoed 6 UNSC draft resolutions and Russia alone another 6. The International, Impartial and Independent Mechanism (IIIM) has been created by the UN General Assembly to investigate the atrocities in Syria. Since that 25 resolutions have been accepted, in which they condemn the cruelty and ask the authorities to carry out their obligations.[30]

Conclusion

Since the end of the Cold War and with the emergence of the RtoP concept there has been a significant shift from traditional concept of the sovereignty. According to Secretary-General Kofi Annan, it does not obviously mean a bypass of sovereignty, however states have a positive obligation of interference in case of massive human rights violation. Throughout the 2005 UN World Conference, the international community has agreed and reinforced the new concept about the right of interference. It determines that for the protection of our common humanity – states, in the service of individuals – must act against the systematic violation of human rights.

Anyhow, the principles of RtoP are easier said than done due to the lack of a clear legal framework and also because states still define their interests by the traditional sovereignty approach, according to which they are free to use the monopoly of violence within their territories. The concerning norms of international law and principles of international human rights dispose negative and at the same time positive measures on states. As negative requirement, they cannot recognise an unlawful situation or help in maintaining the situation and they must provide a framework of protection for those living in the territory of their jurisdiction. Since the Bosnia v. Serbia decision, not only individuals, but states, too can be held responsible for mass atrocities. Nevertheless, the above-mentioned cases represent well the deficiencies of the concept and also those of the international system as a whole. For example, in Darfur UN usually failed to monitor the implementation of its demands and its instruments were slow and ineffective.

Opinions about the intervention in Libya were divisive, too. Some people believe that without intervention even more civilians would have been killed and the aim was not to establish democracy but to protect the population from the mass atrocities. They also think that if President Barack Obama would not have intervened Libya would be in the same situation as Syria is. Even if there is a civil war in Libya, according to their views it is not obviously the result of NATO's actions.[31] Whereas, others lack the rebuilding of the country not only physically, but politically, too. This case represents well the debates about the RtoP concept itself, as on one hand responsibility to protect does not mean a democracy export, but on the other hand there is a need of a subsequent reconstruction

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[29] Rodgers, L. et al., 2016.
[30] Globalr2p.org "Syria" (n.d.)
[31] Hamid, S., 2016.

– which can be also political - in order to prevent the reoccurrence of a conflict.[32]

It is possible to interpret Ivory Coast as a success story in the history of humanitarian interferences, however it was only possible due to the cooperation of different international, regional and national actors, the commitment of the local population and so as the government. According to my opinion, the RtoP principle itself is a development from the traditional concept of sovereignty, as it emphasises a positive responsibility for states – in the name of our common humanity, – yet it must be evolved further, because the lack of a clear legal framework results in disagreements between the different member states of various international organisations and hampers a common action to protect civilians.

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RESPONSIBILITY TO PROTECT IN LIBYA

Vittorio Maccarrone

Since the end of 2010 some North African and Middle Eastern countries have been witnessing a radical change of their institutional and political systems as a result of the spreading of both violent and non-violent protests, riots and civil wars, in which students, teachers, lawyers and the bulk of the middle class – boosted by defected police officers, professional soldiers and, in some cases, foreign aids[1] – rose up against authoritarianism and political repression, claiming a democratic future for their societies and the creation of the conditions for a thriving economy. Often referred to as the Arab Spring – an allusion to the Revolutions of 1948 and the Prague Spring in 1968 – these revolutionary waves have sometimes ended with the overthrow of the ruling dictator, whereas in other occasions the uprisings have essentially turned out to be weak demonstrations unable to bring the regime down. Only in one occasion (Tunisia), though, the social unrest led eventually to a comprehensive democratisation of the political institutions and to the establishment of free and democratic elections.

The Arab Spring has also affected Libya. In early 2011 protests began in Benghazi, the second largest city, and progressively spread throughout the country. By 20 February, Libyan rebels spread the insurrection out even to the capital Tripoli. The outcome was the unavoidable rising death toll – caused for the most part by government militia's armed reaction – and a greater international relevance of the crisis. When on March 2011 the Libyan uprising got worse, taking the shape of an actual civil war, the United Nations Security Council adopted the Resolution 1973, authorising a no-fly zone over Libya with the aim of implementing all necessary measures to protect civilians. The following bombing campaign of a 27 states coalition against pro-Gaddafi forces led the rebels to the conquest of Misrata, Tripoli, Sirte and other important Libyan cities. Muammar Gaddafi was executed shortly afterwards. Since then the civil war has never ceased, though. Libya's institutional and economic collapse that came after the Western military campaign resulted in the worsening of the humanitarian and political crisis within the country. Nowadays Libya lacks of the modern state's ground rule, namely the monopoly of the legitimate force. The country is barely under the authority of two governments – one in the western part of the country, baked by the UN, and one in the eastern side – each of which controls hundreds of militia that, without a single and sovereign governing body, will continue to fight to gain more ground to the detriment of the other.

In addition to these domestic problems that undermine Libya's future social cohesion and institutional stability, the North African country faces two other far-reaching problems that are matter of concern for the neighbouring states, especially southern Europe ones: the massive flow of economic migrants, often coming from sub-Saharan states[2], and the presence – even if progressively reduced and almost eradicated due to US air strikes – of the so called Islamic State (IS). The aforesaid terrorist group, boosted by large part of Sunni population in Iraq and Syria dissatisfied by decades of Shiite rule, is still considered an allure for many Islamic extremists also in Libya, thereby posing a threat that needs to be tackled. Today the international community is dealing with the Libyan chaos again, favouring diplomatic steps to stabilise the country over military ones. Preventing the return of a failed state on its backyard is of utmost importance for the EU.

Had the western bombing campaign never occurred, would have Libya become an intrinsic factor of the current volatility in the Mediterranean? Do humanitarian purposes always justify a military intervention if there is no

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[1] Cornwell, S., 2012.
[2] UN News, 2017.

alternative to the stability of a given country but an authoritarian ruler? This article will retrace the phases which led to the western decision to militarily intervene in Libya in 2011, stressing the legal basis the attack was based on and opening a discussion on the relationship between the enforcement of the principle of Responsibility to Protect amid humanitarian crisis and the willingness to change the regime that is found guilty of human rights violations. The article will indeed show that many geopolitical reasons, other than humanitarian ones, led some European countries to wage war on Muammar Gaddafi, thereby cynically boosting their foreign policy agenda. Lastly we will discuss about the impact of the foreign intervention in the Libyan civil war nowadays, casting a glance over the country's political and institutional situation and arguing that if the international community decides to protect human rights through a military intervention that could overturn a non-democratic – but at least sovereign and stable – regime, it should take into account that the anarchy that would probably follow after the use of force could be worse of the previous political situation.

The legality of the military intervention and the relationship between RtoP and regime change

As already said above, one needs to take a close look to the uprisings and revolutions that inflamed North Africa and the Middle East, namely the Arab Spring, to better understand the civil war in Libya. Unlike Tunisia and Egypt, for example, it was self-evident that without a foreign economic and military support Libyan rebels would not be able to overthrow Gaddafi regime. Indeed since the very beginning of the protests Gaddafi loyalists' armed reaction caused many civilian casualties throughout the country[3], thus raising concerns at the international level. Both the United Nations and several regional organisations (such as the Council of Europe) condemned the gross human rights violations, calling for countermeasures to be taken against Gaddafi government. On February 26, 2011, the Security Council adopted the Resolution

1970, demanding an immediate end to the violence and, among other things, imposing sanctions on the regime. It was the high likelihood Gaddafi troops launched an attack on the rebel-held city of Benghazi, though, that persuaded the United Nations Security Council to adopt the Resolution 1973, on March 17. This Resolution, calling for a ceasefire and for the establishment of a no-fly zone over Libya, consisted essentially in the legal basis for the military intervention in the country.

Two days after the adoption of the Resolution 1973 a coalition of western countries – France and Britain ahead – started to launch missiles attacks against pro-government targets, such as air defence systems, in order to enforce the aim of the Resolution. Gaddafi forces were indeed reportedly about to enter Benghazi, held by the opposition, commencing an attack on the western part, even if government spokesman, Musa Ibrahim, denied the army attacked the city[4]. This environment led the international community to follow up the UN Resolution with the involvement of military tools to protect civilians. Thus, the Security Council authorised member states "to take all necessary measures" for the protection of civilians and civilian populated areas. The term "all necessary measures" has been often employed by the UN in the past to authorise the use of force under Chapter VII of the UN Charter when a threat to the peace, or breach to the peace, occurred, according to the article 39 of such Charter. Moreover the Security Council authorised all necessary measures not only to enforce compliance with the no-fly zone, but also to protect civilians from any attack, thus allowing NATO air strikes – which all the while took over the command of the military operations on April 2011 – to target government outposts whenever they proved to be a threat for civilians. Accordingly every attack against pro-Gaddafi forces weakened the regime stability, but at the same strengthened Libyan rebels. Thus the question whether regime change could have been the outcome of the western military intervention was already crucial in the Resolution 1973.

Many analysts have indeed provided a broad interpretation of the Security Council Resolution which authorised the military intervention in

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[3] Human Rights Watch, 2011
[4] Al Jazeera, 2011.

Libya, due also to its wide object – the authorisation to carry out all necessary measures to protect civilians. If on the one hand it is true that overthrowing regimes is not the aim of the United Nations, it is to the same extent proper to argue that the Security Council might have included in the Resolution 1973 the possibility of a regime change as a mean to achieve its main humanitarian goal, namely the protection of civilians and civilian populated areas[5]. If the Security Council did not bar the coalition of the willing from attacking Gaddafi loyalists, it thus encompassed measures that would overturn Gaddafi regime. Therefore western countries, and NATO later, acted abiding by the Security Council mandate – as long as their air strikes and cruise missiles hit military equipment, institutions and peoples of the Libyan government that were a credible threat for civilians – thereby enforcing international law.

Libya is one of the few cases in which the UN urged the international community to implement the principle of Responsibility to Protect in order to avoid a bloodbath among civilians that could have had repercussions on international peace and security. The important issue to address in the Libyan case is that the Security Council Resolution 1973 contributes to create a precedent in international relations in which a broader interpretation of a UN mandate, calling for humanitarian protection in a given crisis, could spur the intervening states to implement more hawkish policies, including those involving regime changes. Hence it is worthy wondering whether the noble principle of Responsibility to Protect, enshrined in the UN Charter and aimed to safeguard international peace also through the protection of civilians in the midst of war scenarios, could become the pretext for ousting tyrants from power to pursue geopolitical interests. Humanitarian purposes were paramount to trigger the western military intervention in Libya. Nevertheless many reasons can explain such assertiveness to accelerate the process that paved the way for regime change in Libya. The next chapter is devoted to this thorny issue.

Humanitarian reasons or geopolitical interests? The war in Libya shows EU member states' frictions up

There are many features that differentiate the military intervention in Libya from other war engagements around the world in the past. First and foremost it was authorised by the Security Council of the United Nations. Contrary to other recent military interventions in the Middle East, what occurred in Libya in 2011 was thus in accordance with international law. Secondly, the implementation of the Security Council Resolution 1973 was assigned to a multilateral force, joined by a coalition of 27 states, even if only few of them took part to the actual military operations. Therefore, unlike previous unilateral interventions without a UN mandate, the military campaign in Libya gained international support so much so that also NATO would join the military operations roughly after one month the adoption of the UN Resolution. Furthermore it can be added to the analysis that the coalition's intervention in Libya was unusually headed by European countries (France and Britain) rather than the US. Obama's doctrine of "leading from behind" – according to which the US should diminish its military presence around the world in order to tackle the American decline, thus retreating from many war scenarios, starting from Afghanistan – entailed a less onerous American commitment in the Libyan civil war compared to other situations in which the US army was involved.[6]

Nevertheless the war against Gaddafi shares also at least one important similarity with previous conflicts. Indeed, behind the official declared purpose, warlike efforts often hide the real ambitions of the belligerents. Countries' geo-strategic position, oil, energetic sources, the fear of the proliferation of weapons of mass destruction (WMD) are also assessed when the decision either to wage war or to initiate a limited conflict has to be taken into account. This happened also before the adoption of the Resolution 1973. France and Britain had different motives to attack pro-Gaddafi forces and spur the international community to

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[5] Payandeh, M., 2012, p.394.
[6] Boyle, M., 2011.

push for a regime change in Libya. On the contrary Italy was initially reluctant to impose sanctions on the North African country, when the crisis started[7]. These disagreements at the international level can be accounted for only analysing the intervening countries' interests at stake in the Mediterranean Sea.

