

STATE SOVEREIGNTY AND INTERVENTION IN THE AGE OF RESPONSIBILITY
TO PROTECT: ANALYSIS OF LIBYA AND SYRIA

by

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A Thesis
Submitted to the
Graduate Faculty
of
George Mason University
in Partial Fulfillment of
The Requirements for the Degree
of
Master of Science
Conflict Analysis and Resolution
Master of Arts
Conflict Resolution and Mediterranean Security

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Date: 12/5/13

Fall Semester 2013
George Mason University
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Libya and Syria

A Thesis submitted in partial fulfillment of the requirements for the degree of Master of
Science at George Mason University, and the degree of Master of Arts at the University
of Malta

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DEDICATION

I dedicate this thesis to my family who has been extremely supportive in all my endeavors leading up to the completion of this project.

ACKNOWLEDGEMENTS

I would like to thank the many friends, relatives, and supporters who have made this happen. I would like to thank my advisor Dr. Monika Wohlfeld for her invaluable direction, advice and patience in the making of this project. I would like to thank Michael English for his help in conceptualizing this project from its very beginning. I would like to thank all the staff and faculty at MEDAC and SCAR for all their help throughout the program. I would like to thank the staff at Valletta campus for providing an excellent work environment.

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LIST OF ABBREVIATIONS

African Union	AU
European Union	EU
Human Rights	HR
Human Security.....	HS
Humanitarian Intervention	HI
International Commission on Intervention and State Sovereignty	ICISS
International Criminal Court.....	ICC
League of Arab States	LAS
North Atlantic Treaty Organization	NATO
Responsibility to Protect	R2P
United Nations	UN
United Nations Security Council	UNSC
United Nations Convention on the Law of the Seas	UNCLOS
Universal Declaration of Human Rights	UDHR

ABSTRACT

STATE SOVEREIGNTY AND INTERVENTION IN THE AGE OF RESPONSIBILITY TO PROTECT: ANALYSIS OF LIBYA AND SYRIA

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In 2005, the United Nations adopted a new norm called the Responsibility to Protect (R2P). R2P is an attempt to reconcile the concepts of state sovereignty and humanitarian intervention by adding a new dimension of responsibility of civilian protection to state sovereignty and to the international community. In theory, the adoption to R2P can be perceived as a significant shift to the contemporary meaning of sovereignty. This thesis will explore the actual practical impact of R2P on state sovereignty in the context of humanitarian crises by comparing the recent civil wars in Libya and Syria and the reactions to each conflict by the international community. The thesis comes to a conclusion R2P's practical implications on state sovereignty are weak in contexts where numerous other factors dominate the legal decision making process at the UN, which by default is designed to favor traditional notions of sovereignty.

CHAPTER ONE: INTRODUCTION

The concept of sovereignty is a very broad subject matter in the realms of international relations, political theory, international institutions, legal frameworks and foreign policy. More importantly the concept of sovereignty affects everyone, even if one does reside in a state that enjoys a full sovereign status. The true nature of sovereignty is debated, and it is impossible to produce a theoretical definition of sovereignty that will satisfy the wide range of opinions on the issue. Moreover it would also be very difficult to come up with an operational definition that would accurately encompass the entirety of sovereignty in practice. Nonetheless, sovereignty is a staple concept of our international system, and we arrange our institutions, relations and practices with this concept in mind, even when it is compromised.

Sovereignty is not the only staple concept of the international systems and it does not exist in a vacuum. Sovereignty is constantly affected by a wide range of international norms and practices. Some aspects of international law reinforce some common sovereign traits; meanwhile others arguably erode the notion of sovereignty. In the era of hyper-globalization for example, we have created many institutions and international legal frameworks that govern various aspects of affairs which may limit the self-governance aspect of sovereignty. On the other hand, states often enter and participate in

such processes willingly and with consent, thereby arguably exercising their sovereign rights. Therefore if we want to see what international norms really can have an impact of sovereignty, in this thesis we will examine the practice of intervention, specifically military intrusions by an outside actor without the consent or invitation of the host state.

The relationship between sovereignty and intervention has always been tense, given the fact that these two concepts of the international system are at odds with each other. Sovereignty may prevent intervention from occurring, and an intervention is often perceived as a blatant violation of the principles of sovereignty. Nonetheless, both concepts are practiced in international relations, despite the controversy that is created each time that these two concepts come at odds at the debate table in each particular situation. Moreover, in the realm of the international system there exist both legal and normative frameworks which reinforce and reconcile the tension between sovereignty and intervention.

The international system is constantly evolving and at any particular time, this relationship is different from a previous historical era. The current point in this evolution is a particularly interesting time to examine this relationship. The overall dynamics of the international system changed fundamentally after the end of the Cold War, and in this larger shift we can observe that the nature of intervention has also been changing. In the post-Cold War era we have seen a rise in humanitarian interventions, and despite the growing trend, each instance of such an occurrence has been surrounded with controversy. It appears that there was a lack of common ground in the intuitional realm of international relations that could reconcile this relationship.

At the end of the 1990s, this gaping vacuum in normative understanding on when and under what circumstances humanitarian intervention was appropriate and necessary in the eyes of the international community has spurred a debate on the issue. As a response to this vacuum, a new international norm has emerged, known as Responsibility to Protect or R2P for short. An elaborate and ambitious version of this norm emerged in 2001, and a more concise and bare-bone version of R2P was adopted with consensus by the members of the United Nations in 2005.

In short, R2P attempts to add another dimension to the concept of sovereignty, one of responsibility of a sovereign state to protect its population from humanitarian atrocities like genocide and systematic killings. Moreover, in the failure of the sovereign state to do so, whether it is out of incompetence or due to the lack of will, the international community has a responsibility to take all the appropriate measures to protect that population. In theory, the fact that the international community achieved consensus in the adoption of these principles, means that the evolution of sovereignty has taken a sharp turn in the normative definition of the concept of sovereignty in the institutional realm of international relations as a whole. Despite this factor, theory is not always reflective of reality and the fact that R2P is not a legally binding norm further adds ambiguity in our understanding of the impact of R2P as an emerging norm which attempts to redefine sovereignty in a way that would be appropriate and reflective of the current challenges of international relations.

Research Design

Research Question

How has the concept of sovereignty been impacted by the concept of Responsibility to Protect as the emerging norm of humanitarian intervention?

It is clear that a certain normative shift in the understanding of sovereignty is taking place. This thesis will therefore examine and evaluate this particular shift in our understanding of sovereignty in its theoretical, normative and practical realms. Given the fact that R2P is a recent phenomenon to penetrate in the international norm, its impact as it stands today and what this norm may mean for the future of the international system is yet unclear. Despite this, we can observe what R2P has been able to achieve and where it has failed in its so far short life as a norm in the post-Cold War era, and therefore draw some preliminary observations and evaluate its impact.

Case Studies

In order to evaluate R2P's impact on the standing nature of sovereignty we must observe it in the context of conflict and humanitarian crises of the recent years, and how the role that R2P played in the international response to these events. Unfortunately, there has been no shortage of conflict and humanitarian crises in the world over the last few years. Not all of these situations are suitable context in which the impact of R2P on sovereignty can be tested, however there are some which are comparably close and relevant to do so. The events of the Arab Spring have produced a number of conflicts and humanitarian crises which sparked debates about what the international community should do in order to ease the suffering of the people.

The situations in Libya and Syria appear to be the two most logical case studies where we can observe the role of R2P. They have certain similarities, such as a very close date of beginning, regional proximity, rapid escalation into civil war, etc. On the other hand, these two cases have a vast number of differences which separate the two wars. The one that is most interesting to us is the difference in international response to these conflicts. In Libya, the international community intervened quickly and decisively employing the legal frameworks for intervention as well as following the normative trajectory of R2P. In Syria on the other hand, the conflict generated a lack of consensus on the appropriate action, and the conflict became a prolonged civil war which took tens of thousands of lives and now it is in its third year of existence. This thesis will therefore see the role that R2P played in each of these two contexts, alongside other relevant factors and try and determine why is there such a disparity in these two cases.

By contrasting the Libyan and Syrian wars, we can therefore take a more measured look at the impact that R2P has on sovereignty in the contemporary age. We will see that even though it plays a key role, that role may not always be the defining one, depending on a wide range of factors which also come into play. In a context of humanitarian crises, R2P may play a significant challenge to the concept of sovereignty, but a large array of other factors may reinforce and uphold sovereignty despite the existence of R2P. Most importantly, we can see that the designs of the legal frameworks which deal with sovereignty are very likely to uphold sovereignty over intervention, because traditional sovereignty has more of a legal grounding than does the responsibility to circumvent humanitarian atrocities.

Time Frame of Analysis

It is the purpose of this thesis to assess the impact that R2P has had up to the most current time and therefore be able to draw conclusions on where R2P stands as an international norm in contemporary international relations. In order to do so, it is sometimes necessary to put certain concepts, shifts and patterns into perspective by tracing their historical origin and trajectory of evolution. The concept of sovereignty goes deep into history, and even though we will discuss some of these roots, we will focus on legal development of the 20th century. R2P itself was introduced in 2001 and partially adopted in 2005, yet the conflicts which were chosen as case studies have not commenced until 2011. The cut-off date for our analysis is August 21st, 2013, because that is the date of a reported chemical weapon attack in Syria, the impact of which is a game changer for the dynamics of the Syrian conflict in the eyes of many actors in the international community. Also it is at that point in time when the nature of the Syrian conflict became too different to contrast with the situation in Libya. Additional explanations of the cut-off point for the Syrian conflict will be brought up in the chapter on Syria.

Research Limitations

There are several limitations of this research that need to be pointed out. The main limitation is that interventions are very context specific and it is hard to draw broader conclusions by analyzing specific cases. Each situation is unique and there is a multitude of factors which need to be considered. I chose Libya and Syria as two contrasting examples because they have a lot in common, but by analyzing the differences amongst

them we can draw some important conclusions. Libya and Syria are the two cases which I believe are the best cases to be contrasted in this context. However they are not the only relevant cases that could be considered for analysis of R2P's effect on sovereignty. Humanitarian crises occur in multiple other locations in the world, and the role of R2P should be analyzed in a broader more encompassing manner.

An additional limitation of my research is that the conflicts which I chose to examine as case studies have not yet come to an end: we have to use the cut-off deadline of August 21st, 2013 for our analysis. Even though the Libyan Civil war can be considered to be concluded with the death of Gadhafi and the collapse of the regime, a high degree of instability persists in the country and the role of R2P in this stage is not clear and not examined. The Syrian Civil War is continuing to escalate and the prospect of third party military involvement is growing, specifically after the reports of chemical warfare have shaken up the international community. The role of R2P in the future of the Syrian conflict and any possible third party military action is not clear. Despite this limitation, I must clarify that the research presented here in relation to the case studies attempts to examine why the international community has reacted so differently to the two crises from the outset. In the case of Syria, we can observe the limitations of R2P by noting that the humanitarian crisis as the result of conventional warfare has been clearly evident for over two years.

Chapter Synopsis

The second chapter will attempt to tackle the question of what sovereignty is in the contemporary international realm. The concept of sovereignty is very complex and contested, yet certain characteristics are quite often viewed as absolutely inherent to the concept itself and therefore any compromise of such characteristics would be a complete circumvention of the concept itself. The chapter begins by outlining somewhat some common perceptions about the concept may be and where do they originate from. Then the chapter will take on a common starting point of contemporary sovereignty: the Peace of Westphalia. The Westphalian origins of contemporary state sovereignty will be examined with skepticism from certain scholars in the field. Then the chapter will go into deeper theoretical discussions on the nature of sovereignty, and this discourse will broaden our perception of sovereignty towards a multi-dimensional concept. Lastly the chapter will ground the discussion on sovereignty in legal and formal definitions which appear in various foundational texts of contemporary international institutions.

The purpose of the chapter on sovereignty is not to argue for a specific definition of the concept or make an argument for certain sovereign characteristics. Instead the chapter will illustrate the complexity of the concept, and the disparities between common perceptions, theoretical arguments and the legal standing of the concept of sovereignty. By the end of the chapter we will be left with a skeptical, yet operational understanding of the complexity of sovereignty and therefore we may proceed forward in our analysis of how certain shifts in the nature of intervention norms may or may not affect this intricate staple of the international system.

The third chapter will deal with the concept of intervention, specifically focusing on normative shifts surrounding this concept in international relations during the recent decades. The chapter will begin with an examination of some historical patterns of intervention motives in the 20th century. Then it will continue on to briefly touch on the emergence of human rights as an international norm, which in turn lead the way for the emerging prominence of human security and humanitarian intervention in the post-Cold War era. Then the chapter will examine the normative shift which came about with the emergence of the Responsibility to Protect. Responsibility to Protect will then be critically examined in its normative, legal, theoretical and practical implications, ambitions and limitations.

The purpose of the third chapter is to capture the shift that we are experiencing as an international community in our normative approach to what constitutes an appropriate, necessary and justified intervention into a sovereign state's affairs through military force. R2P emerged as a response to fill the void in the normative aspect of humanitarian intervention which emerged in the post-Cold War era. The purpose of R2P was to reconcile sovereignty and intervention by adding new formally agreed upon dimensions of responsibility to sovereignty. This chapter therefore evaluates R2P as an emerging idea, before we examine R2P in a more practical context.

The fourth chapter will deal with the situation in Libya, particularly focusing on the intervention carried out by the international community in 2011. The chapter will begin by providing a brief synopsis of relevant events. Then we will closely examine the highlights of UNSC resolution 1973, which enabled the intervention through the legal

framework. Then, the grander implications of the Libyan intervention will be critically examined. The focus will be on the interpretations of what the role of the Libyan intervention means to the emerging concept of R2P. There are factors which can be seen as evidence of R2P establishing itself as the go-to normative framework for intervention, and there are opposing factors which point that certain implications of the Libyan intervention may serve as obstacles in the future utilization of R2P. The chapter will conclude by observing factors beyond R2P that explain why the sovereignty of the Libyan state was compromised, and who was able to compromise it. The concluding analysis further deepens our understanding of the circumstances upon which state-sovereignty is compromised via legal channels in the contemporary international system.

The purpose of the chapter on Libya is to critically analyze the most vivid implementation of R2P, specifically the aspects of R2P that challenge the sovereign principle of military non-interference in times of humanitarian crises. Throughout the chapter, we can see the role that sovereignty plays in the decision making process, especially as that process neatly follows the R2P prescription on how to address a humanitarian crises. It becomes clear that meanwhile R2P paved the way for the compromise to Libyan sovereignty, other factors also played an important role, and that despite the quick response by the international community, the case of Libya stands alone, especially in contrast to other conflicts such as Syria.

The fifth chapter will examine the case of Syria, and the response to the crises over the past two and a half years. The chapter will begin by providing a brief synopsis of relevant events. Then Syria will be put into context, and we will examine the domestic,

regional and global significance that the conflict has on multiple levels of power-struggles. These strategic intricacies, alongside other realpolitik factors will be considered in an attempt to explain the lack of action by the international community through years of bloodshed that has claimed over 70,000 lives. Alongside the realpolitik and strategic factors, we will also examine the negative reputation that the Libyan intervention left on R2P, and thereby has weakened the normative framework's ability to amass consensus on the appropriate strategy of response to humanitarian conflict. The chapter concludes by highlighting the difficulties that R2P has faced to break the deadlock in the legal frameworks for enacting a humanitarian intervention in Syria.

The purpose of the chapter on Syria is to highlight the fact that R2P as a concept continues to struggle in the face of other factors. In difficult situations like Syria, despite the apparent humanitarian crisis, the concept of traditional sovereignty appears to remain much stronger in the opposition to R2P's ambitions to fundamentally reshape the concept of sovereignty as dependent on the regime's competence and will to protect its people. By contrasting Libya and Syria, we can see that R2P plays a secondary role to a wide array of factors that determine whether sovereignty is to be compromise in the context of humanitarian atrocities.

In the concluding sixth chapter we will recapture the highlights of our investigation and draw some important conclusions on the current state of sovereignty and how it is being affected by the emerging concept of R2P. It will become clear that a push to reconfigure sovereignty does exist and cannot be ignored, but at the same time this push does not have enough of a standing as an objective norm in the international

community to significantly reform the legal structures that uphold traditional sovereignty. Therefore we will conclude by examining some key weakness of the R2P norm as they exist today and inhibit the principles from living up to their designed ambitions to reconfigure the practical notions of sovereignty in context of humanitarian crises.

CHAPTER TWO: UNDERSTANDING CONTEMPORARY SOVEREIGNTY

To have a discussion on the notion of sovereignty in the contemporary realm of international relations is to take on a very difficult task. Given the fluidity of the concept of sovereignty, not only as it stands today, but as it has been understood throughout history of political thought and practice, it can be clearly observed that the concept is not understood universally even if some norms of sovereignty are being practiced or have been practiced for centuries by most sovereign entities in the international community.

One of the main problems with sovereignty, other than the subjectivity of definition, is also how differently it applies to different types of entities that claim sovereignty. Let's say at any given moment, there is a collection of states that enjoy sovereignty in a very similar manner. These states may even lead the discussion and norm establishment to what sovereignty is meant to be in today's political realm. However, the application of those principles may or may not extend universally to all the other actors who claim that status, and the range of factors that may influence these deviations is rather broad.

Despite the fact that capturing the concept of sovereignty is rather difficult as stated before, it is necessary to attempt to do so. In order to do that effectively, we must look at some of the more so called traditional views on sovereignty and where they stem from. The exploration of some characteristics of sovereignty that may be perceived to be

inherent to the concept will stem from what are some of the observable attributes of the modern state for any individual, whether they are educated on this aspect or not.

Since there is a common perception that traditional characteristics of sovereignty originate from the Peace of Westphalian, and even referred to by many academics as Westphalian Sovereignty, this subject matter will be discussed. Using theorists who took it upon themselves to see whether the assumption of existence of Westphalian Sovereignty is true or not, we can see some problems with this fairly established concept.

After the general views on sovereignty and its Westphalian origins will be reviewed, I will expand the discussion by bringing in some literature that deepens, contradicts, provides alternatives, or in any way compliments our definition. This will be done so that we are aware of the complexities of the concept of sovereignty, and aware of its evolution upwards to today's time. This part is the most challenging part of the discussion, because it is nearly impossible to capture all the thoughts, views and theories on the topic. Therefore we have to be selective and attempt to deliver a balance between breadth and relevance in this discourse. Despite the fact that many interesting views are out there, this section will include contributions that best help us understand sovereignty as it exists today. The focus will be on contemporary contributions to the subject matter, because authors writing over the past few decades are aware of the founding principles that have been laid out before hand by great philosophers, and hence they are building on a foundation of a discussion on the notion of sovereignty as well as including some factors that may not be timeless but rather have become reality in the modern system of sovereign states.

