PUBLIC INTERNATIONAL LAW

FAILED STATES AND THE RESPONSIBILITY TO PROTECT

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I. Introduction

On the heels of the Iraq war debacle, the Afghanistan debacle and the Yemen failure, could we say that we have already heard the last thing about the right to protect? Fast forward to 2022, the Ukraine war gains steam and the entire “free world” coalesces in support of the Ukrainian cause against Russia. Once again, an outpouring of the latest novelties of military equipment, and a big amount of cash garners the coffers of the Ukrainian president, Volodomir Zelensky who becomes in a sudden the symbol of the resistance of the Ukrainian people. That same president engulfed not long-ago by a controversy joining president Biden to Burrisma Holding, a gas and Oil Ukrainian company and a corruption scheme or as US Congressman John Ratcliff calls it a “pay for play” linking accusations leveled against the son of the president of the US Hunter Biden to Selling the office of the United States to external foes. Though the reasons of this war are quite debatable, the manner in which it is conducted raises eyebrows and brings to light a general problematic about the Right to Protect. Is it the financial capabilities that decides the fate of intervention? Is it the strength of the foe country? Is it the geographical importance of the contested territory or perhaps the platonic conception of supporting a righteous people in need? If that holds true, why did this not motivate a Syrian intervention where at least a million people have been documented to be murdered by their own government? In an attempt to understand the factors involved, let alone the decisions themselves this paper is an effort to explore the responsibility to protect as a concept in Failed and weak states. First of all, how do we define a state in terms of weakness and strengths.

II. Body

1. Strong, Weak and Failed States - Overview

Mahatma Gandhi once said: "A nation's culture resides in the hearts and in the soul of its people", nevertheless in some corners of the world, a new pattern of failed nation states is emerging; government disintegration, civil disobedience, strife and economic deprivation contribute to state anarchy which in turn paves the road to state failure. As those states descend into chaos, not only do they imperil their own people, but threaten the stability of their neighbors. (Helman, 1993). It becomes henceforth of paramount importance to find a cure to the states that are failing noting that the sooner this failure is remedied, the lesser the impact on environment; refugees' spillover, political instability and insurgency shake the core of neighboring countries and threaten their very existence. In that prospect saving states from failure has proven to be a new and different challenge. That being said, what are the causes of state failure?

In his work "Failed States, Collapsed States, Weak States: Causes and Indicators" (ROTBERG, 2003) [1]argues that Nation States exist to provide a "decentralized method of delivering political public goods to persons living within designated parameters". They ideally serve the best interest of their people by bending international interests in favor their own economic social and political interests. States succeed or fail to the extent of their good management of those variables. (ROTBERG, 2003) all but notices the hierarchy of those variables on top of which resides the supply of security, and specifically human security; This is ensured by an enforceable rule of law, security of properties and a powerful enforcement of contracts, by a legal system that works ensures a certain level of equality under the rule of law.

(Thürer, 2008)[2] explores the political aspect of responsibility of states, which are expected to ensure their citizens the ability to participate freely in the political process, the right of transparent political representation, and candidacy for that representation, the respect of the

[1] ROTBERG, R. I. (2003). *State failure and state weakness in a time of terror.*

[2] Thürer, D. (2008). An Internal Challenge: Partnerships in Fixing Failed States. *Harvard International Review*, 42-45

integrity of institutions especially the judicial system, and flexibility toward dissent and difference in opinion, and most importantly human rights.

On the other side of the spectrum, (PILBEAM, 2015)[1] outlines the basic citizens' rights that states ought to ensure, such as medical and health care, schools and education in its various formats, and state infrastructures and commodities, such as railroads, roads, harbors, and the necessary tools for a successful commerce such as communication infrastructure, a good banking system and a stable local currency (fluid central bank) a beneficial fiscal policy and an economy that provide fair opportunities for prosperity to the widest scope possible of its society.

In general, a state is deemed strong week or failing to the extent of its performance on the above listed parameters.

Failed and Collapsed States

In his description of Failed States (Ghani, 2008)[2] outlines their tense aspect, and sees them as deeply conflicted by warring factions. In most failed states government's security forces and to larger extent the military are opposed to revolts led by one or several rivals which in turn tend to be opposed to each other's themselves. The official government might face dissent that may gradually progress into insurgency, civil unrest motivated by broad discontent among the population, and a fierce opposition directed against the official state or groups within the state. Yet what signals the failing aspect of a state is the permanent aspect of dissent that is directed against the entity in power with the broad intent of power sharing or the request of the very decentralization of government motivating the manifestation of revolt.

[1] PILBEAM, B. (2015). *International Security Studies.* Routledge.

[2] Ghani, A. (2008). *Fixing Failed States.* Oxford University Press.

(Woodward, 2017)[1] attributes the civil wars emanating from state failure to the pre-existing ethnic confessional and cultural enmity among constituents. The existential fear between the government and the less fortunate factions, ignites animosity within the state and draw a wedge between its constituents on one hand and the ruling entity in government. Greed and corruption feed the antagonism especially when its propelled by the growing aspiration to loot government assets and national natural resources. (Brooks, 2005)[2] goes great length in attributing the phenomenon to disharmonies between communities. The simple fact of unfair distribution of state wealth among the communities which have different ethnic religious and cultural backgrounds is much more a contributor rather than a foundational flaw source of nation failure.

(Chomsky, 2001)[3] emphasizes on the inability of failed states to secure their frontiers; they tend to lose control over swathes of territory. State disintegration means the limitation of the exercise of official authority over specific parts of territory inhabited by specific factions of the people. It can be argued that the extent of state geographical sovereignty is a solid indicator to the level of state failure. How much government control is exercised on remote areas is a bell weather indicating the level of inclusiveness of the contested government. The faltering of the state is manifested by the inability to discharge security and legal duties nationwide, as citizens face the prospect of anarchy exercised by rebel groups.

In his article "Incubators of terror" (Piazza, 2008)[4] raises the prospect of criminal violence as a manifestation of state failure; Regimes prey on their people. Under the guise of ethnic/cultural disparities, they tend to project culpability on adversary groups and regard them as hostile. The government ability to project governance weakens and its criminality is turned toward its citizens. Arms and drug trafficking take steam, and the rising power of warlords becomes the

[1] Woodward, S. L. (2017). *The Ideology of Failed States.* Cambridge University Press.
[2] Brooks, R. E. (2005). Failed States, or the state as failure. *The University of Chicago Law Review*, 1159-1196
[3] Chomsky, N. (2001). *Failed States: The Abuse of Power and the Assault on Democracy.* macmillan.
[4] Piazza, J. A. (2008). Incubators of Terror: Do Failed and Failing States Promote Transnational Terrorism? *International Studies quarterly*, 469-488.

major grantor of security to citizens who in return pledge solidarity to the growing regional authority of the faction.

State Failure is also exhibited by the limitation of government services rendered by institutions that are increasingly dysfunctional. (Kraxberger, 2006)[1] describes a failed state that has neither the will nor the ability to discharge core jobs of a modern day's nation-state; A rubber stamp Legislature, and a general public perception of the unreliability of the judiciary in providing remedies for legal disputes, cement the flawed reality of the state institutions. Though the military preserve some sense of integrity, it largely deviates from its conventional purpose which is to secure borders and becomes a politicized tool in the hand of the one-sided state.

(Carter, 2012)[2] observes the melting infrastructure as a typical indicator of the impairment of a state. As Corrupted politicians and state administrators grow greedy in embezzling state funds, the financial resources dry out and wear hacks into state assets which, with the lack of repair and refurbishment gradually falters to reach the level of practical non-usability. Nationals especially in remote geographical locations gradually grow the sense that they are left alone by the central government. The government is no longer present to secure a certain level of education and a coherent national cultural background, which disintegrate to become much more similar to sponsor states that stands behind local insurgencies. The fading ability to provide a social security threshold translates into the proliferation of diseases which overwhelms any health infrastructure that continues to exist.

In his work titled Governance and Corruption (Quah, 2009)[3] establishes the link between sate failure and corruption, which reaches unusually destructive level. The deterioration of corruption

[1] Kraxberger, B. M. (2006). Failed states: temporary obstacles to democratic diffusion or fundamental holes in the world political map? *Third World Quarterly*, 1055-1071.

[2] Carter, C. (2012). Pre-Incident Indicators of Terrorist Attacks: Weak Economies and Fragile Political Infrastructures Bring Rise to Terrorist Organizations and Global Networks. *Global Security Studies*, 66-77

[3] Quah, J. S. (2009). Governance and Corruption: Exploring the Connection. *American Journal of Chinese Studies*, 119-135.

levels is a trademark of failing states. It becomes attributable to every facet of government compartment, to reach a widespread institutional corruption scale, tainting every transaction produced by government. State ledgers becomes soaked with fictional transactions to the detriment of law-abiding citizens, and security in itself becomes a service rendered by the existing force of constraint in return of financial illicit benefits.

(Blaustein, 1995)[1] explores the rare instance of collapsed states: Government services are rendered by ad hoc means; the general sense of security is the survival of the fittest concept. The exercise of state authority is simply non-existent. Government main functions are void.

Weak States

State failure is not inevitable. Yet it is the protracted case of prolonged state weakness accompanied by the will to fail manifested by the incumbent that leads to generalized failure. (Ratner, 1993)[2] outlines the existence of state services in weak states but to a limited extent. The State delivers basic services like schooling, medical care, security, some financial stability and territorial cohesiveness in addition to the manifestation of state sovereignty, yet how broad those services are provided indicates to what extent state decay has become prevalent. State Strength exhibition differs from one region to the other, depending on the general feel of belonging of the cohabitants to the state. The application of the rule of law can very well be selective, and that is attributed to the level of corruption and animosity the government hold toward one or more dissenting faction. The infrastructure could be well established in some geographical locations yet in total decay in other regions which are beyond the reach of the central state. The government itself could be selective in its application of its duties from one congregant to the other, depending on the endorsement this very congregant provides to the central government. In the stable regions of government financial opportunities and prosperity

[1] Blaustein, J. (1995). *Collapsed States: The Disintegration and Restoration of Legitimate Authority.* Lynne Rienner Publishers.

[2] Ratner, S. R. (1993). Saving Failed States. *War*, 3-20.

may be within reach of the society. And weak states may often find opportunity to reassert itself in weakened territories, but it is its very willingness to do as much that can lead to its improvement toward a more prosperous outcome.

Lebanon: A case of a weak state on the edge of failure

In order to have a better understanding of the progression of weak states, Lebanon stands as a concrete example of a weak state pivoting between progression and failure. Though the relatively small Mediterranean country has experienced disrupted periods of foreign mandates, the last periods to be accounted for are the ones under Syrian hegemony and the following era of Independence.

Lebanon During the Syrian Hegemony

Before the post war era, Lebanon was almost an example of a collapsed state. In his work titled "The Lebanese Post Civil War Novel" (Lang, 2016)[1] produces an accurate picture of the Lebanese state of play at the eve of the Taef Accord; It had disintegrated almost entirely. Regardless of the nature of the Syrian intervention, under the Syrian Mandate hostilities were ended, and a governmental legitimacy was rediscovered as the state found space once again to discharge its responsibilities locally and abroad. The Syrian hegemony, though oppressive by nature provided security assurances by denying the warlords presiding the war the ability to expand their influence in the post war era. It also mandated the cooperation between the belligerent Muslim and Christian communities. Syrian monopoly in exercising restrictive power dissipated the fear of intra factions' hostility and traded attacks on key critical resources. Once again Lebanon's entrepreneurial spirit was able to transform its prognosis into a positive one within the security guaranteed by the Syrian restrictive presence.

[1] Lang, F. (2016). *The Lebanese Post-Civil War Novel: Memory, Trauma, and Capital.* Palgrave macmillan.