As asserted above the principle of Responsibility to Protect was crucial in the decision of the European heads of state to establish a no-fly zone on Libya. Yet France and Britain were more assertive than Italy in taking "all necessary measures" to protect civilians from Gaddafi brutality, thus involving military actions. Does it mean that the Italian foreign minister was less concerned with human rights violation in Libya than his EU counterparts? Probably not. The answer to the different foreign policy postures needs to be sought firstly in the decision-making process of the three states. Starting from France, it is possible to affirm that its hawkish stance towards the Libyan crisis stemmed from three main reasons. First, President Nicolas Sarkozy's realpolitik was aimed at avoiding massive flows of migrants. Refugees fleeing from persecutions in Libya posed a threat to France's borders. A threat that could have been tackled only dealing with the problem. Second, the French President acted in order to maintain his country's prestige. France foreign policy grandeur, mostly displayed in the past with a political influence in the African continent, could have been once again reaffirmed through a leadership role in the Libyan crisis. A *New York Times* editorial claimed that Sarkozy "saw Libya as a chance to recoup French prestige in North Africa, a region France has long considered important to its economy and security."[8] Last but not least, French oil interests in the country could had been crucial in triggering Sarkozy's ensuing decision to carpet bomb Libyan governmental infrastructures. Before that uprisings broke out also in Libya, France had reached agreements with the Gaddafi government to import over 15 percent of its oil[9]. Once the Arab Spring spread throughout Libya and Gaddafi lost the control of large part of the territory, France took the lead of the coalition in bombing pro-Gaddafi forces. Sarkozy's government was also the first who recognised Libyan rebel. This eased France's leadership role in talking with Libya rebels, thus hoping to sign oil contracts with a new government in Libya in the future.[10]

If Britain had almost the same reasons of France to intervene in the Libyan civil war – even though a poll showed that 53% of respondents deemed unacceptable for British personnel to lose their lives in carrying out air strikes against the Gaddafi regime, thereby making Cameron domestically weaker than Sarkozy – Italy was anything but ready to align itself to the western coalition in the enforcement of the no-fly zone. The Italian reluctance in the early phases of the military intervention to hit Gaddafi troops showed the initial will of the Italian government to play the role of peacemaker in the crisis, hedging in a way its stance in the military intervention, in order to be capable of dealing with a scenario in which the Colonel Gaddafi would contrive not to lose the western part of the country. Italy took a more moderate stance than France and Britain within the international institutions because of two other main reasons. On the one hand Gaddafi, at one time close ally of the Italian government, warranted political and social stability in Libya – even if through non-democratic means. Therefore the cohesion of the Libyan society was very important for the Italian security, particularly due to Libya's geographical proximity. Contrary to France and Britain, Italy looked at the Arab Spring as a threat to its security, considering them a harbinger to massive migration flows. This is why the Italian foreign minister FrancoFrattini initially stated he would not imagine a post Gaddafi scenario.[11] On the other hand Italy had a privileged partnership with Gaddafi's Libya. After that Muammar Gaddafi had decided to move towards the normalisation of the relations between Libya and the international community in the early 2000s – Libya decided indeed to abandon its nuclear program and take steps to fight Islamic extremism – Italy signed a treaty of friendship and

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[7] Croci, O. and Valigi, M., 2011, p.193.
[8] New York Times, 2011.
[9] Davidson, J., 2013, p.319.
[10] RT News, 2011.
[11] Arachi, 2011.

cooperation with Libya in 2008. Italy had also several economic interests in the North African country prior to 2011.The Italian public energy company, ENI, have been operating in Libya since 1959 and continued to maintain its key energy assets in the country even when the other western states rejected any economic agreement or strategic cooperation with Gaddafi in 1980 due to his association with terrorism. The GreenStream pipeline in the western part of Libya supplied Italy with around 15 percent of its natural gas imports before the unrest.[12] Furthermore Italy has also been one of Gadhafi's major arms suppliers and, before the unrest began, the Italian government was in the process of negotiating a $1.05 billion-worth of military contracts.[13]

Altogether, Italy's economic and strategic interests in Libya account for Italian hesitations, in the early phases of the military intervention, to join France and Britain in the campaign against Gaddafi's forces. Instead, France and Britain's hawkish stances in the Libyan civil war can be explained also by the desire to spread their influence in Africa, thereby challenging the special strategic relation Italy had built with Gaddafi. Therefore the humanitarian intervention in Libya took quickly the shape of a war which showed up the frictions between the EU member states. The outcome of these political and strategic rifts can be easily described by looking at the situation that the international community faces in Libya nowadays. The UN is indeed dealing with a failed state in which hundreds of militias fight against each other for the control of the territory. The disaster is not over yet, though.

The repercussions of the military campaign in Libya on international security. Did the intervention turn out to be a failure?

After that the coalition of the willing toppled the Gaddafi regime, Libya sink into a catastrophic situation of extreme uncertainty. The country is literally split in two sides. The western part is ruled by the UN-backed government, led by Fayez al-Serraj. The House of Representatives, which represents the Tobruk government, rules in eastern Libya and Khalifa Haftar, the head of the Libyan National Army, is considered the "strongman" of this Libyan legislative body. The lack of a central sovereign authority contributes to strengthen the presence of a myriad of militias that jeopardise the creation of a future close-knit National Army under the control of a central government. Indeed, either the two opposite factions reach an agreement in order to deal with the most urgent issues – such us guaranteeing the respect of human rights, defending the Libyan borders and building a single army able to restore the order – or they accept to modify the Libyan institutional structure, giving up on the Libyan political unity.

Moreover, Libya is facing an urgent crisis that affects its economy and, consequently, the humanitarian situation. Despite limited improvements driven by the oil sector, the Libyan economy suffers of deep structural shortcomings. The heritage of Muammar Gaddafi's socialist state-led economy, the military conflict that threatens also the agricultural sector and the growth of inflation are the main causes of the current economic crisis. The humanitarian situation within the country is tragic: 1.33 million of people are in immediate need of humanitarian aid and around 439.000 children need some sort of protection. These data can alone explain why migrants have increasingly tried to flee from Libya and reach European southern borders.

Simultaneously Islamic extremist groups nestled easily in the country since anarchy arose. The lack of a central authority and of a flourishing economy further boosted the proliferation of jihadist theories, propaganda and actions. Although Isis, Ansar al-Shariah and other jihadist terrorist groups have been almost defeated in Libya – thanks mainly to US air strikes – and expelled from their main strongholds, jihadi influence in the country has not diminished. The proliferation of terrorism in the region could still be a tangible danger if a strong government does not seriously tackle this threat to its security. IS presence in Libya is a threat also for EU member states, especially those really close to Africa. According to the Italian Secret Service jihadists are exploiting illegal migration to

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[12] Forbes, 2011.
[13] Ibid.

reach Europe.[14] Therefore after 2011, when the number of migrants chose to seek asylum in Europe increased exponentially, migration became a matter of concern for EU countries.

Summing up, nowadays Libya is a powder keg. A failed state, with two governments having no monopoly of the legitimate use of force, hundreds of militia fighting against each other and terrorist groups that are threatening country's social stability and security. The military operation carried out to change the Gaddafi regime embittered tensions within the country and in the whole Middle East; triggered a new wave of migration towards Europe; worsened Libyan economic and humanitarian situation; indirectly boosted religious and political extremism. Also Obama – who gave a large military contribution to the intervention in Libya in 2011 – has recently admitted that the war against Gaddafi turned out to be a failure.[15] There are of course those that defend the military campaign in Libya, claiming that Gaddafi violations of human rights could have been the forerunner of a genocide, which was avoided thanks to the implementation of the principle of Responsibility to Protect. That being said, today the international community is still dealing with Libya's stabilisation, seven years after the fall of the Gaddafi regime. The crisis is still ongoing and shows no signs of letting up.

Conclusions

The western military intervention in Libya has changed many things in the Mediterranean. The UN is now trying to help Libyans to build what should be the future country's governing authority. Economic development, protection of human rights and social stability are the cornerstone of the international community's political action in the post-Gaddafi era. Thus the efforts aimed at overturning the Gaddafi regime in 2011, with the intention to protect civilians from being slaughtered by pro-Gaddafi forces' violence, are today steered towards the creation of a stable governing authority able to reckon with other problems – namely anarchy, the growth of Islamic

extremism, corruption, economic recession – that negatively affect the protection of human rights. In this respect little improvements have been made from 2011. The civil war is still ongoing and protecting human rights is surely the last goal of the armed factions.

We have seen that even if the military intervention in Libya abided by all the measures provided for by the Resolution 1973, thereby enforcing the UN mandate that called for the implementation of all necessary measures to protect civilians (RtoP), the intervening countries acted also to safeguard geostrategic interests in the region – as we have discussed above, domestic reasons were crucial as well in triggering France and Britain armed intervention. Therefore human rights issues were not the only motives that prompted European countries to intervene.

This argument leads to two main conclusions. First of all some EU member states were driven by other reasons then human rights' when the decision to bomb Gaddafi forces had to be taken. This resulted in a game in which geopolitical and strategic interests in the Mediterranean, particularly in Libya, were so important that undermined – at least in the early phases of the discussion on whether bombing Libya or not – the cohesion of the coalition that intervened in the North African country. France and Britain took hawkish stances from the beginning: the establishment of a no-fly zone over Libya and the protection of civilians even through the use of military force. The aforementioned domestic and geopolitical reasons can explain this firm behaviour. Instead, Italy's initial reluctance to follow suit can be accounted for by its geographical proximity to Libya and the consequences that a post-Gaddafi scenario could have entailed. Secondly the implementation of the principle of Responsibility to Protect, together with a broad interpretation of the documents that may justify an armed intervention from the legal point of view, can bring about outcomes – e.g. regime changes –rather different from RtoP pivotal goal, namely the protection of civilians. The 2011 Libyan case, indeed, can constitutes a precedent for future similar situation in which ousting lawfully a brutal regime would become easier.

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[14] Tondo et al., 2017.
[15] Guardian, 2016.

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Elizaveta Garbuzova

HAVE THE EXPERIENCE OF LIBYA AND SYRIA SINCE 2011 DISCREDITED RtoP AS AN INTERNATIONAL NORM?

The Responsibility to Protect (RtoP) was adopted by the United Nations in 2005 with an aim to never let crimes against humanity such as in Rwanda to be repeated. However, scholars such as Perisic, Nuruzzaman and Ercan challenge the true intentions of the UN Security Council and criticise the application of RtoP in Syria and Libya. This analysis seeks an answer to the questions: have the experiences of Libya and Syria since 2011 discredited RtoP as an international norm? How and why? The analysis proceeds as following: introduction of the crises in Libya and Syria and the international response to them; an analysis of how the Security Council failed to apply the norms, and why did this not discredit RtoP. In both cases of Libya and Syria, RtoP did not fail as an international norm, rather Security Council was unsuccessful to properly apply RtoP accordingly to ICISS established framework. The perception that RtoP has been discredited is originating from Security Council justifying their actions with RtoP language.

Theory of RtoP

Theory of RtoP rests on the fundamental idea of a state's sovereignty. While traditional concepts of sovereignty focus on a state's ability to protect its borders, RtoP extends sovereignty to protection from within. RtoP is supposed to guarantee sovereignty protection outside the state and within it as long as the state can give protection to its citizens. RtoP is a moral argument that protects civilians from any kind of crime against humanity. If the government of any given state fails to protect its civilians, then "the principle of non-intervention yields the international responsibility to protect."[1]

ICISS redefines sovereignty by encompassing two ideas: protection of the population and right of international intervention in case of failure to ensure the former. International community has not only to "responsibility to react" meaning intervene into a country when there is a genocide or ethnic cleansing, but also to "responsibility to prevent" it and to "responsibility to rebuild" the area after the intervention.[2] International physical intervention is last resort to be used in order to stabilise the situation. The diplomacy and other means of conflict regulation must be applied first.

Situation in Libya

In spirit of the Arab uprisings, the population of Libya in February 2011 decided it was time to challenge Muammar Gaddafi. Gaddafi tried to condemn anti-government protests, however, the protests spread around the country. Gaddafi promised to crush the rebellion and claimed that "any Libyan who takes arms against Libya will be executed."[3] The rising number of death of protestors alarmed the international community, which decided to act immediately.

International response to Libya

The international response to the situation in Libya was quick. On February 22 2011, UN reminded the Libyan government about RtoP and called on the government to protect its citizens:

"If the reported nature and scale of such attacks are confirmed, they may well constitute crimes against humanity, for which national authorities should be held accountable. We remind the

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[1] Ercan, P.G., 2016, p.96.
[2] ICISS Report, 2001.
[3] As quoted in Whetham D. and Strawser, B.J. (eds.) 2015, p.88.

national authorities in Libya, as well as in other countries facing large scale popular protests, that the heads of State and Government at the 2005 World Summit pledged to protect populations by preventing genocide, war crimes, ethnic cleansing, and crimes against humanity, as well as their incitement."[4]

The UN tried to urge the Libyan government for a diplomatic and peaceful resolution of the conflict, however it was not achieved, and the UN decided to act. In February, 2011, the Security Council (SC) passed Resolution 1970,[5] as all 15 members of SC unanimously voted for this resolution.[6] Resolution 1970 calls for international on-ground investigation of the crimes committed against humanity, calls on Libyan government to respect human rights, refers the situation to the International Criminal Court and applies non-coercive measures to stop the violence such as arms embargo, travel ban and an asset freeze of particular individuals.[7] Maissaa and Perisic argue that violence did not stop after Resolution 1970 was implemented[8], therefore UN started to look for alternative solutions[9]. On March 17 2011, UNSC adopted Resolution 1973[10], ten members voted for resolution and five abstained[11]. The resolution

"authorizes Member States that have notified the Secretary-General, acting nationally or through regional organizations or arrangements, and acting in cooperation with the Secretary-General, to take all necessary measures, notwithstanding paragraph 9 of resolution 1970 (2011), to protect civilians and civilian populated areas under threat of attack."[12]

Maissaa argues that because Resolution 1973 has no written limits, it allowed NATO to impose a no-fly zone and assist civilians, which resulted in prolonged civil war.[13] It was the first resolution in the history of international relations that encouraged military intervention without the agreement of the governing country.[14] NATO did not anticipate such strong resistance from Qaddafi, so it started to bomb a wider range of territory including Tripoli[15], where it destroyed power plants and infrastructure. As a result of this, the Brazilian representative at the SC argues that, "such measures may have the unintended effect of exacerbating tensions on the ground and causing more harm than good to the very same civilians... [they] are committed to protecting."[16] Russia claimed that NATO applied "a disproportionate use of force," when as a result of the NATO's air strike Qaddafi's son and grandchildren were killed.[17] The disagreements and tension on use of force among SC's countries started to rise. Russia's concluding remarks are that NATO abused Resolution 1973:

"The demand for a quick ceasefire turned into a full-fledged civil war, the humanitarian, social, economic and military consequences of which transcend Libyan borders. The situation in connection with the no-fly zone has morphed into the bombing of oil refineries, television stations and other civilian sites. The arms embargo has morphed into a naval blockade in western Libya, including a blockade of humanitarian goods. Today the tragedy of Benghazi has spread to other western Libyan towns – Sirte and Bani Walid. These types of models should be excluded from global practices once and for all."[18]

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[4] UN Office, 2011.
[5] Almustafa, M. et al., 2013, p.3.
[6] Henriksen, D. and Larssen, A.K., 2016.
[7] UN Resolution 1970.
[8] Perisic, P., 2017, p.790.
[9] Almustafa, M. et al., 2013, p.3.
[10] UN Resolution 1973.
[11] Vanguard, 2011.
[12] UN Resolution 1973.
[13] Almustafa, M. et al., 2013, p.4.
[14] Zifcak, S., 2012, p.64.
[15] Ibid, p.65.
[16] As quoted in Perisic, P., 2017, p.794.
[17] Perisic, P., 2017, p.790.
[18] United Nations S/PV.6627.