To conclude the discussion in some sort of a grounded understanding of the concept, we will look at some of the contemporary aspects of international law that directly contribute to the concept of sovereignty. This is necessary because once we are all aware of the theories and practices of the concept of sovereignty; we still need to address the black and white ink of the law that governs the international realm. Even though a lot of the times there is a disparity between the adopted legal understandings of the concept, the international realm still attempts to live up to the principles which they set out for themselves. This particular disparity is the conflictual aspect of the debate on sovereignty, but nonetheless it is the necessary starting point from which we can continue the discussion towards intervention, especially given the fact that the concept of intervention also enjoys a legal foundation that attempts to coexist with the concept of sovereignty in the international realm.

After we have gathered traditional, theoretical, and legal views on sovereignty we can draw some conclusions about the concept and move forwards in our discussion. It becomes clear that sovereignty is very complex, potentially multi-leveled, often strived for and upheld as a staple principle of international interaction, yet also often compromised for competing principles. A complex and sceptical view of sovereignty will allow us to further explore how it interacts with external intervention in contemporary world politics.

Commonly perceived characteristics of sovereignty

It is nearly impossible to pin point what is the common perception of the concept of sovereignty amongst the general population. One may conduct a study trying to ask a

sample of a certain population to describe what they believe sovereignty is. This task however will always be limited by the sample which the researcher may produce. Even if the sample would be designed to reflect all the demographic diversity of a country, this would not be nearly enough since the concept of sovereignty affects all the people in the world and goes way beyond the borders of a specific state. Views on sovereignty are likely to vary depending on where the people live, their education levels, etc.

Therefore in a rather unscientific manner, the only choice that I have is to bring up the common perceptions of sovereignty which may stem from simple observation of the concept in practice. To my understanding, the common perception of sovereignty is rather loose but it has certain traits that are likely to come up. First of all, the concept of sovereignty is rather deeply intertwined with the concept of the state, with which most people are very familiar with because they deal with various state institutions on a daily basis. Obviously there are certain populations in the world that do not have access to a functioning state, whether the functions of it may be limited in the scope of providing security or infrastructure, or maybe even a citizenship that will be recognized around the world as a legitimate one. However, people living in territories where the state is either failing, or lacking legitimacy on the global scale, are probably even more likely to be aware of the benefits of the state and sovereignty, since the lack thereof directly hinders their basic living.

Therefore, the concept of the state is something which is familiar to nearly all people in the world, whether they are privileged enough to live in a strong state, or unfortunately find themselves in a failing state or in a territory where statehood is up for

question. Perhaps there are certain populations who lead a very isolated life and interact with the state to the minimal degree, but such populations are becoming increasingly rare. Given the familiarity of the concept of the state, through which sovereignty is most observable to the general population, we can assume that there are certain characteristics about the state that are also fundamental enough to be familiar to most people.

The first characteristic is likely to be the concept of territorial borders. It is common knowledge that states are finite with their territory. This is evident through interstate travel, and a lot of people experience this concept of territorial sovereignty through crossing borders, either themselves or being aware of the common processes by which others do so. Whether the population ties their identity with the state or not, they are aware of the state that has claims the territorial sovereignty under which they find themselves.

The second characteristic of sovereignty in its basic forms of exercise that people are generally familiar with is the institutional provisions of certain basic political, social and economic goods within the territory to which the state claims sovereignty. This aspect is subjective and highly variable depending on which state we are talking about and can range from healthcare and education to security, both locally through police departments or internationally through the military. In weak and failed states, where almost none of these political, economic and social goods are effectively provided by the state, including security, which may be provided by a third party actors like a militant group, or lacking all together, it is still understood that under more ideal situations the state which claims sovereignty to that territory would at least be likely to pursue a

monopoly on the matters of security and coercion. Therefore, while the wide range of possible institutional provisions of the state may be the reflection of domestic policy views or capabilities, the strive for monopoly on the matters of security and legitimate coercion is one of the defining characteristics of a state which can easily be observed and understood by the populations living on the territory to which the state proclaims sovereignty.

The third most observable characteristic of state sovereignty is the common knowledge that beyond the territory to which a state claims sovereignty and monopoly on legitimate coercion, there are other states that follow similar patterns of behavior on their respective territorial claims. This can be described as a characteristic that states claim sovereignty over territory alongside similar actors, or in other words - the existence of the international system. The fact that sovereignty is rarely shared, despite supranational judicial bodies that have emerged and gained significance over the course of rather recent history, means that within the international system, sovereignty claims are mutually exclusive in times outside of conflict, whether the conflict be hot or cold. This basically means that if one state's territorial claims are compromised by another state this most likely can be characterized as a conflict. Therefore, there is a clearly observable characteristic of non-interference as part of the exercise of sovereignty.

Academic disciplines such as history and political science often trace back the international system which is based on the sovereignty of the state to a specific event. That event is the Peace of Westphalia which was signed in 1648 in Europe to end the 30 years' war. In particular, that event is often brought up to have produced a treaty which is

considered a founding document that established the notions of territoriality, monopoly on internal rule and the principles of non-interference. It is often referred to as the document that gave the characteristic of sovereignty to the emerging concept of the modern state, and at least in theory gave this characteristic evenly to all the states that are considered legitimate. It is not implied that the concept of sovereignty was invented in 1648, but it implied that that specific formulation of the agreement paved the way for what we still see as the founding principles of the so-called “Westphalian Sovereignty”. Most notably the concept of Westphalian Sovereignty often implies sovereignty as an absolute rather than relative or measurable concept.

However, as many stories of creation, the concept of Westphalian sovereignty is often perceived as a given, without much detail, thereby adding a shroud of mystery to the vast history of political processes that occurred between 1648 and the present time. The validity of the Westphalian Thesis is hard to measure because it is hard to specify what that thesis is. It is without a doubt that the agreement was signed and it fundamentally affected the norms of interaction between European states at the time, but that was hundreds of years ago. The international system is always evolving, and moreover it includes the rest of the world outside of Europe, and many territories that were not on par with the European notion of statehood in the eyes of their regional and global neighbors. The time period between the peace of Westphalia and today is so vast that modern political science does often foregoes an in depth investigation on the origins of modern sovereignty and places the Peace of Westphalia as a commonly accepted point of reference.

Westphalian Sovereignty under question

The Peace of Westphalia definitely impacted the inter-state system of its time, and that impact has undeniably left a legacy, that with gradual change and evolution throughout time has helped influence the international system as we know it today. However, many scholars are skeptic about the concreteness of said impact.

One of the central arguments about how the Westphalian notion of sovereignty is greatly different from ours can be observed in the theoretical conceptions of sovereignty of the middle ages. Bodin in 1577 described sovereignty as the characteristic attributed to the ruler of the laws and the rules that govern his subjects (Kratochwil, 1995). In other words, the absoluteness of internal sovereignty was one of the main pillars of the idea of sovereignty at the time, and it is hard to imagine that absolute sovereignty of a single ruler within a state is an aspect of sovereignty that characterizes the current system, despite the remaining dictators out there.

This internal absoluteness did however contribute to the establishment of the modern state in various ways. In one of the ways, it was the centralization of power in a single entity within a territory. “The concept of sovereignty developed as an instrument for the assertion of royal authority over feudal princes in the construction of modern territorial states” (Lyons & Michael, 1995). In other words, it centralized government authority at the top, or what is now more frequent, the federal level. This centralization however was different from many internal components of modern states today, such as balance of power amongst federal institutions, regional political autonomy over certain aspects of local policy, etc. In other words, the internal absoluteness of sovereignty of the

middle ages is greatly different from the democratic principles on which many of today's states base their internal sovereignty.

Another way in which the peace of Westphalia contributed to establish a characteristic of a modern state is the separation of the state from a supranational religious/moral authority. The state did not necessarily become secular; indeed religion continues to play a role to various degrees in many states to this day. However, in the European context, the creation of distance between the institution of the church and internal rule of the state gave sovereignty a unique dimension of monopoly not only on legitimate coercion within its territory, but also the monopoly on moral and religious issues within that same territory. This led to either establishments of state religions, or made way for freedom to practice an array of different faiths, but regardless of the result, the decision now lay within the state rather than with something supranational.

However, the monopoly on moral authority of the Westphalian model can also be put up for debate. If we take the religious aspect of this matter out of the equation, and presume that religion is merely a vessel in the grander realm of moral doctrine, we can see that analogous institutions emerged in recent history. The concepts of human rights and human security could be seen as contemporary equivalents of supranational moral authority. These concepts are grounded in moral deliberations of what is just and what is unjust, and they are quickly institutionalizing in the international realm to the point where when individual states practice laws that greatly contradict these principles, then it is seen as problematic in the international community, and as we know there are even measures to compromise the sovereignty of the state in question through intervention to correct the

moral path of its policies and practices to that of the institutionalized and accepted international norm. This subject matter will be discussed in greater detail later on in the thesis.

The absoluteness, territoriality, and non-interference however, are some aspects that may have roots in the peace of Westphalia, but have proved not to be constant throughout history. Hayman and Williams (2006) note that the peace of Westphalia contributed to the legitimate fragmentation of Europe, but concepts such as non-intervention as we know them today solidified in the 19th century as a norm. They note that to assume that absolute sovereignty is a centerpiece of international relations would go against empirical evidence of phenomenon like jihad, global communist revolution, state-sponsored terrorism and the spread of democracy, which are also observable and important aspects of international relations, whether they be outliers or just simply condemned as such (Hayman & Williams, 2006).

Osiander goes on to argue that judging the progress and evolution of sovereignty against a Westphalian model is a mistake. He goes on to boldly declare Westphalian sovereignty a myth, and points out that aspects of sovereignty that we take view currently as traditional and as a given have largely solidified in the 19th and 20th centuries (Osiander, 2001). He points out that the Holy Roman Empire with which the 1648 document was mostly concerned would not fit the model sovereignty of a modern state. He also suggests that holding on to the Westphalian myth is largely problematic for the development of IR theory (Osiander, 2001).

Krasner, who is one of the leading theorists on sovereignty in the present day, acknowledges the existence and prominence of the Westphalian model. In Krasner's analysis, the Westphalian model is one of four main models of sovereignty which he identifies along with international legal sovereignty, interdependence sovereignty and domestic sovereignty (Krasner, 1999). According to Krasner, Westphalian Sovereignty refers to "political organization based on the exclusion of external actors from authority structures within a given territory" (Krasner, 1999). However, Krasner points out inconsistencies in the Westphalian outlook on sovereignty, mainly in the historical account of its practical implementation. Krasner points out that the assumption of the Westphalian model is a central assumption in most mainstream/canonical IR theory, including realism, neo-realism, neo-liberalism, etc. with the notable exception of Marxist IR theory which is more concerned with global classes and global economic factors than with Westphalian type states as single unit rational actors in an anarchical system pursuing self-interest and self-survival. Krasner, similarly to Osiander, points out that making the Westphalian assumption at the centre of a specific IR theory is largely problematic (Krasner, 1999).

Theoretical discussion on sovereignty

Apart from his continuous work on the concept of sovereignty, Krasner uses his expertise to speculate certain plausible scenarios that may affect sovereignty if they were to occur. In a short opinion piece titled "The Day After" (2005), Krasner speculates what would happen to state sovereignty if the present terrorist threats that we face today were upgraded to mega-terrorism, by the deployment of nuclear weapons by terrorist groups

against large urban areas, thereby killing a disproportionately large amounts of people. Krasner argues that the concepts of sovereignty will be discarded to deal with this situation, and more powerful states will unapologetically use their power to redefine international norms. Pre-emptive wars will become norm, and territorial integrity of states will be subject to their alliances and power, not distributed equally according to principles of sovereignty (Krasner, 2005). This educated speculation points out that sovereignty as we know it today is fragile, especially when faced with challenges that did not exist in the future. Sovereignty in practice is therefore can be considered finite or limited to certain international climate which allows it to exist to its fullest potential.

Barkin and Cronin (1994) also inquired into the evolving concept of sovereignty. They used John Ruggie's definition of sovereignty as a starting point: "the institutionalization of public authority within mutually exclusive jurisdictional domains." (Barkin & Cronin, 1994). They point out that one of the reasons why the concept of sovereignty may appear as static and not-evolving is because most definitions and views on sovereignty stem from the legal status of sovereignty which does not fluctuate that much. However, they argue that the concepts of sovereignty are not fixed and are not constant, because at different times they are subject to different interpretations by different authorities, and thus are subject to evolve and change as history has shown. They argue that one of the reasons behind this process is the competing notions of sovereignty over territory and national sovereignty. However they point out that given the fact that most states have minority populations, the concept of national sovereignty can be seen as destabilizing for any state (Barkin & Cronin, 1994).

In somewhat of a contrasting view, John Agnew (2005) argues that there is no evidence that the concept of sovereignty is inherently territorial, or that it should be organized exclusively on state-to-state basis. He argues that focusing on territorial sovereignty ignores other important sources of power, and therefore does not adequately reflect the nature of the global realm. He makes a claim that de facto sovereignty is all that really matters, or in other words, sovereignty which is exercised. He brings up an example of Guantanamo Bay, where US claims that it is outside of its judicial territory, and therefore US laws do not apply. By making such a claim, the de facto sovereignty cannot be ignored in analysis despite the fact that in theory the claim may be true (Agnew, 2005). He also points out that some important political and military entities such as al-Qaeda that do not possess territorial sovereignty, use this factor to their advantage (Agnew, 2005).

One of the most concrete theoretical conceptions of sovereignty comes from Carl Schmitt, who wrote on the subject matter earlier in the 20th century. Carl Schmitt, in his piece titled *Political Theology*, takes a unique approach to the nature of sovereignty. He begins his discourse with the following statement: “Sovereign is he who decides on the exception” (Schmitt, 1922). Throughout the first chapter, Schmitt expands on the concept of the exception, and why it is that only through the concept of deciding on the exception can we observe the true mark of sovereignty.

On the nature of exception, Schmitt expands with the following: “The exception, which is not codified within the existing, can at best be categorized as a case of extreme peril, a danger to the existence of the state, or the like” (Schmitt, 1922). When such a

scenario is encountered, all existing laws may be suspended in order to deal with this situation. The question lies, who is in such a position to make that suspension, and moreover to decide what constitutes an exception.

According to Schmitt, in the legal norm, the details of the emergency, and therefore the ways in which to deal with it cannot be anticipated, and therefore there is no instruction within the legal norm. However, Schmitt proclaims that “the legal system itself can anticipate the exception and can “suspend itself”” (Schmitt, 1922). The constitution can be of guidance and point towards who is competent to make such a decision, but the amount of power, and what it can be used for is undetermined.

The power that comes from being able to make the decision on the exception has the potential to be absolute power, because it goes beyond the legal norm. Schmitt points out that “the norm is destroyed in the exception” (Schmitt, 1922), yet the exception is still within the realm of the legal. The fact that the exception remains in the realm of the legal, makes this sovereignty legitimate.

Suganami (2007) analysed Schmitt and compared his work on sovereignty to that of Hans Kelsen. He brings up the fact that Kelsen viewed sovereignty as a “quality attributable exclusively to the highest legal system” (Suganami, 2007). He then particularly focuses on Kelsen’s concept of *Volkerrechtsunmittelbarkeit*, which is basically a more practical approach to theoretically define state sovereignty. Kelsen argues that sovereignty can only be viewed as it relates to positive international law, where the international law is supreme in defining the scope and bounds of sovereignty, and may or may not be applied equally amongst states (Suganami, 2007).

Suganami then goes on to bring the two theories together in a somewhat unlikely, yet quite obvious connection. Both of the theorists saw sovereignty as the last frontier of the legal system and the highest quality that a governing entity may possess. For Schmitt, the importance of the ability to decide on the exception was the true mark of sovereignty. For Kelsen, the scope of sovereignty was limited and essentially non genuine in the case that it was trumped by a higher legal system. Therefore Suganami puts forward an argument that by following these trains of logic, the international legal system itself is the true possessor of sovereignty rather individual states. The international legal system is designed to provide legislation and legal frameworks for many aspects of state conduct that lay outside the domestic legal system. More importantly, in the Charter of the UN, there is a clear built in mechanism, in the form of the Security Council which is designed to make the decision on the exception on the legitimate use of military force outside of the self-defense principle.

Even if we entertain the thought that the international legal system is the true sovereign, there is an important consideration that needs to be added to that analysis. The consideration lays in the way through which such a legal system derives its authority in comparison to domestic legal systems that give sovereignty to each individual state. The state systems most often derive their authority through some sort of a founding process, which often includes the establishment of certain documents such as constitutions which outline the authority parameters, and then from then on rely on implicit consent of all the future citizens to continue work in the terms of that contract. In international law, most agreements are reached by explicit consent of the parties that will be subject to that legal

system. For example the UN Convention of the Law of the Seas is legally binding, yet objecting parties who do not share the principles outlined in the convention are not signatory to such legal systems. Similarly one of the biggest projects of supranational law is the EU, in which membership is voluntary and could be withdrawn by the objecting state in extreme cases.

Formal Sovereignty in International Law

In order to ground our discussion on sovereignty into something more concrete, it is essential to see the notion of sovereignty as it is presented in formal and legal documents of the international realm. Given the fact that international law, international governing institutions and enforcement mechanisms are founded in the notion of explicit consent between participating actors, we must keep in mind that the terms legal and formal are somewhat different in nature of the international realm than they may be implied in a domestic legal context, where there is a prevailing notion of implied consent. Despite the above mentioned fact, another basis for international law is established norms, and in some cases norms alone may be held up in international court despite the absence of explicit consent to such norms by the actors in question.

In order to see how sovereignty can be observed in its formal context I we can take a look at three different examples. The first one being the UN charter, which is the founding document that reflects the nature of the United Nations, and by extension is one of the foundational documents which explicitly outlines the nature of international interaction and behavior of state actors. The second document is the UN Convention of the Law of the Seas, because this is an example of international law that addresses the

territorial aspect of sovereignty in a very direct manner. Lastly, it is important to take a look at how sovereignty is presented in a voluntary supranational institution of regional governance. The best and strongest example of such an institution is the EU, members of which arguably give up a portion of their sovereignty for the benefits of intense cooperation.