Lebanon after the Syrian Withdrawal

Without a doubt Lebanon faced a crossroad on the eve of the Syrian withdrawal from its territories; Regardless of the political ramifications, this occupation withdrawal provided Lebanon with a unique opportunity to display governance aptitude, which at the very best of cases failed to materialize. Fast Forward 15 years Lebanon is showing again the indications it is morphing into a failed state. When a catastrophic explosion hit Beirut port in 2020 the inability of the government to provide basic services was highlighted. (Betz, 2021)[1] The cited explosion was a result of the ignition of 2800 tons of Ammonium Nitrate seized by port officials and stored in Hanger 12 without any kind of security or protection. The ensuing display was rogue enough to outline the state of failure. The Lebanese government had to wait for massive donations consisting of emergency field hospitals in order to be able to attend to the victims' wounds. In the period succeeding the explosion the political wobbling was at full display culminating in the resignation of the prime minister and (state of febrility of the executive) the failure to conduct a partial investigation in the Judiciary, and the hostility between political constituents all happening at the tune of massive dissent rocking the streets of Beirut. This was not the first time a violent crime was committed in Lebanon which amounted to a political one. (Gardner, 2020)[2] Starting February 2005 and throughout the ensuing years Lebanon had followed a trend of political assassinations. In his work titled A Nation Brought to Its Knees, (Gardner, 2020) describe the prevalent Lebanese state of play as follow: "In August 2020, the country was collapsing from a staggering set of financial liabilities, budget deficit, banking sector, national currency and economic crisis. Lebanon is bankrupt. According to the finance ministry, its banking system has lent 70 percent of its assets to the government, either directly or through the Banque du Liban, the central bank. Lebanon selectively elected to abstain from honoring its foreign financial obligations in March, for the first time. But total losses in the banking system including the central bank are reckoned by the government to be roughly two and a half times the size of an economy,

[1] Betz, F. (2021). Political Theory of Societal Association and Nation-Building: Case of the Failed State of Lebanon. *Open Journal of Social Sciences*, 333-384.

[2] Gardner, D. (2020). A Nation Brought to Its Knees. *Financial Times*.

shrinking too fast to measure. North of 30% of the Lebanese people are formally jobless, and half of those qualify within the poverty line. The Lebanese lira has lost 80 percent of its value since the crisis erupted, with a revolt against the political elites last October. Hyperinflation is near. The middle class is dwindling and is evolving toward poverty and the poor themselves are pretty much left on their own.

After the Beirut port explosion saga, Lebanon struggled without government for a relatively long period of time, up ended by the bickering of power-hungry politicians for the prospect of government formation. (Suad, 2011)[1]

All that being said, we can fairly conclude that the Lebanese case begs the question of a failed state in the making.

Somalia a Case of a State in Utter failure and a failed intervention

Background

There has been no government in Somalia ever since the collapse of the Siad Barre regime 1991. (Verhoeven, 2009)[2] the International community's effort to stich Somalia' fabric together have all but failed for as many times it was attempted, and the central and southern regions of Somalia, scenes of endless hostilities, and the displacement of hundreds of thousands of people, witnessed famine and despair of its various communities, which were becoming increasingly vulnerable. (Hesse, 2015)[3]

The 2004 transitional Federal Government, simply didn't deliver; It did not succeed in putting together a transition. The government constituents were accused of corruption and its leadership

[1] Suad, J. (2011). Political Familism in Lebanon. *SAGE JOURNAL*, 150-163.

[2] Verhoeven, H. (2009). The self-fulfilling prophecy of failed states: Somalia, state collapse and the Global War on Terror. *Journal of Eastern African Studies*, 405-425.

[3] Hesse, B. J. (2015). Why Deploy to Somalia? Understanding Six African Countries' Reasons for Sending Soldiers to One of the World's Most Failed States. *The Journal of the Middle East and Africa*, 329-352.

was marred by rivalries which led to the fundamental lack of cooperation, which in its turn was the main culprit behind the state inability to discharge the main duties of the executive. The state's legislature was vertically divided and had a very fluid tendency toward hostility and fist fighting rather than solving the plethora of problems hitting the country head on. (Jennings, 2007)[1]

In 2007, Under the blessing of the United Nations Security Council the African Union Soldiers ventured into Somalia with the intent to stabilize the country in a peace keeping mission. A coalition of six nations contributed with more than 21,500 soldiers to form the African Union Mission in Somalia (AMISOM). Those peace keeping missionaries paid a heavy price of 3,000 troopers. Far from having noble purposes every single contingent of the six candidate nations indulged a self-enrichment strategy through the military participation in AMISOM. (Oxnevad, 2018)[2].

Donors and UN agencies, focused above all on building a central leadership and a central hierarchy of power, which did not play well with local constituents, that were already in permanent deadlock. That endeavor did no favor to the already weak faith that Somalis have in the international community. The consequence was the perception that the international community was more a burden than a solution. The people of Somalia had a general sense that the international intervention was an imperialistic conspiracy with the purpose of eating to their right of self-determination. (Lemay-Hébert, 2018)[3]

As the international community's patience drew thin, the Garowe process took place, involving the transition entity and the regional states in an attempt to end the transition period and move toward a more permanent solution. The Somali factions were constrained to sign a constitution

[1] Jennings, K. M. (2007). Failed States' and 'State Failure': Threats or Opportunities? *Globalizations*, 475-485

[2] Oxnevad, I. (2018). Spying on chaos: the Somali model of intelligence on failed states. *Intelligence and National Security*, 675-686.

[3] Lemay-Hébert, N. (2018). From Saving Failed States to Managing Risks: Reinterpreting Fragility Through Resilience. *Governance and Political Adaptation in Fragile States*, 75-101.

under the ever-growing influence of the UN Political Office in Somalia. A government structure was then established though flawed by the lack of representation of some factions, in addition to an extended influence of Turkey and members of the Organization of Islamic cooperation. Two following conferences in UK and Turkey mounted the pressure on the factions to deliver, which ended with a hastily patched constitution. This constitution, though more inclusive deprived the Somali people of a fair shot at discussing it before promulgation. (Waal, 2020)[1]

Nevertheless, the Somali model, managed to surprise the world in its unique progression; within a short period of time it was able to elect a new speaker, a new president, and a new prime minister all of which were far from the perception of international influence. They were also able to constitute a smaller cabinet which by all means could be considered a good precursor in the hunt of reducing corruption. Two important posts in the cabinet were given to women, and the sovereignty of the state was gradually restored to encompass the control of Kismayo, a rural region long held by the Al Shabab. (Hammond, 2013)[2]

Whether this uptick in the will of self-determination will be a success or not remains to be seen but the sheer amount of achievements that has been put on display is a vote in favor of the latter at the detriment of the tendency of the world to intervene.

[1] Waal, A. d. (2020). Somalia's disassembled state: clan unit formation and the political marketplace. *Conflict, Security & Development*, 561-585.

[2] Hammond, L. (2013). Somalia rising: things are starting to change for the world's longest failed state. *Journal of Eastern African Studies*, 183-193.

2. UN efforts & emphasis on human rights

a. Articles 6 & 7 of the charter of the United Nations
b. Resolution 1956 on the Right to Protect
b. 2005 Resolution UNGA
c. 2006 Resolution UNSC: Affirming the right to protect and the commitment to enforce protection

The Un Charter was created at the dusk of world war II in the shape of a treaty; In the post war era this code has been confirmed by the many practices that did set a precedence, and henceforth did elevate it to some kind of a constitution of the United Nations. (Fassbender, 1998)[1]. This constitutional depth of the community of nations, has created a living instrument as U.S. president Truman called it in the final plenary session of the San Francisco Conference. But why was that notion of constitution introduced in International Law? We could assume that the main reason was to distinguish treaties from other international agreements. It is an instrument establishing the main features of any given country on the ground of Public International Law. Still, when the term constitution is brought up, the direct reflection is a hierarchical model of legal norms, yet the United Nations is based on the concept of treaties between nation and therefore it comes to our understanding that the notion of international constitutionalism has been built for the purpose of designating "a stronger force of law" with a higher rank compared to others. (Kelsen, 1999)[2]. Without a doubt, as much as courts have the purpose of settlement of disputes between individuals, the United Nations has a purpose enshrined within its charter which is no else than solving conflicts among nation state members, with great emphasis on the peaceful nature of the Solution. In this spirit Chapter 6 of the Un charter is dedicated to the peaceful tendency of solving disputes.

[1] Fassbender, B. (1998). The United Nations Charter As Constitution of the International Community. *Journal of Transnational Law*, 529.

[2] Kelsen, H. (1999). *General Theory of Law and State.* wedberg.

The concept of the "Responsibility to protect" was adopted by all UN member states in the Summit of 2005, arguably the largest in terms of World's Heads of governments. To date the Right to protect has been invoked in more than 80 UNSC resolutions throughout the world, as well as 50 Human Rights Council Resolutions and 13 UNGA resolutions. (Wright, 2017)[1] believes that these motions and their coercive related measures have shed the light on the possibility of a collective action with the purpose of protecting people at risk of atrocities, when all other options fail. Yet a fundamental legal question ensues in terms of international law; When does the purpose deterring atrocities outweigh the necessity to respect sovereignty? (Autesserre, 2014)[2]

In his work, "From humanitarian intervention to the responsibility to protect" (Evans G. , 2006)[3] questions the choice of the nature of intervention if not the intervention in its entirety at all;

Article 2 (7) of the UN Charter and Article 15 (8) of the Covenant of the League of Nations

The current Charter of the United Nations starts with the phrase, "WE THE PEOPLES OF THE UNITED NATIONS DETERMINED." This phrase in itself differs a lot from the expression used in The Covenant League of Nations when the Peace Treaty of Versailles was signed on June 28, 1919. Back then, The Covenant read: "LES HAUTES PARTIES CONTRACTANTES", meaning "THE HIGH CONTRACTING PARTIES." This change in terminology evidently shows the shift from considering states as "mere contracting parties" to focusing more on the "people living in those states." It is no secret that a lot has changed from the Covenant League of Nations to the present UN Charter, as historic developments, including WWII, reformed much of the geopolitical world. However, as the current Charter focuses more on the "individuals" in those states, we take a

[1] Wright, Q. (2017). Intervention 1956. *Cambridge University Press*, 24.

[2] Autesserre, S. (2014). *Peaceland: Conflict Resolution and the Everyday Politics of International.* Cambridge University Press.

[3] Evans, G. (2006). From humanitarian intervention to the responsibility to protect. *Heinonline*

glimpse at how it is reflected in its articles, as well as, the resolutions that came from the UN General Assembly and Security Council, with regard to humanitarian problems.

First of all, Article 2 – paragraph 7, outlines the impossibility of any state to intervene in the domestic matters of another state without submitting such matters to settlement under the present. Nevertheless, this would not hinder or influence the application of the enforcement measures under Chapter. (Charter, 1945)[1] In the modified charter, the word "essentially" replaces the term "solely" mentioned in Article 15 – paragraph 8 of the Covenant, "If the dispute between the parties is claimed by one of them, and is found by the Council, to arise out of a matter which by international law is solely within the domestic jurisdiction of that party, the Council shall so report, and shall make no recommendation as to its settlement." (Covenant, 1919)[2] The replacement of the expression "solely" with "essentially", shows an enlargement of the scope of protection of national jurisdiction by this organization. (Labaki, 2013)[3]

On the other hand, Chapter VII of the Charter, titled, "ACTION WITH RESPECT TO THREATS TO THE PEACE, BREACHES OF THE PEACE, AND ACTS OF AGGRESSION", which consists of Articles 39 to 51, shows the changes that sovereignty has witnessed throughout the years. Thus, it is no longer absolute, especially with new concepts like the self-determination of minorities to choose their own political and economic fate, globalization and economic liberalism emerging in the twenty-first century, and the development of social networks that influences world public opinion. (Labaki, 2013)[4] As a result, human rights are no longer the concern of the internal jurisdiction of a state, rather they have become an international concern. For example, the death of Mahsa Amini in September 2022, did not only spark civil unrest and protests against the government of Iran within the state, but also, sparked international concern in countries all

[1] Charter, U. (1945, June 26). *United Nations*. Récupéré sur Article 42 & 43 of UN Charter: https://www.un.org/en/about-us/un-charter/full-text

[2] Covenant. (1919, June).