Situation in Syria

Similarly to Libya, Syrians were also inspired by the Arab Spring and organised protests that were directed against inequality and poverty.[19] On April 16, 2011, Bashar al-Assad recognised peaceful protests, and swore in new government, but manifestations did not end, so authorities deployed an army to quell them.[20] What made the situation worse is that in 2013 chemical weapons were used in an area of Damascus. While this is a clear violation of human rights, it is still not clear which side launched the attack.[21]

International response to Syria

The international response to Syrian conflict was not as quick and decisive as in Libya. Crimes against humanity have been observed on the ground and were reported by various independent commissions such as OHCHR, the Human Rights Watch, and the Independent International Commission of Inquiry.[22] At this point it became clear that disaster occurred and the prevention pillar of the RtoP has failed to be implemented by SC. In October 2011, as well as February and July of 2012 the first drafts of resolutions to the conflict in Syria were introduced by Arab and Western countries.[23] The resolutions proposed to end the import of arms to Syria and to ask President al-Assad to hand over his responsibilities to his deputy and to organise fair elections in the country.[24] Russia and China vetoed all three of the draft resolutions, because the respect for sovereignty and internal affairs of the country have been violated in draft resolutions.[25] This created a deadlock in the Security Council. The US ambassador to the UN claimed he is "disgusted"

with the double veto of the countries.[26] Russia's Permanent Representative to the United Nations, Vitaly Churkin, stated that draft resolutions failed to condemn violence from both sides - government and rebels.[27] By December 2012, three states from the permanent members of the SC – US, UK and France recognised the Syrian National Coalition as the official Syrian government and extended supported to them.[28] In April 2017, as a response to the use of chemical weapons, the United States launched an attack against the Syrian government.[29]

Analysis of the international response

From the international responses and the results of the operations it seems clear that the current framework of implementing RtoP as it was in Libya and Syria is not sufficient. RtoP can only be implemented by SC, which shows the hypocrisy of the UN. RtoP as an international norm is not discredited by the experience of Libya and Syria since 2011, but rather the UN as organisation, and particularly SC is discredited for following reasons - political goals of SC countries and an asymmetric application of the norm.

Political goals of Security Council members

The situation of the deadlock of SC disabled application of the RtoP. Deadlock was a result of the political aspirations of the SC countries. According to the theory of RtoP, change of the political regime cannot be part of the RtoP mission[30]. However, it is clear that the one of the US goals was to overthrow the regime of Gaddafi. This has even been stated by US President Barack Obama.

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[19] Zifcak, S., 2012, p.73.
[20] Ibid.
[21] Perisic, P., 2017, p.798.
[22] Ibid, p.799.
[23] Kersavage, K., 2014, p.35.
[24] Ibid.
[25] Perisic, P., 2017, p.797.
[26] Zifcak, S., 2012, p.83.
[27] Ibid.
[28] Nikoghosyan, H., 2015, p.1245.
[29] Perisic, P., 2017, p.801.
[30] ICISS Report, 2001, p.35.

"Time is working against Gaddafi and he must step down from power and leave Libya to Libyan people. [...] The goal is to make sure that the Libyan people can make a determination about how they want to proceed, and that they'll be finally free of 40 years of tyranny and they can start creating the institutions required for self-determination."[31]

Although Obama talks about humanitarian pursuits, he nevertheless expresses that the American aim is a change of leadership, which is forbidden under the RtoP framework. Perisic protects Obama's speech that represents desire of government overthrow because it is doubtful that people could be protected from Gaddafi, while he is still in power.[32] However, Perisic acknowledges that this exceeds the UN framework. RtoP is not supposed to be political, therefore by pursuing political interests, Obama and the US government failed to respect the norm, and thus challenged the legitimacy of the norm in eyes of others. However, it is important to understand that his actions were not permitted by RtoP. Although Perisic has a convincing justification, it cannot be connected to RtoP. Obama's actions can be justified on their own, but not in regard to RtoP. However, Perisic outlines the real reason for American intervention and their aim to change the regime - prior to 2011, Gaddafi made it tougher for American oil companies to make profits in Libya, therefore US wanted free and unrestricted access to Libyan oil reserves which could be accomplished by overthrowing Gaddafi. This again shows how political interests were covered up with humanitarian pursuits.

In the Syrian situation both Russia and US had political interests in the Syria, which caused them to refuse political dialogue. Syria is geographically close to the American ally – Israel. Therefore, US political goal is to make sure Israeli interests do not get challenged, and its security is not compromised.[33] Although Russia has accused US multiple times of having political pursuits, Russia itself has a strategic interest in Syria. Russia vetoed resolutions because it wanted non-intervention in

Syria due to having military naval base in Tartus and in general close ties with al-Assad.[34] Perisic claims that al-Assad is the only Russian ally in the Middle East. This is why it is extremely important for Russia to preserve al-Assad's government in order to maintain Russian influence and presence in Middle East. Russia was exporting weapons to Syria and it did not want to have extremists in Northern Caucasus, therefore it needed to keep other powers from intervening. Therefore, it is clear that in both cases political goals were the main motivation to drive countries' decisions rather than to protect people.

Asymmetrical application of the norm

The asymmetrical application of the RtoP norm makes it seem discredited, however, it is SC who failed to apply the RtoP properly. RtoP requires SC to not only intervene to protect civilians, but also to prevent crimes against humanity and after the military intervention it requires to restore the area. Although it can be seen that in Libya the SC applied preventatives measures such as no fly zone and travel ban, in Syria the SC showed its inability to act. SC failed to implement pillar one of prevention in Syria. SC seems to apply the norm asymmetrically, because it does not thoroughly follow the established three steps of RtoP, but rather it chose to complete the second and in both cases never reached the third step – responsibility to rebuild. Because SC is the only entity that authorises RtoP, it seems there is a hypocrisy in its actions because since it is the only one who can regulate RtoP, it does not follow the procedure as it ought to. Another issue with RtoP application is the decision of SC which events should be faced with RtoP. It would seem like all the international crises should involve international assistance, however, this is not the case as RtoP was only applied in few situations, for example in Libya, Syria, Kenya and Sudan.[35] However, there are other conflicts in which there were crimes against civilians, such as the Iraqi-Kurdish conflict or war

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[31] As quoted in Ercan, P.G., 2016, p.96.
[32] Perisic, P., 2017, p.795.
[33] Ibid, p.804.
[34] Ibid, p.800.
[35] Adams, S., 2015.

in Donbass where authorities failed to prevent them from occurring it. Both of the conflicts could be considered as part of the war crime, thus international community would have a responsibility to intervene. It is not completely clear on what basis SC chooses conflicts to assist. Another issue of asymmetrical application of RtoP is article 4.42 of RtoP. Nuruzzaman argues that RtoP discriminates between poor and rich states, because according to Article 4.42 of ICISS report permanent five members of SC and other great powers are excluded from this norm.[36] This means no other country can intervene into those ones, no matter what kind of crimes against humanity are committed there. This shows that in fact it is not RtoP that discriminates lesser developed countries, but rather SC itself. SC made the method to implement the norm, which shows how hierarchical SC is. The fact that norm does not apply to everyone equally shows hypocrisy of the SC, and the reason why the norm did not succeed. Only weaker states need to live accordingly to SC standards, while P5 states do not need to bother about it. Example of this can be seen when NATO was acting without authorisation of UN in Libya, it killed civilians and committed crimes against humanity as well, yet it remained unpunished.

Conclusion

I argue that RtoP was not discredited because it was never applied. Rather UN used RtoP as propaganda tool to justify their actions. This discredited the perception of RtoP in eyes of others. It is important to understand that SC never applied RtoP, but only called for their actions with this framework. Therefore the norm should not be discredited since it was never applied and the name was used in propaganda purposes. UN failed to apply RtoP. The SC applied the norm asymmetrically, particularly it never implemented "responsibility to rebuild". SC also was guided by political interests which RtoP framework does not allow. Therefore, RtoP was not implemented in Syria and Libya.

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[36] Nuruzzaman, M, 2013, p.60.

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In this paper, an analysis of the Yemeni crisis will be attempted in the light of the UN initiative Responsibility to Protect (RtoP). The Yemeni crisis is an excellent example of how international actors are exploiting the existence of this international norm so that they are capable of justifying an intervention in the territory of a foreign state with a view to serve their particular interests and aspirations.

Initially, there will be a brief presentation of the background of the crisis as well as the current situation in Yemen. Thereafter, reference will be made to the UN reaction steps through the Security Council The analysis will then concern the Responsibility to Protect, including a short presentation of the features that make up this international norm and at the same time the legal status defining the cases considered to be legitimate for intervention in the territory of a foreigner state. It will then be investigated whether this interference in Yemeni territory is a legitimate intervention within RtoP, or, on the contrary, Riyadh has found a good ground to promote its strategic pursuits in the region. Finally, in the final part of this paper, we will attempt an assessment of the crisis and of the legitimacy of the intervention, Western powers' reaction to crisis, possible future steps to end the war and also, the importance of the RtoP norm in the international arena.

Amidst the chaos in Syria and the controversy in Israel-Palestine, Yemen is a key region in the Middle East which is often overlooked by major news media. Yemen is a country that borders Saudi Arabia, Oman and the Arabian Sea, lying on the southernmost part of the Arabian Peninsula. The nation was formed after the traditionalist North Yemen and the communist South Yemen united in 1990[1].

In 2011, the countries of North Africa and the Middle East were at the heart of the revolutions of the Arab Spring, with Syria evolving into the most central disorder of turmoil. Yemen, as expected, could not be an exception. The crisis in the country began after a failed political transition that was meant to lead Yemen to political normality, following a reversal that forced the old authoritarian country president Ali Abdullah Saleh to surrender power in 2011 to Abdu Rabu Mansour Hadi. But by the end of 2014, the demonstrations have evolved into tough conflicts. Since then, one of the most insidious civil wars has been raging with Yemen being in the midst of a humanitarian disaster. The United Nations has called the situation the world's largest humanitarian crisis, and the situation could become even worse.[2] Approximately 22 million Yemenis today, 75 percent of Yemen population, rely on humanitarian assistance and need emergency aid in order to survive, the greatest number in any country in the world.[3]

Unfortunately, the conflict in Yemen is showing no real signs of abating. Civilians bear the brunt of the violence in Yemen. All parties to this conflict have committed serious violations of human rights and international humanitarian law, including war crimes, causing unbearable suffering for civilians. The conflict has so far caused more than 10.000 civilian deaths and injuries and over 2 million people have been forced to flee their homes due to the bombing and fighting.[4]

The growing protest movement as a result of the Arab spring has forced Ali Abdullah Saleh's long-running dictator to leave in 2012 after two decades in power. Under a US and Saudi Arabia-supported, transitional arrangement his vice-president, Hadi replaces him, being the undisputed winner of the

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[1] Praven, V., 2017.
[2] Glen, C., 2018.
[3] Oxfam (n.d.)
[4] Glen, C., 2018.

presidential election, without opposition.[5] In his statements, he paved the way for a constitutional treaty and new elections. However, the surrender of power from one president to the other did not eventually lead to the "spring" that Yemen dreamed of living, as the big problems remained. Al-Qaeda in the South, the fact that many of the military remained loyal to Saleh, corruption, social problems such as unemployment, food insecurity and conflict between the different tribes were just some of the issues that the new president had to resolve.

The Houthis who follow the Shiite Islam, felt that this government is controlled by strong forces and unable to defend the interests of its people, rejected a government plan created by those consultations. Headed by Hussein Badr al-Din al Houthi, they aimed at greater autonomy for their provinces and their protection from the influence of Sunni Islam. They managed to win the support of those who were disappointed by the political transition to the country, including the Sunni Muslims with their criticisms of the transition process. Military units loyal to Saleh aligned themselves with the Houthis, contributing to their battlefield success.[6]

Houthis and the military units loyal to former President Ali Abdullah Saleh and the GPC party took control of Sa'ada, Hodeida, Dhamar, Amran and Sana'a until mid-September 2014, forcing Hadi to negotiate for a united government.[7] The rebels continued to push the weak government until Houthi captured the city in January 2015. The following month Houthis was appointed by themselves as a government, but Hadi escaped to Aden. Yemen split up in 2015 with Houthis settling down as a new government in Sana'a, and Hadi retreating with his supporters in Saudi Arabia.

On 25 March 2015, an international coalition led by Saudi Arabia of eight other countries responded to a government request which launched a military campaign, primarily fought from the air, sparking a full-blown armed conflict.[8]

Despite several temporary ceasefire agreements during 2015 and 2016 and intermittent UN-brokered peace talks, the conflict in Yemen continues to leave civilians facing mass atrocity crimes[9]. The last attempted ceasefire, on 19 November 2016, collapsed within 48 hours and political negotiations have been suspended for two years. The conflict had mostly settled into a pragmatic, if economically destructive, stalemate. The most dynamic aspect of Yemen's multidimensional conflict in 2017 was the fracturing of the troubled alliance between Houthi militias and Saleh loyalists, a showdown ultimately resolved in the Houthis' favour. The UN has already made three rounds of peace talks that did not have a good outcome. In fact, there has been strong opposition in the UN to Saudi Arabia's behaviour[10] that lead to an escalation of the conflict in Yemen and increased the death toll.[11]

The UN Security Council has imposed asset freezes and travel bans on Houthi leadership, a partial arms embargo, and expressed its support for Yemen's president-in-exile Mansour Hadi. However, it has not authorised military action of the kind that it did in Libya in 2011. During 2011 the UNSC adopted Resolution 2014, which condemned human rights violations by the government of former President Saleh and affirmed Yemen's primary responsibility to protect its population. The UNSC imposed sanctions on former President Saleh and Houthi leaders in November 2014. On 14 April 2015 the UNSC passed Resolution 2216, establishing an arms embargo against Houthi leaders and some supporters of former President Saleh, and demanding the Houthis withdraw from all areas they had militarily seized. On 26 February 2018 the UNSC renewed sanctions for an additional year. On 29 September 2017 the Human Rights Council adopted a resolution establishing a Group of Eminent International and Regional Experts to monitor and report on the human rights situation in

[5] Schiavenza, M., 2015.
[6] Zachary, L., 2016.
[7] Ibid.
[8] Glen, C. and Algethami, S., 2018.
[9] Global Center for the Responsibility to Protect. "Yemen"
[10] Reichwein, A. and Hansel, M., 2016.
[11] Global Center for the Responsibility to Protect. "Yemen"

Yemen. On 15 March the UNSC adopted a Presidential Statement calling for unhindered humanitarian and commercial access, and calling upon all parties to uphold their obligations under International Humanitarian Law (IHL). On 18 June the UN Special Envoy, Martin Griffiths, presented a plan for political negotiations to the UNSC.[12]

Continuing, before finding out if Saudi-led coalition intervened for restoring peace in Yemen, it is good to analyse first in brief what is the RtoP. The latter, is a political principle and emerging international norm for the prevention of the four atrocity crimes. Variously called a norm, a doctrine, and a principle, RtoP has generated much controversy over the past decade. Individuals, who make up societies, also have rights under international law, governments can no longer exercise their sovereignty domestically without constraint. RtoP is conventionally understood to have three aspects, or "pillars", each with differing levels of responsibility:[13] Pillar I emphasises a state's obligations to protect all populations within its own borders; Pillar II outlines the international community's role in helping states to fulfil this obligation; Pillar III identifies the international community's responsibility to use appropriate diplomatic, humanitarian, peaceful or coercive means to protect civilian populations where a state manifestly fails to uphold its obligations.