UN charter

The emergence of the United Nations after the end of the Second World War has had a great impact on the nature of the international system. Even though the United Nations is often more ambitious in its intent of impact it has on global governance than its real practical capabilities, it is nonetheless the central institution which has been created to steer the nature of global interaction in a constructive and concrete manner. The Charter of the United Nations is the establishing document for this institution and therefore can shed light on what the norms are in regards to sovereignty of states in the international realm.

Chapter One of the Charter, which deals with principles and purposes of the organization, touches on sovereignty a number of times. In paragraph one of article two states that “The Organization is based on the principle of the sovereign equality of all its Members” (UN, 1945). This defining statement puts sovereignty at the heart of the institution. This particular statement does not define sovereignty, but it does highlight the fact that the sovereignty of each member state is equal to the sovereignty of other members. This is significant because it levels the playing field between states, at least in theory, in regards to the fact that all sovereignty is inherently equal once it is legitimate,

and the legitimation of claimed sovereignty may be achieved through membership in this organization.

Paragraph four of article one of the first chapter goes deeper to elaborate on this notion by stating “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, or in any other manner inconsistent with the Purposes of the United Nations” (UN, 1945). This statement goes further to add a territorial dimension of the equal sovereignty mentioned earlier, as well as establish the political independence of sovereign entities.

Paragraph seven of the second article of the first chapter states that “Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII” (UN, 1945). This particular statement is complex. It re-establishes the commitment to sovereignty of member states. It also adds another dimension to sovereignty of its members, that which is domestic/internal sovereignty. However, as we can evidently see, this paragraph also brings up the fact that sovereignty may be jeopardized in some sort of exceptional situation. Paragraph seven hints at the fact that sovereignty is not absolute within the context of the UN.

Lastly, there is another clue in Article Two of the First Chapter that points to the fact that sovereignty is not absolute. Paragraph two states that “All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfill in

good faith the obligations assumed by them in accordance with the present Charter” (UN, 1945). This is a vague statement which can be seen as in relation to membership in the UN club, but not sovereignty directly. However, since all full members of the UN are sovereign entities, it can also be interpreted that sovereignty is not an absolute right, but rather a more complex concept that also encompasses responsibilities and certain behaviors.

Overall, the first chapter of the UN Charter can give us a reflection on what sovereignty means in the formal realm. It appears that sovereignty is set as a base principle for how states interact with each other. Some characteristics of sovereignty are highlighted in the document, such as equality of sovereignty between actors, territorial dimension, political independence and internal sovereignty. However, sovereignty is not left as an absolute in this document: it is pointed out that in order to enjoy the benefits each actor is expected to follow certain principles. Moreover, Chapter Seven, which deals with actions that may come as a result of UN decisions, is mentioned alongside the commitment to sovereignty.

Chapter 5-7 of the UN charter deal with the Security Council and its role in maintaining and/or restoring international peace and make decisions regarding the necessary action needed to resolve disputes. In Chapter 7, it is implied that if peaceful efforts provide fruitless, the Security Council is to decide on the alternative necessary measures, including deployment of armed forces (UN, 1945). Also, the concept of self-defense, whether carried out as an individual actor or in a collective manner is included in Chapter Seven (UN, 1945).

These sections of the charter have a few implications for the concept of sovereignty within the UN framework. The right to self-defense strengthens the notion of sovereignty, especially since it is framed as an “inherent right” (UN, 1945). However, the reserved right of the security council to make decisions regarding the restoration of peace, including the deployment of military force, does in some ways dilute the concept of sovereignty if sovereignty is to be perceived as absolute. However, if one imagines a situation where such measures may be taken, such as an invasion of one state by another, it becomes clear that these particular chapters may viewed as a mechanism designed to protect the sovereignty of states and prevent others from infringing upon it.

The only thing that may be viewed as somewhat of a blow to the concept of sovereignty of states at large is the nature of the design of the Security Council. Given the fact that the Security Council includes a permanent committee of five states, each of whom have the power to veto any decision, and this veto power is not at any time granted to any other state, nor is there a mechanism included that would outline how any other state may receive such power at a later date, it implies that the ultimate decision rests with some states and not others. This may be interpreted that the equality of sovereignty that was mentioned in Chapter One of the charter is effectively compromised, since a two-step hierarchy of decision making is also imbedded in the document. In practice, this hierarchy is very effective at maintaining a balance of power and interests amongst the most military capable states, yet in theory it screams a loud message that certain decisions which may involve the sovereignty of a particular member state may in fact be made without the consent or even presence of that state.

A crucial development in how the UN interprets state sovereignty can be observed in the Responsibility to Protect initiative. However, this important subject matter will be covered in full detail in the next chapter on intervention.

UNCLOS

Even though the most important formal and legal norms in regards to sovereignty are expressed in the Charter of the UN, by looking at the United Nations Convention on the Law of the Seas as an example of international law we can further observe the territorial dimension of sovereignty. UNCLOS is designed to establish norms by which states interact beyond established ground borders. The reason why it is interesting to look at sea borders in relation to sovereignty is because sovereignty is re-affirmed and highlighted in a context where territorial claims may be more ambiguous than simply on land. Part Two, Section One of the document states the following:

Article 2

Legal status of the territorial sea, of the air space over the territorial sea and of its bed and subsoil

1. The sovereignty of a coastal State extends, beyond its land territory and internal waters and, in the case of an archipelagic State, its archipelagic waters, to an adjacent belt of sea, described as the territorial sea.

2. This sovereignty extends to the air space over the territorial sea as well as to its bed and subsoil.

3. The sovereignty over the territorial sea is exercised subject to this Convention and to other rules of international law

Section Two further clarifies the notion of territorial sea by stating the following: “Every State has the right to establish the breadth of its territorial sea up to a limit not exceeding 12 nautical miles, measured from baselines determined in accordance with this Convention” (UN, 1982).

This document is an example of how the territorial aspect of state sovereignty is implemented into law in a specific context. Interestingly, paragraph 3 of Article Two clearly states that the exercise of territorial sovereignty is limited to the rules of this particular convention and other norms of international law. This again serves as evidence that sovereignty is not absolute and limited in international law, despite its clear territorial characteristic.

European Union

Regional integration and supranational institutions have had significant impact on the dynamics of the norms of the grander international realm. The European Union is the leading example of regional integration, and it is interesting to observe the concept of sovereignty within that context. Krasner (2001) argues that the EU is redefining the concept of sovereignty within Europe because both the EU as an entity is considered sovereign, as do the member states that comprise the supranational entity. Some examples of such paradoxical sovereignty can be observed in the fact that the EU, despite its own sovereign status, does not have any territory outside the territories of its member states, meanwhile its member states do not have judicial control over certain domestic laws which would lay outside the EU framework (Krasner, 2001).

Some may argue that by joining the EU, states surrender certain aspects of their sovereignty to a larger entity; on the other hand, given the fact that they do so in a voluntary manner can be seen as an exercise of their respective sovereign rights to enter agreements with other sovereign entities. This complex notion of sovereignty can be somewhat observed in EU's treaties and official documents. Paragraph 2 of Article 4 of the Treaty of the European Union emphasizes some key aspects of sovereignty that remain within the domestic framework of its member states:

The Union shall respect the equality of Member States before the Treaties as well as their

national identities, inherent in their fundamental structures, political and constitutional, inclusive of

regional and local self-government. It shall respect their essential State functions, including ensuring

the territorial integrity of the State, maintaining law and order and safeguarding national security. In

particular, national security remains the sole responsibility of each Member State. (EU, 2010)

We can see by the wording of the excerpt above that some characteristics associated with sovereignty such as territoriality, self-government and particularly national defense are explicitly retained in the realm of each individual state. However, in the same document, Paragraphs 2, 3, and 4 of Article 2, state the member states agree to diminish internal borders to allow free movement of people, establish a common market,

and participate in a currency union respectively. Interestingly, such aspects of governance as border control and economic policy have been largely surrendered to the supranational level.

Conclusions

Sovereignty is an infinitely complex concept. It is complex in its theory, and even more so in practice. This complexity may not always be observable to the untrained eye, since most people around the world understand some basic principles about sovereignty. These principles may include territoriality, non-intervention, monopoly on internal governance, and equality of sovereignty amongst different states. It is quite obvious that such principles do exist, however the degree of absolutism that these principles possess in theory and practice is a different story.

The practice of taking these principles as a given, and sometimes for granted can be conceptualized in the common perception of the notion of Westphalian Sovereignty. Most people with a background in political science or history will point to this historical event as the basis for the model of sovereignty as we see it today, whether it is practiced fully, partially or not at all. Some may point to recent history as evidence of deterioration of the Westphalian Model. However, many scholars will argue that the Westphalian model of sovereignty is somewhat of a historical misunderstanding, and that the peace of Westphalia is often given credit for our current perceptions of sovereignty which are indeed a result of a complex and long evolution of history. Moreover, the assumption of the Westphalian model is problematic for IR theory.

Sovereignty also needs to be viewed in its current legal contexts, of which there are many. I presented three legal contexts for sovereignty as examples to see what characteristics are attributed to it. Through the examination of the UN Charter, the UN Convention on the Law of the Seas, and the Treaty of the European Union, we can see that sovereignty is mentioned at the foundation of these documents. The commitment to certain aspects of sovereignty like equality of those who possess it, territorial integrity, and internal rule are common themes. However we can also see that there are limitations put on sovereignty in each one of these documents. In the EU contexts, a large portion of governance is consensually elevated to the supranational level of the EU, which in itself is a unique emerging sovereign actor which is not a traditional state. UNCLOS clearly defines geographical limits of sovereignty territory in the previously ambiguous concept of water territory, yet explicitly states that exercise of that sovereignty is limited by international law. Most importantly, the UN Charter has a mechanism for the highest authority of decision making on matters of international security and the legitimate use of force, which gives it the ability to decide on the exception to the legal norms of sovereignty amongst any state.

Sovereignty is therefore a highly subjective, multi-layered and infinitely complex concept. Despite the fact that sovereignty is most closely associated with the modern state, we can see that application of theory may lead us to the conclusion that a unique form of sovereignty exists in the larger supranational realm of international law and the parties who have established their right to enforce it. Traditional sovereignty appears to be the explicit goal and valued principle of the international system, yet it clearly has

limitations and rules of conduct which when broken may discard claims to sovereignty all together.

Krasner (1999) is able to capture this paradox in a theoretical model which may be the most suited to put some sort of a conclusion to the debate and allow us to move forward. In what he calls “Organized Hypocrisy”, he illustrates that Westphalian Sovereignty is an “a well-understood cognitive script, one that is sometimes honored and sometimes not.” (Krasner, 1999). The rules for sovereignty do exist, but they do not exclude alternatives, especially when interests like security or economic cooperation trump the interests of autonomy.

The following chapters of this thesis will take this premise of sovereignty as not absolute and not universal to explore it further. Through the exploration of one of the main anti-theses of sovereignty, external intervention, both in theory and in practice we can see how sovereignty in itself is very context dependent, yet it remains as the principle which is to be upheld.

CHAPTER THREE: INTERVENTION AND RESPONSIBILITY TO PROTECT

Intervention as a tool within international political realm to deal with conflict has existed throughout history. Despite its long time existence, the nature of intervention has been changing along with the norms and practices of the international community. Given the fact that intervention as a concept can be seen as being in direct opposition to the concept of sovereignty, the reasons for intervention have always been part of the debate. The reasons can range from intervening in the name of justice or some other form of moral reasoning all the way to purely strategic or economic interests. More often than not, interventions are multi-dimensional in their justification and incorporate multiple reasons for doing so. Whatever the reasons may be, they often reflect the norms and values of the international community in regards to what is acceptable at the time; in a distant past, intervention based purely on religious reasons may have been commonplace, yet today it is hard to imagine the UN Security Council authorizing a religious crusade. Therefore in order to better understand the nature of intervention as it stands today, this chapter will explore the relevant developments that contributed to the formation of norms in regards to intervention as it stands today.

The first part of the chapter will discuss some historical patterns of intervention in the recent past. Most studies examined focus on the United States since it is the most frequent intervener, as well as a broader study of major power interventions will be

included. This section will illustrate some of the key factors that play into the decision making processes of the intervening party, thereby briefly exposing the historical record of considerations that go into intervention.

The second part of the chapter will very briefly illustrate how humanitarian concerns have been gaining momentum in the security field. The rise of the concept of human rights as we understand them today, which gained momentum after the gross human rights violations that occurred in the Second World War, has helped facilitate the spotlight onto humanitarian concerns, even though the concept of human security did not gain its true momentum until the end of the cold war. The reason why this is highly significant in our broader discussion is because the concept of intervention based on humanitarian reasons is arguably one of the defining debate points for most perspective, realized and failed interventions of the contemporary international realm (post-Cold War).

This concern regarding human security has produced a shift in the way the international community sees intervention, and the norms that surround that concept. Most importantly, any argument about intervention cannot ignore the concept of sovereignty; therefore these two concepts often evolve together. We can observe a major shift in the formal parameters of the international community by looking at the concept of Responsibility to Protect and its partial yet significant adoption by the UN in 2005. The third section of the chapter will go into detail about the concept of R2P, including the adopted text and some brief interpretations of the implications of this shift in international political norm.

The last section will again deal with R2P and some of the key highlights in the debate amongst scholars about various aspects of R2P. Some of the discussion points in the ongoing discourse include its practical application, limitations, downfalls, alternatives and prospects. By analyzing the debate around the R2P we get a better understanding of where the idea stands today, and will help us better use the concept of R2P to analyze the responses of the international community in Libya and Syria.

Intervention in the 20th century

Intervention has always been a component on international relations and conflict. Reasons, methods, justifications, motives and methods of intervention have highly varied. Despite the common occurrence of intervention, the details of the above mentioned factors are often controversial, in incidents where intervention occurs, or the lack thereof.

There have been a number of studies that were conducted to try and get a better understanding about the concept of intervention in recent history, most importantly what factors motivate the decision to intervene. A large number of those studies focus on US interventions, since it has been the state to participate in more interventions in recent history than any other state. Mi Yung Yoon took a look specifically at US interventions in the internal wars of Third World states in the time period from 1945-1989, and tried to see if strategic, economic, and domestic factors were influential in the decision making process to intervene. The study included a wide array of intervention, including direct military intervention, indirect military intervention and verbal/rhetorical intervention. The author found out that strategic factors played the most significance in the decision to intervene; meanwhile domestic factors played the least significant role (Yoon, 1997). A

study covering a larger time period (1945-2002), and also testing strategic factors like geographical proximity and ideological linkages against domestic factors (economic, political and social), found that domestic factors had a much less significant part in the decision making process for US intervention (Mullenbach & Matthews, 2008). In another study covering a time period of 1945-1994 focused on US military interventions where the rhetoric of justice was the prevalent justification for the military action, to test and see if this was in fact the deciding factor in the decision making process. The study however shows that strategic interests (i.e. involvement of US allies or involvement of USSR allies) was the dominant factor in the decision making process (Butler, 2003). A different study covering not only US intervention, but intervention by Major Powers in international crises, spanning a wide range between 1918 and 1988, and included a total of 272 military interventions, found contrary results. In this larger study of intervention, their findings show that domestic factors played a vital role in decisions to intervene, rather than strategic and international factors.

The three studies focusing on US intervention are different in their design and time-span, but a pattern clearly emerges that the United States is most concerned with their strategic interests around the world. The majority of situations covered in the three studies focusing on US alone occurred during the Cold War, where the nature of the geopolitical realm was rather vividly divided along either US or Soviet interests, and it is understandable that strategic concerns prevailed throughout the time period and overshadowed other factors. Interestingly if we zoom out of US –Cold War intervention

patterns to look at a broader range of major power intervention in the 20th century, we can see that domestic factors are also quite significant to the concept of intervention.

As we can see, intervention is a common practice in international relations, even though it is not an easy concept to reconcile with the concept of sovereignty and other norms of international relations. A wide array of factors has influenced intervening powers' decisions on how to deal with certain conflicts. Strategic factors are understandably prominent, especially if the behavior of states is analyzed through a realist prism. The fact that domestic factors often play a significant role is also understandable, especially if the intervening power is a democracy, where decisions on foreign policy are often detrimental to public opinion, and thereby voting trends. However, despite the strategic and domestic factors, interventions do not occur in a vacuum, they occur in an international realm. The international realm, even though it may have anarchical qualities, also possesses institutions, laws and norms. Interventions therefore occur within this sphere, and even if some of them are executed outside the legal frameworks, or due to questionable motives or norms, they are subject to consequence from the international realm. These consequences may be rhetorical, legal, diplomatic or military. The point here is that it is critical to analyze the norms surrounding acceptable intervention in the contemporary international realm, which is precisely what the following sections of this chapter will do.

Human Rights and Human Security Momentum

Even though concepts of human rights and human security are not necessarily the major inherent components of the historical concept of intervention, these concepts

greatly contribute to the way we see intervention today. The cause of justice has often been cited as the motive for intervention historically (Butler, 2003), and sometimes those claims have been manipulated to take attention away from other, perhaps less noble, motives. Regardless of the frequent historical ingenuity of such claims, the motive of protecting human life from senseless violence is slowly becoming rather entrenched in the larger discourse on international relations; and the emergence and prominence of concepts of human rights and human security played a key role in the upbringing of these humanitarian norms in international discourse.

The concept of human rights has long and deep roots in the history of humanity, philosophical contemplations, religious traditions, and the practice of human relations, both domestically and as part of international relations. The concept of human right as we largely interpret them today has solidified in the 20th century through various processes. The gross violations of human rights during the Second World War had pushed the international community to take steps to attempt and prevent such large scale injustices in the future. After the end of the Second World War, the United Nations emerged as an attempt to provide an institutionalized venue for international relations where important matters are discussed and mechanisms are in place to resolve them in an acceptable manner. With this emergence, and as an inherent part of the larger purpose of the UN, came the Universal Declaration of Human Rights.

The UDHR is a rather vast and ambitious document. It begins with fundamental rights of the individual, such as life and liberty, and goes on to address social, economic, civil and political rights as well. All of the rights in the document are declared as

universal and inherent to all individuals at all times. Unfortunately, in practice, human rights are very often neglected around the world, and not only the more ambitious rights from the later sections of the document, but fundamental rights as well. Despite the fact that every state has at least in some regards violated many of the rights declared in the UDHR document, the document itself should not be seen as a failure. It is a moral guide to which we aspire as a global community, and even though many instances of HR abuse are overlooked, we often use the document as a reference point to highlight systematic injustices, and therefore are able to begin and address them from a solid political foundation.