[3] Labaki, D. G. (2013, November). Intervention and State Sovereignty: The Dilemma of Armed Humaitarian Intervention . p. 12

[4] Labaki, D. G. (2013, November). Intervention and State Sovereignty: The Dilemma of Armed Humaitarian Intervention . p. 12

around the world. With that, a new wave of sanctions has been imposed on the Iranian government and its officials, making the rights of the Iranian citizens an international problem, rather than simply a national one. (Commissioner, 2022)[1]

UN Agenda for Peace - 1992

In 1992, the Secretary General of the United Nations, Boutros Ghali, released his report after the Summit Meeting of the Security Council on 31 January 1992, entitled, "An agenda for peace: preventive diplomacy, peacemaking and peace-keeping." This report, was the first of its kind after the Cold War, and through it began a new era in rebuilding international relations, as the Security Council approved a fundamental shift in allowing intervention and breaching a state's sovereignty, in cases of severe human rights exploitation between the years 1990 to 1993. (Labaki, 2013)[2]

2005 World Summit

After the events that have taken place in the 1990s from the Balkans to Rwanda, as well as NATO's military interference in Kosovo, Francis Deng, South Sudan's first independent ambassador to the UN, came up with the concept of "the right to protect", also known as "R2P." Subsequently, the Canadian Government set up an International Commission on Intervention and State Sovereignty (ICISS), which issued a report in 2001, entitled "The Responsibility to Protect", which was based on Deng's concept. (Protect U. O.)[3] Consequently, the 2005 World Summit that took place September 14 to 16 at the UN Headquarters in New York, brought together more than 170 heads of state and government, who in the end, after overlooking

[1] Commissioner, U. H. (2022). *Iran: Stop sentencing peaceful protesters to death.* UN Office on Human Rights. Retrieved from https://www.ohchr.org/en/press-releases/2022/11/iran-stop-sentencing-peaceful-protesters-death-say-un-experts

[2] Labaki, D. G. (2013, November). Intervention and State Sovereignty: The Dilemma of Armed Humaitarian Intervention . p. 12.

[3] Protect, U. O. (n.d.). Responsibility to Protect. Retrieved from https://www.un.org/en/genocideprevention/about-responsibility-to-protect.shtml

several reports, such as, the report on the High-Level Panel on Threats, Challenges and Change, entitled A more secure world: our shared responsibility (A/59/565) and the Secretary-General's 2005 report In Larger Freedom: towards development, security and human rights for all (A/59/2005), supported the principle that State sovereignty carried with it the obligation of the State to protect its own people, and that if the State was unwilling or unable to do so, the responsibility shifted to the international community to use diplomatic, humanitarian and other means to protect them. (Protect U. O.)[1]

The Articles that focused mainly on the "Right to Protect", were first, article 138 which emphasized on each state's responsibility to shield its population from genocide and crimes against humanity atrocities, those very states in the above-mentioned article pledge to work tirelessly for those goals and, the United Nations shall contribute to the encouragement of those states to shore up those responsibilities and work collectively for the establishment of early warning mechanisms.

In addition, Article 139, speaks plainly about the responsibility of the international community through the United Nations to use all appropriate capabilities, whether diplomatic, humanitarian or peaceful means in line with chapter VI and VII of the charter of the United Nations, to help safeguard populations from war atrocities be it ethnic cleansing or crimes against humanities in general. The United Nations pledges collective action in a time effective manner through the UNSC 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 manifestly fail to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity.

The article outlines the dire need for the UNGA to keep a permanent consideration of the R2P of populations from war atrocities and crimes against humanity and their fall out, bearing in mind

[1] Protect, U. O. (n.d.). Responsibility to Protect. Retrieved from https://www.un.org/en/genocideprevention/about-responsibility-to-protect.shtml

the principles of the Charter and international law. The international Community takes the commitment to aid States appropriately in building the capacity to protect their populations from the above-mentioned crimes and to assist those under stress, before crises and conflicts occur.

In article 140 the International Community ensure the full support to the mission of the Special Adviser of the Secretary-General in the Prevention of Genocide. (Protect U. O.)[1]

Hence, we can conclude from the 2005 World Summit that the responsibility to protect is based on three main concepts. First, is the responsibility of each State to protect its population. Second, lies in the responsibility of the international community to assist states in protecting their populations. And third, involves the responsibility of the international community to protect when a State is manifestly failing to protect its population. (Protect., n.d.)[2]

UN Security Council Resolution 1674 (2006): Affirming the Right to Protect Civilians

The United Nations Security Council, after long negotiations which endured 6 months, issued Resolution 1674 in its 5430th meeting on the 28th of April 2006, reaffirming its dedication to the "Responsibility to Protect" and its steadfast readiness to adopt all appropriate measures to endorse it. (Bellamy, Responsibility to Protect , 2009)[3] To start off, the resolution reaffirmed two points, the first is its resolutions 1265 (1999) and 1296 (2000) on the protection of civilians in armed conflict, as well as, its resolution 1631 (2005) on cooperation between the United Nations and regional organizations in maintaining international peace and security, and the second, is its commitment to the Purposes of the Charter of the United Nations as set out in Article 1 (1-4) of the Charter, and to the Principles of the Charter as set out in Article 2 (1-7) of the Charter.

[1] Protect, U. O. (n.d.). Responsibility to Protect. Retrieved from https://www.un.org/en/genocideprevention/about-responsibility-to-protect.shtml

[2] Protect, U. O. (n.d.). Responsibility to Protect. Retrieved from https://www.un.org/en/genocideprevention/about-responsibility-to-protect.shtml

[3] Bellamy, A. J. (2009). The Responsibility to Protect in the Asia-Pacific Region. *Security Dialogue*, 547-574.

3. Failed States and sovereignty Karim

- a. Restrictions on the Jurisdiction of the state
- b. Protection of Minorities (Russia intervention in Eastern Ukraine)
- c. Belligerent communities & Insurgencies
- d. Recognition of government – International Personality (provisionary recognition)

The social and economic upheavals of one nation can have outsized ramifications on its neighbors, in an interconnected world. States in general can fail for many reasons usually classified in three categories; by failing to ensure protection from outgoing threats to inhabitants of neighboring territories, or failing to provide security to their own citizens, or by fostering an atmosphere of poverty. (Naudé, 2011)[1]

A-Restrictions on the jurisdiction of the state

The idea of jurisdiction in public international law has historically had a close relationship with the idea of authority. States can implement the sovereign independence thanks to jurisdiction, which they are granted under a system of officially equal states around the world, by expressing what they have as a legal interest in certain people or certain activities that are covered by the law. Sovereignty However, acts as a concept that facilitates the exercise of authority and as a restraint mechanism; it influences the adoption of international regulations that limit the exercise of State authority.

States may indeed pass legislation governing issues that are not essentially domestic in nature and so violate the sovereignty of other States. The laws of jurisdiction limit each State's authority,

[1] Naudé, W. (2011). *Fragile States: Causes, Costs, and Responses.* New york: Oup Oxford.

and act as the fundamental "Traffic rules" of the global judicial system; the law of jurisdiction has mostly depended on the territorial framework for defining competences. When creating permissive and prohibitive norms, a state's dimension of sovereignty is considered. Therefore, jurisdictional claims relating to acts committed inside its area While claims regarding actions committed outside of its area are dubious, and even presumed to be illegal. A system of territorially delimited nation-states with complete and exclusive sovereignty over their own area and no sovereignty over any other region is known as the Westphalian legal order, or territory of other States. However, territoriality need not be a core concept in the law of jurisdiction, be a rational need; territoriality is a historical construct. It only gained importance in the 17th century as a result of the concentration of governmental authority within the State, along with the development of cartographic science, which allowed for more precise boundaries being drawn.

Prior to the modern era, sovereignty was thought of primarily as a tribal or group concept. people were governed by the laws of the tribe or society to which they belonged, rather than those of the region they were living in at the time. Recently, ideas of jurisdiction have made a normative comeback in the literature, particularly in Paul Schiff Berman's study, which has highlighted people's identification with rather States that are confined by territorial boundaries, and who on that basis argued for the revision of the dated territory-based jurisdictional system. While it is true, that the constant rise in international communication, particularly the rapid development of the Internet has limited the role of the State and enabled spatially separated people to connect, States are not yet given up; As far as territoriality, they remain the most simple and reliable method of defining skills. Therefore, jurisdictional studies continue to focus on territorial linkages, even in cases where these links are increasingly artificial, like in virtually non-territorial internet, or altering the world's climate. The law of jurisdiction, which has its origins in the Westphalian international legal system the classic "negative" international law of state coexistence, which primarily consists of "do not" duties or prohibitions intended to protect each State's right to self-determination, whether forceful or strong. In terms of the law of jurisdiction, this indicates that States are generally not permitted to claim jurisdiction over matters that are the responsibility of other States – generally Extraterritorial activities are those that go against

the sacred ideals of nonintervention and state sovereignty equality. However, more recently, the positive jurisdictional aspect has become more prominent, highlighting the development of international law is moving away from a law of coexistence and toward a law of collaboration. A positive view of jurisdiction suggests that, at times, States may be required to use their jurisdiction (rather than just be permitted to let alone prohibited from doing so), particularly regarding ideals cherished by the international community. Consequently, several agreements mandate that a State establish its criminal jurisdiction over the alleged perpetrator of a particularly serious crime (such as a war crime, an act of torture, or a terrorist act), so long as the person is present on the territory and the State does not extradite him. International human rights experts attribute to states signatories to human rights agreements the incumbent duty to protect rights, even for those who fall outside their authority, jurisdiction or domain. (Cedric Ryngaert, 2018)[1]

B-Protection of minorities

With the establishment of nation States in the eighteenth and nineteenth centuries, non-dominant groups began making efforts to maintain their cultural, religious, or ethnic distinctiveness. With the passage of various "minority treaties," the League of Nations marked the beginning of the recognition and protection of minority rights under international law. The United Nations, which was established in 1945 to take the role of the League of Nations, also gradually evolved several standards, guidelines, and institutions pertaining to minorities. The recognition of minorities' existence, efforts to ensure their rights to non-discrimination and equality, the promotion of multicultural and intercultural education, both nationally and locally, the encouragement of minorities' participation in all facets of public life, the inclusion of their concerns in development and poverty-reduction processes, disparities, in addition to several other issues call for special attention to minorities. (Thornberry, 1989)[2]

[1] Cedric Ryngaert. (2018). *The Concept of Jurisdiction in International Law*

[2] Thornberry, P. (1989). Self-Determination, Minorities, Human Rights: A Review of International Instruments. *International and Comparative Law Quarterly,*, 867-889.

But first, who are defined as minorities under international law? In 1992, the United Nations minorities declaration in its article 1 of the constitution describes minorities as being based on national or ethnic, cultural, States are urged to defend people's linguistic, religious, and cultural identities. The notion of what constitutes a minority group is not universally accepted. The fact that a minority exists must be established, and any definition must consider both objectives (such as the presence of a shared ethnicity, language, or religion) and subjective (such as the requirement that persons must identify themselves as members of a minority) aspects.