The legitimate use of military force has a number of limitations: it must have a just cause, which means that a state has to be manifestly failing to uphold its responsibility to protect civilians from mass atrocity crimes in order for the use of force to be justified; For any international enforcement action to be efficient, it must be legitimate; for it to be legitimate, it must conform with international law; and it must be consistent with the UN Charter and it must be properly authorised by the Security Council. The threshold for intervention is crossed when large-scale loss of life or ethnic cleansing is occurring or is about to occur. Intervention must only be used once all available non-violent options have been exhausted. The primary purpose of the intervention, must be to halt or avert human suffering. The goal is not to wage war on a state, but to protect victims of atrocities inside the state. The scale, duration and intensity of the planned military intervention should be the minimum necessary to secure the defined human protection objective. And there must be a reasonable chance of success in halting or averting the suffering which has justified the intervention, with the consequences of action not likely to be worse than the consequences of inaction.

Military interventions are classified as unlawful armed attacks prohibited under international law. According to the Article 2(7) of the UN Charter, all states are bound by the principle of non-intervention in the internal affairs of other states. No state has the right to violate the sovereignty of any other state by using armed force unless certain exceptional circumstances are present. All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state.[14]

There are very few instances when the use of force against another state is not classified as unlawful acts of war prohibited under international law:

1) Intervention is justifiable if a state exercises its inherent right of self-defence under Article 51 of the UN Charter in response to an armed attack. Under customary international law, self-defence is limited by the requirements of necessity and proportionality. The rule is that only when the danger posed to a state "is instant, overwhelming, leaving no choice of means, and no moments for deliberation can a state respond.[15]

Further, only a state is capable of committing an armed attack. Attacks of non-state actors can only be attributed to the state when the latter effectively controls, directs and commands non-state actors. Saudi Arabia does not recognise the rebels as a legitimate government, so it cannot argue that it is acting in self-defence against a hostile state.

In a letter to the UN Security Council requesting military intervention, invoked Article 51 of the UN Charter – which gives countries the right to engage in self-defence, including collective self-defence,

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[12] Ibid.
[13] UNA, 2014.
[14] Ibid.
[15] Sikander, A.S., 2015.

when under attack. Article 51 is relevant when a state is using force in response to an attack from outside. But Article 51 governs international conflicts, not domestic disputes. In Yemen, the government of Yemen is in a conflict with a significant rebel group inside the country.[16]

An alternative would be for Saudi Arabia or other neighbouring states to argue that the Houthi takeover presents an imminent threat to their own security – making a defensive attack justifiable under Article 51. Saudi Arabia has tried to present the war in exactly this manner. Saudi Arabia has framed this conflict as a sub-regional threat to its own security.[17] But Houthi aggression, as yet, does not represent a legitimate enough threat to neighbouring countries to justify intervention, especially as other techniques such as sanctions or mediation have not yet been tried. The coalition could request a resolution from the 15-member UN Security Council permitting all necessary actions. No such ruling has been passed or appears imminent; and in any case, Russia, a permanent member of the UNSC, would likely veto any such instructions as it opposes the Saudi intervention.[18]

2) An intervention would also be justified if the UN Security Council passes a binding resolution under Chapter VII of the UN Charter. The Security Council could make a determination that the civil war in Yemen poses a threat to international peace and security under Article 39 of the Charter. It could then order the use of force under Article 42, and direct member states to intervene in order to maintain or restore international peace and security.[19]

3) An intervention would not violate the sovereignty of Yemen if the incumbent government consents to or invites external military intervention. This principle has been affirmed by the International Court of Justice. A state can legally consent to a foreign military presence or request military assistance on its territory against

rebel groups. However, such assistance can only be lawfully provided if the incumbent government requesting it exercises "effective control" over its territory.[20] There are plenty of examples of governments requesting support for a military operation on their territory – most recently when Iraq and Syria requested American and Russian help respectively in fighting the so-called Islamic State. These types of interventions are considered legal under international law. But Yemen's case is far less clear.[21]

Yemen's President Abdu Rabu Mansour Hadi had specifically called for an intervention for two reasons. At first, because Houthi rebels threatened his rule. Secondly, President Hadi asked for support to protect Yemen and the Yemeni people. The Saudi justification for military intervention was rested on the claim that it was coming to the aid of a neighbour in need after a specific request from its governing authority, which is legal under international law. But having overstayed his term in office, resigned once, had long lost control of large parts of the country and even fled the country, Hadi's legitimacy as ruler is shaky, placing the Saudi military action in murky legal territory. If Hadi were still in Sana'a and had a relatively modest rebellion on his hands, there is little doubt he could consent to have other states come in and help him.[22]

On March 25, 2015, Riyadh initiated its military intervention into Yemen justifying it as a clear RtoP operation, with these stated objects: Protecting the people of Yemen, its legitimate government, eliminating the threat of escalating violence, counter terrorism and offering medical assistance.[23]

This sort of justification and this type of language are often associated with the Responsibility to Protect (RtoP).[24] Despite the RtoP-style rhetoric, there are strong reasons to doubt that Riyadh's incursion into Yemen is an instance of RtoP.

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[16] Dyke, J., 2015.
[17] Ibid.
[18] Ibid.
[19] Sikander, A.S., 2015.
[20] Ibid.
[21] Dyke, J., 2015.
[22] Ibid.
[23] Hu, M. (n.d.)
[24] Tuckwell, D. and Smyth, L., 2015.

1) Yemen has become in many senses a "chaos state": a place where the central government has either collapsed or lost control of large segments of the territory over which it is nominally sovereign; and where groups with varying degrees of legitimacy cooperate and compete with one another.[25] Yemen more closely resembles a region of mini-states at varying degrees of war with one another, than a single state engaged in a conflict.[26] It is clear that the state of Yemen has failed to protect its population, and that the sovereignty of the state is compromised.[27] Instead of being able to protect its citizens, the country has delegated control to the Saudi military in order to restore power. In Yemen's case, RtoP was not formally invoked by the UN but it nevertheless was an important aspect when Riyadh announced its justification for the intervention in Yemen. Unfortunately, the way in which the Saudi-led coalition has gone about fighting the rebels does not appear to resemble justified intervention, but instead seems to be a clear and flagrant violation of international and human rights law and can now only be considered as an unnecessary, unilateral, illegal military action.[28] Saudi Arabia and its allies, as well as the Houthis, are obligated under International Humanitarian Law (IHL) not to deliberately target or unduly risk harm to civilians.[29]

2) Saudi military action is exacerbating the situation on the ground, making the stated objective of protection a less likely prospect. Several hundred civilians have already been killed by the Saudi air strikes. Civilian casualties have resulted in public pressure for the United States and United Kingdom to cease selling arms to Saudi Arabia and the UAE.[30] Also, under Saudi air cover al-Qaeda in the Arabian Peninsula has consolidated and expanded its hold over eastern Yemen.[31] In order to deny supplies to the Houthis forces, the Saudi Arabia-led coalition imposed a partial aerial and naval blockade. After missile attacks, on 6th of November 2017 the Saudi Arabia-led coalition unlawfully tightened its sea and air blockade on Yemen, rendering it virtually impossible for humanitarian aid to reach Yemen's air- and seaports.[32] Human rights groups immediately condemned the blockade as inhumane, and the UN warned that halting food aid would starve millions. The blockade has severely disrupted the distribution of humanitarian assistance and has seriously aggravated the humanitarian crisis. The blockade threatens the lives of millions of people who have been struggling to survive for months.

3) The intensity of the conflicts and the magnitude of the intervention appear to exceed the appropriate levels, causing more problems than they were supposed to solve. Saudi-led coalition intervention has been a long time to be seen as a success or to have some chances of success. Air campaign will not remedy the structural problems plaguing Yemen. Such problems cannot be solved by military intervention, they can only exacerbate them.[33]

The collision of Shiite rebels and government forces threatens to disrupt the balance in the wider region. Yemen had no tradition of Shiite-Sunni sectarianism, but outside powers have chosen sides along those lines, with Sunni-majority Saudi Arabia supporting the uprooted President Hadi, a Sunni. Saudi Arabia's rival, Shiite-majority Iran, has championed and aided the Houthis. The intervention of regional powers in Yemen's conflict, including Iran and Gulf states led by Saudi Arabia, threatens to draw the country into the broader Sunni-Shia divide and could introduce sectarian conflict resembling fighting in Syria and Iraq.

Numerous Iranian weapons shipments to Houthi rebels have been intercepted in the Gulf of Aden by a Saudi naval blockade in place since April 2015. In response, Iran has dispatched its own naval

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[25] Salisbury, P., 2017a.
[26] Salisbury, P., 2017b.
[27] O'Halloran, D., 2017.
[28] Ibid.
[29] Christoffersen, Z., 2015.
[30] Global Center for the Responsibility to Protect. "Yemen"
[31] Tuckwell, D. and Smyth L., 2015.
[32] Zeeshan, A., 2017.
[33] Tuckwell, D. and Smyth, L., 2015.

convoy, which further risks military escalation between the two countries.

4) Beyond Riyadh's rhetoric, the actual military behaviour in the course of the intervention also raises doubt that the Coalition is acting on behalf of RtoP principles. It does not appear to protect human rights, but rather, that violations are perhaps even more extensive than before the intervention. Throughout the intervention, the Saudi-led coalition has failed to protect civilians. Over a third of the coalition's airstrikes have struck civilian sites. In fact, there is a growing body of evidence that, in many of these instances, the coalition deliberately targeted civilians and civilian infrastructure, including "farms, animals, water infrastructure, food stores, agricultural banks, markets, and food trucks.[34]

5) It would be problematic to view Riyadh's actions in Yemen without larger consideration of its broader political goals. Riyadh's motivations, are purely geostrategic.[35] Yemen has long been a target for Saudi influence. The Saudi intervention was spurred by perceived Iranian backing of the Houthis.[36] Saudi Arabia has led the coalition air campaign to roll back the Houthis and reinstate Hadi's government. Riyadh perceives that Houthi control of Yemen would mean a hostile neighbour that threatens its southern border.

The geostrategic location of Yemen is of paramount importance to Saudi Arabia. As part of the Arabian Peninsula and sharing a porous desert border with Saudi Arabia, a poor and unstable Yemen would threaten the flow of the five million barrels of Saudi oil exports per day that pass through the Arab Gulf. Additionally, sustainable stability will ensure that the war does not spill over from its coterminous neighbour as well as prevent any surge of refugees into Saudi Arabia.

Yemen is being considered as a front in their contest for regional dominance over the other less powerful states in the region, and losing leverage over Sana'a would only make Saudi Arabia more

fearful over what perceives as an ascendant Iran that has allies in power in Baghdad, Beirut, and Damascus. Riyadh's concerns have been compounded by its perception that the United States is retrenching from the region and that its nuclear accord with Iran will embolden Tehran.

Along with political and economic implications, there is also a religious aspect to the rivalry. Iran and the Houthi rebels are Shia majority, while Saudi Arabia is overwhelmingly Sunni. Thus, the struggle for the control of Yemen has become a proxy war over influence of the Muslim world.[37]

Iran has reportedly provided the Houthis with military support, including arms. Yemen's government has also accused Hezbollah, Iran's Lebanese ally, of aiding the Houthis. The Houthis and Iran share similar geopolitical interests: Iran seeks to challenge Saudi and US dominance of the region, and the Houthis are the primary opposition to Hadi's Saudi and US-backed government in Sana'a.[38]

Continuing, according to realist approach, the RtoP principle it's being used by Western powers to impose their power over weaker states and also, states could abuse humanitarian justifications for seeking their political interests.[39] Evaluation of the Saudi-led coalition's military intervention, leads to the fact that RtoP norm is susceptible to misuse.[40] The existence of a legitimising doctrine such as RtoP has only made it easier to justify the Coalition's aggressive military intervention which of course promotes Saudi interests. Surely, Riyadh's actions are not absolutely empty of the will to support RtoP norm, but there are geopolitical interests that cannot be ignored in the assessment of the intervention.[41]

Historically, states have regularly taken advantage of norms or prioritised national interests over compliance with international norms, and in this regard Yemen is definitely another one example. Instead of protecting civilians, Saudi-led coalition has clearly failed to restore stability in the region.

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[34] Thompson, D., 2017.
[35] Tuckwell, D. and Smyth, L., 2015.
[36] Zachary, L., 2016.
[37] Hu, M. (n.d.)
[38] Zachary, L., 2016.
[39] Hu, M. (n.d.)
[40] Ibid.
[41] ibid.

On the other hand, it seeks to promote its interests. Riyadh is arguing that is simply acting to promote RtoP doctrine. Yemen was already on the brink of collapse due to the ongoing civil war, thus Riyadh viewed itself as the much-needed proponent to defeat the Houthis and restore political stability.[42]

Unfortunately, the response from the international community has not been consistent. US, UK, and France, affirmed its support for the Coalition.[43] The lack of condemnation from the United Nations Security Council, the United States and the European Union member states is undermining the RtoP norm.[44] Saudi Arabia is nevertheless emboldened by the lack of international criticism to continue its intervention in Yemen. In the final analysis, the doctrine that was designed to protect civilians has equally protected Riyadh from international condemnation.[45]

Saudi officials announced that its campaign – originally called "Operation Decisive Storm" would enter a new phase called "Operation Restoring Hope," that emphasises diplomacy, negotiation, and aid.[46] But with the Houthis still in power and President Hadi still in exile, no relief seems to be in sight for Yemen's beleaguered population. There is no easy way of transforming Yemen into a functioning, Westphalian model of statehood in the short time frame that many Western and foreign officials may wish for. With the extent of economic collapse, the continuing spread of extremism, and widespread destruction, there are fears that Yemen could become a security vacuum.