While, the UDHR is a more general moral guide of the international community in relation to individuals, International Humanitarian Law (IHL) addresses the issues of human rights in conflict situations specifically. Some of the main focuses of IHL are to address the issue of civilian involvement during conflict, the treatment of prisoners of war, the tactics and weaponry employed in conflict, and overall to minimize humanitarian damage as a result of combat. Despite the fact that, as many critics of IHL point out, the legal framework is largely designed to address interstate conflicts, war crimes committed in intrastate conflicts are often the founding basis for third party interventions.

Even though Human Rights as a norm of the international realm to which the community of global states aspires to has been gaining momentum during the second half of the 20th century, the main focus of the security realm was focused on the security of the state for the duration of the Cold War. The expansion of security discourse to seriously include Human Security as one of the central focuses came in the 1990s. The

defining moment for Human Security's momentum to reach the forefront of the international agenda came in 1994 with the UN Human Development Report, which expanded the concept of global security to include various vital realms (Benedeck, 2008).

Human Security and Human Rights are concepts which are vast in their theoretical expressions, and therefore often face difficulties to encompass the entirety of their ambitions into the frameworks of international law. Despite this fact, these concepts are a reflection of the changing norms and values of the international community, which affect many aspects of international relations. These concepts are often highlighted in times of conflict, when they emerge to the forefront of global decision making and sometimes clash with older, more established concepts of international relations, primarily the concept of sovereignty.

HR and HS also influence the legal and normative trajectory of international relations. The emergence of the International Criminal Court is an example of how the HR momentum was able to diffuse the state-centric perspective on war crime responsibilities to establish a permanent institution which would deal with the individual perpetrators in similar way that ad-hoc tribunals were employed during the 20th century in certain post-conflict situations. In the next section, we will discuss how some of this humanitarian momentum was directly addressed in the context of sovereignty and intervention through the emergence and the partial adoption of Responsibility to Protect.

R2P Shift

After the end of the cold war, there were many changes to the international realm. The polarization of global alliances along US-Russian spectrum had weakened due to the

decline of ideological contrast, yet historical strategic alliances did survive in many cases. The focus of security scholars and professionals shifted from nuclear war strategy to bring a broader range of important security issues to the forefront of discussion and policy, notably human security, human rights as well as environmental security, economic security, etc. The nature of conflict was also changing from interstate warfare to intrastate warfare, and even though this trend began prior to the end of the cold war, the humanitarian concerns of intrastate warfare become more prominent during this shift. Therefore, the nature of intervention was also experiencing a shift after the end of the Cold War, particularly, whether the principle of non-intervention should be upheld or challenged based on human rights concerns (Evans, 2008).

The 1990s were a complicated decade for interventions. Some interventions were largely unsuccessful, notably the intervention in Somalia. There were also multiple very serious situations where the lack of timely intervention had devastating results, notably Rwanda, Sudan, Congo, and Srebrenica, thereby clearly showing the problems associated with the lack of international consensus on the norms and practices of timely humanitarian intervention and the need to reform this vital realm of international cooperation (Gierycz, 2010).

One of the most controversial interventions was NATO's intervention in Kosovo in 1999, which was carried out outside the frameworks of international law regulating the use of armed force for intervention, thereby making it illegal. However, the Kosovo intervention's motives and the success of the operation helped the international community to begin to reconsider the notions of sovereignty in relation to the

responsibility to protect their populations from mass homicide. The Kosovo campaign thereby shifted the perspectives on when sovereignty can and should be a compromisable principle in the face of great human tragedy (Bellamy, 2009). Meanwhile, others feared that the unilateral action taken by NATO powers to intervene in Kosovo was a revival of western colonial tendencies to freely use military power as they pleased for the reasons they deemed noble and worthy (Gierycz, 2010).

The debate surrounding the Kosovo intervention highlighted the legal, moral and practical dilemmas of intervention. Partially influenced by the complexity of the Kosovo debate, the Canadian government commissioned the ICISS (International Commission on Intervention and State Sovereignty), which was comprised of an impressive roster of international statesmen and scholars, to investigate and provide recommendations on the complexities surrounding these issues. The ICISS delivered a report in 2001, thereby introducing the concept of Responsibility to Protect (R2P) to the world. The document introduced a new perspective on sovereignty: reframing it partially as a responsibility to protect its civilians from mass atrocities. The document also included multiple policy suggestions needed to uphold such principles.

The initial report, and the principles and ideas regarding R2P are largely different from the partial adoption of these principles by the UN at the 2005 World Summit. The initial report was much more ambitious and reformative in its nature. One of the most significant aspects of the initial R2P initiative was that there was a provision in there that would compel the UNSC permanent five members to not use their veto in a R2P situation unless their vital national interests were at stake. Despite the ambiguity of such a clause,

and the sheer lack of probability that any of the five members would ever agree to it, the clause was aimed at reforming the stalemate that often prevents the international community from taking action and intervening in intrastate crises.

It took a number of years for R2P principles to get formal recognition in the UN. The partial adoption of R2P principles came at the World Summit in 2005 in paragraphs 138 and 139 of the outcome document. The text of the adoption is as follows:

138. Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This responsibility entails the prevention of such crimes, including their incitement, through appropriate and necessary means. We accept that responsibility and will act in accordance with it. 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.

139. The international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter, to help to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. In this context, we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, 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 from genocide, war crimes, ethnic cleansing and crimes against

humanity. We stress the need for the General Assembly to continue consideration of the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity and its implications, bearing in mind the principles of the Charter and international law. We also intend to commit ourselves, as necessary and appropriate, to helping States build capacity to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity and to assisting those which are under stress before crises and conflicts break out.

As we can see the partial adoption of R2P principles by the UN is distinctly divided into two separate parts in two separate paragraphs. Both paragraphs are significant in their own right, as outlines of some key characteristics of states that they need to observe as part of their statehood domestically and as members of the international community.

The first paragraph places responsibility to protect its citizens from genocide, war crimes, ethnic cleansing and crimes against humanity. The common interpretation of this paragraph is that it specifically outlines these responsibilities as an inherent aspect of the concept of sovereignty. Traditional views on sovereignty attribute many rights of the sovereign entity that come with the status, especially internal control over decision making. However, this paragraph reframes sovereignty as a concept which also encompasses responsibility to its citizens to be the protector of their humanitarian welfare. The ‘rights to responsibility’ shift can be seen as a milestone in the evolution on the discourse on sovereignty.

Paragraph 138 is a reformulation that best describes the expectations that the international community has from sovereign states at this point in our history, where their internal conduct has to adhere to commonly accepted humanitarian principles. Therefore it stands to show that if a state is unable or unwilling to be the protector of people within its borders, the international community now has a benchmark against which they can question the legitimacy of the sovereignty of that government. If we take the theoretical stance that sovereignty is not absolute but a more subjective and fluid concept, as well as that international sovereignty is largely based on recognition of it by other sovereign entities, then we can take this new sense of sovereignty as responsibility to be a tool in the measurement of sovereignty in the eyes of the international community. A state that fails to uphold this responsibility has weaker claims to be regarded as sovereign; meanwhile states that do uphold this responsibility to the highest degree have more legitimacy to enjoy other principles of sovereignty such as independence, participation in global trade, and most importantly non-interference and non-intervention.

The second of the two paragraphs, paragraph 139, deals more with international rather than domestic sovereignty. This paragraph also has a similar 'rights to responsibilities' trajectory as the first paragraph, but now the responsibility is that of states as member of the international community. There was always a mechanism in place that allowed the international community members, through the UN, and more specifically through the Security Council, to use military force to restore peace. In other words, if deemed necessary by the consensus of the Security Council, the international community had the **right** to intervene in a situation where intervention was necessary.

This paragraph now places a responsibility to intervene on members of the international community as part of their obligation of being sovereign entities that co-exist in our world.

This reformulation of internal and international sovereignty may sound alarming at first. In a lot of ways, if we take the vague notion of traditional sovereignty, we can see that this development undermines such a take on sovereignty. On the other hand, this moment in the evolution of the accepted definition of sovereignty is clearly a reflection of what is necessary and real at the time. The earlier emphasis on the absoluteness of sovereignty was prevalent at earlier moments in history when inter-state warfare was the biggest concern in the international realm. This is not to say that there was a shortage of violence on the populations from internal threats, including their respective governments, but the norms and values of the international community were largely preoccupied with dealing with threats from aggressive states. Therefore the absoluteness of sovereignty had more popularity, because it attempted to make as much of a taboo as possible from unilateral attacks of other states. Military alliances were often employed as the insurance policy from such attack, where if state sovereignty is compromised by an external threat, then other states will jump into the fight to resolve these injustices.

Today's conflict patterns suggest a different picture, where most violence occurs in intrastate conflict, and invasion of states by other states for territorial gain is fading away. Also, the norms and values of the international community are changing, with humanitarian concerns coming to prominence after the atrocities and genocide that occurred in the Second World War, and even more so in the post-Cold war era, where the

threat of nuclear war is not as significant as it once was. However, it is hard to address humanitarian concerns that arise through intrastate warfare with the traditional perceptions of sovereignty. If sovereignty is to be absolute, then it becomes nearly impossible to restore peace. The original right to intervene that is part of the UN Charter primarily focused on international peace, but we now see that interstate violence is the biggest concern, and new tools are needed to address these issues even if the humanitarian crisis in question does not necessarily contribute to the destabilization of the larger international system and are contained within a certain state. Moreover, interventions on humanitarian grounds have been carried out numerous times prior to 2005, but the adoption of the R2P principles now provides a solid and internationally accepted theoretical ground for doing so. The reformulation of sovereignty as responsibility is therefore can be seen as just a reflection of the concerns, norms and values of the international realm of the recent past and the present.

Apart from reformulating some perceptions of sovereignty, R2P also reformulated and revitalized the existing, yet vague and largely failed and abandoned concept of Humanitarian Intervention (Gierycz, 2010). The concept of Humanitarian Intervention on its own did not have a formal definition, but there was a common understanding of the term to mean the right to intervention by third party through military means that was justified based on the humanitarian reasons behind the intervention. Prior to the adoption of R2P, Humanitarian Intervention did not have a legal backing, and even though R2P adoption is not legally binding, it is a significant step to the legitimization of HI. Another significant improvement to HI through R2P was that it outlined four specific crimes

which were now accepted enough to legitimize intervention: genocide, war crimes, ethnic cleansing and crimes against humanity (Gierycz, 2010).

R2P in discussion

Despite the theoretical significance of the partial adoption of R2P principles during the 2005 UN World Summit amongst the international state actors, the practical implications of this adoption are not fully clear, and subject to much debate. For starters, many states see this shift in international norms as something that can directly involve them, and this thought may appear troubling. Many states in the so called Global South are more inclined to support more traditional notions of sovereignty at all costs; meanwhile states in the Global North are interested in a solid and new reaffirmation of the right to intervene in humanitarian crises (Evans, 2011). This comes as no surprise, given the fact that many of the states in the Global South have experienced a long history of foreign rule and control through imperialism, and their solidified sovereignty is more recent and more fragile than those of their counterparts in the Global North. Meanwhile states in the Global North, given their political and military capabilities, are often pressured by their own constituents and the international community to take charge in the face of crises, and be leaders in preventing and halting humanitarian atrocities. Therefore it is beneficial for them to have a solid ground upon which the right to intervene can be founded and R2P provides them with such a theoretical framework given the fact that it was adopted by all the members of the international community.

Despite that there are states that are historically more likely to intervene due to their capabilities and will; there is no clear indication in the adoption of R2P on whom

this newly formulated responsibility is to fall upon. James Pattison is one of the scholars who see this as a highly problematic, yet predictable downfall of the R2P adoption (Pattison, 2008). The United States is one of the leading interveners in international conflict of our time, however it is evident that their recent military campaigns in Iraq and Afghanistan proved to be costly, controversial (both politically and legally), prolonged, arguably ineffective in state building ambitions, and largely unpopular in the domestic political climate. In other words, if the US becomes financially and politically exhausted to continue to be the world's top intervener, then who is to take their place. The same trend may also follow other states that often intervene like the UK and France. If the responsibility to intervene is clearly outlined in the R2P adoption, then this becomes worrisome for states that may not wish to participate in any military campaign whatsoever, or would have to sacrifice important resources to do so, thereby hurting themselves in the process. Pattison proposes that in the long run, there needs to be an institutionalized mechanism to assign this responsibility, but in the meantime it should fall on the most capable state (Pattison, 2008).

Another major concern with R2P is that it solidifies the principles of humanitarian intervention to the point of producing a moral hazard. If intervention is now deemed as a responsibility, and if R2P gains momentum in practice and implementation, this concept may prove to be an incentive for domestic destabilization. Rebel groups and opposition forces may use R2P as an insurance policy to take bolder action against existing regimes, where their calculations will factor in the possibilities of success of their military campaign alongside utter failure that may be interpreted as humanitarian crises and

therefore cause a foreign intervention to disable or at least retard the government forces (Kuperman, 2008).

However, such an insurance policy is far from perfect, since records show that successful military intervention is not the norm of international relations. It is more likely that the international response will be in the forms of rhetorical condemnation, economic sanctions or other diplomatic tools at the disposal of leaders, and the prospects of intervention as a response are the least likely (Kuperman, 2008). This can lead to a backlash of violence against the opposition forces at great magnitude and cause genocide. This moral hazard of humanitarian intervention does not only promote reckless strategy of rebellion, but there is also risk of fraudulent acts of war that are designed specifically to induce heavy retaliation, thereby attempting to attract foreign intervention (Kuperman, 2008).

Kuperman laid out his arguments about the moral hazards of humanitarian intervention in 2008, merely three years after the adoption of R2P. The events of the Arab Spring and their escalation from protests to civil wars may play well into Kuperman's theory. Heavy political pressure was put on Mubarak early on in the Arab Spring to resign, and the Egyptian people were able to achieve an initial regime change through an arguably quick and relatively bloodless revolution. Upon the observance of the swift toppling of Ben Ali in Tunisia and Mubarak in Egypt, the Arab Spring continued to gain momentum in the region, only to face devastatingly violent responses by government forces in places like Libya. The violence implemented by the Gadhafi regime however, cause the international community to quickly and effectively implement

R2P principles through a tactical intervention of the Libyan airspace, which allowed for the rebel forces to take down the Gadhafi regime in relatively short period of time. The quick and successful response of the international community, whether it is diplomatic and rhetorical in places like Egypt, or military intervention in Libya, added to the momentum of rebellion in other states.

If the moral hazard of intervention theory proposed by Kuperman is correct, then we may speculate that the effectiveness of international response may have played a significant role in the calculations of the Syrian rebel's military strategy. However, the international response to the Syrian situation has been ineffective in stopping violence. The diplomatic methods of rhetorical condemnation of the regime and arms embargos have not been effective enough and the international community cannot come together to authorize a military intervention to this date due to the gridlock of geopolitical interests in the UN Security Council. If the contrast of the Syrian civil war situation and the situation in Libya can be attributed to the moral hazards of R2P in practice, then this is a moral dilemma that seriously needs to be considered if R2P is to become a functioning norm in international politics in the future.

Another point of critique of R2P comes from a different angle. It is viewed by many as hollow, lacking substance, and non-reformative. For starters, the adoption of principles of R2P is not legally binding. Secondly, it does not add any new legal framework for humanitarian intervention, thereby leaving the long established UNSC framework as the only venue for action; therefore it has no legal value (Amneus, 2012). This can be viewed as particularly disappointing for proponents of R2P given the fact that

the initial report of the ICISS commission aimed at precisely such reforms, yet the ideas have unsurprisingly failed to gain approval amongst many states, particularly the permanent five UNSC members.

The lack of UNSC reform, enables the UNSC to continue being selective, inconsistent, and often impotent in taking decisive action in vital humanitarian crises (Hehir, 2013) (Labonte, 2012). Some argue that R2P failed to show effectiveness from the start and note that Darfur was R2P's first failure (Gilligan, 2013). Critics who wish to see more from R2P also note that it failed to legitimize unilateral intervention as well as set the threshold for intervention, thereby leaving the state of affairs as vague as it was before without systematizing any real institutional changes (Hehir, 2010); however, others see that the fact that R2P has not set threshold for intervention as one of its strengths because by reviewing situations case by case does not trigger automatic intervention, which in itself has the potential to be a largely problematic concept (Gierycz, 2010) . Additionally, critics claim that two of R2P's major points, the first one focusing on prevention and the second being that the state within which the conflict is unfolding bearing the primary responsibility to take effective action, are nothing new, but merely repackaged ideas, and the adoption of R2P should be viewed as a "triumph of the lowest common denominator" (Hehir, 2011).

It is understandable that a number of people would want more from R2P, especially given the fact that intrastate violence continues to rage on, and that the international community is far from systematically addressing an effective method of dealing with such situations. However, R2P needs to be observed within the context of its

time. Firstly, R2P emerged only a decade after the end of the Cold War, which is when human security began to really gain momentum. The initial ICISS report came out in 2001, and was largely overshadowed by the events of 9/11, when everyone's security concerns were focused on terrorism and the whole nature of the security climate was highly uncertain, therefore the ICISS report was grossly overlooked (Gilligan, 2013). Similarly bad timing came about when the major push to adopt the R2P principles coincided with the highly controversial Iraq war. Even though the Iraq intervention did not fit the R2P criteria, nor did it attempt to, the lack of UNSC and general international approval for the invasion raised important concerns about the functionality of current UNSC mechanisms in relation to largely unilateral military action. In other words, in 2005, international actors were concerned that military action is being taken without using the proper channels of authorization, and adopting all the recommended R2P principles which would pave the way for more systematic intervention seemed like an uneasy topic to gain consensus on.

Other critics, after the adoption of R2P principles saw that the pendulum swung too far in order to be a functioning mechanism. Robert Pape (2012) compared R2P as an alternative to the previous standard for humanitarian intervention which was genocide. Pape argues that the genocide standard was a bar that was set way to high, and more importantly it was a catch-22 because by the time the conflict would reach genocidal status, it was already too late to prevent mass killings of people. He argues that R2P as an alternative to the genocide standard is too low, too vague and too ineffective in implementation because of its inherent design it could lead to failed interventions.

He proposes an alternative operational standard for intervention which he termed Pragmatic Humanitarian Intervention. PHI has three criteria that need to be met for intervention to take place and to be effective: “(1) an ongoing campaign of mass homicide sponsored by the local government in which thousands have died and thousands more are likely to die;(2) a viable plan for intervention with reasonable estimates of casualties not significantly higher than in peacetime operations and near zero for the intervening forces during the main phase of the operation;3) a workable strategy for creating lasting local security, so that saving lives in the short term does not lead to open-ended chaos in which many more are killed in the long term” (Pape, 2012).