Francesco Capotorti, the Special Rapporteur of the UN Sub-Commission on Prevention of Discrimination and Protection Of Minorities, defines in 1977 minorities to be a group numerically inferior to that of the rest of the population of a given state, in far from a dominant position, whose members differentiates from the rest of the population of the state in regard to ethnicity, religious or linguistic characteristics which tend to show, whether explicitly or implicitly, solidarity towards the preserving of their differing features. While the nationality requirement in the above formulation and the necessity of being in a non-dominant position has been questioned, it remains a significant factor. A minority group will typically be a numerical minority, although in some situations, a numerical majority may also find itself in a minority-like or non-dominant position, as was the case for Blacks in South Africa during the apartheid government. Occasionally, a group that controls most of a State given area may not hold a dominant position of the concerned State. (Dinstein, 1976)[1]

- Concept OF MINORITY RIGHTS PROTECTION The following can be listed as major concern based on the experiences of minority communities around the world, the United Nations Minorities Declaration, and other international standards relating to minority

[1] Dinstein, Y. (1976). Collective Human Rights of Peoples and Minorities. . *International and Comparative Law Quarterly,*, 102-120.

rights: survival and existence, promotion and protection of minority identities, equality and non-discrimination, and effective and meaningful participation. (Vijapur, 2006)[1]

1-Survival and existence. According to the Working Group's Commentary that was noted before any effort to safeguard minorities should center on minorities. Mainly on protecting the physical safety of people who identify as members of minorities, especially defending them against genocide and other crimes against humanity. "The ethnic, cultural, linguistic and religious identity of minorities, where they exist, must be protected," according to the 2001 Durban Declaration, people belonging to those minorities must enjoy equal treatment, whether in respect to their human rights or to their fundamental freedoms, given that those very minorities are often the targets of genocide, as former UN Secretary-General Kofi Annan stated at the Stockholm International Forum in January 2004, "We must protect the rights of minorities in particular." Incomplete respect for, protection of, and fulfillment of minorities' rights may be at least a contributing factor if not the main cause of displacement and may even result in the extinction of such communities. Therefore, the uprooting of minorities can be used as a barometer for how much their rights are upheld, safeguarded, and fulfilled in the country from which they are uprooted, even though it can be challenging to categorize all minority groups as such in a case of flight, protection mechanisms, such as humanitarian assistance and protection of their heritage, be it religious or cultural, which are essential components of their identity. (Kunz, 1954)[2]

2- Safeguarding the identity of minorities. The promotion and defense of minority identities are essential to their rights. By fostering and preserving their identity, people can avoid forced assimilation and the disappearance of the cultures, faiths, and languages that are the foundation of the world's diversity and, thus, a part of its heritage. Diversity and numerous identities must be safeguarded, valued, and tolerated in order to avoid

[1] Vijapur, A. (2006). International Protection of Minority Rights. *International Studies,*, 367–394.

[2] Kunz, J. (1954). The Present Status of the International Law for the Protection of Minorities. *American Journal of International Law*, 282-287.

assimilation. Minority rights aim to protect distinctive identities while making sure that any favorable treatment of some groups or individuals within them does not cover up discriminatory practices and laws. Therefore, affirming that minorities improve society through this diversity and taking constructive action to respect cultural, religious, and linguistic diversity are necessary. (Henrard, 2007)[1]

3- Equality and non-discrimination: The most important aspect of defending the freedom and the rights of those who identify as minorities. All around the world, minorities deal with de jure and de facto prejudice daily. Two of the fundamental rights are non-discrimination and equality before the law. International human rights law principles. The principle of nondiscrimination forbids any differentiation, exclusion, restriction, or preference that hinders or renders impossible the recognition, enjoyment, or exercise of all rights and freedoms by all people on an equal basis. Discriminatory intent need not be proven. Legislation and/or policies that may be textually neutral but are interpreted in a way that leads to discrimination are referred to as having a "purpose or effect." Direct and indirect discrimination are both forbidden under international human rights law. Since indirect discrimination is more delicate, it is more difficult to detect, and eradicate. Unless a practice, regulation, or requirement is required and suitable to achieve a legitimate aim, it happens when it appears neutral on the surface but has a disproportionate influence on some groups. It is easier to pinpoint the underlying causes of inequality and discrimination when one focuses on how a policy affects a person differently depending on their membership in a group. (De Azcarate, 1976)[2]

The global community has acknowledged these issues and has put many tools and methods at the minorities' disposal to secure both national and international protection

[1] Henrard, K. (2007). The Protection of Minorities Through the Equality Provisions in the UN Human Rights Treaties: The UN Treaty Bodies,. *International Journal on Minority and Group Rights,*, 141-180.

[2] De Azcarate, P. (1976). Protection of Minorities and Human Rights. *The ANNALS of the American Academy of Political and Social Science,*, 124–128.

for them. Nevertheless, as far as societies are concerned, these tools and methods must always be reviewed, assessed, and modified as circumstances change to ensure that they support effective participation. (nations, 2010, pp. 5-15)[1]

C-Belligerent communities and Insurgents

Even if they lack statehood, certain towns that want to break away from their parent nation or take over the entire state for a rebel government, occupy enough land after hostilities start to distinguish the struggle from being purely local. When a rebellion reaches this stage in its development, other states may grant the community a limited amount of international personality by recognizing the group as a belligerent community, naming it as such, and imputing to it as well as to the opposing government responsibility for all violations of the laws of war and for how foreign property and citizens are treated. Then, the belligerents obtain the powers of blockade, inspection, search, and seizure of unlawful items on the high seas, as well as the abandonment of claims for compensation for "damages suffered" by foreign citizens as a result of the battle. (Zorgbibe, 1977)[2]

It is obvious that the rebellious community cannot achieve its precarious position through self-proclamation or desire. A position of belligerency cannot be created legally unless it is acknowledged by other governments. Such designation frequently takes the form of an express declaration stating that a particular community has been designated as a belligerent community. Regardless of the approach taken, the fact that belligerency has been acknowledged calls for the community to be treated (by the other countries in question) as a state at war and, on the other hand, places responsibility for all infractions of the laws of war, as well as the treatment of foreign property and alien people, on that

[1] nations, U. (2010). Minority Rights. *International Standards*.

[2] Zorgbibe, C. (1977). Sources of the recognition of belligerent status. *International Review of the Red Cross*, 111-127.

community. Typically, the belligerent community treats its warships as such and grants them the authority to visit and search. (Goodman, 1985)[1]

A belligerent society is not permitted to send or receive diplomats, join international organizations, or take advantage of multilateral agreements governing state actions and interactions with other nations during times of peace. Many of the more difficult recognition-related issues were once raised by the recognition of belligerent communities; Several requirements had to be met in order to provide recognition to a rebel organization or territory: (1) A functioning administration and military force had to be established in the rebel-controlled territory , (2) the rebellion had to have progressed beyond local uprising, which means that state-level combat had to have broken out; (3) the rebel government had to really control a sizeable piece of the parent state's territory (domestic uprising) or an overseas territory (colonial revolt).

Outside states determine the extent to which these prerequisites have been met. If the requirements have been met, it is legal to recognize the rebels as a belligerent community, and the parent state is absolved of any international liability for the rebels' actions since the start of the uprising. The parent government must have attempted to control the rebels, as mentioned in the second requirement above, for this last assertion to be correct. During the then-19-month-old civil war in Nicaragua, one of the most recent instances of the designation of a combatant community took place in June 1979. The so-called Andean Group, which consists of Bolivia, Colombia, Ecuador, Peru, and Venezuela, said that Nicaragua was in "a state of belligerency" and that the Sandinista National Liberation Front (FSLN) soldiers were a "legal army." Following that proclamation, the Andean Group members were free to provide the insurgents with supplies and weapons. A foreign state can offer or refuse the same recognition if the legitimate government recognizes the rebels as a hostile community. If a foreign state refuses to recognize it, it must stop supporting the rebels but is free to give or withhold support to the legitimate

[1] Goodman, D. P. (1985). The Need for Fundamental Change in the Law of Belligerent Occupation . *Stanford Law Review*, 1573-1608.

government. After recognizing belligerency, the foreign state will withhold all assistance to both parties in the ongoing fight unless it wants to join it.

Foreign states are likewise free to give or withhold their recognition of the rebels as a belligerent community if the legitimate government does not. The foreign state must refrain from providing any assistance to the rebels if it does not recognize a state of belligerency, but it is allowed to aid the legitimate government.

Since the belligerent community is still considered to be a legal subset of the state whose government it is engaging in hostilities, acknowledgment of belligerency does not equate to recognition as a state. The town can only acquire statehood in the legal sense when it is successful in its endeavor, whether it does so by becoming independent or by installing its own elected officials to replace the state's legitimate administration. The combative community only has a few, transitory elements of a global personality until such success is documented.

A state of insurgency, which is described as halfway between internal tranquility and civil war, is defined as a rebellion that has not yet attained the status of a belligerent community. A declaration alerting the public to the existence of an insurgent group in a foreign country and advising them to take appropriate caution when traveling to, doing business with, or engaging in other activities in the affected area is typically required to recognize an insurgency. The declaration of an insurrection in this manner does not signify the existence of a belligerent community.

-Premature Recognition of a belligerent community should be seen as premature and illegal if the community has not yet satisfied the aforementioned requirements. Undoubtedly premature, France recognized the United States in 1778, and shortly after that, Great Britain expectedly declared war on France. Instances of this nature have occurred frequently in recent years, including on December 6, 1971, when India

recognized the Bangladesh insurgents as the legitimate government (of the state of East Pakistan), even though East Pakistan had only declared its independence on March 25, 1972. Other recent examples of premature recognition include the granting of embassy status to the National Liberation Front (South Vietnam) mission in Peking by the People's Republic of China in December 1967, as well as Biafra (Nigerian Civil War) by Tanzania, Gabon, the Ivory Coast, and Zambia in 1968 and by Haiti in 1969. On March 26, 1980, the Indian government announced that it had granted the PLO full diplomatic recognition and that its 1976-founded representative office in New Delhi would now be regarded as an embassy-level mission. Additionally, the Soviet Union granted "formal diplomatic status" to the PLO's Moscow office in October 1981. (Glahn, 1981)[1]

D-Recognition of Government

The only way that recognizing a government differs from recognizing a state is in the type of entity that is being acknowledged. A government is only an operational arm of a state, but it is that division of a state that carries out the deeds that are associated with the state and are therefore governed by the application of the norms and principles of international law. Since no one can imagine recognizing an entire unit without also recognizing its functioning agency, its government, it follows logically that recognizing a new state also involves recognizing its government. The major issues with recognizing governments typically arise when a government's structure changes, either because of a change in its nature or as a result of an unconstitutional or any other illegitimate transfer of power within the state in issue from one group to another. What is at stake is the ability of a new person or group to represent (serve as the agent of) a state as its governing body and in its international affairs.

It is important to keep in mind that a state's continued existence is unaffected by changes to a government's structure or to its personnel.