The population of Yemen is dependent on the international community.[47] Unfortunately, the conflict in Yemen is not a primary concern for the international community.

All sides of the conflict appear manifestly unwilling or unable to uphold their Responsibility to Protect. The Security Council it's passive as the conflict deteriorates, and risks becoming an open regional conflict. Moreover, there is nothing in latest UN Security Council resolutions to authorise use of force, nor in any of the previous Resolutions, on the contrary, they contain language which shows what steps should be taken to actually uphold the National Dialogue so that there would be no recourse to supposed military solutions.[48]

Additionally, western powers support the intervention because of their political and economic interests in the area, like weapons sales, counter terrorism and oil trade. Simply put, both of them want to fight terrorists, so Saudi Arabia offers its troops for this purpose and asks for western arms. The west cannot deploy mass number of troops like Saudi and on the other side needs the Saudi oil. Thus, Saudi Arabia is empowered by the lack of international criticism to continue operations and seek its objectives in Yemen, because it simply happens to share common interests with many western powers.[49]

Saudi Arabia is the largest buyer of US made weaponry, including the F-15s and the cluster bombs that it's currently using in Yemen. Moreover, both the west and Saudi Arabia fear that Yemen could become a safe haven for terrorists, so they want to make sure that the militant groups do not take advantage of power vacuums in Yemen. Already, al-Qaeda controls some parts of Yemen, and it is the al-Qaeda's most active branch.[50]

The neighbouring states have the responsibility to use their political, economic, military or other influence to protect the human rights of the Yemeni population. There is a Responsibility to Protect, both legal and moral.[51] Use of military force to protect civilians must be out of the question.[52]

There are some steps that if made, they will lead to a political solution of the conflict:

1) The UNSC and regional powers need to reach a ceasefire and ensure that parties in the

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[42] Ibid.
[43] Amnesty International, 2018.
[44] Cook, J., 2017.
[45] Hu, M. (n.d.)
[46] O'Halloran, D., 2017.
[47] Christoffersen, Z., 2015.
[48] Rees, M., 2015.
[49] Amnesty International, 2018.
[50] Praven, V., 2017.
[51] Rees, M., 2015.
[52] Ibid.

conflict start peace negotiations.[53]

2) The UNSC should adopt a resolution demanding to ensure accountability for all atrocities committed during the conflict.

3) The UNSC should immediately impose sanctions on any party responsible for the obstruction of vital humanitarian assistance to civilians.

4) All UN member states should immediately halt the sale of weapons to parties to the conflict who violate international humanitarian law.[54]

To conclude, international community's actions (and inaction) are prolonging the conflict. If nothing is done, tens of thousands more civilians will continue to die as direct result of this conflict, and millions more will die from disease and starvation. With one country effectively failing to protect their population, and another country adding to the horrifying conditions in which the resident population must survive, there is a clear need for the international community to react. Time will only tell whether or not the international community is capable of making the right decisions in time.

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[53] Global Center for the Responsibility to Protect. "Yemen"

[54] Ibid.

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RESPONSIBILITY TO PROTECT IN SUB-SAHARAN AFRICA: KENYA, BURUNDI, CENTRAL AFRICAN REPUBLIC AND IVORY COAST

Warfare has been part of human society throughout recorded history. At every point in times of war, civilians – for reasons of their vulnerability – have always suffered a great deal of casualty and sometimes paid the heaviest price. When state authorities not only fail to live up to their responsibility to ensure that their citizens are protected, but also commit grave human rights violations against the very people they have been mandated to protect, the onus lies on the international community to step in to stem the tide of such atrocities. The illegality of genocide, ethnic cleansing, crimes against humanity and other war crimes became much pronounced following the end of the Second World War and the founding of the United Nations. Consequently, the UN's adoption of the Responsibility to Protect (RtoP) in 2005 to provide the green light for international intervention to protect civilians against genocide, crimes against humanity and other war crimes was hailed as a welcoming move. Under such circumstances, the human rights of the victims and the urgent need for their protection tend to far outweigh state sovereignty. This means that the sovereignty of a state would have to be set aside, so that some form of intervention could be made to save vulnerable populations.

Generally understood as an international political commitment to, in the words of Kofi Annan, "act if another Rwanda looms",[1] the adoption of RtoP ushered in a new hope for Africa – a continent marred by numerous armed conflicts than any other. Its primary aim is the spurring of political will to chart a path of action for protecting populations at risk of mass atrocities. Human rights violations committed by state apparatus against their populations have been a commonplace in Africa. The continent has attracted the perception of being a "reluctant latecomer" in international human rights protection.[2] Forsythe writes that the African experience with colonialism and post-colonial political instability reinforced traditional notion of state sovereignty and domestic jurisdiction.[3] In view of that, non-interference in the internal affairs of member states was one of the guiding principles of African regional integration manifested in the founding of the Organisation of African Unity (OAU).[4] However, when the OAU metamorphosed into the African Union (AU) at the turn of the millennium, a shift in policy occurred. The Constitutive Act of the Union enshrined as one of its guiding principles the right of the Union to intervene forcefully to stop grave breaches of international law. Specifically, the Act makes provision for the "right of the Union to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely: war crimes, genocide and crimes against humanity."[5] The establishment of the African Standby Force (ASF) in 2003 was seen as a timely move, as it equips the continent to undertake the implementation of the RtoP concept. The ASF mission is to address security problems on the continent, especially with regard to the protection of civilian populations in armed conflicts.[6] Much as lip service had been paid to the gross human rights violations some African governments have committed against their populations, RtoP application in some African countries is worth highlighting. Against this backdrop, the object of this write-up is to highlight RtoP implementation in selected sub-Saharan African countries, namely, Burundi, Kenya, Ivory Coast and Central African Republic.

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[1] Annan, K., 2005.
[2] Purvis, C., 2013, pp.480–483.
[3] Forsythe, D.P., 2000, pp.110–139.
[4] OAU Charter, 1963, II(1)(d),3(2)
[5] AU Constitutive Act, 2000: 4(h)
[6] Chiziko, M.D., 2007, pp.73–87.

The case of Burundi

The Burundian case presents a classic example of RtoP application that forestalled against the country sliding into a full-scale genocide. The early warning system that was activated, with early and long-term involvement of regional and international actors manifested how components of RtoP were employed – before it was officially adopted – to prevent and respond to large-scale ethnic violence and rebuild post-conflict societies.

Background

The political situation in Burundi plummeted following the assassination of the country's first freely elected president, Melchior Ndadaye in October 1993. Prior to the assassination, Tutsi-Hutu tensions had characterised the political atmosphere as a succession of Tutsi soldiers ruled the country after independence and violently suppressed the political aspirations of the Hutu majority. The tensions came to their peak after Burundians went to the polls in 1993 and the newly elected Hutu President was assassinated, sliding Burundi into ethnic violence that resulted in the loss of an estimated 50,000 lives.

Prior to World War I, Burundi was a German colony until it was transferred to a Belgian-controlled UN mandate following the end of the war. The peaceful coexistence of the Tutsi (14% of the population), Hutu (85%), and Twa (1%), and the harmony with which they had lived, characterised much of the society, where they shared many cultural bonds, including language and religion. However, Belgian colonial rule instituted a policy that made distinctions between Hutu – traditionally an agricultural people, and Tutsi – traditionally a pastoral or herding people, much pronounced. Belgian Burundi promoted and facilitated the social and political advancement of the Tutsi through educational, cultural and administrative policies, to the detriment of the Hutu. The Belgian rulers considered that the

Tutsis' "fine bearing alone guarantee[d] them considerable prestige over…the worthy Hutu, [who were deemed] less clever, more simple and more trusting."[7] At Burundi's independence in 1962, Tutsis were in control of virtually all sectors of Burundian society – political, military, and economic power. The overthrow of the monarchy in 1966 by a Tutsi military officer Michel Micombero, and the establishment of a presidential republic ushered in the beginning of 25 years of successive Tutsi military regimes marred by systemic repression and marginalisation of the Hutu majority. Consequently, what electrified ethnic conflict throughout Burundi's post-independence history was Tutsi domination over land and power. The years 1965, 1972, 1988, and from 1993 to 2003 witnessed these ethnic tensions blown into large-scale fighting.[8]

In all these instances Hutu rebellion was violently quashed by the Tutsi-dominated military, resulting in massive loss of life and displacement among Hutu. The assumption of power of a Tutsi military officer Pierre Buyoya – following a bloodless coup – saw the introduction of reforms that were to ease state control over media and engage in a dialogue aimed at national reconciliation, where other political parties were allowed to compete in the upcoming presidential election in 1993. This boost resulted in Ndadaye becoming the first democratically elected Hutu president but his assassination by Tutsi army extremists, months later, slid the country into a decade civil war.[9] The post-Ndadaye assassination saw Hutu peasants extemporaneously rising up against and massacring the Tutsi while Tutsi army rounded up Hutus in their thousands and exterminated them. When newly elected Hutu President, in April 1994, was killed in a plane crash along with the Rwandan President – the deaths that sparked the Rwandan Genocide – the conflict exacerbated in Burundi and incited additional Tutsi massacres, lingering on until 2003 where an estimated 300,000 were killed and 1.2 million became refugees and internally displaced persons.[10]

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[7] Weissman, S.R., 1998, p.5.
[8] ICG (n.d.)
[9] Ibid.
[10] ICG, 2003.

RtoP application in Burundi

The first international response to the Burundian crisis was an early UN diplomacy where in 1994 – on the heels of the Rwandan Genocide – a Special Representative Ould-Abdallah was dispatched to facilitate the brokering of peace particularly to help develop transitional power-sharing agreements among political parties with the aim of arriving at "a minimum of political stability" in anticipation of elections in 1998.[11] Notwithstanding the strenuous efforts made by the Representative, the quashing of the recent election victory of the Front for Democracy in Burundi (FRODEBU) under the major agreement, the Convention of Government, tended to throw a spanner in the works and undermined any successes that would have been chalked. It guaranteed the Tutsi-led opposition a 45 percent share in the government and called for the establishment of a National Security Council in which the opposition could block key moves by the FRODEBU Hutu President.[12]

In 1996, Buyoya re-seized power consequent upon which leaders from Tanzania, Kenya, Uganda, Rwanda, Zaire and Ethiopia agreed on uniform sanctions to be imposed on Burundi. The lifting of these sanctions was conditioned upon Burundi meeting specific demands particularly a return to multi-party democracy and participation in all-party talks on the future of the country. Tanzania's Julius Nyerere's mediation efforts was also given a boost as the leaders rallied behind him and gave him a full backing.[13] Much as the sanctions received no Western backing,[14] they remained in force until 1999 following Burundi's decision to begin participating in the Arusha peace negotiations. The suspension of development aid by the international community particularly the United States, France and the European Union was also seen as an international intervention to compel Burundi to chart a path of peace. When aid embargo was placed on the country until a ceasefire was reached and steps toward the implementation of peace accord were taken, it dealt

a heavy blow as the people, economy, state of infrastructure – nearly all sectors of society – suffered severely from years of fighting, three years of economic sanctions, drought and 66 percent decrease in international aid.[15]

International peacekeeping efforts in Burundi began with the OAU dispatching a peacekeeping force into the country, which metamorphosed into a UN peacekeeping force in 2004. Peace negotiations were led by Nyerere, under the aegis of the regional leaders. Following the passing on of President Nyerere in 1999, South Africa's Nelson Mandela took over as head facilitator and led 19 parties to the conflict to sign a peace agreement on 28 August 2000. However, it was not until 2003 that a comprehensive ceasefire agreement was signed following which an interim constitution based on the Arusha Agreement entered into force. The agreement was underpinned by power sharing between political groups representing the Hutu and Tutsi and the establishment of an electoral timetable slating a presidential election for 22 April 2005.[16]

Burundi today

The general elections were held on 19 August 2005 and ushered in a new dawn for Burundi, setting it on the path of peace and development. Former rebel leader Pierre Nkurunziza was inaugurated as President and a new Parliament was also inaugurated. It marked a great milestone for the country. In the years that followed, the government embarked on a post-conflict rebuilding agenda that encompassed the implementation of a ceasefire with the last rebel group, the Force for National Liberation (FNL), reform of the security sector, justice, human rights and the fight against impunity, refugees and land reform, socioeconomic recovery and international development aid, disarmament, demobilisation and reintegration, as well as leadership training. The international response demonstrated how a form of

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[11] Weissman, op. cit., p.7.
[12] Ibid.
[13] ICG, 1998.
[14] Weissman, op. cit., p.16.
[15] ICG, 2003.
[16] ICG, 2004.

RtoP was applied to prevent the ethnic conflict from spiralling into full scale genocide.

Given the prospects that lay ahead for the recovering nation, little did one expect that Burundi would plummet back into conflicts, a decade after its reconstruction began. Three years after President Pierre Nkurunziza refused to stand down as constitutionally mandated, Burundi is an eyesore today. The risk of the country plunging into a civil war is high, as violence continues, and civilians face serious and eminent risk of atrocities. Targeted killings, widespread violations and abuses of human rights and the suppression of peaceful demonstrations are now a commonplace. A referendum on 17 May 2018 – marred by victimisation and intimidation – sought to consolidate Nkurunziza's hold on power and could entrench his position as far as up to 2034. The Conseil National pour le Respect de l'Accord d'Arusha et la Réconciliation au Burundi et la Restauration d'Etat de Droit (CNARED), the main opposition coalition, had called on the populace to boycott the referendum but people were forced to vote for fear of being beaten or worse, based on a Presidential decree, being arrested and imprisoned if they failed to vote. The opposition called the referendum a "death warrant" of the Arusha Accords of 2000 that ended the civil war. The President has lost his sense of responsibility to protect the citizenry and everyday life is now a nightmare, marred by heinous atrocities. Given the impunity with which these acts are being carried out, security forces and intelligent services – mostly in collaboration with members of the ruling party's youth league called Imbonerakure – continue to execute numerous killings, disappearances, acts of torture, rapes, and arbitrary arrests and imprisonment. Such a development speaks volumes of the urgency for yet another international action on Burundi to help stem the tide of the state-sponsored violence.

The Kenyan experience

The Kenyan situation that led to the application of RtoP dates back to 2007 when the nation went to the polls. Post-election violence that followed and spanned December 2007 to February 2008 culminated in the death of over one thousand people and the displacement of nearly half a million. The application of RtoP became necessary to stem the tide in the violence and bring about a truce in the crisis and its success has been hailed across a broad spectrum of the political divide.