Pape argues that PHI is a more workable standard for intervention than the historic standard of genocide and the new standard of R2P. He argues that Libya, and Kosovo before that, met the three criteria outlined in PHI, and that’s why these interventions were implemented and that is why they were successful, meanwhile Syria does not meet the last two of the three criteria and therefore intervention had not occurred. In my personal opinion, I think that he is considerably misled about Libya meeting the third criteria of PHI, since evidence shows that the post-Gadhafi Libyan state is remarkably weak, and that insecurity, violence, and militias prevail throughout the war torn country, and there appears to be no current strategy for long term security that is being effectively implemented. It should also be noted that Pape has been criticised for putting forward an inaccurate interpretation and a misled analysis of R2P to advance his own original idea of PHI in the contrast to such a view of R2P (Evans, Thakur, & Pape, 2013).

Conclusions

Despite the fact that the concept of intervention is a long established practice in international relations, its implementation is nearly always controversial. The norms surrounding intervention at each different historical time period are often distinct. The legal norms surrounding intervention can be analyzed as being reflective of the norms of the international community. In our contemporary era, the only legal framework for intervention is through the UN Security Council's authorization under Chapter VII of the UN Charter. This reservation to authorize military force is reserved for times of crises, when intervention is the last resort to restore international peace and security.

The 20th century was exceptionally eventful in regards to conflict. The century produced two World Wars, development of nuclear weapons, de-colonization and the multiple wars that emerged as a result of that process, the Cold War, as well as conflicts of all types, shapes and scopes. Because of this, climate of international relations and global security also went through various phases. Notably, the Cold War period was very unique, and strategic factors dominated international relations, often overshadowing other important security concerns.

With the end of the Cold War, the global security agenda shifted in focus. With the help of the momentum of a few decades of Human Rights emergence as one of the staple principles of the international community to which they strive, human security was able to emerge to broaden the scope of discussion and strategy that went beyond the safety of the state itself. Humanitarian reasons for intervention became subject of much debate. Two contrasting situations in the 1990s serve to illustrate the dilemma: the lack of

a timely intervention in Rwanda which resulted in genocide, and the effective yet illegal intervention in Kosovo. The decade of 1990s was a period uncertainty in regards to international norms surrounding intervention, especially since the dynamics of global politics have shifted away from bi-polarism.

The ICISS attempted to address exactly these confusions and uncertainties, and develop a framework to address the new emerging security issues of our time. The result was the concept of R2P, which was ambitious in its original conception, but only partially adopted in 2005 by all of the members of the UN. Some regard R2P as a major shift in the way we see sovereignty, in the way we see intervention, and also what it means to be a part of the international community. Some proponents of R2P see that this is the closest we have ever come to truly addressing how we as the international community deal with gross crimes against human beings. On the other hand, some critics see R2P as mere restatement of old values which brings nothing to the table. Some critics argue that the fact that it has no legal value makes it largely ignorable.

The true value of R2P and its role in changing the dynamics of the international community's actions in the face of humanitarian crises will only become clear in historic retrospect. However, the present time is when we can see what role does the concept of R2P play in practice in its early stages of existence. The events of the Arab Spring are an excellent realm within which we can observe the reactions of the international community to various internal crises, which despite their differences do have a lot in common. The next two chapters will look at the situations in Libya and Syria respectively. By analyzing these two situations we can better see whether R2P has really

changed the norms and practices of the international community to step up in times or humanitarian crises or the whether the significance of R2P remains unclear and negligible at the present time.

CHAPTER FOUR: INTERVENTION IN LIBYA

The Arab Spring was an unpredicted and intense series of events, which send a shock throughout North Africa and the Middle East. Despite having many similar factors throughout the affected states, the Arab Spring momentum produced different results in different states. Many concepts of global politics were put to the test, including authoritarian rule, democracy, protests, rebellion, sovereignty and intervention. The case of Libya is one of the most eventful situations within the context of the Arab Spring, and it is the perfect case study through which we can observe the concepts of sovereignty and intervention. The Libyan state enjoyed a Westphalian-type of sovereignty right up to 2011, yet the events of the conflict put that sovereignty into question and compromise. In regards to intervention, the case of Libya is an excellent case study of the role that the new international norm of R2P plays in the decision making process and implementation of international intervention.

The first part of this chapter will provide a brief synopsis of events which occurred in Libya in 2011. The Synopsis will outline general information about the conflict without going into many of the specifics. The reason is simply to refresh ourselves with what occurred there in 2011. A few additional and somewhat critical details about the events will be presented in the later parts which focus on critical analysis.

The second section of the chapter will provide an analysis of Resolution 1973, passed by the UN Security Council, effectively authorizing a limited intervention in Libya. The most notable paragraphs of the resolution will illustrate the factors which went into the decision to intervene as well as highlight the strategy of the international community with which the crisis was addressed. Some of these paragraphs shed insight on the concepts of sovereignty and R2P.

The third section will analyse the intervention in Libya overall. The analysis will focus mostly on how the intervention of Libya can be seen as a landmark event in the evolution of R2P. There are certain factors which point to R2P gaining momentum as the international norm for humanitarian intervention in action. Other factors, which are more critical and retrospective, point out how the execution of the intervention may impede the adoption of R2P in the near future as the normative framework for humanitarian intervention.

The concluding section will go further into broader analysis of factors which played a key role in the Libyan intervention, including, but not limited to R2P. This will illustrate that despite the relevance of R2P, there are multiple other factors which need to be considered. The section will conclude with some possible implications of the Libyan intervention on the way that we can perceive the concept of sovereignty in the contemporary world politics in times of crises.

Synopsis of the Events

The turbulent events that occurred in Libya in 2011, occurred as part of a larger regional phenomenon known as the Arab Spring. Overall, the Arab Spring was a diverse set of events, with each specific situation in each state being different from the others. However there were some characteristics of these political movements that were common. Firstly, the best way to describe what happened in the region during this time period is to state that the people of the Arab world have shown great discontent with their respective long established political leaders. Most states in the region have been led by regimes that have been in power for a prolonged amount of time, often deviating from democratic principles. Secondly, the Arab Spring had momentum and effect. Even though some outcomes came about better than others, and the nature of reform/regime change or the lack thereof was different from case to case, but the overall change on the region was substantial and relatively rapid. Thirdly, due to the apparent democratic nature of the movement, the Arab Spring received widespread support from the West and around the world.

Before the events in Libya really took off, the Arab Spring was at the height of its early momentum. A quick and peaceful revolution resulted in the ousting of Tunisia's long time ruler Ben Ali. In Egypt, a massive amount of people were able to force Hosni Mubarak, also a long-time dictator, to step down in a revolution that was relatively bloodless and quick. The toppling of these two dictatorial regimes as a result of mass protests and largely peaceful demonstrations was covered by news networks around the world, and the outcome of events was praised by world leaders. Even during the protests,

world leaders were urging for immediate change (CNN, 2011). This rhetorical intervention on behalf of the international community, and significant timely results in regime changes greatly contributed to the momentum of the Arab Spring by the time it hit Libya.

Even though there were some protests in January, the events in Libya really took off on February 15th, 2011. However, unlike their Egyptian and Tunisian equivalents, the protests in Libya turned violent rather quickly. From the offset, some of the protestors were armed and attacked government forces (Kuperman, 2013), in retaliation to which the government's crackdown was harsh and violent, thereby escalating the overall presence of violence in Libya. In a very short time frame the situation got quite serious, and full scale conflict broke out. This conflict gathered a large amount of attention from around the world. People have already been following the Arab Spring closely, and here they were witnessing a terribly violent turn for the larger movement.

The first major response from the international community came very shortly: on the 26 of February, 2011, the UNSC passed resolution 1970. Resolution 1970 was a diplomatic response, condemning the actions of the Gadhafi regime in their response to the protests. Through resolution 1970, the international community placed a number of sanctions on the Gadhafi regime, including asset freezes and travel bans for members of the Gadhafi family and top state officials. Resolution 1970 clearly showed the stance of the international community on the situation in Libya, and even though no interventionist provisions were included in that first resolution, the overall tone of the message was clear.

The violence in Libya continued to grow. The protests have turned into armed rebellion, and the rebel forces made substantial territorial gains, particularly in the eastern parts of Libya. The situation basically escalated into civil war. The military actions taken by the Gadhafi regime appeared to be disproportionate, including heavy casualties inflicted upon unarmed civilians. One of the factors which were particularly troubling was the rhetoric used by Gadhafi to address his opposition, where he promised violent retaliation (Golovina & Worsnip, 2011).

As a response to these emerging factors, the international community passed the historic UNSC Resolution 1973. Resolution 1973, which was proposed by the UK, France and Lebanon, was the base document that green lighted the intervention in Libya. The aim of the resolution was to authorize the use of military force through Chapter VII of the UN charter for the purpose of protecting civilians through the establishment of a no-fly zone. Interestingly enough, unlike various similar propositions to use military force to intervene, none of the five permanent members of the Security Council used their veto to shut down the bill, although Russia and China did abstain in the voting process. The text and the overall significance of the resolution will be discussed in greater detail later on in the chapter.

Acting upon resolution 1973, a coalition of international forces intervened in the Libyan conflict by establishing control over the country's airspace. According to many observers and critics, the intervening powers went beyond their intended role of protecting civilians, and indeed used their military power to attack government forces (Kuperman, 2013). With the intervention, the conflict dynamics shifted to give further

momentum to rebel forces, and after a few months, the rebels were successful in overthrowing the regime, and ended up killing Gadhafi himself on the 20th of October 2011. Shortly after Gadhafi's death, on October 27th, the Security Council passed resolution 2016 praising the recent developments in the Libyan conflict, and effectively ending the military intervention.

The Libyan civil war was considered to be won by the rebels. The intervention played a key role in the outcome of the conflict, but sticking to its surgical nature; the intervention was implemented largely through the control of the Libyan airspace and terminated in a timely fashion upon the death of Moammar Gadhafi. Unfortunately, the security climate in Libya has yet to fully recover from the conflict, and instability persists in the country to this day. Moreover, some of the instability has spilled over into Mali and Algeria, and the overall humanitarian situation in the region appears to be in need of significant improvement.

Analysis of Resolution 1973 and the Strategy of Intervention

In order to properly situate the 2011 intervention in Libya within the larger discussion on sovereignty, intervention and the responsibility to protect principle, we must take a closer look at the UNSC resolution which authorized it. The UN Security Council passed resolution 1973 on the 17th of March 2011, and the action resulting from this resolution manifested within days. The resolution was proposed by Lebanon, France and the UK. The resolution was able to pass due to the fact that none of the Security Council's permanent member chose to exercise their veto power, even though Russia and China abstained in the voting.

The first part of the resolution, much like most UNSC resolutions of this kind is filled with multiple paragraphs which outline the basis for the fore coming substance of the resolution. Such basis usually recalls previous resolutions, analysis of the situation, references to international laws and norms, and other relevant information which was used as a guide to arrive at the decisions which are outlined in the main part of the resolution. The case of Libya is no different, and since this intervention is highly important within our larger discussion, this line of reasoning needs to be closely observed. The first notable paragraph comes to us close to the beginning of the resolution and states the following:

Reiterating the responsibility of the Libyan authorities to protect the Libyan population and reaffirming that parties to armed conflicts bear the primary responsibility to take all feasible steps to ensure the protection of civilians,

This paragraph appears to be closely intertwined with paragraph 138 of the 2005 UN adoption of R2P principles. In other words, if the international community has resolved to undertake military action in accordance with paragraph 139 of R2P, it decided to make an emphasis on the first pillar of R2P by restating that it is in fact the responsibility of the Libyan government to protect its civilians according to the first adopted principle of R2P. This can be perceived as evidence that this intervention was particularly mindful of R2P in the logic of their reasoning, and by outlining this line of reasoning thereby refers the international community to the principles to which they all agreed to in 2005.

There are multiple paragraphs in which the Security Council condemns the overall situation in Libya. However two particular paragraphs stand out:

Further condemning acts of violence and intimidation committed by the Libyan authorities against journalists, media professionals and associated personnel

and urging these authorities to comply with their obligations under international humanitarian law as outlined in resolution 1738 (2006),

Considering that the widespread and systematic attacks currently taking place in the Libyan Arab Jamahiriya against the civilian population may amount to crimes

against humanity, Considering that the widespread and systematic attacks currently taking place

in the Libyan Arab Jamahiriya against the civilian population may amount to crimes

against humanity,

In these paragraphs, the UN Security Council continues to show their line of reasoning, this time pointing out that the Libyan authorities are acting in breach of international humanitarian law and in fact are committing crimes against humanity. Such notice proves as a sort of legal foundation for the decisions which are to follow.

Also there are multiple mentions of regional organizations and their recommendations for action to be taken in this matter. Notably the following two paragraphs are included in the resolution:

Recalling the condemnation by the League of Arab States, the African Union, and the Secretary General of the Organization of the Islamic Conference of the serious violations of human rights and international humanitarian law that have been

and are being committed in the Libyan Arab Jamahiriya,

...

Taking note also of the decision of the Council of the League of Arab States of 12 March 2011 to call for the imposition of a no-fly zone on Libyan military aviation, and to establish safe areas in places exposed to shelling as a precautionary

measure that allows the protection of the Libyan people and foreign nationals residing in the Libyan Arab Jamahiriya

These two paragraphs are significant for two particular reasons. The first reason is that the UN decision to intervene is put forward as based on the recommendation of regional organizations. This employment of regional organizations as experts on the necessary action needed to be taken for the security of the region can be interpreted as the UNSC proving that the proposed intervention did not necessarily stem from world powers which may be largely disconnected from the conflict, but indeed that such intervention is welcomed and asked for by actors in close proximity to the conflict. When it comes to interventions, critics often claim parallels to western imperialist tendencies to meddle in affairs of states and regions distant from them based on their own moral interpretations of what is necessary to be done. This particular outlining of the role of

relevant regional organizations can be interpreted to dispel such critical claims in advance.

The second reason of significance of these paragraphs lies in the fact that they are indeed true, and reflect the regional decision making process in relation to the situation in Libya. The significance of regional organizations has not always been as pronounced as it was in the case of Libyan intervention. We can therefore see that the overall decision to intervene in Libya is not carried out unilaterally by a single major world power, or even a collection of them, but indeed it is a multilateral decision and it is inclusive of representatives of local populations of the region and their interests. We will see later on that the lack of support for intervention by regional organizations in the case of Syria played a significant role. Since we by now are aware of all the complexities that go into the decision making process, the role of regional organizations now adds another dimension to what is determinant in contemporary intervention process.

The next notable paragraph addresses the issue of sovereignty of Libya as a state in relation to the overall resolution:

Reaffirming its strong commitment to the sovereignty, independence, territorial integrity and national unity of the Libyan Arab Jamahiriya,

This paragraph is highly interesting within the context of the resolution. The significance of the resolution is that the UNSC has decided to use military measures to intervene in Libya by controlling its airspace, without authorizing ground troop deployment to achieve humanitarian goals. This paragraph can be interpreted as an interesting dimension to what constitutes sovereignty in the legal perspective of the UN,

thereby excluding airspace as part of that territorial sovereignty. This is interesting because under all normal circumstances of peaceful times, territorial sovereignty of the state fully includes its airspace. By including this paragraph in the resolution, the UNSC is emphasising that it is not interested in revoking the sovereignty of Libya as a state, despite the intrusion of sovereignty which is an aerial military intervention. It is hard to fully grasp what the UN is trying to do with this paragraph, since it may easily be interpreted as contradictory to the overall decision of the resolution. Despite this fact, the commitment to sovereignty which is expressed by the UN can be noted as evidence that the concept of sovereignty is an inherent part of any decision making process of such nature. By not expressly dissolving sovereignty of the Libyan state, the UN is showing that even in times of crises and intervention, the concept of sovereignty is still a priority to the international community, regardless of their actions which may impede the exercise of sovereignty to its fullest extent.

The most important paragraph of resolution 1973 is the following:

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 in the Libyan Arab Jamahiriya, including Benghazi, while excluding a foreign occupation force of any form on any

part of Libyan territory, and requests the Member States concerned to inform the Secretary-General immediately of the measures they take pursuant to the authorization conferred by this paragraph which shall be immediately reported to the Security Council;

This paragraph basically authorizes a limited intervention in Libya. The limits of the intervention are quite significant, as we can see the UNSC explicitly prohibits any ground occupation on Libyan soil. There are a number of reasons for these specific limitations. First, it can be considered to reinforce the previously stated commitment to Libyan sovereignty. Even though it is not explicitly stated, it is implied that aerial intervention is less of a violation of territorial sovereignty than ground occupation. This adds to our larger discussion on the nature of sovereignty in contemporary world politics in relation to intervention. If the two above mentioned paragraphs are analyzed together, we can see that various territorial dimensions of sovereignty are not taken as a single absolute, but rather broken down into pieces, with aerial dimension being less inherent to the concept of sovereignty than its ground counterpart.

The second reason for why the intervention is designed in a limited manner can be attributed to the necessity of limitedness in order to be able to pass this resolution in the first place. Given the fact that intervention is a highly contested topic, especially amongst the five permanent UNSC members, designing the intervention this way makes it easier for action to be taken in a timely manner, rather than waiting for a further deterioration of the situation in Libya while attempting to convince all the UNSC permanent five members that a full scale intervention is necessary to restore peace. Also, if taken as part

of the larger trajectory of UNSC actions in regards to the Libyan situation, such as previously imposed arms embargoes, asset freezes and travel bans, this is the next logically measured step in the process of intervention. If this step proved to be inadequate, then further steps may be considered, much like the previous measures adopted a few weeks prior have failed to be of necessary effectiveness to halt the violence in Libya, thereby pushing the UNSC to take further action.

The third reason for this particularly limited nature of the intervention is because it makes strategic sense. The nature of the conflict was such that control of the airspace would be sufficient enough to have a major significance in the dynamics of the conflict. The geographical aspects of the Libyan conflict are very suitable for such a strategy. There are minimal mountainous regions, the population is spread out along the coastline, and even in urban areas the distribution of population is not very dense. This same strategy would not be nearly as effective in other areas where there are a lot of mountains, or if the warfare was being conducted in densely populated urban areas, which is the case in Syria (Roff & Momani, 2012). In other words, the situation in Libya was suitable enough for the international community to believe that a limited aerial intervention would be sufficient in the achievement of the humanitarian goals of protecting civilian casualties.