[1] Glahn, G. V. (1981). *Law Among Nations:An introduction to public International Law.*

In any case, the continuation of a state's legal personality is not necessarily impacted by even significant changes to its constitution. The period from 1791 and 1875 in France is the traditional and frequently used example. During that time, a series of constitutional reforms led to the Third Republic following the monarchy, a republic, an empire, a return to monarchy, and still another empire. However, despite these changes to the structure of its government, France maintained its status as the "State of France," an identical international legal person with the same privileges and obligations as before. The Sapphire served as an example of these ideas. (The Sapphire United states, supreme court 1871,11 Wallace 164)

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As another similar example, even though the final government that emerged from the country's internal upheavals was not recognized by other nations for a number of years, the State of Russia continued to exist as a member of the international community and as a legal person under international law. This is because the complete changes brought

[1] Moran, M. (2017). Terrorism and the banlieues: the Charlie Hebdo attacks in context. *Modern & Contemporary France*, 315-332.

about in the Russian government by the two revolutions of 1917 did not affect the legal personality of the State of Russia. (RINGMAR, 2002)[1]

-Principles of the recognition of Government: It is not necessary for outside governments to recognize a new government when power is normally transferred from one group or person to another in conformity with the constitutional provisions in effect in a certain country. Other states frequently find it expedient to overlook such domestic law violations and to see the administration in question as a direct and ongoing successor of the former one, even where minor constitutional irregularities have occurred in the transfer of authority. (Peterson, 1983)[2]

1-Objective Tests: Historically, a government will evaluate another, new government's competence based on its responses to a set of standardized questions or exams. It can be said that the so-called objective tests of the new government's competence to act as the state's representative have been met and that recognition should be extended if (1) the new government exercises de facto control over its country's administrative machinery; (2) there is no resistance to the new government's authority; and (3) the latter appears to have the support of a significant portion of the public opinion in its country. The United States government maintained that a new government must take office by legal and constitutional processes between roughly 1913 and 1929 in order to be recognized de facto or de jure. To the newly elected governments of Mexico, El Salvador, Costa Rica, and Nicaragua, this so-called Wilson Doctrine was adopted. It denied the citizens of those states the freedom to choose their own governments through any channel they saw fit. It indicated that the United States government believed it had the authority to question

[1] RINGMAR, E. (2002). The Recognition Game: Soviet Russia Against the West. *Cooperation and Conflict,*, 115–136.

[2] Peterson, M. (1983). Recognition of Governments should not be Abolished. *American Journal of International Law,*, 31-50.

the legitimacy of a foreign government. Fortunately, when the Hoover administration took power, the concept was dropped. (Clapham, 2006)[1]

2- Subjective Test However, a second, subjective test was introduced in the second part of the nineteenth century and was used by several governments to evaluate a new government. The focus of the second test was on determining a nation's capacity and willingness to fulfill existing international responsibilities and act in conformity with international law's guiding principles.

Behave in conformity with international law's guiding principles: It could appear that such a test would be unnecessary because any government that is considered to represent its state may be expected to take on that state's legal obligations. But could it not be assumed that, just as it had admittedly done with its domestic constitution and laws, a given new government may adopt a flippant attitude toward its international commitments if it came to power through illegal, probably even violent, means? The second test was used as a result of these factors. It had to be subjective by necessity since it involved the anticipated future actions of a government and could not be subjected to the same factual scrutiny as would be possible in the application of the conventional objective tests. (Lauterpacht, 1970)[2]

-Provisional Recognition It has occasionally proven challenging to simultaneously apply objective and subjective standards to a new revolutionary administration. In these situations, it has been common practice for states to provide the new administration what is referred to as provisional or de facto recognition. This means that the foreign states in issue express their willingness to work with the new government solely because of and in proportion to its control over the administration of their own countries. However, in the

[1] Clapham, A. (2006). Human rights obligations of non-state actors in conflict situations. *International Review of the Red Cross*, 491-523.

[2] Lauterpacht, H. (1970). Recognition of Insurgents as a De Facto Government. *The Modern Law Review*, 1-20.

event of a civil war, where two "governments," one "rebel" and the other de jure, fight for control of their nation, another state may feel obligated, for several reasons, to give the "rebel" government de facto legitimacy. If certain circumstances were met, each of the two parties would then be recognized, but each of the two governments would only be recognized in relation to the territory that it controlled. Such de facto acceptance carries the risk that the legitimate government, the de jure sovereign, may object to the rebel group's provisional recognition as a government. If that legal government wins the conflict, outsiders' provisional acknowledgment of its foes could lead to logical animosity because, by any criterion, such recognition would have been premature and hostile to the legitimate government's sovereign status. (Garner, 1978)[1]

The Spanish Civil War, which was sparked by the rise of a faction led by General Francisco Franco, provided several intriguing circumstances that illustrated how provisional recognition functions. On November 4, 1937, Clement Atlee questioned Prime Minister Neville Chamberlain in the House of Commons for what the significance of Great Britain's provisional support of the Franco dictatorship was. The Prime Minister's response, in part, was that it became increasingly clear that the numerous issues affecting British interests in these areas cannot be satisfactorily resolved by means of the sporadic contacts that have been conducted up until now due to the protection of British nationals and British commercial interests throughout the entirety of Spain, including those large areas... of which General Franco's forces are now in effective occupation. In order to discuss issues impacting British citizens and business interests, His Majesty's Government has begun negotiations for the appointment of agents by them and General Franco, respectively. However, these agents will not be given any diplomatic standing. (Glahn, 1981)[2]

[1] Garner, J. (1978). Recognition of Belligerency. *American Journal of International Law*, 106-113.

[2] Glahn, G. V. (1981). *Law Among Nations:An introduction to public International Law.*

4. Paradigm of the right to protect

a. Historical Background

b. The state of Play (Actual manifestation)

c. Concept of Right to protect in the future

The way forward from the humanitarian intervention concept, which has been the center of controversies, in the direction of the adoption of a new paradigm which is the responsibility to protect, is a fascinating piece of mindset progress. As to legitimacy, the author outlines five elements the UNSC should, to bring to task any case made for a coercive humanitarian intervention. Those elements have a clear root in Christians values of war, but they do reverberate with other religions and traditions. The most interesting thing about the Responsibility to Protect report is the way its central theme has continued to gain traction internationally, even though it was almost killed at birth by being published in December 2001, and by the subsequent massive international preoccupation with terrorism rather than internal human rights catastrophes. (Evans G. , 2006)[1]

On the heels of World War II, the UN was born to for the purpose of promoting peace and stability which were perceived to originate from the recognition of sovereignty typically for young nations coming out of the shadows of colonizers. The UN Charter pronounce itself clearly against the intervention in the internal domestic matters within a state. Yet this principle far from sideline the use of restraining measures in the event of a threat or breach of peace, or aggressive actions by the state. In 1948 the genocide convention sidelined the principle of non-intervention laying down the foundations of the world community's commitment to prevent and exact penance. Yet the passivity of the international community towards the Rwanda genocide and its failure to stop the Srebrenica massacre all but highlights the complexities attributed to the mechanisms through

[1] Evans, G. (2006). From humanitarian intervention to the responsibility to protect. *Heinonline*.

which this community heeds the call, in case of crimes against humanity. "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." The principle does not rule out the application of enforcement measures in case of a threat to peace, a breach of peace, or acts of aggression on the part of the state. The Genocide Convention of 1948 also overrode the nonintervention principle to lay down the commitment of the world community to prevent and punish. Yet inaction in response to the Rwanda genocide in 1994 and failure to halt the 1995 Srebrenica massacre in Bosnia highlight the complexities of international responses to crimes against humanity.

In 2000, several global entities including the Canadian government and other actors were behind the establishment of the ICISS (International commission on Intervention and State Sovereignty) as a way forward in addressing the International Community's responsibility to act in the face of humanity's gravest atrocities while respecting state sovereignty. The international community attempted to bridge the gap between the two concepts with the 2001 R2P. The co-chair then of the commission Gareth Evans, of the international crisis and the Algerian diplomat wrote that in the event the international community responds to that challenge, the entire topic should be about the 'responsibility to protect, rather than the right to intervene.

The commission brought up the possibility to intervene in case states failed to act decisively in order to shield its population even in the event of natural and environmental disasters. Yet when the R2P doctrine was enshrined into the UN document, the case of natural disasters was dropped in favor of a subtle mentioning of every state's duty to protect its citizens from war atrocities, and crimes against humanity. However, the document lands the responsibility to protect at the feet of the international community in the event a state fails to act appropriately, in accordance with chapter VII of the UN Charter which authorizes the use of lethal force when peaceful measures prove inadequate and fail. The UN outcome document was unanimously adopted by all member states but is not legally binding.

The doctrine was embraced by specialists as a gamechanger and a new opportunity for peace and security. In a 2007 Council Special Report, former CFR senior fellow Lee Feinstein wrote that the adoption of R2P was a watershed moment, "marking the end of a 350-year period in which the inviolability of borders and the monopoly of force within one's own borders were sovereignty's formal hallmarks." (Simms, 2008)[1]

Early Momentum

The doctrine was first applied to the Kenya case, where it was meant to come to term with the violence ensuing from the election 2008, it was described to be the only successful example of R2P to date by political scientist Ramesh Thakur. Following the mass atrocity crimes spawned by the highly disputed election in Kenya, other nations swiftly applied political and diplomatic pressure to stop violence and encourage a political solution that resulted in a coalition government. Before being referred to explicitly during the bloody regime change in Libya, the R2P doctrine was first used in Darfur where the UN mission was. (Mayroz, 2019)[2]

Some other events indicated the readiness and the will of Asian countries to intervene in neighboring places based on the concept of humanitarian aid intervention. In 2004 on the heels of the Indian Tsunami Natural disaster, the Indonesian Aceh province fighting a secessionist war against the government and under martial laws for quite some time was restricted to international human rights groups, aid organizations and reporters. Despite the hesitation at first, the Indonesian government made way for international aid in what Elizabeth Ferris and Lex Rieffel of the Brookings Institution call "one of the largest disaster recovery and reconstruction

[1] Simms, B. (2008). *Humanitarian Intervention: A History.* Cambridge University Press.

[2] Mayroz, E. (2019). The Threat of Genocide: Understanding and Preventing the "Crime of Crimes". *The Palgrave Handbook of Ethnicity*, 1-16.

efforts in modern times," and resulted in a "peace agreement, which led to the election of a former secessionist leader as governor of the province." (Horspool, 2014)[1]

Similarly, after an earthquake struck the contended state of Kashmir, the Pakistani authorities decided to grant access to international relief agencies. No far from there, the Sichuan Province of China witnessed an earthquake which led Beijing to make first seen steps to open up and allow access. The Chinese government, which so far had rejected foreign help, accepted international aid publicly, and opened a hotline for the United States military in order to facilitate an effective interaction with their Chinese counterparts, and in addition, they eased media restrictions. (Kaba, 2021)[2]

Intervention and Regime Change

The authors of the 2001 R2P report outlined their support not only for the responsibility to react, but also to prevent and to emphasized that it embraced not just the "responsibility to react" but the "responsibility to prevent" and the "responsibility to rebuild" as well. Evans and Sahnoun see eye to eye that both of these dimensions were neglected in the usual humanitarian-intervention argument. Refocusing the conversation on the prevent and rebuild should help make the concept of reaction itself more tangible."

The United Nations Document 2005 Zeroed in on prevention; In it the community of Nations commits itself to helping states rebuild capacities to safeguard their people, and to assist those under stress in order to prevent eventual crises and conflicts. But some rights advocates and journalists have made the case of including regime change in the process of protecting populations. David Rieff, a journalist who specializes in humanitarian issues, wrote in the *New*

[1] Horspool, N. (2014). A probabilistic tsunami hazard assessment for Indonesia. *European Geoscience Union*, 3105–3122.

[2] Kaba, M. (2021). NGO Accountability: A Conceptual Review across the Engaged Disciplines. *International Studies Review*, 958-996.

York Times Magazine in June 2008 outlining the regime change nature of the interventions in the event of the seriousness in accomplishing their stated endeavor. In relation to the Libyan example, Thakur argued in favor of keeping intervention as a last resort.

Russian officials have vowed to block further efforts at Security Council-endorsed interventions even amid humanitarian suffering outlining the fact that the international community did take side in the conflict and vowing not to allow the UNSC to authorize any similar action in the future.