Background

Over seventy distinct ethnic groups – the largest being Kikuyu (20%), Luhya (14%), Luo (13%), Kalenjin (11%) and Kamba (11%) – constitute the Kenyan population.[17] Following Kenya's independence from Britain in 1963, the dominant underpinnings of elections in the country have been ethnic affiliation, where political party formation has been on the basis of ethnic orientation consequent upon which exclusion and discrimination against those affiliated with the opposition had featured in the democratic dispensation of the east African nation. The fourth multi-party general elections were held on 27 December 2007. The leading contestants for the presidential slot were incumbent President Mwai Kibaki, Raila Odinga and Kalonzo Musyoka running on the tickets of Party of National Unity (PNU), Orange Democratic Movement (ODM) and Orange Democratic Movement Kenya (ODM K), in that order. The front runners however, were Kibaki and Odinga who were on a neck and neck race for the presidency.[18] Unsurprisingly, inasmuch as the civic and parliamentary polls run smoothly and results announced within 24 hours,[19] with candidates generally accepting the results without rigging allegations, the hotly contested

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[17] International Coalition for the Responsibility to Protect. "*The Crisis in Kenya*"
[18] UN Report, 2009.
[19] Thomashausen, S., 2002, p.3.

presidential polls took a different course. The turnout for the three candidates – the highest on record – stood at approximately 70% of voter population. In the run up to the election, opinion polls published showed Odinga with a narrow lead. Following the polls, results coming in also showed Odinga in the lead, this time with a wider margin but was suddenly narrowed by the announcement of results from perceived Kibaki strongholds. This development prompted the opposition candidate to raise the red flag and alleged vote rigging, increasing tensions in the country.

On the heels of the confusion, the chairman of the Electoral Commission of Kenya (ECK, now Independent Electoral and Boundaries Commission IEBC) Samuel Kivuitu, on 30 December 2007, announced the contested results and declared Kibaki winner with 4.5 million votes as against Odinga's 4.35 million votes. In a matter of hours following the announcement, Kibaki was hurriedly sworn in as President in a hastily conducted ceremony and physical violence sparked off across the country as Odinga and the ODM immediately rejected the resulted, intimating that the elections had been rigged – a view shared by foreign election observer missions particularly the European Union (EU) election monitors.[20] In the weeks that followed, widespread and systematic violence broke out at unprecedented levels and spread across the length and breadth of the country, with ethnically-targeted killings of those on the PNU leanings by the ODM and counter attacks targeting ODM-aligned communities. Both parties – each claiming electoral victory – refused to talk to each other, let alone come to the negotiation table. Given the ethnic underpinnings of the conflict, violence became particularly endemic in the Kikuyu-dominated region of Rift Valley where ethnic communities of Kikuyu and Kalenjin face the challenge of land inequality. Evidence from the conflict also pointed to the view that much of the violence had been premeditated and planned by political and community leaders at local and national levels, as well as the police forces which

were implicated as being responsible for nearly 40% of civilian deaths.[21]

RtoP application in Kenya

The horror with which violence was being carried out and the severity of the conflicted informed the need for an international response. In January 2008, French Foreign and European Affairs Minister Bernard Kouchner made an appeal to the UN Security Council to take action under the banner of RtoP before Kenya plummeted into a deadly ethnic conflict.[22] Prior to his appeal, both UN Secretary-General Ban Ki-moon and UN High Commissioner for Human Rights Louise Arbour, had raised concerns about the violence. The former, on 31 December 2007, issued a statement expressing concern for the ongoing violence and called for the population to remain calm and for restraint to be shown by Kenyan security forces.[23] The latter's call was on the Kenyan government to abide by its international human rights obligations. Attempts at peacefully resolving the conflict through dialogue began in the first week of January 2008. Arriving on 2 January, the South African Archbishop Desmond Tutu was the first to set the ball rolling but he is believed to have failed because he came at the wrong time when each party felt it could get what it wanted. Quickly following the Archbishop was US Assistant Secretary of State for African Affairs Jendayi Frazer, arriving on 5 January 2008. Cyril Ramaphosa also arrived in the country to try and find a solution to the conflict. Ramophosa was rejected by PNU on grounds that he was a business partner to one of the ODM leaders. Arriving on 8 January ahead of African Union chairman Ghanaian President John Kufuor were former African presidents Benjamin Mkapa (Tanzania), Joaquim Chissano (Mozambique), Ketumile Masire (Botswana) and Kenneth Kaunda (Zambia), for talks with President Kibaki. Despite all the attempts at mediation, no one was able to broker a successful peace agreement as at now. In the wake of the unwillingness of the parties to

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[20] International Coalition for the Responsibility to Protect. *"The Crisis in Kenya"*
[21] Ibid.
[22] Statement, 2008.
[23] UN News, 2007.

come to the negotiation table and the initial failures of mediation, the AU Chairman Kufuor fronted the idea of dispatching former UN Secretary-General Kofi Annan to mediate in the conflict. Annan's acceptance by both parties as AU Chief Mediator marked a turning point in finding a solution to the crisis. Heading the African Union Panel of Eminent Personalities including Mozambique's Graça Machel and Tanzania's Benjamin Mkapa, Annan touched down in Kenya on 10 January 2008 to begin meetings with the parties.

Negotiations with the two parties were to 1) find measures that would end the violence and restore the political rights of the Kenyan people; 2) address the humanitarian crisis and promote reconciliation; 3) find a political solution to the Kibaki-Odinga stand-off; and 4) create institutional reforms that would address the underlying cause of the violence. The international community strongly supported this effort and devoted high level political resources to help ensure its success. For example, Frazer's visit to Kenya in early January was to persuade the parties to find a solution. The Security Council issued a statement expressing support for the Annan-led panel, and when the negotiations were stalling, US Secretary of State Condoleezza Rice and AU Chairperson Jakaya Kikwete both weighed in to push for a settlement. The United States also put financial pressure on Kenya by publicly stating that foreign aid would be reviewed.

Following Annan's meetings with both parties' negotiation teams, individual discussions with Kibaki and Odinga, as well as dialogue between all three actors, mediation efforts culminated in the signing of a power-sharing agreement on 28 February 2008 establishing Kibaki and Odinga as President and Prime Minister, respectively. Another outcome was the creation of three commissions – the Commission of Inquiry on Post-Election Violence (CIPEV), the Truth, Justice and Reconciliation Commission and the Independent Review Commission on the General Elections. The Prime Minister also wielded considerable powers and could only be dismissed by Parliament. The cabinet positions in the government were split and

shared between PNU and ODM, and both President and Prime Minister must agree before a minister is removed from office.[24] Two deputy prime minister Positions were also created with each party appointing one. Finally, the newly formed cabinet agreed to work out a new constitution that would address the long-standing grievances within Kenyan society that helped inflame the post-elections violence.[25] This rapid and coordinated reaction by the international community was hailed as international actors responded swiftly to crimes that appeared to rise to the level of crimes against humanity – crimes that states committed themselves to protect populations from, in adopting RtoP at the 2005 World Summit. This response, consisting primarily of an African Union (AU)-led mediation process but also supported by the UN, Kenya's neighbours, key donors, and civil society, helped stem the tide of violence. Human Rights Watch and others referred to the response as – a model of diplomatic action under the responsibility to protect. Kenya is an example of one of the strengths of the RtoP concept. The international community recognised the potential for a humanitarian catastrophe and responded quickly.[26]

Ivory Coast and post-election violence: how did it come about?

The Republic of Ivory Coast has had a long history of civil wars in which mass atrocities had been perpetrated by all sides. Tensions over land and natural resources have been fuelling outbreaks of violence between rival ethnic and political groups. Substantive issues that have underpinned most of the conflicts have been the question of citizenship – who is or is not Ivorian enough, the status of foreign nationals, the electoral system, the eligibility to run for presidency of the country, land tenure system, among others. Prior to the outbreak of the 2010–2011 violence, a UN peacekeeping mission had been deployed to oversee the implementation of the Linas-Marcoussis Accords of January 2003. This was a comprehensive

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[24] Cohen, J.L., 2004, pp.1–24.
[25] BBC News (n.d.)
[26] UN Report, 2009, p.23.

agreement which created the Government of National Reconciliation to be in charge of preparing a timetable for holding a credible and transparent national election rebuilding the security forces and organising disarmament of all armed groups[27] where its mandate included to use "all necessary means" to protect civilians. The mandate of the United Nations Operations in Cote d'Ivoire (UNOCI) included to use "all necessary means" to protect civilians,[28] and the force was also mandated to oversee long-postponed elections – which were to have marked the end of the conflict. Passions were however, inflamed and the conflict reignited in November 2010 following the disputed election results. In the ensuing clashes and the killings that erupted, fears of the potential for mass atrocities became much pronounced especially when in December, two Special Advisors to the Secretary General – on the Prevention of Genocide Francis Deng and Edward Luck issued a statement of grave concern. Much as the statement of grave concern was reiterated repeatedly, the conflict degenerated in early 2011, informing the UN Security Council to pass Resolution 1975, in which Mr. Ouattara was recognised as the President of the Ivoirians and the resolution also authorised the UNOCI to "use all necessary means" to protect civilians.[29]

Background

The much-awaited election which the Linas-Marcoussis Agreement mandated the Government of National Reconciliation to organise was slated for November 2010. The front runners were the incumbent President Laurent Gbagboand opposition member Alassane Ouattara whose Burkinabe ancestry had long caused friction in Ivorian society and contributed to past conflicts as his eligibility for the presidency had been challenged over and over. The political atmosphere in the run up to the elections had been polarised as support for Gbagbo and Ouattara had been split along ethnic, regional and religious lines. While Gbagbo loyalists had been concentrated within the southwestern Bété ethnic group, those of Ouattara were primarily from Muslims in the north. While the first-round of the polls took place in a generally peaceful atmosphere, it did not yield a clear winner, informing a second-round of voting which was slated for 28 November 2010. The release of the polling results by the Independent Electoral Commission (CEI) was done on 2 December 2010 and the commissioner declared Ouattara winner and new president of Ivory Coast after securing 54.1% of the votes cast. The President of the Constitutional Council Paul Yao N'dre – a Gbagbo ally – however, declared the results as invalid after it was determined that the CEI did not release the results by the 1 December deadline. Following the declaration of Ouattara as the winner, Gbagbo discredited the results and refused to relinquish power, resulting in a political stalemate and subsequent violent conflict that engulfed the West African cocoa giant nation and brought its economy to its knees. The political stalemate led to a crisis in which both candidates claimed victory and each established government in the city of Abidjan. Oauttara's seat of government was established at the Hotel du Golf but was later barricaded by forces loyal to Gbagbo. In the ongoing drama, Ouattara also received military support form the northern rebel militia Forces Nouvelles. Five months into the violence, UN Secretary-General Ban Ki-moon reported the death of over 1000 civilians as a result of the clashes, while more than 500,000 Ivoirians, in a statement issued by the UN High Commissioner for Refugees, were forcibly displaced and 94,000 fled to neighbouring Liberia for fear of violence. RtoP was out of touch with both government and the opposition, as forces loyal to Gbagbo as well as to Ouattara were failing deliberately on their responsibility to protect civilian populations, committing gross human rights violations that could amount to crimes against humanity.

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[27]United Nations, 2003.

[28] UNOCI (n.d.)

[29] United Nations, 2011. Resolution 1975.

Consequently, international action was urgently needed to stem the tide of the killings, in order to protect Ivoirians from further atrocities. A military operation was therefore ordered on 4 April 2011. This followed a statement issued by the UN Secretary-General instructing UNOCI to "take the necessary measures to prevent the use of heavy weapons against civilian population." Following days of fighting – with the involvement of UNOCI and the French military, Ouattara's forces arrested Gbagbo and his grip on power ended following his arrest on 11 April 2011. The 30 March 2011 UNSC's resolution 1975 indicated a significant shift in its action in connection with mass atrocities. Some observers considered it as a landmark resolution, speaking volumes of the readiness of the Council to take action when "outrageous conduct shocks the conscience of mankind."[30] Its readiness to act on the Ivorian crisis clearly contrasts with the "fatal paralysis that took hold of the UN during the Rwandan genocide and the painful dithering of both the UN and regional actors over the sequence of tragedies in the Balkans."[31] Undeniably, Laurent Gbagbo got what he deserved – given the remorseless use of mortars, rocket-propelled grenades and heavy weapons against civilians and women by his forces. The international community of states was left with little choice but compelled to act to save the population.

The Council's decision to act militarily was preceded by regional initiatives. Security Council resolution 1975 on Côte d'Ivoire – jointly tabled by France and Nigeria – followed the lead taken by ECOWAS and its resolution A/RES.1/03/11 of 25 March 2011. Initially, the response from the AU and the Economic Community of West African States (ECOWAS) was to resolve the crisis through mediation and diplomatic pressure. South African former president Thabo Mbeki and Kenyan Prime Minister Raila Odinga were dispatched by the AU to hold talks between Gbagbo and Ouattara. The AU Peace and Security Council also established on 28 January 2011 a High-Level Panel mandated to evaluate the crisis and formulate a solution. Former

Nigerian president Olusegun Obasanjo was also appointed by ECOWAS as envoy to Cote d'Ivoire who offered Gbagbo exile abroad and a monthly stipend if he stepped down. Further ECOWAS action included the imposition of sanctions on Gbagbo and a threat to use force if mediation efforts failed and Ouattara did not assume the presidency.

International action was not left in the hands of UN, AU and ECOWAS alone. The EU and foreign governments also showed solidarity. The EU and western countries such as France, Germany, United States and the United Kingdom formally recognised Ouattara as the Ivorian President and levelled financial sanctions against Gbagbo, his wife Simone and members of his inner circle. Backing Obasanjo's offer, several countries also offered Gbagbo a dignified exit with a promise of employment and residence abroad if he relinquished power. These offers fell on deaf ears as Gbagbo and his force fought on until his arrest by the Ouattara forces with the support of the French forces. Charges of crimes against humanity as an "indirect co-perpetrator" of murder, rape, persecution, and other inhumane acts were preferred against him and in November 2011, he was transferred to the International Criminal Court to face those charges. The renewal of the mandate of UNOCI was made on 26 July 2012 through the adoption of resolution 2062, extending its operations until 31 July 2013.