The fourth reason why the UNSC may have chosen to opt for the limited nature of intervention in Libya is due to the fact that it is much more attractive to the intervening actors themselves. By clearly stating that this resolution does not include a ground intervention, the intervening powers that may be committed to the implementation of the

resolution will be much less hesitant to do so. Aerial intervention is less costly, which is a very significant factor in the contemporary political climate, given how expensive recent interventions have been, particularly for the United States where military spending is causing a major financial burden on an overall immense national deficit. Moreover, aerial intervention greatly decreases potential loss of life on behalf of the intervening actors, thereby making it a much easier decision to make on the domestic front.

Resolution 1973 also incorporates explicit statements regarding the establishment of a no-fly zone over Libya, although excluding flights whose purpose is humanitarian assistance. It calls on all states to deny the operation of any flights originating from or destined to Libya. It also rephrases and re-establishes the arms embargo which was decided earlier (resolution 1970). It calls on cooperation of all states which may be involved in the implementation of any aspect of the resolution. It also includes additional travel bans and asset freezes for certain state officials and corporate entities.

Overall we can see that the decision to intervene in Libya, although timely, was taken with multiple considerations. The language of the resolution and the particular design of decided actions reflect the complexity of factors that surround the concept of intervention. Although not explicitly mentioned, the concept of R2P is clearly implied as the normative framework within which the decision to intervene has been made. The concept of sovereignty is touched upon in a delicate matter, where the concept itself is held up, at least in relation to ground territory, yet compromised in the aerial realm in order to pursue goals of restoring peace and protecting civilians. These goals can be seen as originating not only from the R2P principle, but also from the founding principles of

the UN itself. Notably, the resolution appears to be neutral in its nature, never stating that the goal of the UNSC actions is to overthrow the regime, but instead to calling for the establishment of an immediate ceasefire. This theoretical neutrality will later become the subject of criticism, since the actual implementation of the resolution appeared to be targeting government forces even when they were not directly posing any danger to civilians (Kuperman, 2013).

Analysis of the Libyan Intervention within the context of R2P

The Libyan intervention was a critical event in the evolution of R2P and the overall state of third party humanitarian intervention in an intrastate conflict. The significance of the Libyan intervention is primarily two fold. On one hand the intervention in Libya in 2011 was perhaps the most vivid implementation of the R2P principles since its adoption. On the other hand, the decision to intervene was filled with scepticism by some international actors, and the implementation of the intervention was followed with criticism. Therefore on one hand we have a historic decision to implement the new guiding R2P principles, but on the other, the mistakes of carrying out those principles may deter the international community, especially the UNSC to condone further interventions in the future.

There are a number of factors which show how the Libyan intervention scored points for the advancement of R2P principles as the new international norm for intervention. The first factor that jumps out is the framing of the issue itself as explicitly humanitarian issue. From the start, all the dialogue in the UN and the UNSC has revolved over the protection of human life in this crisis (Bellamy & Williams, 2011). This can be

seen as evidence of the evolution of the norms that surround the discourse around international response to intrastate crises towards the principles of R2P and human security. Even though the humanitarian concern has been gaining momentum for quite some time, by 2011 it dominated the security discussion at the highest levels. Even Russia and China, the two permanent members of the UNSC which abstained from voting on resolution 1973, continuously expressed the condemnation of the humanitarian crises in Libya, and particularly of the ineffectiveness of the Gadhafi regime to put an end to it (Silander, 2013). The constructive tone in rhetoric from Russia and China in 2011 was radically different from their blatant opposition to any form of intervention in Kosovo in 1999 (Dunne & Gifkins, 2011). This time around the emphasis was on their scepticism about the implementation of resolution 1973, without any reservation or scepticism in relation to the condemnation of the failure of the Gadhafi regime to fulfill its sovereign duty.

The second factor is the decisiveness of the UNSC and the international community to back up their rhetoric and principles by implementing appropriate action in a timely manner. Resolution 1973 was the first time that the UNSC has authorized a no-fly zone explicitly for civilian protection purposes (Dunne & Gifkins, 2011), and it was also the first time that it did so against the wishes of a functioning state (Bellamy & Williams, 2011). By doing so, the international community showed that it is willing to stand behind their principles. In a way, it reminded states that the commitment which they all showed in 2005 behind the adopted principles of R2P was not an empty gesture,

and when these principles are put to the test, the agreed response will follow from the international community.

The third factor was the overall trajectory of the unfolding of the situation. The condemnation of violence by the international community came from civil society groups as early as February 16th (ICRtoP, 2013). This was followed by rhetoric intervention by global leaders. In a very short time frame, the international community resorted to harsh non-military measures with the adoption of resolution 1970, imposing travel bans, arms embargos, and asset freezes. With the failure of such measures to entice the Libyan government to live up to its sovereign responsibility to protect its citizens, the international community moved on to tactical, limited military measures through aerial intervention which was authorized by the UNSC.

The fourth factor was that the Libyan intervention illuminated the growing importance of regional organizations. The Arab League, the African Union, and the Organization of Islamic Cooperation all played a key role in the decision making process in this situation (Bellamy & Williams, 2011). Specifically, their expert opinion played a key role in persuading the sceptic members of the Security Council to not veto resolution 1973. China explicitly stated that the consensus of the regional organization in regards to the best choice of action in the Libyan conflict as the reason why China, while hesitant to support such measure decided to abstain from voting and not impede on the will of the international actors who wish to take appropriate measures in order to protect the Libyan people (Silander, 2013).

The fifth factor was that the UNSC had employed the newly available legal framework to address the criminal aspect of the deteriorating situation in Libya by referring the matter to undergo investigation by the International Criminal Court in a unanimous 15-0 decision (Dunne & Gifkins, 2011). This can be considered a milestone event because the ICC is one of the emerging institutions created in response to the lack of appropriate legal methods for prosecuting war criminals and dealing with crimes against humanity. The utilization of ICC for investigation in such a timely manner is a big improvement on its predecessor ad-hoc tribunals which were set up to convict war criminals after the conflicts have already occurred and scores of atrocities have been carried out for a prolonged period of time.

The sixth factor was the fact that the UNSC acted in a rather timely manner to suspend the authorization for the use of military force upon improvements in the situation in Libya. The UNSC unanimously passed resolution 2016 on October 27th to lift the no-fly zone and suspend the authorization to use military force by October 31st 2011. This showed that the actions of the intervening states were limited to address the critical climax of the crises and that interventions which stem from R2P principles are not going to be indefinite, or prolonged, or expand to other roles such as state-building. This quick termination of the intervention showed the world that an R2P operation is different from other interventions such as the one in Iraq and Afghanistan which in turned proved to be lengthy and lacking a clear exit strategy.

Despite the above mentioned factors on how the Libyan intervention was a champion in the implementation of the R2P principles by the international community, it

is abundantly evident that the intervention was carried out in a manner that attracted a lot of criticism (ICRtoP, 2013). Some of the main criticisms stem from the broad interpretation of what constitutes protecting civilians by the intervening powers, with critics noting that they systematically attacked the government forces which did not pose any direct threat to civilians (Pommier, 2011).

One of the most detailed, broad and provocative critiques of the intervention came from Alan J Kuperman (2013). He points out that from the offset, the international community was working with misinformation about the events on the ground in Libya. According to verified reports, there was a significant degree of violence coming from armed protestors from the very beginning, including February 15th, and most notably on February 17th, meanwhile the media reported the initial protests as largely peaceful (Kuperman, 2013). Additionally, the tactics used by the security forces of the Gadhafi regime were not lethal from the offset, but the initial response was the use of rubber bullets, later on escalating into the use of live ammunition to wound but not kill, and then eventually escalating to the use of lethal force by the third day of unrest as a reaction to the escalating armed violence perpetrated by the protestors. The media on the other hand misreported the government response as lethal from the very beginning, later correcting their reports (Kuperman, 2013). Additionally, some of the early reports on casualties in some instances exaggerated by tenfold (Kuperman, 2013). The author also brings up evidence against the supposedly indiscriminate use of force in particular battles, such as the city of Misurata, where the total of the wounded females was accounted for only 3

percent of all the casualties, which can be interpreted that the government forces were targeting armed rebels in particular (Kuperman, 2013).

The author then goes on to point out a number of instances which are evidence that the intervening forces clearly overstepped their authorized limit of action as it was specified in resolution 1973. Their objective was the protection of civilians, however the intervening forces engaged in shelling of retreating government forces, as well as attacks on government forces which were situated in towns where the civilian population was highly supportive of the regime (Kuperman, 2013). Additionally, contrary to the objective nature of their mission, the UK supplied military advisors to the rebel forces (Kuperman, 2013). Additionally, the text of resolution 1973 clearly stated that there shall be no occupying force on the ground in Libya, which was in fact broken by Qatar, which had hundreds of armed men in various Libyan towns (Kuperman, 2013).

Apart from overstepping their authorized mandate, the objectivity of the intervening powers was called into question. With the clear objective of protecting civilians and taking the necessary measures to achieve an immediate ceasefire, there are some doubts about whether the intervening forces were really working towards an unstated objective of removing the Gadhafi regime. No changes to the authorization to use force and no changes in the implementation of the use of force occurred on March 3rd when Gadhafi agreed to mediation, nor on April 11th when Gadhafi accepted the AU proposal for immediate ceasefire, nor on May 26th when the regime offered negotiations towards a constitutional government and compensation to the victims in addition to the ceasefire, which in turn was rejected by the rebel forces (Kuperman, 2013).

The author concludes his critique of the Libyan intervention by arguing that the intervention in this case, or even the promise of said intervention, created a moral hazard for the Libyan conflict which contributed to further destabilization of the situation (Kuperman, 2013). The author has previously argued that the whole principle of R2P may have such an adverse effect on civil conflict, where the rebel's decision making process is altered due to the promise of outside help, which leads them to provocative acts against the government (Kuperman, 2008).

Granted, the critique put forward by Kuperman may be largely biased in order to accommodate his moral hazard theory, however some of the facts about the execution of the intervention which he points out have not gone unnoticed by important international actors. Notably, China and Russia, who showed their scepticism during the debate over resolution 1973, have pointed out similar facts in their critique of the actions of the intervening powers. The governments of both Russia and China continuously made rather vocal claims that the intervening power's actions were not impartial in the course of the conflict, and that instead of working towards their humanitarian goals and the restoration of security in Libya, they were in fact working to overthrow the regime, which was considered completely unacceptable by them (Silander, 2013).

The initial abstention from the vote on resolution 1973 was largely perceived as a bit unusual for the Russians and the Chinese, given the fact that they have known before to use their veto power to block international involvement that violated state sovereignty, as they did in Kosovo in 1999. At the time of the passing of resolution 1973, many proponents of R2P seemed hopeful that this was a sign that there are changing their

normal behavior, and that perhaps in the future the BRIC countries would go even further and play a proactive role in humanitarian intervention (Dunne & Gifkins, 2011). The end result however shows that both of these important international actors appeared to have regretted their decision to abstain, and that perhaps in the future they would be even more distrustful of international humanitarian efforts which compromise state sovereignty. In other words, some of the actions taken by the intervening powers in Libya may have stalled the process of R2P for the future in the eyes of Russia and China, and consequently the decision making process at the UNSC.

Conclusions

In conclusion we must observe some of the factor which lead the international community to have intervene in Libya and in turn to compromise the sovereignty of the Libyan state, despite the fact that the intervention was designed in a way to limit such compromises to sovereignty only to the real of Libyan airspace.

The first, although maybe not the most important factor necessarily, was the new normative framework of R2P. Despite some incidents of misinformation, and exaggeration of the severity of the situation, the events which unfolded in Libya in 2011 were clearly a humanitarian crisis. This could especially be evident in contrast to the events in Tunisia and Egypt where such crises were averted and the political shifts occurred with minimal casualties. The near instant outbreak of widespread violence proved to be a nearly ideal situation for R2P to test the degree of significance which it plays in the role of international relations. The international community began addressing the situation based on the outlines and rhetoric of R2P, and when the situation escalated

to the last pillar of R2P, where the international community is obliged to take all necessary actions to aid in the security of the people on the ground, the UNSC hesitantly, although timely allowed for such an intervention to take place.

Another factor was the relative simplicity of response which was necessary to be effective enough. The strength of Gadhafi's forces, the geography of Libya, the population density, the amount of people on the ground who have taken up arms, amongst other favorable factors all contributed to the fact that the intervention could be designed in a minimalist way in order to be effective. The limitedness of the intervention made the decision easier to take. It was easier to pass by the Security Council, by emphasising that only the aerial realm of Libyan sovereignty would be compromised. It was also an easier mission for the intervening powers to commit to.

Another factor, which was largely overshadowed by the humanitarian discourse, was the amount of oil which Libya produces. Libya is one of the major oil exporters in the region and perhaps knowing the fact that the regime which would follow Gadhafi would be a reliable partner in oil operations if the international community helped them out in this situation influenced the decision to intervene in such a timely manner. Restoration of the security climate and stability in Libya is essential to the stability of the oil market. These factors were pointed out by the Russians and the Chinese as part of their critique of the intervention once the lack of objectivity was perceived by them as the conflict went on (Dunne & Gifkins, 2011).

Last but not least, we must also take a look at the Gadhafi regime within the context of the international community. Through decades of his rule, Gadhafi has always

been a controversial figure. He openly supported terrorist organizations, and even acknowledged the role of the Libyan state in certain terrorist acts, by paying reparations. The actions of the Libyan regime even provoked a US bombing campaign in 1986. Unlike other potential situations for intervention, Gadhafi did not play a significant enough role in maintaining some sort of a delicate regional balance of power, unlike Syria which is important for both Hezbollah and Iran as a staple of Shia power in the midst of a largely Sunni region. In other words, it appears that Gadhafi simply did not have enough allies that may have played a role in the global or regional political power balance to prevent such an intervention. This became increasingly important when his own neighbours, through the LAS and the AU clearly stated that they would be in favor of intervention.

This factor of political significance and the possession of allies in the face of diminishing claims to sovereignty appear to be really important. Prior to the events of the Arab Spring, the Gadhafi regime's claims to sovereignty were not in any serious danger, however in times of crises, this sovereignty got compromised in a very swift manner.

Some critics ask the question: where does the international community derive the authority to decide that the Libyan opposition forces' claim to sovereignty over the Libyan state is more legitimate than Gadhafi's? (Cubukcu, 2013). A number of answers could be proposed to address such a question. The first answer could be that the international community made no such decision, but simply carried out a humanitarian mission in times of a crisis, and the shift in power within the sovereign state of Libya occurred as part of an internal dispute. This answer could be backed up by the text of

resolution 1973, which condemns the Gadhafi regime for its failure to protect civilians, suspects the Gadhafi regime of crimes against humanity, which are to be determined by the ICC, yet clearly outlines the neutral humanitarian concerns upon which the decision to intervene was based on.

Another answer, which may be a bit more controversial, may stem that such a decision was an exception to the norm, since the international community has historically been tolerant of various dictatorial regimes, at least enough to respect their territorial sovereignty. This exception may be seen as a result of a crisis, yet the exception to suspend the norm (the norm being the respect of the principles of sovereignty) is derived from within the legal international framework, which anticipates the need to make the exception and reserves the right to do so, as it is noted in Chapter VII of UN Charter.

If we entertain the thought that the second answer is in fact true, then we can see evidence of a multi-dimensional concept of sovereignty that does not fit the Westphalian model very well. Instead, we can find the theoretical explanation for this occurrence in the work of Suganami (2007), which was discussed earlier in the chapter on sovereignty. If we take Suganami's analysis of works on sovereignty conducted by Kelsen and Schmitt, we can see that the UNSC possesses a certain kind of sovereignty on its own, because the true mark of sovereignty, according to Schmitt is the ability to decide on the exception and suspend the legal norms in times of crises, and according to Kelsen the mark of true sovereignty is the last legal system which overrides all other legal systems (Suganami, 2007).

Two-tier sovereignty in this case may be one of the ways by which to explain the intervention in Libya. As a state, Libyan sovereignty falls into the Westphalian model under all normal circumstances, however in times of crises, the international legal system exercise its own form of sovereignty to decide when the Westphalian model can be suspended or compromised to alter the internal situation. Therefore in such a scenario, there are two guidelines which re-enforce this ability to decide on the exception. The first one is the long established legal framework of the UNSC to authorize actions under Chapter VII of the UN Charter. The second one is the normative role of R2P as an agreed international principle which may guide the legal framework on when to exercise its ability to decide on that exception.

CHAPTER FIVE: SYRIAN CIVIL WAR

Syria is an excellent case in which we can observe the tensions between the concepts of sovereignty and intervention. Additionally, the Syrian Civil war can be seen as another test for R2P as it strives to become an international norm by which the existing legal mechanisms may compromise the sovereignty of a state to allow an intervention in order to address a humanitarian crisis. The situation in Syria has proven to be very difficult, and unlike the Libyan case, the norm of sovereignty appears to have trumped the R2P norm for over two years, resulting in the lack of consensus at the highest tiers of the international relations in how to address the ongoing conflict.

Given the fact that the conflict is ongoing and escalating at the present time, the situation in Syria, and the response to it by the international community is likely to change. The use of chemical weapons in the Syrian conflict appears to have a significant impact on the dynamics of the conflict within Syria and around the world. Our purpose of using Syria as a case study is to see how the R2P norm is able to influence an international reaction. Prior to the use of chemical weapons, the humanitarian crisis in Syria was abundantly evident for over two years. The use of conventional lethal force by the government forces which escalated the violence into a civil war is a parallel that the Syrian crisis has with the Libyan situation. Therefore for the purposes of our investigation, all of our analysis of the Syrian crisis in relation to R2P, international

reactions, deadlocks over decisive action in the UNSC and the lack of intervention will be cut off at the point of the chemical attacks in Damascus on August 21st, 2013. It is likely that the use of unconventional warfare contributing to an escalating humanitarian disaster will have its own implications on the utilization of R2P arguments for intervention as well as other possible arguments for intervention or strike such as punitive or in self-defence. Analysis of how the use of chemical weapons altered the international perception and response to the Syrian conflict is an endeavour for another research project to be undertaken in the future and does not apply to the comparative research between the Libyan and Syrian conflicts which is being conducted in this thesis.

The first part of the chapter will provide a brief synopsis of events which are the most relevant to our discussion. The synopsis section will not go into the details of the conflict on the ground. Instead it will focus on some of the underlying reasons for the uprising, briefly touch on the involvement of outside actors in the conflict, underscore the lack of consensus in the UNSC debates about the situation, and lastly touch upon the most recent events of August 2013 which are escalating the situation to a new climax with the potential of an outside intervention becoming more likely than ever before. It is at this point in the synopsis where we will draw the line for our analysis.