Afterwards there seems to be a decreasing appetite for the international community to follow the Libya example and destroying the hierarchy of order in a state, exposing in the process rift among the international community especially developing countries

An Uncertain Future

Military intervention involves legal issues as well, according to CFR's Matthew Waxman. He outlines the fact that Military intervention beyond the mandate of the UNSC is very controversial in terms of international law. Historically both Russia and China have balked at the prospect of any kind of intervention. This transcends from their fear that such actions could create precedence for the international community to be loose to interfere in the internal affairs of other countries, namely the numerous upheavals that happens within their domestic territory. The Intention to resort to military intervention is also affected by geopolitical factors, including how vital is a given country to the community of nations, in terms of resources and stability

The US leadership of the R2P concept has become questionable; Breaking with precedent it showed less of an appetite to a forceful intervention in Syria, limiting itself to announced plans to provide arms to the opposition and working collectively with the Russian federation in order to convene a peace conference in order to narrow the differences between the Assad Regime and the local rebels. CFR's Waxman discusses the challenges the US faced in Iraq and Afghanistan

in terms of nation building in the wake of state collapse following intervention and how it reduced the US tendency to conduct interventions. (Lagassé, 2022)[1]

The United Nations has ended up with a smaller set of options in response to humanitarian crisis. Though the Resolution 46/182 set the principles for a response to a humanitarian disaster, the General Assembly reiterates its commitment to the respect of state sovereignty which complicates any intervention when the nation in question denies access. This is where neighbor states and regional states have a critical role to play. (Lombardo, 2015)[2]

The responsibility to protect entails a political commitment to putting an end to the most heinous forms of violence and persecution. It aims to bridge the gap between the pre-existing obligations of Member States under international humanitarian and human rights law and the reality faced by populations at risk of war atrocities. Set up by the Canadian Government, he ICISS[3] issued a report at the end of 2001 which was titled: The Responsibility to Protect. (Stahn, 2013)[4]

State sovereignty as a responsibility was an inspiration drawn to Francis Deng based on the responsibility to protect, which induced the concept of sovereignty as a duty of a state to ensure population welfare within. With that in mind, there is another responsibility from without when a given state fails to ensure rights to its people and rather contribute to atrocities against its very people. This responsibility lays at the feet of the international community of nations.

[1] Lagassé, P. (2022). Cooperating to contrôle: French senators as defence overseers and civil-military actors. *European Security*, 1-18.

[2] Lombardo, G. (2015). The responsibility to protect and the lack of intervention in Syria between the protection of human rights and geopolitical strategies. *The International Journal of Human Rights*, 29-55.

[3] International Commission on Intervention and State Sovereignty

[4] Stahn, C. (2013). *Responsibility to Protect: Political Rhetoric or Emerging Legal Norm?* Routledge.

At the 2005 UN World Summit, Member States committed to the responsibility to protect concept, by introducing it to the ensuing report. Though the concept adopted omitted some of the aspects proposed initially by the ICISS, it retains its fundamental aspects in relation to prevention of and response to the most serious violations of international human rights and humanitarian law.

Finally, the Responsibility to Protect principle strengthens sovereignty by assisting states in meeting their existing obligations. It provides new programmatic opportunities for the UN system to assist states in preventing the listed crimes and violations and protecting affected populations through capacity building, early warning, and other preventive and protective measures, rather than simply responding if they fail. Since the Responsibility to Protect was adopted in 2005, the United Nations Secretary-General has taken several steps to expand on the principle and guide its practical implementation. Member States have also considered the principle's implementation at formal and informal meetings on a regular basis, and the principle has been repeatedly referenced and reaffirmed in relevant United Nations resolutions. Other actors have advocated for and supported the principle's implementation. (Badescu, 2007)[1]

[1] Badescu. (2007). Authorizing Humanitarian Intervention: Hard Choices in Saving Strangers. *Revue Canadienne de Science politique*, 51-78.

5. Nature of Action to Protect Ibrahim Aalouly

a. Prevention

b. Reaction

c. Soft Action and the concept of Soft Power

GENERAL OVERVIEW

The United Nations was founded in response to the devastation caused by World War II, in which millions died, "to save succeeding generations from the scourge of war," as stated in the Charter's preamble. This emphasizes how the central mission of the UN is inextricably linked to the core purposes of public international Law and International Humanitarian law, preventing unnecessary human suffering caused by war. In this context, it is useful to consider the United Nations' purposes, which include, first and foremost, "maintaining international peace and security," "taking collective measures to prevent and remove risks affecting peace," achieving conflict less solutions for standoffs in line with the generally accepted principles of justice and international law while empowering the respect of human rights.

(Lillish, 1968) describes the right to protect as an international mechanism put in place to guarantee that the international community never refrain from acting in the purpose of deterring atrocities against humanity.

In 2009 Secretary-General Ban Ki-moon describes thoroughly the change of methods in enforcing the implementation of the R2P through the course of the years. It consisted of 3 pillars drawn from the framework of the applicable World Summit Outcome Document (WSOD); the safety obligations of the country (Pillar I), worldwide help and potential-building (Pillar II), and the well timed and decisive reaction of the worldwide network as soon as a country does not shield its personal civilian populace (Pillar III).

This Document, in addition to Mr. Secretary-General's reviews define the framework in which the R2P is enforced and in which, the Security Council plays a crucial and fundamental role.

Though there are various means in which both the secretary general and the different UN organizations can interact in the purpose of avoiding atrocities, R2P calls on the Security Council to forcefully intervene under Chapter VI to VIII of the U.N. Charter when other means prove insufficient. It is in this concept that the success or failure of R2P depends on the UNSC' management of the intervention itself. (Bellamy, The Responsibility to Protect in the Asia-Pacific Region, 2009)[1]

One of the major concerns of the UNSC, is the "the vital frame accountable for discharging the worldwide reaction"; furthermore, the precept of R2P.18 Subsection A discusses the Security Council's position in operationalizing R2P, as derived from the textual content of the WSOD on R2P and the Council's mandate under the U.N. Charter. Subsection B discusses Secretary-General Ban Ki-Moon's interpretation of the Security Council's position, as specified in his 2009 document entitled Implementing the Responsibility to Protect. This dialogue offers a basis for know-how why the Security Council's engagement on R2P is centrally vital to the implementation of R2P: Though the United Nations installed worldwide peacekeeping troops with the purpose of cooperating with nearby governments to keep peace and shield human rights (Corrias, 2014) poses the problematic of a nearby authority using violence towards its personal residents, how might those peacekeepers react? Could preventing atrocities justify the violation of a nation's sovereignty? (Banki-moon, 2012)[2]

In that framework the articles 138 and 139 the WSOD direct the international community first to encourage and support individual states in protecting their people from genocide, war crimes, ethnic cleansing and crimes against humanity and work on the prevention of such crimes and their incitement through their contribution in setting an early warning mechanism (Art.138). On the other hand, Art.139 speaks of the responsibility of the international community (through the

[1] Bellamy, A. J. (2009). The Responsibility to Protect in the Asia-Pacific Region. *Security Dialogue*, 547-574.

[2] Banki-moon. (2012, january 18). *Responsibility to Protect: Ban urges action to make UN-backed tool 'a living reality'* . Récupéré sur UN News Global perspective Human stories: https://news.un.org/en/story/2012/01/400702

UN) to use all peaceful means in accordance with chapters VI and VII to safeguard populations from atrocities and crimes against humanity. (ERDUR, 2021)[1]

In the context of preventing atrocities, The UNSC is prepared to undertake collective action in a timely decisive manner in accordance with Chapter VII, and in cooperation with relevant organizations, in the event the above-mentioned peaceful intervention fails. Through Art.139 member nations commit themselves to help build state abilities to protect their populations from atrocities, and, in the same time assist nations under this very stress before conflicts break out.

A. Prevention :

An important function of R2P is an implementation of a "slim yet deep mandate"; While the framework of R2P is narrowly limited to mass atrocity crimes, it is deeply enshrined in the vast array of instruments that the United Nations has made available in order to ensure the ability to cope with those violations, in the form of a motion through the Security Council. This comes in the form of preventative measures (tracking and caution structures for mass atrocity crimes), institution-building, and diplomatic efforts.

In her "reflection on the Responsibility to Protect" (Karen Smith, 2020)[2] speaks in length about the prospects of the right to protect; those include defensive measures which are undertaken as a swift answer to atrocity crimes (most notably refugee camps for fleeing populations), coercive measures towards perpetrators (ex: centered person sanctions on journey and finance etc.), as well as post-hoc measures for responding to mass atrocity crimes, such as growing worldwide commissions of inquiry, referring instances to the International Criminal Court (ICC) for prosecution, and supporting nearby efforts for fact and reconciliation.

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[1] ERDUR, V. (2021). A Short Review About The Concept of Responsibility to Protect. *Journal of Human and Social Sciences*, 401-410.

[2] Karen Smith, U. S. (2020, August 17). *A reflection on the Responsibility to Protect in 2020*. Récupéré sur ReliefWeb : https://reliefweb.int/report/world/reflection-responsibility-protect-2020

The intensity of engagement required through R2P transcend into an involvement of numerous U.N. organs in enforcing R2P in coordination with the Security Council. With respect to the U.N.'s intergovernmental organs, the General Assembly is properly placed to make contributions to R2P through its various mandates under Art. 10 all the way into Art. 14 of the Charter, for the purpose of uniting for Peace mechanism, and its nearby and sub-nearby instruments. The Secretary-General, Special Advisers, namely the Special Adviser for the Prevention of Genocide and the Responsibility to Protect have an essential role in raising the awareness of the general public worldwide and make sure that the right diplomatic reaction to mass atrocity crimes is undertaken. (Karen Smith, 2020)[1]

On a different front, the Secretariat plays an important role in collecting unbiased evaluation of data concerning the hazard and perpetration of mass atrocity crimes towards civilian populations, and in making sure data flows in a well-timed manner to U.N. decision-makers. Other U.N. bodies are properly located to make contributions to the implementation of R2P, through making use of their appropriate workplaces for persuasion, education, training, and help. These encompass the U.N. High Commissioner for Human Rights, the U.N. Human Rights Council, the U.N. High Commissioner for Refugees, and the U.N. Emergency Relief Coordinator.

Furthermore, U.N. factfinding missions, and commissions of inquiry may help in setting up the records and identity perpetrators in the aftermath of committed atrocities. With the vast amount of U.N. bodies concerned with the implementation of R2P, the leadership of the Security Council within its mandate proves to be particularly vital, given that the Charter uniquely grants it the ability to make binding decisions on all member states. In accordance to the intensity of engagement the U.N. can pursue, the Security Council's precise position in enforcing R2P as a concept, which often lies inside Pillar III, with the purpose to facilitate the collective reaction of the worldwide network when a country fails to satisfy its Pillar I which consists of protecting its own people. While the Security Council's observation position is a great deal in itself, the UNSC,

[1] Karen Smith, U. S. (2020, August 17). *A reflection on the Responsibility to Protect in 2020*. Récupéré sur ReliefWeb : https://reliefweb.int/report/world/reflection-responsibility-protect-2020

Pillar III focuses upon the organization's potential to authorize humanitarian intervention beneath Article forty-two of the U.N. Charter; it calls upon the Council to interact with a broader variety of capacities and coercive enforcement measures. (Charter, 1945)[1]

These measures encompass the authorization of Chapter VI mechanisms, along with peace negotiations, tracking or observer missions, and commissions of inquiry. Additionally, when a country fails to one of the non-violent diplomatic efforts, the Security Council can also elect to launch extra coercive measures in accordance to Article fifty-three of the Charter, along with sanctions, fingers embargoes, or referrals to the ICC. Finally, the Security Council can authorize military motion thru the U.N. or a nearby organization, such as, for instance, setting up a no-fly zones or the deployment of troops.