From political to sectarian violence: Central African Republic and the "forgotten" conflict

Why would the conflict in the Central African Republic be often referred to as "forgotten? Following the staging of a coup d'état in early March 2013, the central African nation was sent into sweeping unrest which lingered on to metamorphose into a sectarian conflict in the months that followed, with violence rising to unprecedented levels. The stepping down of the leadership which assumed power after the coup did not end the violence, neither did human rights abuses cease, as the violence between Christians

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[30] Vincent, R.J., 1990, p.225.
[31] Serrano, M., 2011, p.92.

and Muslims posed the threat of being elevated to the level of genocide.[32] The nation has had a long history of precarious governance, the political atmosphere has long been volatile and the ongoing massacres by both the Ex-Séléka and Anti-Balaka have left much to be desired of the nation, prompting the observer to ask what hope lies ahead for its future. In all these, it has become evidently clear that the CAR government has failed honour its RtoP.

Background

The CAR was a French colony which gained independence in 1960. Nearly two generations after its independence, the experiences of the people have been dominated by repeated cycles of political instability, having been subjected to five separate coups d'états the first of which occurred in 1965 following the overthrow of President David Dacko by Colonel Jean-Bedel Bokassa. Bokassa's regime was marred by additional unrest for many years until Ange-Felix Patasse was democratically elected in 1993, remaining in power for a decade. Patasse's exit was orchestrated and then ousted by former army Chief of Staff Francois Bozize in March 2003. The constitution was suspended and the dissolution of the National Assembly was also effected, as Bozize consolidated his grip on power and reneged on his promise to step down after an initial period of transition to democracy. He was re-elected in 2005 and made a call for national unity, development and democratic freedom. His re-election in 2011 was marred by allegations of electoral fraud which further aggravated the volatile security situation. The growing instability throughout the country was further deteriorated by the government's inability to demobilise rebel fighters and ex-soldiers, so that in December 2012, the Séléka – a loose coalition of rebels composed mainly of fractions of armed groups in north-eastern CAR – orchestrated a military campaign aimed at ousting the government of Bozize. The volatile situation had put governance in disarray and the country was for years said to be "virtually ungoverned" outside the capital Bangui. Accusing the government of

neglecting their region and capitalising on the president's loss of touch with rest of the country, the Séléka rapidly captured strategic towns in early 2013 and resolved in its next move to take Bangui. As the rebels made advancements toward the capital, the Economic Community of Central African States (ECCAS) and CAR's neighbour Chad intervened quickly and talked the rebels into negotiating with Bozize's government. These negotiations culminated in the signing of the Libreville Agreement of January 2013 establishing a three-year power-sharing government and allowing Bozize to remain in power until 2016 following which he would be barred from re-election.

The negligible role played by AU in the negotiations, the agreement having been made between regional heads of state rather than the heads of warring parties in the country, the ECCAS's failure to monitor the implementation of the agreement and Bozize's failure to carry out the necessary reforms, all provided a fertile ground for the Séléka to strike again, so that its resurgence resulted in the taking control of Bangui and fifteen of the country's sixteen provinces on 24 March 2013. Bozize fled to Cameroun and Séléka leader Michel Djotodia proclaimed himself President, prompting an ECCAS Summit held on 4 April 2013 which called for the creation of a Transitional National Council (TNC) which would create a new constitution, conduct elections in eighteen months and select an interim president. Djotodia, the only candidate eying the presidency, was chosen by the TNC as Interim President of the Central African Republic.

The onslaught of the Séléka forces – predominantly Muslim, beginning in December 2012 informed a response from the Christian population. They committed grave human rights violations against civilians throughout the country, targeting especially the Christian population which is in the majority. Christian civilians therefore formed "Anti-balaka" (anti-machete") militias to conduct reprisal attacks against Muslims. The country quickly came to its knees as the political situation plummeted, with extrajudicial killings of Muslim and Christian civilians becoming widespread, where "door to door" searches had been conducted

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[32] International Coalition for the Responsibility to Protect (n.d.) *"Crisis in the Central African Republic"*

by rival militias and mobs in search of potential victims. The situation in CAR has not improved, human rights violations and killings have become a commonplace.

CAR and the RtoP

As the conflict lingers on in the CAR, it becomes evidently clear that it is a case that calls for the invocation of RtoP, given the mass atrocity crimes being committed on daily basis by both sides. The AU involvement was manifested in the establishment of the mission for the Consolidation of Peace in Central African Republic (MICOPAX) when the first Libreville Summit was concluded in October 2002. With the announcement of a new African-led International Support Mission for CAR (MISCA), AU became the first to act on the situation. The AU also sent troops from the Multinational Force of Central Africa. At the UN level, the Security Council's passage of resolution 2127 on 5 December 2013, underscored the need for the TNC to carry out its primary responsibility to protect the civilian population in the CAR.[33] The imposition of arms embargo, granting of Chapter VII mandate to AU and French forces to protect civilian and restore security and the establishment of a UN Commission of Inquiry were articulated in the resolution.[34] Preceding 2127 was resolution 2121. Under French sponsorship, it was adopted on 10 October 2013 to strengthen and broaden the mandate of the UN Integrated Peacebuilding Office in the Central African Republic (BINUCA).[35] The shift of French position from disengagement to military contribution has also seen the dispatch of French troops to the field to assist MISCA tackle the growing insecurity in the country, with resolution 2127 authorising MISCA and French forces to take "all the necessary measures" to protect civilians and restore security in the CAR.

Conclusion

In the preceding pages, highlights have been given to the conflicts that erupted in Burundi, Kenya, Ivory Coast and Central African Republic and the international response they received. What then could we say about the international response to these crises with respect to the application of RtoP principles? The cases in these countries demonstrate that in order to prevent ethnic violence from spiralling into full-scale genocide, immediate and long-term involvement by regional actors (in this case African states) backed by Western governments and international actors, including the UN, is critical. Thus, during the upsurge of these conflicts, the institution of peace talks brokered by regional leaders and supported by Western governments led to a truce and mitigated against further clashes. The importance of regional bodies such as ECOWAS, ECCAS, AU and allowing these processes to take the initial lead is very critical if any headway is to be made in resolving armed conflicts on the continent. The leading roles played by ECOWAS and AU in Ivory Coast and Kenya respectively before the UN could came in, worked things out for the good of the suffering population. It could be argued therefore, that diplomatic intervention is the surest way to restore war-torn societies to a path of peace.

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[33] United Nations, 2013. Resolution 2127.
[34] Ibid.
[35] United Nations, 2013. Resolution 2121.

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Christos Ziogas

The humanitarian intervention constitutes one of the most debatable issues of contemporary international relations. During the post-Cold War era, the prospect of international community intervening, for humanitarian purpose, received a new dynamic, both as a necessity of international politics, as well as a moral imperative on the basis of the newly formed principle of "Responsibility to Protect" (RtoP).[1] The basic goal of the article is to examine the application of the specific principle and what its impact is on the international order.

The concept of humanitarian intervention

It is a fact that there is no commonly accepted definition, depicted in a text of any international treaty about the concept of humanitarian intervention.[2] All the relevant definitions are given sometimes based on the criterion of the existing or not consent of the receiving state, some other times based on the criterion of the existence or not of a clear delegation/mandate for action by the UN Security Council and some other times based on the criterion of who carries the human rights that are being violated and whether it refers to citizens of the perpetrator state or citizens of other states.[3]

The existing acquis consists on a general consent for some characteristics of the humanitarian intervention. Firstly, it includes the threat or use of armed force as a core element. Secondly, it constitutes a coercive intervention by a state or a group of states on another state's territory and it implies the involvement in the domestic affairs of a sovereign state, which has not taken any offensive action against some other state. Thirdly, the purpose of the humanitarian intervention is the protection of individuals from severe violations of their fundamental rights or the relief of human misery.[4]

It goes without saying that every issue of humanitarian intervention has to be examined in combination with the principles of non-interference in domestic affairs of the states and the refrain from the use of force in international relations, as well as with the relevant practice of the UN Security Council and with the decisions of individual states.[5]

The principle of the sovereignty of the state, as it is referred in the article 2(1) of the Charter of the United Nations, provides that *"the Organization is based on principle of the equality of all its members",* underlining with this way the importance of the above principle for the inter-state relations in the international system. Complementary to the principle of the sovereignty of the state is the principle of non-intervention on issues of domestic jurisdiction of the states, which constitutes a fundamental principle of the international law. Moreover, according to the Charter of the United Nations, the use of force in international relations is realised, only in cases of self-defence, collective or individual (article 51) and of collective action after a decision made by the UN Security Council in the frame of Chapters VII and VIII (article 53). No reference is made in the Charter on the right of humanitarian intervention as an exception from the rule of refrain from the use of violence in international relations, raising important issues about the legality of the humanitarian interventions, according to the law in force.

In spite of the restrictive UN framework for this kind of action, the question of humanitarian intervention becomes more widespread in the '90s,

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[1] Evans, G, 2006, pp.703–722.
[2] Simon, S., 1993, p.119.
[3] Abiew, F.K., 1999.
[4] Simon, S., 1993, pp.120–121.
[5] Ibid, pp.125–127.

when a change in the position of the international community was remarked for the first time vis-à-vis the facts that were taking place in a state's borders. Obviously, the collapse of bipolarity and the emergence of the United States as a pivotal state in the international system raised the optimism for a more proactive role on behalf of the international organisations over issues of intervention, as well as over the domain of the protection of the humanitarian morals and principles.[6] The right to intervene in the domestic jurisdiction of a state, the character of the intervention, its terms and consequences should be seen critically, as they raise moral, legal and political dilemmas. The issue of the degree of restrictions on the domestic jurisdiction of the states was put during the early post-Cold War era, particularly on the subject of the protection of fundamental human rights.

The Responsibility to Protect

The principle of "Responsibility to Protect" constituted and continues partly to constitute one evolving principle of the international politics, with the main goal of the prevention and the confrontation of the atrocious crimes against humanity, genocide, ethnic cleansing and war crimes, which unfortunately take place at times in many regions of the planet. This principle was not putting in question the sovereignty of the state per se, but it mentioned the responsibilities and the obligations of the leadership of any country vis-à-vis the local population. The text of the 2005 World Summit gave to the "Responsibility to Protect" a basis to be legitimised. The main goal of the authors of the report was the "compromise" between the sovereignty of the states and any international intervention for the protection of human rights.

According to the "Protection Responsibility", the states possess the primary responsibility to protect their citizens from genocide, ethnic cleansing,

crimes against humanity and war crimes. In addition, all countries have the responsibility, as members of the international community, to assist other states and to contribute, through collective action, to the building of confidence and to the efforts towards the de-escalation of tensions. All countries have the responsibility to respond to the threats of crimes through a wider spectrum of measures, which begins from diplomacy and other peaceful means and concludes to the enforcement of sanctions and the use of military force. The decision for compulsory measures, as for example the use of force, will be realised only with the approval of the Security Council and on a case-by-case basis.[7]

The First Report entitled "Implementing the Responsibility to Protect" (2009)[8] of the UN about the implementation of "Protection Responsibility" ended up in three pillars of action. First, the states have the primary responsibility to protect their citizens from crimes against humanity, ethnic cleansing, genocide and war crimes. A fundamental position of the first pillar was the consideration of the sovereignty of the state also as a responsibility.[9] It points out essentially that the right of non-intervention by third parties into the domestic affairs of a state must depend on the ability and the will of the state to protect the human rights of all its citizens. Second, the international community has the responsibility to assist the states in fulfilling their obligation on the protection of their citizens.[10] Third, the international community has the responsibility to respond to the violations of the human rights, in case of inability or unwillingness of the states to fulfil the obligation mentioned above, through political or economic sanctions and the use of military of military force as the last resort.[11]

The "Protection Responsibility" indicates above all a responsibility to react in situations where there is urgent need to protect life. When the preventive measures fail to resolve or restrain the situation and when a state is incapable or unwilling to restore the situation, then measures of intervention can be

[6] Chila, I., 2012, pp.61–86.
[7] UN Draft Resolution, 2005.
[8] UN Report, 2009.
[9] Bellamy, A.J., 2010, pp.143–169.
[10] Ibid.
[11] Ibid, p.143.

demanded by other countries of the wider community. The compulsory measures may include political, economic or judicial means and in extreme cases to include also military action. After the end of the Cold War the armed interventions for humanitarian reasons were multiplied. This kind of interventions are usually ambiguous, a fact which justifies the difficulty of taking decisions in similar cases. In spite of various problems, the issue of the armed "humanitarian" interventions acquired progressively great importance for the international community.

Although the "Protection Responsibility" was a creation of the General Assembly, in the frames of the Security Council, starting from 2006, it has been referred in 28 resolutions.[12] In contrast to the General Assembly, the resolutions of the Security Council are binding and may approve different options like sanctions, political missions, peacekeeping operations and the expedition-engagement of a military force.

The new threats like the regional, interstate or civil conflicts, terrorism, organised crime and other questions of international and regional security, perturbed, but they did not threaten the international order to collapse. The conditions on the use of violence, on behalf of the international community, were attempted to be redefined in a binding manner under the provision of the now ruling liberal approach. With this reality in mind, the "Protection Responsibility", although it created at the beginning the expectations of the emergence of an effective protection of the human rights mechanism in a continually wider spectrum of the international system, the practice of the latter limited the former optimism relating to its contribution in maintaining the international order.

International order

We use to define order in general as the situation – domestic, regional or international – in which the phenomenon of violence is controlled in a satisfactory degree. The domestic order is clearly more developed normatively and consists in the existence of a system of governance, with the phenomenon of anarchy having been eradicated. In the domestic sphere of the states – not all of them – the issue of violence has been resolved via its monopolisation by the correspondent organs of the state. They also have a system of distributive justice, with integral and total procedures of implementation.[13]

A settlement of this kind is absent from the international system and looks extremely difficult to be realised. The international order differs structurally from the corresponding domestic ones and it consists mainly in the absence of conflicts of such intensity and degree that may lead to its collapse. The international order cannot be seen as a situation of total absence of wars, domestic or intrastate, because there has never been a total pause of conflicts in the international system. The international order constitutes the substitute of the structural weakness of the system to create conditions of international peace, that is the voluntary abstention from the politics of acquisition of power. Basically, the international order consists in the absence of hegemonic conflicts and the most powerful states wish to maintain the international order up to the point that serves their interests.[14] The normative development of the international system up to this day points out that the international order comes first generally compared to any form of justice and the latter, as defined by states, is set to reproduce the first.