The second part of the chapter will put the Syrian civil war into various degrees of broader context. By examining the multi-level significance of the Syrian conflict, and its implications on internal, regional and global power struggles, we can see why the international community has been unable to agree on concrete measures to address the humanitarian crises. The broad implications of the Syrian conflict on global and regional

dynamics stand in contrast with the lack thereof in the case of Syria. By highlighting the broader context of the Syrian conflict, we can observe that strategic concerns are some of the most difficult obstacles for R2P as an emerging norm to address humanitarian crises.

The third part of the chapter will attempt to explain the lack of intervention up until August 2013. There a number of factors which play a role in this explanation, including military difficulty, strategic deadlock, lack of oil, downfalls of the Libyan intervention, concerns regarding the lack of objectivity on behalf of the potential willing intervening powers, and most importantly a post-Libyan standing of R2P's influence over the legal framework of the UNSC.

The concluding part of the chapter will underscore the status of R2P as not yet entrenched enough as the normative framework to address humanitarian crises. R2P faces major challenges when the crisis in question is situated in a complex context of international power relations, which in turn disable the legal framework of action via the UNSC. This inability to alter the legal decision making process thereby serves as evidence that as of right now, R2P's influence to redefine sovereignty in the eyes of the international community's institutional context is very limited.

Synopsis of events

The conflict in Syria began in a very similar manner to other anti-government protests which occurred as part of the larger Arab Spring. While the initial protests which occurred at the beginning of 2011 were rather minor in contrast to those in Egypt and Tunisia, the protests were similarly peaceful in nature. The uprising really began in mid-March, and quickly turned violent following the similar trend of protests turned to violent

revolts which had already been the case in Libya at the time for about a month. The violent turn, as in the case of Libya was in part due to the harshness of government response to protests by using lethal military force. However, unlike some other Arab Spring protests, where a crackdown by the regime was sufficient to quash the opposition movement, the Syrian uprising turned into a full scale civil war which is now its third year of bloodshed.

There can be a number of factors which point to the underlying causes of the Syrian civil war. The first one is a common denominator with most of the other Arab Spring cases, a growing dissatisfaction with decades of an authoritarian regime. The Assad family has ruled Syria largely uncontested for over four decades, with the current Syrian president Bashar al-Assad basically inheriting the seat of power from his father, Hafez al-Assad. The president in Syria is elected, but it is hard to believe that these elections were conducted in a fair manner, given the fact that election results have shown a near universal support for the president (International Foundation for Electoral Systems, 2007) meanwhile as we can see by the current amount of discontent, such evidence of support were most likely fabricated. Even though the beginning flavour of the protests was democratic and secular in nature, a strong religious element has penetrated the conflict, and this dimension will be further touched upon in the next section.

Ethnic and religious divisions have fragmented the opposition movement, and also resulted in other regional actors with an identity stake in the conflict to partake in it either directly or indirectly. Iran and the Hezbollah faction of Lebanon have contributed military support to the Shiite government forces. Additionally, Russia's long-standing

relationship of supplying the regime with military equipment has been upheld throughout the conflict. To counteract the asymmetry of military and economic support, Saudi Arabia and other gulf states have supplied arms to the opposition groups. The European Union is currently engaged in purchasing oil from opposition groups who control some of Syrian oil fields, thereby providing them with the much needed economic support (Al-Jazeera, 2013).

The international reaction to the Syrian civil war has been largely different from the reaction in the case of Libya. Similarly to the Libyan case, most of the western powers have condemned the regime for allowing humanitarian crises to emerge. Despite the very vocal reaction of many of the world's leaders in regards to the crises, the legal channels of the United Nations have not been as nearly as reactionary as they were in the case of Libya. Although heated debates have been ongoing in the Security Council in regards to the appropriate response which is needed to ease the situation in Syria, the UNSC has remained largely inconclusive. On a number of occasions, harsher resolutions against the Syrian regime have been vetoed by Russia and China, with concerns over Syrian sovereignty being offered as explanations for the veto use. Perhaps the most notable UN action came in an attempt to negotiate a ceasefire, and to introduce a UN observer mission to monitor the progress in 2012. The ceasefire attempts were a failure, as violence continued throughout the country, despite negotiation attempts.

Given the deadlock in the Security Council and the lack of consensus on the correct trajectory of action, it appears that an R2P style trajectory for intervention in Syria is highly unlikely. This is particularly significant due to the fact that the humanitarian

crises is undeniable, with reports showing that by February 2013 the number of casualties was already measured around 70,000 people (Howorth, 2013), and continued to climb steadily throughout the rest of this year. The humanitarian situation in Syria has been framed over several so called 'red-lines', most notably the employment of chemical weapons. A number of voices from the west, notably Barack Obama, have stated that the use of chemical weapons would bring the humanitarian crises to an unacceptable level and that in such an instant the strategy towards the Syrian crises would have to be recalculated. Some interpret this rhetoric to mean that in case of chemical warfare, an outside military solution may be implemented to address the crisis.

As of late August 2013, there have been a number of reports that chemical weapons have been used on several occasions. The use of chemical weapons brought the Syrian conflict back to the forefront of news media and even more importantly to the discussion tables of international actors in regards to what the appropriate response should be. The dynamics of the conflict are likely to change from this point forward, especially the international ramifications. It is at this point in the unfolding of the Syrian conflict where we must place our cut-off line for analysis of R2P's influence on the Syrian situation, especially in contrast to the situation in Libya. The use of such weapons puts the Syrian conflict into a different category, which cannot be compared with the situation in Libya. Therefore our analysis will focus on comparing the two and a half years of conventional civil warfare in Syria to the conflict in Libya in 2011.

Syria: Context and Implications

The Syrian Civil War is one of the most significant and heated conflicts that are occurring today. Syria is part of the troubled region of Middle East and in many ways, the conflict in Syria is a microcosm of many long-established tensions and power struggles, both reflective of the middle east fractionalisation and the global implications of the middle east conflicts. The conflict in Syria has a strong religious dimension, and this religious struggle is part of the religious and strategic power balance of the region between regional superpowers.

Demographically, the religious composition of Syria is quite diverse. The majority of the Syrian population (approximately 75%) is Sunni Muslim. There are a number of religious minorities, notably Christians and Alawites, as well as Kurds, Druze and Ismailis (BBC Monitoring , 2011). The Alawites are a sect which stems from Shia Islam. The Assad Family, belongs to the Alawite group and through decades of authoritarian rule, the minority Alawite population has been able to enjoy access to power throughout Syrian institutions, and held many top tier government positions.

Given the fact that the majority of Syrians are Sunni Muslim, the Bashar al-Assad and his father before him had to implement specific policies to downplay the sectarian division between the majority Sunni population and the minority rule of the Alawites. The Assads did so by promoting secularism, while respecting the freedom of religion. Notably, the Assad regime tried to stop Islam from penetrating the political sphere, notably by outlawing the Muslim Brotherhood party in Syria. Additionally, Assad was fearful of some conservative notions of Islam penetrating the public sphere, and he

implemented policies to keep the public realm more secular, notably by banning the full face veil in Syrian universities in 2010 (The Telegraph, 2010). The secularist policy of the Alawites was able to provide an environment where various religious groups existed side by side for decades without any substantial violence. These policies were also able to secure support for the Alawites from other minority groups like the Christians, the Kurds, and the Druze, since all of the groups were able to practice their religion side by side with the others.

Despite the decades of religious peace in Syria, the significance of the religious factors in the conflict proved the model of minority rule unsustainable. Despite the largely secular nature of the initial momentum of the Arab Spring, as the conflict evolved into a full-blown civil war, the religious dimension came to the forefront of the situation. The war highlighted the sectarian divides amongst the population, and the different factions of fighting groups align themselves rather vividly along religious lines (Becher, 2012). The conflict also attracted Islamist groups, which pledge allegiance to Al-Qaeda, to come and participate in the fighting. In certain towns which were known to be secular in the past, the Islamist rebels have seized not only the government buildings over which the black flag of al-Qaida is now hung, but also their industries (Spenser & Rose, 2013), and the profits from the looting of the Syrian economy now goes to fund the larger al-Qaeda network (Hubbard, 2013).

The religious aspect of the Syrian conflict appears to have become the arena for long time regional religious tensions, notably the Shia-Sunni opposition, as well as the role of minorities in the region such as the Christians and the Kurds. Despite the fact that

the Alawite sect of Shia Islam is quite unique and is largely non-existent outside of Syria, the stronghold of the Alawites on the Syrian government has been a staple of the Shia control in the region. The Alawites have strong ties to other Shias in the region, most notably Iran and Hezbollah. Iran has supported the Assad regime for a long time, seeing them as a critical ally in their ambitions for regional domination (Carpenter, 2013). Iran therefore has not been hesitant in providing all sorts of military and political assistance to the Assad regime throughout the conflict. Similarly, Hezbollah has sent in fighters to attempt and impede what they perceive to be an attempted Sunni takeover of the Syrian state.

On the other hand, Saudi Arabia, and their allies in the Persian Gulf have interpreted the Syrian Civil war as a chance to increase their sphere of influence in the region by backing the Sunni rebels by channelling weapons to them. If the Assad regime is to fall and replaced by Sunni leadership, this would be a very significant shift in favour of Saudi Arabia in their long term struggle for regional dominance against Iran. Turkey, whose population is also comprised mostly of Sunni Muslims, has a long history of secularism. Despite this fact the Sunni conservatives in the ruling JDP party have exerted pressure on Prime Minister Erdogan to take a stance supportive of the rebel force (Carpenter, 2013)s, and Turkey's role in the conflict has become increasingly important as the fighting in northern Syria has occasionally spilled over the Turkish border. Therefore Syria has become a proxy war situation, where the power triangle of Saudi Arabia, Turkey and Iran are battling it out for in their struggle for influence, and less powerful states like Lebanon, Jordan and Iraq have also been dragged in various ways

due to their geographical proximity and similarities of the fractional divides being also present in their respective states (Carpenter, 2013).

Analogous to how the current tensions in Syria are representative of the larger Middle Eastern power struggles, the Middle East itself has always been a microcosm for global power struggles as well. Therefore, the Syrian situation has wider global implications. The most critical implication is the ties that Assad has with Russia. The relationship between the Assad regime and the Russians is two-fold.

The first tier of their relationship is the direct historical ties between the two states. One of the most significant factors is the Tartus military base which is situated in Syria and belongs to the Russian Federation. This base is critical for the Russians, as it is the only base they have in the Mediterranean Sea, as well as their only base which is situated outside of the former USSR (Carpenter, 2013). Syria is also an important importer of Russian weapons. Perhaps one of the more overlooked, yet highly significant implications of the Syrian conflict to the Russians is that they do not wish to see a secular autocrat to be overthrown by Sunni rebels with ambitious of a establishing an Islamist state. This is because such a scenario is not too far-fetched in the Northern Caucasus region of Russia, where Islamists have been trying to take over with similar goals for decades (Charap, 2013).

Despite Syria's direct representation of Russia's interests in the region, the strength of direct ties between the Russians and the Assad regime itself are not strong enough for Russia to be blindly throwing their support behind Bashar al-Assad as a ruler. Russia's foreign policy towards Syria is more complex, and there has been growing

evidence that the Russians acknowledge the fact that the future of Syria may not involve Assad himself, and therefore they have made various statements regarding their supposed neutrality in the conflict in the case that they need to establish a working relationship with whoever may be the successor of power in the Syrian state (Katz, 2013).

However, this neutrality is limited by the second tier of Syria's ties to Russia which lies indirectly through Iran. Russia's support of Iran is much deeper and more crucial to the global power dynamics and the regional interest representation of Russian interests. Therefore due to the strength of the Shia bond between the Iranian regime and the Alawites in Syria, Russia is persuaded to support Assad in order to keep up the strong ties with Iran. This dual relationship between Syria and Russia, direct and indirect through their mutual ally Iran, is strong enough for Russia to have used its influence, particularly in the UN Security Council to mediate the rather pro-active anti-Assad stance of the western powers.

Similarly to the role that Iran plays as the link between the Assad regime and the Russians, the Gulf States, notably Saudi Arabia plays an analogous role between the Syrian rebels and the Western World, particularly the United States. This has resulted in the staunchly anti-Assad rhetoric of western leaders, which reveals their strategic interests behind the humanitarian concerns in the crises. Therefore Syria, unlike Libya can be seen as a microcosm of not only regional power struggles, but also as a Cold War-like proxy war between Russia and the United States. This makes the situation in Syria much more complex than the situation Libya, and consequently much more deadlocked in terms of any international response to the humanitarian crisis.

Lack of Intervention: Analysis

Despite the many similarities with the conflict in Libya, the conflict in Syria has resulted in a radically different outcome in relation to the involvement of the international community and their efforts to aid in the humanitarian crises. The lack of any decisive action, and particularly the lack of intervention can be explained by some of the differences in the two situations and the unique nature of the conflict in Syria. Given the context of the Syrian conflict, its complexities, and also its implications to the regional and global power dynamics, it is clear that gridlock based on the difference in opinion of global powers is one of the central factors that can explain the lack of intervention. However, before we get to that, it is important to observe some other factors which contribute to the lack of intervention.

The first major aspect of the Syrian conflict that is radically different from the conflict in Libya is it is simply much more difficult and dangerous situation in military terms, and the simple and clean strategy that worked in Libya would simply be insufficient in the Syrian context. To begin with, if we assume that in both situations it is the regime itself which is responsible for the majority of atrocities and therefore any intervention would need to protect civilians from the state military, then we can see a radical difference between the Libyan and Syrian armed forces. The Syrian armed forces are larger in number, better trained, more spread out with bases all over the country (Howorth, 2013). They possess sophisticated unconventional weapons, notably chemical weapons, which they would resort to using if they were facing a foreign intervention.

The Syrian air-defense system is quite sophisticated, and US Chairman of the Joint Chiefs of Staff, Martin Dempsey, pointed out that out of the possible willing participants, only US would be able to effectively disable it (Murray, 2013). Therefore any coalition of the willing will have to have direct US presence, which may or may not be a difficult factor in the formation of such a coalition. Even in the case of an effective seizure of the Syrian airspace, a simple aerial campaign would not be nearly as effective in Syria as it was in Libya. The fighting is scattered around different parts of Syria, and is heavily concentrated in large urban areas. In Libya by contrast, the key to having an advantage in their conflict was to have access along the single main road that connected the country along the coast. The control of the airspace basically disabled any such movements by the Gadhafi regime, thereby allowing the rebels to gain momentum.

The only effective intervention in Syria appears to have to include the deployment of ground troops, which is a scenario that is considered out of the question even by the most vocal intervention proponents such the French Foreign Minister Laurent Fabius as recent as August of 2013 (Smith-Park & Said, 2013). A ground invasion of Syria has been a far-fetched scenario throughout the two and a half years of conflict, given the fact that even less dramatic tools and methods for intervention in the conflict have had considerable difficulty gaining traction in the top-tier decision making circles of the international community. Moreover, the domestic factor for decision making within the possible intervening states may have been impeded by the high levels of military commitment necessary to act in the Syrian conflict. Notably, it would have been hard to sell such an extensive military campaign to the American public, which is very

significant factor in Obama's foreign policy given the fact that domestic disapproval for a proactive foreign policy was detrimental to his predecessor's approval ratings in Bush's second term.

Another possible factor of difference between the two countries is the difference in oil production. Unlike Libya, Syria is a minor player in the oil markets; therefore its internal stability is not as big of a factor to regional and global oil trends. To put things into perspective, Libya produced about 10 times more oil than Syria did around the time of conflict eruption, with Libyan exports totaling about 1.5 million barrels per day, compared to Syria's 0.15 million (The Guardian, 2011). Despite this, the oil factor adds another dimension to the conflict which is perhaps more troubling, due to the fact that some oil fields in the rebel controlled regions in Syria are now under the control of al-Qaeda affiliated groups (Al-Jazeera, 2013).

An additional factor that is different between Libya and Syria is the perception of intervention from within the conflict by the rebel sides. Prior to the passing of resolution 1973 which authorized the intervention in Libya, the wider consensus on the ground was that the intervention would be greatly advantageous for the rebel forces and therefore it was more or less welcomed. In Syria the situation is slightly different. The length of the conflict contributed to a large fragmentation of opposition groups, with very little consensus amongst them in regards to what the ideal course of action should be to resolve the conflict. There may be quite a significant number of Syrians who oppose Assad who may also be in favour of an intervention. However some of the groups which have gained legitimacy in the eyes of the international community as being rightful representatives of

the Syrian opposition, notably the Syrian National Council and the National Coordination Committee have stated that they do not wish to see any direct military involvement from outside actors in the Syrian Civil War (Murray, 2013).

One of the major factors which stand in the way of intervention in Syria is the immense significance of realpolitik factors in the Syrian conflict, compared to the lack thereof in the Libyan context. The previous section of this chapter outlined in detail the implications of the Syrian Civil War on domestic, regional and global power struggles. With so much on the line in regards to the outcome of the conflict, the most serious forces of regional and global power clusters will continue to gridlock the legal frameworks necessary in order to authorize concrete and sufficient action by the willing members of the international community. On more than one occasion, Russia and China had used their veto power in the UNSC to stop resolutions which would compel Assad to comply with his sovereign obligations in the face of repercussions. Syria became an arena for proxy struggles between Shia and Sunni Islam, between Turkey, Saudi Arabia and Iran in their ambitions for regional influence, and most importantly between Russia and the West. When a state finds itself in the middle of such large international forces, the local people often have to pay the price of war.

Last but not least, the factors which need to be considered in relation to the lack of intervention in Syria are those which exist in the realm of normative and legal frameworks of intervention, especially in light of the prelude events in Libya. We have established in the previous chapter that the intervention in Libya was possible by the utilization of the newly emerged normative framework of R2P and the long established

legal framework of a UNSC decision to enact action under Chapter VII of the UN Charter. Chapter VII still remains the legal framework by which a legitimate intervention can occur, unless the intervening state can make a claim that they are acting in self defense or pre-emptive self defense. Acting in self defense may be a scenario that is not too far-fetched for states like Israel and Turkey, which could consequently be able to involve NATO at large based on the right to collective self defense. However, outside of potential isolated surgical strikes, a full blown military campaign from these two states appears to be unlikely at this time. Also, an act of self-defence would be an intervention which is far different in nature from an R2P inspired intervention, and humanitarian concerns appear to be the most prominent amongst the vocal pro-active actors in the international community.