Overall, the Security Council has giant flexibility in figuring out the way to enforce its duty while responding to an R2P disaster. Nevertheless, even though the Security Council has "extremely good potential" under the U.N. Charter to react to atrocity crimes through the implementation of R2P, the Council's institutional structure imposes constraints upon its potential to enforce the R2P.

By structural design, the Security Council keeps an unequal distribution of strength among its members; five of the Security Council's fifteen contributors, China, France, the U.K., the U.S., and Russia enjoy the institutional benefit of everlasting tenure, and preserve veto strength within the Council's non-procedural decision-making, through vote under Article 2(7) of the U.N. Charter. Secretary-General Ban Ki moon puts into focus the specific duty that comes with the magnificent strength of the P5 contributors compelling them not to use their Veto in hindering the ability to shield the entities under threat and the attaining of the Know How to that effect. (Nations, 2021)[2]

[1] Charter, U. (1945, June 26). *United Nations*. Récupéré sur Article 42 & 43 of UN Charter: https://www.un.org/en/about-us/un-charter/full-text

[2] Nations, R. o. (2021, March 10). *Codification Division Publications*. Récupéré sur Charter of The United Nations: https://legal.un.org/repertory/art2_7.shtml

Yemen

Motivated by the winds of change of the Arab spring blowing neighboring countries, the Yemenis took to the street in 2011 in an attempt to overthrow the government of President Ali Abdallah Saleh, which has been in power for the last three decades. The latter deployed the security forces who's attempt to quell the rebellion resulted in the death. A mediation effort led by the GCC proposed to Saleh a "dignified exit", but the latter rejected it and clung to his seat. In May of the same year the UN secretary-general issued a statement admonishing the excessive use of force by the executive against unarmed civilians and urging the government to assume responsibility in the application of international norms of human rights.

The secretary general's statement in resolution 2014 (a first related to the Yemeni case), condemning the human rights violations executed by Yemeni government forces and other warring parties was welcomed by the UNSC. The text of the resolution reminded the Yemeni authorities of its Pillar I Obligation, and its duties to ensure security for its population. The resolution backed the GCC initiative for the peaceful transition of power in Yemen. (Lin Noueihed, 2012)[1]

In November 2011, Saleh finally signed the GCC initiative, effectively transferring power from himself to his deputy, Abdo Rabbo Mansour Hadi—a development that the Security Council commended as a step towards implementing the "peaceful transition of power" envisioned by Resolution 2014. Accordingly, as the effort went ahead, what were once mass protests, morphed into tiny demonstrations as the president convened a national conference of dialogue which undertook the drafting of a new constitution. During that period, the Security Council received regular briefings from the Special Adviser and expressed its continued support for a political resolution of the situation through the GCC, condemning violence meant to derail the peace process.

[1] Lin Noueihed, A. W. (2012). *The Battle for the Arab Spring:.* Yale: Paul Hockenos.

After a period of relative calm and following the establishment of a transition government in line with the GCC initiative, tensions again escalated into violence in 2014. The Shia minorities of which came out the Houthis militia, profited of the circumstances of a state marred by upheavels to begin an attrition against the newly formed government of President Hadi. Houthi forces were joined by army units that had defected as well as other forces loyal to Saleh, forming an ad-hoc opposition coalition that became known as the Popular Committees. In response, the Security Council adopted Resolution 2140 in February 2014, which again expressed continued support for the political transition process while also establishing a regime of targeted sanctions. Those sanctions included asset freezes in addition to travel bans against individuals considering to be upending the political transition process or posing a threat to human rights or humanitarian law.

By September that year, the Houthis and their affiliates had controlled half of Yemen's governorates, including the capital Sanaa, where they dissolved the parliament and took over government institutions, attracting all kind of condemnation by the Security Council and ultimately forcing Hadi to flee in March 2015. Further violence stemmed from a southern separatist movement, which was frustrated by its exclusion from the GCC initiative political process. Regional terrorist groups, such as "Al-Qaeda in the Arabian Peninsula" (AQAP) and ISIS of Iraq and the Levant, found refuge and safe haven in parts of Yemen seeking to profit from the instability created by the power transition vacuum.

Prior to leaving the country, Hadi had asked for the military support of the GCC to keep his government afloat. In the aftermath, a Saudi Arabia-led coalition answered his request by conducting military airstrikes against the Popular Committees. By this time the belligerent parties had strengthened their control over two distinct swathes of territories: On one hand forces loyal to Hadi supported by the Saudi-led coalition and on the other, forces loyal to Saleh supported by the Houthis and Iran. The Saudis had all the apparent intentions of ending decisively the conflict in favor of Hadi, without any notable legitimate mandate. In fact, the intervention by coalition

forces increased fighting throughout Yemen and led to mass civilian casualties due to its indiscriminate bombing campaigns and active blockade of humanitarian assistance.

This open-ended conflict eventually soon led to human rights violations being committed by both belligerent parties. In April 2015, resolution 2216 was adopted by the UNSC, urging a peaceful political solution to the conflict, and calling upon the Houthis to withdraw from all occupied territories, surrendering their weaponry in the process, formally establishing an arms embargo on both the Houthis forces loyal to Saleh.

The resolution explicitly reaffirmed "consistent with international humanitarian law, the need for all parties to ensure the safety of civilians."
Nonetheless, Amnesty International reported in August 2015 that civilians continued to be severely impacted as fighting had spread throughout twenty of Yemen's twenty-two governorates and both sides engaged in indiscriminate aerial bombing and shelling of civilian targets violating international humanitarian laws in the process, while preventing humanitarian aid to reach communities with urgent need for basic assistance.

A UN appointed panel of experts, investigating the Saudi-led campaign outlined the "widespread and systematic" attacks on civilians in violation of international humanitarian law in its r January 2016 report. The committee noted the targeting of civilian facilities including medical facilities; schools; mosques; markets, factories, and food storage warehouses by the airstrikes. Human Rights Watch documented the drafting of child soldiers and the restriction of humanitarian aid, the arbitrary detention, torture and forced disappearances.

As war raged throughout Yemen, the Office of the U.N. High Commissioner for Human Rights released its August 2016 report observing that both sides had committed violations of international human rights and humanitarian law; indiscriminate attacks on civilians and civilian areas, recruitment of child soldiers, forced displacement, and sexual violence. The following month, members of the Human Rights Council sought to build on the report's findings by

establishing an independent international commission of inquiry into the situation in Yemen, but the measure failed to gain the necessary votes.

Reports of attacks against civilians, did not deter the U.S. and U.K. from supporting the Saudi-led coalition, with many weapons used against civilians by coalition forces provided by both the UK and the US. It was thus unsurprising that the UNSC's only initiative was to renew pre-existing sanctions.

As the fight goes on unabetted, with little done to put lid on the warring parties, a ceasefire is far from reach, let alone any kind of political stability, with the latest UN-lead peace talks dating back to August 2016 which ended without any notable breakthrough. While the Security Council continues to release statements calling on all parties in Yemen to lay down arms and pursue a political solution to end the conflict, Hadi' factions continue to cling to resolution 2216 UNSC as the only remedy to the attrition, with the Houthis withdrawing from all occupied territory and surrendering arms unconditionally.

In January 2017, the U.N. Office for the Coordination of Humanitarian Affairs reported that 10,000 civilians had been killed and 40,000 wounded during the two-year conflict. North of 17mn people suffered food insecurity, while others were simply internally displaced by the war raging in the country let alone a cholera epidemic spreading throughout Yemen, killing more than 1,700 people in the span of less than three months, due to a decimated medical infrastructure accompanied by a very limited humanitarian assistance.

While the UNSC resorted to the Right To Protect in the early stages of the conflict, reminding Yemen of its obligations (Pillar I) namely protecting civilians and sanctioning human rights abusers, it eventually failed to fully engage in Yemen. In other resolutions the UNSC has termed the Yemen conflict as Civil War rather than an onslaught of atrocities against civilians. Though the UNSC has called repeatedly upon warring parties to respect human rights and humanitarian laws, it failed to invoke Pillars II & III of the right to protect, since any attempt to implement R2P

would likely be blocked by the 5 countries within the Saudi led intervention. One has to wonder about the intervention itself being an R2P one, given that none of its actions have been authorized by the UNSC. In general, the Veto of the UNSC in addition to the framing of the conflict as a civil war, have generated a stagnating status-co in which mass atrocity crimes continue to unfold unabetted without a real prospect of implementing R2P. (Lin Noueihed, 2012)[1]

B. Reaction :

For the Security Council to efficiently enforce its R2P mandate, 3 situations ought to be present:

1. no obstruction from the country's authorities where mass atrocity crimes are ongoing. In the event those authorities' obstruction does occur, then P5-degree resolution exists with the ability to conquer authorities' obstruction.
2. cooperation among nearby groups and the Security Council exists to adequately mobilize assets relying on the character of the disaster;
3. the Security Council or an outside actor appearing with the authorization of the Security Council has the potential to hastily reply to the disaster.

In the below detailed 3 case studies, all 3 cases existed, opening the way for an R2P intervention through the Security Council to save the people from ongoing mass atrocity crimes. In that framework, In July 1960 UN Peacekeepers Helped Bring Stability to Congo; the United Nations deployed its biggest peacekeeping operation yet, nearly twenty thousand troops there, in order to help the newly formed government in expelling Belgian troops illegally stationed in Congo after its independence. Throughout the following 4 years, those UN peacekeepers labored with the nearby authorities to make sure that the status-co would not spiral into civil battle. When

[1] Lin Noueihed, A. W. (2012). *The Battle for the Arab Spring:.* Yale: Paul Hockenos.

the peacekeepers left Congo in 1964, the United Nations had efficiently eviscerated the violent conflict, in partnership with the Congolese authorities. Despite this fulfillment, the Soviet Union criticized the United Nations' involvement in Congo and feared it would set a precedent for interfering in international locations' home affairs.

In Egypt the Peacekeepers mission was not a straightforward one; the lack of its success there arose from the absence of consent to the mission itself from nearby governments. At first, the authorities allowed UN peacekeepers to patrol its hectic border with Israel for over a decade. However, as Egypt was getting ready for war with Israel in 1967, the Egyptian authorities demanded the UN peacekeepers withdraw. Although this was a negative development in the peacekeeping effort, the peacekeepers had no alternative but to comply, with the formal demand of the government of a sovereign nation despite the great possibility of war as a result, which actually occurred less than one month later.

In January 1994, UN peacekeepers had been tracking nearby elections in Rwanda. But while simmering ethnic tensions erupted leading to genocide later that year, the same peacekeepers were repeatedly ordered not to to interfere in a home struggle and not to overstep the slim scope of their task. However, as UN peacekeepers watched on the sidelines, 8 hundred thousand Rwandans were killed in less than 3 months. This extravagant death toll precipitated an intensive UN investigation, which deduced that members of the international effort, had ordered their peacekeepers to stay low out of fear for their own safety, after incurring casualties at the opening stages of previous missions.