During the last four centuries of the contemporary international system, the international order develops a relation of cause and consequence to the state sovereignty, it is mainly preserved due to the balance of power among Great Powers and it functions, to a degree, according to the constitutional and legal regulatory frameworks in force. From this point of view, the humanitarian intervention and the principle of "Protection Responsibility" fail to execute their mission in its nominal value, meaning that they are activated in every case that the human rights are being violated and to act independently from the options of the most powerful actors of the international system.

[12] GCR2P (n.d.)
[13] Bull, H., 1995.
[14] Kissinger, H., 2015.

At the same time, though, a constitutional framework has been created, even with the above mentioned structural limits, but mainly a perception of the need for action by the international community (has been created), when humanitarian crises happen, even if something like that seems hard to achieve.

Conclusively

The unexpected for many, end of the Soviet Union and of the states of actually existing socialism created, to even more, the hope that the post-Cold War era will be the springboard for a new international order, one of different kind compared to what we know in the last four centuries.[15] Around three decades later, we realise that the political, economic and technological procedures that took place are indeed extremely important, but not in such intensity and degree that they could change the nature of the international system. It seems that these changes mainly enrich this nature. Liberalism, via the states that carry it, prevailed against the actually existing socialism. Its prevalence through iron and blood had come first against the authoritarian states in WWI and against the totalitarian ones, meaning Nazism, Fascism and Japanese Militarism during WWII. The collapse of the socialist cosmotheory, apart from the geopolitical consequences, brought about also the claim of diffusion of the liberal political, economic and cultural standards, with the United States being their main carrier of diffusion, towards the greatest possible spectrum of the international system.[16]

About three decades after the end of the Cold War, the only "living" materialist theory of modernity, that is liberalism as axis of political formulation in the interior of the states and as a guiding principle of the international order, must walk on failing to bring about or to impose its determinism on the entire international community. Basically the liberal "harmonisation" was inversely proportional of the size of the state in reform and it was mainly about the economic section. In parallel, and as a consequence of this fact, liberalism owes to coexist

with the alternative cosmotheoretic forms, carriers of which (forms) are some of the emerging powers of the international system, while in the meantime and through the "globalisation", liberalism has distributed the technological and material advantage it once had.

The United Nations constitutes the form of international governance, as it came about from 1945 and afterwards, its surpassing will have to diminish its structural weaknesses, that is to bring about a more profitable from the existing mingling/compromise between the inversely proportional relation of the dominant role of the Great Powers in the Security Council and the effectiveness of the system of the collective security, as it concerns the preservation of the international order.

The gradual appearance of governmental and non-governmental organisations, during the post-war era, and their thrive after the Cold War constituted a new reality, which however – even in the cases where they functioned independently from the states politics- has not caused political transformations in such degree and intensity, in order to change the statocentric nature of the international system.

The "cracks" in the Westphalian system, meaning the failed states or the extended areas of a territory, where no effective or any at all sovereignty is being exercised by the correspondent organs of the state, also create problems in the regional stability. Gradually, more and more states claim Article 51 of the UN Charter, about the right of self-defence, interpreting it in a more broad manner, which leads both to a more restrictive interpretation of the international law and to the use of force as a more frequent means of interstate behaviour.[17] By examining what is happening in contemporary cases of regional crises, it seems to exist a tendency of threat or use of force being more and more embedded practice in international relations, relativizing the international law even more.

It is a fact that the international law consists a victory of the human civilisation. Its greatest challenge, which is a challenge also for the RtoP principle, is the acquisition of a single and total

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[15] Fukuyama, F., 1992.
[16] Barnett, M., 2011, pp.161–170.
[17] Kurowska, X., 2014, pp.489–508.

mechanism of implementation. As long as the rules of the international law will face problems of total implementation, its appeal will be far from its application.

The oxymoron in the present situation lies on the fact that the arguments adopted by the West during the early post-Cold War era with the form of moral imperatives, begin gradually to be claimed by emerging powers such as China, Russia or others, which do not have any specific interest on their moral content, but they use them in order to serve their interests.[18] In parallel and inside the western world, actions are observed, that are situated far away compared to their former practices and goals about the creation of a liberal international order. Gradually, the change in the balance of power in the international system will have an impact both to the codification, as well as the implementation of international law. It will be an historical paradox, if the emerging powers do not claim a role in the further development of the international law, in comparison with the former period and the dominance of the West.

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[18] Rotmann, P. et al., 2014, pp.355–377.

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The United Nations approved on 17 March 2011 the Resolution 1973, which formed the legal basis for the following military intervention in the Libya Civil War, calling for a ceasefire and establishing a no-fly zone. The decision to intervene in Libya has drawn criticism from many journalists and opinion makers: could have other non-coercive measures been implemented to protect civilians and to stop violence in the country?

One can think the prospects for non-coercive measures were not completely bleak in the Winter of 2011, when Gaddafi was attacking the rebels in Benghazi after losing control of substantial parts of the country. Diplomatic efforts and sanctions were not out of the question and the Western countries could try and drive a hard bargain, also thanks to some positive political background. In fact, the relations between Libya and the international community had normalised at the beginning of the new century, after Libya decided to hand over to the UN its officials involved in the Lockerbie affairs and, in 2003, to abandon its weapons of mass destruction program. In particular, the relationship with the US and the UK had improved, given Gaddafi conceived of Al Qaeda as a threat to national security. The relationship with Italy had also become extremely positive, leading in 2008 to a treaty of friendship and cooperation that was so favourable to Libya to be criticised as possibly endangering the Italian commitments to NATO. This political climate could have offered some chances until after Benghazi was secured, in March 2011. It is not impossible to think that, also at that time, coercive measures could have been replaced by measures such as traditional peace-keeping operations or multilateral sanctions to curb the most violent policies of the Gaddafi regime.

However, two factors weakened the feasibility of non-coercive measures and subsequently took them out of the picture. Firstly, political solutions to the crisis needed political unity: at least the most powerful members of the multilateral coalition implementing Resolution 1973 had to share the same interests and the same goals. It seems now clear that the multilateral military operation was more a matter of coordination than of cooperation. Secondly, the feasibility of political solutions depended on the actual goal of the intervening coalition. As long as the goal of the coalition was the protection of civilians, political dialogue could be an option for the Western countries and for Gaddafi as well. When it became clear the coalition was aiming at regime change, political dialogue lost any appeal as a reliable conflict resolution measure.

The international community acted in Libya according to the principle of Responsibility to Protect, enshrined in the Chapter VII of UN, which provide measures to prevent atrocity crimes and attacks against the civilian population. It is also true, tough, that some European Union member countries signed various agreements with Gaddafi and that, if a military intervention had occurred, several interests would have been at stake. Did in your opinion geopolitical interests prompt European states to push the UN to wage war on Libya?

Various non-humanitarian interests played an important role in the Libyan crisis. The wide array of national interests at play is made clear by the case of France, the most eager country to be involved in the crisis. Firstly, domestic politics was relevant, given 2012 was presidential election year in France and President Sarkozy was interested in being perceived as a strong commander-in-chief at the end of his first term. Secondly, one cannot ignore France's interest to increase its influence on Libya, thereby challenging the special political and economic relation Italy had with the country. Thirdly, the memories of the poor European performance in the Balkan wars, that were particularly bitter for France, spread the idea that the upheavals in the MENA countries posed a threat to European security: this time, Europe – and France – had to lead promptly in the European neighbourhood. To this regard, the Libyan crisis could also offer the occasion to test the Franco-British military cooperation that had led to sign the Lancaster House Treaties in 2010 in order to develop defence and security cooperation, after Europe suffered of political crises inside and political marginality outside during the first decade of the century.
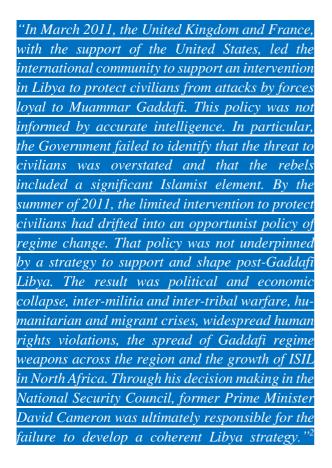
So, the humanitarian issues were very relevant but combined with security issues at the regional level, domestic political competition in some European countries, intra-European competition and intra-Atlantic competition. It is possible this variety of national goals did not weaken the RtoP principle per se. Maybe self-interested behaviours contributed to this result when the Operation Unified Protector went beyond the UN mandate.

Barack Obama has recently admitted that the war against Libya turned out to be a failure. He has also accused France and Britain of "free riding" during the military campaign in 2011. What was the US role in the military campaign against Gaddafi? Why was Obama initially reluctant to bomb Libya?

The US reluctance to get involved in the Libyan crisis resulted from a variety of factors. The country was still heavily involved in combat operations in Afghanistan, together with the UK. Domestic opposition towards overseas military operations was on the rise. The Obama administration feared to get trapped into another quagmire in the Middle East and worried that new military operations could lead to unforeseeable financial costs. Notwithstanding these motivations, the US gave a massive contribution to establish and enforce the no-fly zone and the arms embargo decided by Resolution 1973 in order to prevent attacks on civilians.

NATO does not offer statistics on national contributions to the Operation Unified Protector, by which the Allies took the lead of military operations and conducted more than 26,000 air sorties and more than 9000 air strikes from 31 March to 31 October. However, some estimates are suggesting the US contribution could account more than 60% of the military personnel, around 35% of air sorties (against around 22% British, 20% French, and 10% Italian sorties), and almost the whole of fired cruise missiles.[1]

Nowadays Libya is a powder keg, with two governments, hundreds of militias fighting against each other and terrorist groups – the so called Islamic State is still there, even if it has maintained only network of cells in some parts of the country due to US air strikes. How did the international environment change from 2011 to now? Is it still possible to stabilise Libya?

I agree with your picture of the situation. The Foreign Affairs Committee of the UK House of Commons agrees as well. Let me quote the summary of the Foreign Affairs Committee's examination of the intervention in its entirety:

"In March 2011, the United Kingdom and France, with the support of the United States, led the international community to support an intervention in Libya to protect civilians from attacks by forces loyal to Muammar Gaddafi. This policy was not informed by accurate intelligence. In particular, the Government failed to identify that the threat to civilians was overstated and that the rebels included a significant Islamist element. By the summer of 2011, the limited intervention to protect civilians had drifted into an opportunist policy of regime change. That policy was not underpinned by a strategy to support and shape post-Gaddafi Libya. The result was political and economic collapse, inter-militia and inter-tribal warfare, humanitarian and migrant crises, widespread human rights violations, the spread of Gaddafi regime weapons across the region and the growth of ISIL in North Africa. Through his decision making in the National Security Council, former Prime Minister David Cameron was ultimately responsible for the failure to develop a coherent Libya strategy."[2]

So, one can doubt Libya is now a safer place for civilians because of the Western intervention. Some commentators and human rights organisations have also argued the Operation Unified Protector worsened the situation of the civilian population, given it went beyond its mandate by supporting the opposition forces and, therefore, contributing to conflict escalation and to turn the humanitarian crisis into an internationalised civil war. Furthermore, it would be a misrepresentation to say the coalition succeeded at least in bringing regime change to Libya, given the country has no stable regime and no territorial integrity. All in all, Libya could be seen as another failing test of the Western assumption that political stability can result from military action. Maybe the prospects for stability in Libya and elsewhere could improve if this assumption was rejected.

[1] Nato operations in Libya: data journalism breaks down which country does what. *The Guardian,* Datablog, 22 May 2011 [online] Available at: <https://www.theguardian.com/news/datablog/2011/may/22/nato-libya-data-journalism-operations-country> [Accessed on 3 May 2018]

[2] Libya: Examination of intervention and collapse and the UK's future policy options. Third Report of Session 2016–17, HC 119, House of Commons Foreign Affairs Committee,14 September 2016 [report] Available at: <www.parliament.uk/facom> [Accessed on 3 May 2018] p.3.

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After the nineties, the international community decided to address the growing gross violation of human rights throughout the world through the implementation of a political concept aimed at broadening and, in a certain sense, improvingthe international law working range. The core of what would thereafter often constitutes the juridical pretext to pursue geopolitical interests through the use of the military force lies in the necessity to safeguard human rights around the world. The United Nations agreed that there are some principles so important for the international community that cannot be derogated. Therefore the UN should built a mechanism whereby states can protect the life of civilians when threatened, if necessary also with the use of military force.

As we have previously seen, the Responsibility to Protect (RtoP) formula has been implemented in many cases. In Libya, Yemen, Kenya and other African countries the international community has intervened with different methods in order to prevent humanitarian disasters. In some situations the military intervention under the UN umbrella turned out to be a failure, though. Libya, for example, is nowadays a powder keg with hundreds of militia fighting against each other and two rival governments that scarcely control the territory. Moreover, Libya showed how geopolitical interests can be hidden behind the humanitarian pretext and how some European countries got a foothold to attack Gaddafi and pursue economic goals.

The case studies expounded in the Review provide a well-structured analysis on the outcomes of the implementation of the RtoP over the years. Indeed, after an accurate introduction on the concept of sovereignty and on the discussions that led to the creation of the early juridical insights of the Responsibility to Protect concept and, later, to its crystallisation in the framework of the UN, the second part draws the attention of the reader to the concrete implementation of the RtoP in different countries. The application of the RtoP had, indeed, many facets: sometimes it looked like a humanitarian intervention, sometimes it resembled an excuse to carry out regime change agendas. The last part is devoted to a general overview on the future perspective of the RtoP and its impact within the international order. Furthermore, the interview with Marco Clementi, professor of International Relations at the University of Pavia, provide us with an in-depth analysis on the western military attack on Libya in 2011 that thoroughly examines the reasons why some European countries were so tearing in overthrowing the Gaddafi regime, whereas the United States were, at least initially, reluctant to carry out hawkish policies.

Nowadays there is no leap forward a development of the RtoP formula. If on the one hand the states in charge of the protection of civilians can engage in truly humanitarian interventions, on the other hand the abovementioned case studies show that realpolitik very often supplant humanitarian purposes. Therefore geopolitical interests and foreign policy agenda could be the real goal of the intervening countries. In this respect, the principle of RtoP can constitutes the justification whereby attacking a rogue state, overthrowing a despotic ruler, settling international disputes through the use of violence rather than with diplomatic tools. If this scenario occurs more frequently, the instability of the international context will increase, thus resulting in an outcome contrary to the philosophy of the RtoP formula.

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