Therefore we are left with R2P, which has been put through another test in the context of Syria. The first real test for R2P was Libya. Even though R2P principles played a role in other crises like Cote d'Ivoire, Libya was tested R2P down to its last principles, which are a military campaign by the members of the international community acting under Chapter VII to aid in a humanitarian crises. We have seen in the last chapter that the results of this test were mixed. On one hand there were a number of factors within the trajectory of the international response that made Libya the textbook case of R2P in action. On the other hand, the vast amount of criticism that the implementation of the intervention has produced, has arguably impeded the embedment of R2P as the normative framework for international response. These critical factors can be clearly evident to be playing a role in the Syrian stalemate.

The first major critique of the implementation of resolution 1973 in Libya has been that the intervening powers overstepped their mandate in regards to what was agreed upon as the limit of their military ambitions. The second criticism was that in doing so the intervening powers lacked objectivity and lost their humanitarian focus, and instead used their military power to aid the rebels in the overthrow of the Gadhafi regime. These two factors, which go hand in hand, were perceived by many as serious breaches of sovereignty, despite the fact that certain compromises to sovereignty were agreed upon in resolution 1973.

In Libya, the international reaction to the conflict was very quick, sometimes perhaps so quick that it was acting on misinformation. Aside from the physical evidence of humanitarian crimes, the threatening rhetoric coming from Gadhafi made it easy for the international community to universally condemn the regime for failing to fulfil its sovereign duty to protect its citizens. In the case of Syria, there has been a lot of time that has passed since the beginning of the conflict, and many factors are more confusing and less clear than they were in Libya. For example, the rhetoric coming from the Assad regime often downplays the scale of the civil war, and frames the rebel forces as terrorists which are being dealt with accordingly. The isolated cases of the use of chemical weapons have also been controversial, with each side blaming the other for the attacks. Despite this many actors in the international community, particularly from the west have not tried to hide their opinion on Assad.

It is quite clear that Assad and his forces are far from innocent in the conflict; however we must also not overlook the conflict's complexity. However, the international

reactions often downplayed the complexity of guilt and responsibility of the warring factions, and have continuously placed the blame solely on Assad and have been vocal in their opinion that Assad needs to be eliminated in order for the Syrian conflict to be resolved. Notably, President Obama has called for Assad's resignation back in August of 2011, which was a clear sign from the beginning to Russia and China that the United States motives for intervention in the crises may be not only humanitarian but also strategic concerns of removing a non-ally from power (Charap, 2013). This in turn deterred Russia and China from allowing an intervention to pass through the UNSC in regards to Syria, because of fears that the intervening powers will act not only out of humanitarian concerns but in fact that the intervention would be designed to physically remove the Assad regime from power.

Russia and China believe that they were trusting enough not to veto resolution 1973 in Libya because they believed that the intervening powers would be pursuing strictly humanitarian goals, as they were explicitly stated in the resolution. They have regretted that decision, by noticing that the intervention was clearly aiding the physical downfall of the Gadhafi regime. One of the possible reasons for such a miscalculation can be explained by the fact that there have been no-fly zones implemented in sovereign governments without regime change. The best example of such an occurrence was the no-fly zone imposed on northern Iraq in order to protect the Kurdish population, which lasted from the end of Gulf War until the invasion of Iraq in 2003. That no fly zone achieved its humanitarian goals without overstepping its operations to topple the Hussein

regime for over a decade, and perhaps was one of the reasons for why Russia and China believed that the case of Libya may end up similar (Charap, 2013).

Therefore, we can clearly see the tensions in regards to the concept of sovereignty that emerge on the two sides of the UNSC spectrum. As we can see by the outcome of the decision on Libya, both the Eastern and the Western powers can agree on the fact that in the face of a severe humanitarian crisis, certain aspects of sovereignty may be compromised in order to address those concerns in an objective manner. However, the further breaching of sovereignty by attacking the sovereign regime to the point of its collapse is a step that is seen unacceptable for Russia and China. Russia firmly believes that it is not up to the UNSC to make decisions on who should rule a sovereign state (Charap, 2013). Meanwhile, in the west, the normative reasoning in regards to how address the humanitarian crises goes further to take out the existing regime as the only way to truly have any progress in resolving a crisis. Regime change as an inherent part of a solution to most humanitarian crises is becoming an unspoken emerging norm that adds to R2P frame of thinking in the West (Charap, 2013). In other words, neither side of the UNSC sees sovereignty of a state as a complete absolute, however in the question to what degree it can be compromised as part of a UNSC decision is heavily disagreed upon.

Conclusions

In conclusion we can see that the situations in Libya and Syria are quite different, despite both of these conflicts emerging as part of the Arab Spring momentum with a number of similarities. Even though the situation in Libya is far from stable at the moment, the climax of the conflict seems to be behind us, the civil war began, it was

intervened in, the regime has changed, and the intervention was terminated. Syria on the other went through two and a half years of a bloody civil war, and the international community has not been able throughout that time to come to a consensus which would allow them to pass any effective solution through the legal framework of UNSC.

If we take the case of Syria as another test for R2P in its process of becoming an international norm upon which sovereignty can be reconfigured and compromised, then we see that R2P has in the two and a half years of the conflict. Some may argue that the relevance of R2P in Syria was even greater and more acute than it was in Libya (Howorth, 2013). However, despite R2P, if there was a spectrum of factors which would make an ideal situation for an intervention, Syria and Libya would be on opposite ends (Farer, 2013). In other words, as much of a factor that R2P may play to redefine the concept of sovereignty as dependent upon the regime's ability and willingness to protect its people, there are numerous factors which contribute to sovereignty being upheld in its traditional sense to include non-interference from outside actors.

These factors in the case of Syria are numerous. The first subset of factors is in the realm of *realpolitik*. First, Syrian intervention would be much more difficult and complex in military terms than a simple no-fly zone. Second, the Syrian crisis is a microcosm of very complex domestic, regional and global power struggles. Therefore, if the current sovereignty of Syria as a state under the Assad regime is strategically important to powerful actors, then those actors will go out of their way to protect Syrian sovereignty from compromise. The balance of global power that is imbedded in the UN legal framework allows for this to occur and trumps normative factors like R2P.

The second subset of factors is in the realm of the normative principles of the international community. Given the fact that the intervention in Libya proved to be very subjective and intrusive in the eyes of Russia and China, they are hesitant to allow for R2P to become a norm. The Western powers on the other hand, are not helping R2P to become objective through constant and vocal rhetoric of condemnation of an existing government in a sovereign state. The toppling of Assad seems to be a priority for many actors, often overshadowing humanitarian concerns. If we assume that R2P is inherently designed to be an objective norm of the international community, then we can observe how R2P is having a major difficulty in living up to its designed potential in an international arena which is completely dominated by strategic factors. As long as humanitarian concerns are trumped by strategic considerations, it will impede R2P from truly adding an aspect of genuine responsibility to the concept of sovereignty as it exists normatively in the international community.

Therefore as we can see by observing the case of the Syrian Civil War, the concept of sovereignty is in direct opposition to the emerging norm of R2P which tries to reformulate sovereignty. In a situation where the humanitarian crisis is situated in the midst of a very complex, difficult and strategically significant conflict, the concept of R2P does not have enough traction to trump the traditional notions of sovereignty. The design of the legal system is such that when these two norms are at odds, the legal standoff basically maintains the status quo, because unlike R2P, sovereignty has a legal foundation.

CHAPTER SIX: CONCLUSIONS

In order to make grander conclusions about the impact of R2P on sovereignty after the Libyan and Syrian crises, we must go back to see what conclusions we have arrived at along the way. This thesis began with a discussion about sovereignty. Common perceptions, legal foundations and theoretical input were explored to capture what the concept of sovereignty means in today's international realm.

It was presented in the chapter on sovereignty that the concept is not absolute, but instead it can be characterized as complex, sometimes relative and even possibly multi-levelled. Despite the fact that sovereignty is not absolute, there are certain traits of sovereignty which are easily observable and together they make a loosely defined model of the concept commonly referred to as either Westphalian sovereignty or traditional sovereignty. Some of these traits include territoriality, non-interference, monopoly on coercion within the state, and self-governance. Quite often these characteristics of sovereignty are emphasised in foundational documents of many institutions of international governance such as the UN and the EU. Moreover, the explicit commitment to traditional sovereignty in the UN Charter as well as other legal frameworks gives the concept a solid legal foundation in international law.

Despite the fact that many aspects of traditional sovereignty have a firm legal foundation; there are certain specific limitations within the legal system which make

sovereignty not absolute. There are many realms of international law that may limit the exercise of Westphalian sovereignty, however many of such agreements are entered into voluntarily and through consent by sovereign entities. The most significant limit on sovereignty that exists in international law is the designated mechanism for exception on the norm of military non-interference by outside actors. This mechanism that reserves the right for outside military action against a sovereign entity is embedded under Chapter VII of the UN Charter.

The existence and practice of the mechanism that decides on the exception in relation to state sovereignty can lead us to a two-fold conclusion on the nature of sovereignty. The existence of the mechanism may suggest that sovereignty is in fact multi-tiered. On the first tier we have traditional or Westphalian sovereignty, and under all normal circumstances states are entitled to exercise it. The second tier may suggest that the international system itself is sovereign in its own way, particularly its decision making manifestation of the UNSC. This supranational sense of sovereignty may in fact be superior to the Westphalian model to state sovereignty because it can override it. On the other hand, the practice of compromising sovereignty by the international community at large or a collection of outside actors may suggest that sovereignty should be modelled as 'organized hypocrisy' as suggested by Krasner. His model puts forward the notion that we create the rules of sovereignty and abide by them, yet it is within the normative range to compromise Westphalian sovereignty when it is in competition with more precedent principles in specific contexts. This arrangement of sovereignty is satisfactory to the

international community because it allows flexibility for necessary action in extraordinary circumstances.

In other words, we can conclude that the concept of sovereignty exists in tension with other principles and there are mechanisms and norms by which it can be compromised, regardless of the fact that that it is the norm states under all normal circumstance. Modifications to this competing tension, both in the legal and normative frameworks arise from time to time to reflect the challenges of the international system. R2P, especially in its original form, is designed to shift the balance in these institutionalised changes to favour humanitarian intervention over the principles of sovereignty.

R2P's emergence can be traced to the rise of the concept of contemporary human rights since the end of World War Two and the rise of the concept of human security since the end of the Cold War. This humanitarian shift came to dominate the politics of intervention by the 1990's after strategic concerns of the Cold War era began to lose their significance. However, the notion of humanitarian intervention was weak, and the cause lacked normative and legal weight in the international system to be able to trump traditional sovereign principles in times of severe crises. The original, broader R2P proposition was designed to reform both the legal and normative frameworks in order to fill in the discrepancy between the growing challenges of human suffering in intrastate warfare and the international community's disability to deal with them.

Despite the original R2P's broader ambitions for ground-breaking reform, R2P's principles were adopted partially by the UN as a norm, foregoing any legal reforms to the

decision making process. The adoption of R2P at the UN in 2005 basically encompassed that all the member states agree that it is within the realm of sovereignty that each state has the responsibility to protect its population from humanitarian atrocities, and moreover it is also the responsibility of the collection of sovereign states to provide that protection to the population of the state in question in the instances of inability or unwillingness of that state to live up to its newly formed sovereign responsibility.

This shift in the perception of sovereignty in the international community added further complexity to the tension that sovereignty has in relation to other concepts, in this case protection of human life. Despite the rhetorically remarkable alterations to the definition of sovereignty in theory, the fact that R2P is only a normative framework without legal standing makes this shift hard to assess in practical terms. Moreover it is hard to do so due to the fact that it has been less than a decade since R2P's adoption in the UN. However, in its short life, R2P's principles have been put to the test a number of times in recent years.

In order to assess the impact of R2P's ability to live up to its ambitions to redefine the practice and exercise of traditional sovereignty in times of humanitarian crises we have taken a look at two of its most vivid testing grounds: the civil wars in Libya and Syria. In Libya, we saw that R2P's normative trajectory was followed with quick precision. We saw that the international community utilized the normative framework of R2P in synchrony with the legal framework of the UNSC to compromise the aerial aspect of Libya's territorial sovereignty along with the sovereign norm of monopoly on legitimate means of coercion to intervene in the Libyan crisis.

However, the credit for the decision on the intervention in the Libyan crises cannot be attributed solely to R2P. There were a number of other factors which played into the equation. The military situation on the ground allowed for a relatively easy aerial intervention to be effective in preventing the Gadhafi forces from executing their military campaigns against the rebels and the civilians. But perhaps, even more importantly, the geo-strategic factors of the Libyan conflict were favorable for intervention. The conflict in Libya was largely internal, and apart from being part of the Arab Spring movement, the conflict was not a significant representation of larger political and military struggles in the region and around the world. The main objective of the Libyan revolt was to overthrow a long term dictator who has not only alienated his own people, but more importantly has made more enemies amongst other regional and global powers than he did any allies who would be greatly interested in keeping him in power. His regional neighbours and most of the world powers were either indifferent to his downfall or even interested in it. After multiple decades of his rule, the whole concept of Libyan sovereignty became associated with Gadhafi himself, and therefore the compromise of Libyan sovereignty in the name of humanitarian principles was an easier decision to make.

We can therefore come to a conclusion that the strong utilization of R2P principles cannot be fully explained by the merits of R2P itself, or its prominence as an international norm. Instead it is better to explain the Libyan intervention as a scenario where the concept of R2P in the decision making process was able to emerge to the

forefront, because it was not hindered by a lot of factors which are likely to emerge as stronger considerations in many other scenarios.

There is a second critical dimension to the relationship of R2P and the intervention in Libya, and that is how R2P was re-evaluated after it inspired the intervention by certain important actors whose legal consent is necessary for the UNSC framework to implement action. Russia and China retrospectively regretted their decision to allow the Libyan intervention because it was perceived by them that R2P was a pretext for a gross violation of sovereignty and an undeclared objective of physically dismantling the Gadhafi regime. Despite the fact that Gadhafi was not a key ally, the idea of forced regime change is very uncomfortable for the Russia-China wing of the UNSC. After their observations of how the intervening powers overstepped their mandate, Russia and China saw R2P as a dangerous precedent, and this caused them to reverse their already weak and sceptical support for the principle. In their eyes, the R2P norm did not live up to its objective and noble principles to which they agreed to in 2005 and allowed to be test-ran in Libya in 2011. Therefore we can conclude that despite the initial momentum with which R2P was able to effectively guide the decision making process to address a humanitarian crisis, the controversial implementation of R2P in Libya was a setback for the normative framework in a broader context.

This setback for R2P can be clearly evident in the case of the Syrian conflict. The weakened framework of R2P ended up not being the dominant factor in the decision making process of the UNSC, causing a deadlock on the issue for over two years, meanwhile the situation on the ground continued to unfold as one of the biggest

humanitarian disasters of the recent years. The post-Libyan understanding R2P was also up against a multitude of strategic factors. The military context of the Syrian Civil War was much more difficult than it was in Libya. More importantly, the Syrian conflict turned into a microcosm of larger political tensions: the long-term struggle between Shias and Sunnis in the region, the tensions between Turkey, Saudi Arabia and Iran for regional dominance, and even the larger US vs Russian interests in the region. Unlike, Gadhafi, the Assad regime had significant allies along religious, political, strategic and military lines.

After examining the role of R2P in the recent conflict in Libya and Syria, we can see that R2P has so far shown weakness in its attempt to truly redefine sovereignty in a way that it would be conditioned on the aspect of ability and will of the reigning regime to protect civilian populations. This can be evident in three key weaknesses of R2P as the concept stands today in relation to sovereignty.

The first and perhaps the most significant weakness of R2P is its weakness in the legal realm. R2P, as it was adopted in 2005, is not legally binding, and the framework of R2P is not a legal framework. It was designed to guide the legal framework of the UNSC to make difficult decisions about state sovereignty in exceptional times of crises. Even though we have seen this implementation work out in Libya, R2P has failed to guide the decision making process in a number of other conflicts, especially the two and half years of the Syrian Civil War. Unlike, R2P, sovereignty has a very powerful legal precedent, and in any legal deadlock or indecision, the status quo of international law will always protect state sovereignty as long as that state is not being aggressive to another state.

Therefore whenever there is an attempt to use R2P to guide the legal process in a politically contested situation, R2P is likely to have negligible effect.

The second major weakness of R2P is lack of perceived objectivity. In theory, R2P principles are supposed to set the objective norm of responsibility against which legitimate claims to sovereignty can be evaluated by the international community. R2P's objectivity is seen with suspicion by the eastern powers. R2P originated in the west, and in the eyes of Russia and China, R2P remains a tool of the west to justify their strategic military ambitions. R2P has therefore failed to convince the eastern powers that at this time it could be carried out solely to protect civilians. Moreover, in theory, R2P could be hijacked to justify a strategic intervention by any superpower, not only a western one, and therefore it is a difficulty that R2P principles may face well into the future.

In contrast, the concept of sovereignty enjoys a certain level of objective legitimacy in legal and normative spheres. For example, many countries in the world may radically disagree with the policies of a certain state, but in many cases that state still has objective sovereignty in the international system and the UN. Certain states may choose not to recognize the legitimacy of that sovereignty and break diplomatic ties due to subjective differences, but objectively that rogue state will still be sovereign in the larger realm of international relations.

The last critical factor where R2P has shown weakness is its inability to overshadow strategic concerns. This factor goes hand in hand with the lack of legal influence and the lack of perceived objectivity. Even though all countries agreed on the importance of protecting civilians from humanitarian atrocities in a larger rhetorical

claim, in many contexts humanitarian concerns are going to come secondary. The success of R2P to guide the decision making process in Libya can be explained by the lack of strategic objections to the compromise of Libyan sovereignty. In Syria we can see that the concept of sovereignty is used by certain powers to uphold their strategic interests and prevent intervention. Because of traditional sovereignty's firm normative and legal standing, it is quite possible that the trend to use the concept to justify the lack of intervention will be used again in the future. Traditional sovereignty therefore is a stronger tool of international relations in a strategic conflict than R2P is at this point in time.

Given these three factors we can therefore conclude that R2P's adoption is a strong rhetorical message about what the concept of sovereignty entails in the contemporary international system, yet in implementation it has shown weakness to reform the practice of sovereignty in times of humanitarian crisis. If we perceive the emergence of R2P as an attempted shift to redefine the concept of sovereignty, perhaps it has begun, and in theory and rhetoric it has been able to gather consensus. However the shift is not complete and perhaps not even gaining momentum in the practical aspects of international relations. The normative and legal aspects of the international system are designed to favour traditional aspects of sovereignty, unless the international system itself decides that state sovereignty can be compromised.

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