In 1999, violence surged once more within the former Yugoslavia, as Serbian government persecuted Kosovar Albanians (ethnic Albanians dwelling in Kosovo, a place inside Serbia) who known as for an impartial us of a. Despite the instantaneously hazard of ethnic cleaning, the United Nations couldn't agree whether or not to interfere. This time, however, the North Atlantic Treaty Organization (NATO) refused to take a seat down through as mass violence spread out at the European continent. Led through the United States, the alliance released an intensive

bombing marketing campaign, concluding that attacking Serbia changed into justified for you to give up ethnic cleaning and save you mass atrocities. This selection stays controversial. On the only hand, it driven the Serbians to barter an give up to hostilities. But the marketing campaign additionally lacked UN authorization, violated Serbian sovereignty, and triggered vast harm and displacement, contributing to heaps of deaths and the displacement of over one million Kosovar Albanians. NATO's moves tested that there has been hobby amongst a few international leaders in project humanitarian interventions, however it additionally made clear that tips for such interventions had been important. According to (Ray Stubblebine /Reuters), United Nations Embraces Responsibility to Protect After the violence in Rwanda and the previous Yugoslavia, the United Nations sought to make sure such tragedies by no means once more occurred, prompting international leaders to revisit the query of whether or not a rustic's sovereignty might be justifiably violated for you to forestall a mass atrocity. In 2005, UN contributors advocated the duty to shield (R2P) doctrine, which states that international locations have a duty to shield their residents and, in the event that they fail to do so, that duty falls rather at the relaxation of the sector. In different phrases, international locations can use all approach important—such as army intervention—to save you large-scale lack of life. The R2P doctrine represented an intensive shift from preceding many years wherein unilateral humanitarian intervention changed into taken into consideration an illegal violation of a rustic's sovereignty. Applying this doctrine, however, might show tricky. The United Nations legal NATO to behavior a restricted humanitarian intervention in Libya for you to shield the us of a's civilians. But on March 25, 2011, President Barack Obama said that Libya might now no longer be secure till Qaddafi's forces stopped attacking protesters and that the NATO task might hold till Qaddafi stepped down. This speech signaled an essential shift in NATO's task: in place of clearly grounding Qaddafi's air pressure thru a no-fly region, NATO might now adopt a broader political task of regime trade in Libya. This paradigm shift caused an uproar with both China and Russia, stating their discontent with what they called an overreach of UN mandate by NATO. In the subsequent months, rebels took over maximum of Libya with good sized NATO army assist. R2P Sidelined as World Splits on Balance Between Sovereignty and Human Rights In Syria, over 4 hundred thousand humans were killed with tens of thousands and thousands extra displaced because the begin of the us of a's civil

battle. In Yemen, a civil battle has produced the sector's worst humanitarian disaster. And in Myanmar, human rights advocates accuse the authorities of committing genocide towards the Rohingya minority. But in every of those crises, the United Nations' reaction has been restricted, as the sector is once more divided on the proper stability among respecting sovereignty and protective human rights. For a quick moment, international locations agreed that stopping a mass atrocity justified violating a rustic's sovereignty. But the 2011 Libya intervention shattered worldwide consensus at the R2P doctrine. Since that destabilizing intervention, China and Russia especially have used their veto strength at the UN Security Council to dam different such interventions. As a result, the United Nations has been not able to take or authorize army motion to mitigate several the sector's maximum violent conflicts. The disaster in Côte d'Ivoire tested the entire strength of the Security Council's well timed and decisive motion beneath Neath R2P withinside the face of mass atrocity crimes. It is likewise an instance in which all 3 situations had been met to permit the Security Council to behave to prevent in addition atrocities, main to a a hit implementation of R2P. Here, the Security Council reaction confronted no obstruction from the valid and democratically elected authorities and changed into consequently capable of reply effectively to the developing hazard of heavy guns towards civilian communities. Further, the Security Council changed into capable of quick boost its degree of engagement in reaction to the direct hazard of heavy guns due to the nearby assist from the AU and (ECOWAS, 1975)[1]

Both supported Ouattara because the valid president of Côte d'Ivoire. Additionally, ECOWAS explicitly asked the Security Council to toughen UNOCI's mandate, which it did rapidly thereafter. Finally, the Security Council had the fast reaction potential, as UNOCI and French troops had been already deployed and capable of perform the Secretary-General's orders to shield civilians from heavy artillery at the day they had been issued. When UNOCI used army pressure towards pro-Gbagbo troops, it did so with the specific and restricted reason of protective civilian populations through disarming the heavy artillery structures Gbagbo's forces had deployed previously. Altogether, the Security Council replied to the escalating disaster inside one month after violence

[1] (ECOWAS), E. C. (1975). *Economic Community of West African States (ECOWAS)*. Récupéré sur African Union: https://au.int/en/recs/ecowas

first broke out. Therefore, the Security Council's complete engagement with its R2P mandate following the election violence in Côte d'Ivoire tested a hit implementation of R2P and avoided endless extra civilian casualties. A fourth situation has additionally avoided the Security Council from efficaciously enforcing its R2P mandate: the P5 veto. As all great resolutions provided to the Security Council can be problem to a veto through any of the P5, using the veto concerning an R2P-associated decision is constantly an opportunity. The case on this Section reveals that the Security Council veto, or the mere hazard of the veto, can stall R2P reaction from the start or maybe after preliminary steps were taken through the Security Council to enforce its R2P mandate. (Jr. A. T., 2022)[1]

C. Soft action and the concept of Soft Power :

In politics (and specially in worldwide politics), smooth strength is the cap potential to co-choose in place of coerce (contrast difficult strength). In different phrases, smooth strength includes shaping the options of others through enchantment and attraction. As such a smooth strength, in line with Nye, rests on 3 assets: "its culture (in locations in which it's miles appealing to others), its political values (while it lives as much as them at domestic and abroad), and its overseas policies (while others see them as valid and having ethical authority)." (Doyle, March 2011)[2]

As dependent on reality the idea of smooth strength is defined in line with the subsequent According to Aldo Matteucci; If strength approach the cap-potential to get (or have an impact on directly) the consequences one wants from others (especially through coercion or inducements) then smooth strength is 'the cap potential to form the options of others. If 'the others' need the identical element due to the fact we percentage the identical worldview, outlook and culture, we will enlist their strength in achieving 'our' goal. Examples of 'smooth strength' are the quantity of overseas college students enrolled within the U.S., the quantity of instructional exchanges, the global intake of American media products – America because the beacon of modernity with its

[1] Jr., A. T. (2022). What in the world is the veto power? *The Manila Times*, 12-19.

[2] Doyle, M. W. (March 2011). *International Ethics and the Responsibility to Protect.* New York: Columbia University.

values of openness, mobility, individualism, pluralism, voluntarism, and freedom. Culture – each in its 'excessive brow' and famous forms – and sports. An 'appealing' overseas coverage takes delight of place. He charges approvingly former Defense Secretary Robert McNamara: "If we will convince international entities with similar values of the advantage of our cause, we'd better look back at our reasoning." The idea of 'smooth strength' as evolved through Nye is corresponding to that of mana many of the Maoris. The authority of the leader is augmented through his successes in battle. He will increase his mana through marriages, feasts and presentations of strength. His mana is dwindled through overt humiliation, or loss in battle or negotiation – the Chinese would possibly name it 'dropping face'. Napoleon's mystery weapon changed into the air of secrecy of invincibility that iced over his opponent's hearts and minds. Modern phrases might be 'political capital' – the cap potential of a frontrunner to rally the voters round his political goals. Image and 'public members of the family' are regular phrases for 'smooth strength'. In the international enterprise one might use the time period 'goodwill'. There is no doubt that a photograph may be a very effective tool – witness the fortunes that rock singers gain for pretty much something they could release. Or the mark-ups that emblem names command for what is basically a regularly occurring product. In a worldwide negotiation a rustic might ought to make concessions to attain its goals – it may depend on supply and take. The exquisite benefit of the use of 'smooth strength' is that it 'assumes no liabilities on the undertaker". Using 'smooth strength' reliefs a given country actor of making concessions: it clearly receives its manner – softly. Accumulation of 'smooth strength' is anyhow costly, hard, and time consuming. Solid reputations are most effective remodeled years. 'Soft strength' has its drawbacks, though: it constrains as a great deal because it complements strength. 'Honor' a time period a great deal utilized by governments of yore – dictated unpalatable political picks through with the exception of e.g. the opportunity of compromise. As many an actor knows, furthermore, photograph could be very constraining. The public expects behavior in conformity with the photograph – unexpected deviance can also additionally cause excessive lack of photograph. Coherence too, however, can be treacherous – solidity can be perceived as boring. The key issue is the provision of an alternative. There can be a smoldering dissatisfaction with the state of affairs, however no overt insurrection towards it. As quickly as humans have a choice, they will

work it out. Like a river, says Nye, a rustic's photograph has many sources. Only some are beneath direct authorities' management and amenable to planned enhancement. Whether states must decorate their photograph – spend to bolster their 'smooth strength' – is a trouble debated within the e book, without clean results. In a super international 'smooth strength' might gather robotically thru appropriate and convincing deeds – something else is 'propaganda'. Visions of crude manipulation through Nazis or Soviets come to thoughts. But convincing others of one's well worth would possibly want a few pro-lively doings. And anyhow as any post-modernist highbrow would possibly cynically interject – there may be no fact, simply opinions. So, what's incorrect with pushing a beneficial opinion? Many international locations have 'smooth strength' to a specific quantity – Nye reminds us. Their origins are specific; however, they paint within the identical manner of a 'smooth strength' of the US. These forces can be competitive (e.g. France and U.S.) or supportive of every difference (because the duo Bush-Blair has shown). Nye chides the modern-day U.S. management for foolishly destroying the use of a's photograph abroad. The brutal use of difficult strength can also additionally yield consequences however no dividends in 'smooth strength'. (WHEELDON, 2022) 'Shock and awe' would possibly cower Iraq's resistance, however spawn resistance to American management worldwide. In the give up, strength is exercised both through pressure and legitimacy. A regime that has misplaced his legitimacy can continue to exist through terror for a while, however in the long run it'll be toppled as it's miles visible to have 'misplaced the mandate from Heaven'. While this lesson is relevant inside a country, extrapolation is possible. There is a worldwide legitimacy of sorts – as while the U.S. led the combat against totalitarianism. Soft strength assets are the property that produce attraction, which frequently results in acquiescence. For Nye, the power of seduction outweighs that of coercion, and aspiration to democracy, human rights and positive prospects are quite seductive. "Angelo Codevilla sees that specific components of populations are important elements of smooth strength that goes often unchecked and that are frequently attracted to typical ideas and prospects. Soft strength is hampered while policies, culture, or values repel others in place of attracting them. In his e-book, Nye argues that smooth strength is an extra hard device for governments to wield than difficult strength for 2 reasons: lots of its vital assets are outdoor the manager of governments, and smooth strength tends to "paintings not directly through shaping

the surroundings for coverage, and occasionally takes years to supply the favored consequences. "The e-book identifies 3 wide classes of smooth strength: "culture", "political values", and "policies." In The Future of Power (2011), Nye reiterates that smooth (California) strength is a descriptive, in place of a normative, idea. Therefore, smooth strength may be wielded for nefarious functions. "Totalitarian leaders like Hitler and Stalin and Mao possessed a great deal of smooth strength within their acolytes, nevertheless the framework of their use of power was inappropriate. It isn't always higher to curve minds than to curve fingers." Nye additionally claims that smooth strength does no longer contradict the worldwide members of the family concept of realism. "Soft strength isn't always a shape of idealism or liberalism. It is clearly a shape of strength, one manner of having favored consequences."

US diplomatic relations have long had a lot of soft power. As an example of influence, Franklin D. Roosevelt's and his Four Freedoms in Europe motivated the Allies in World War II. People behind the Iron Curtain are listening to Radio Free Europe, the government's foreign propaganda agency. Newly freed Afghans in 2001 are seeking copies of the Bill of Rights, and young Iranians are now secretly watching banned American videos and satellite television in their homes. For example, America's early commitment to religious tolerance was a strong component of its general appeal to potential immigrants. And America's assistance in rebuilding Europe after World War II was a propaganda triumph showing the prosperity and generosity of the American people. American culture has been embraced around the world for decades. American culture is often viewed as "hegemonic" because America is a superpower. American dominance and American media penetration helped make English (especially American English) a universal language. Around the globe the development of music was greatly influenced by the American art. American architecture and urban planning, American political and economic philosophy, and American film and television have played strong roles in shaping both western and non-western culture. Various elements of the American Culture including cuisine, fashion trends, literature, theatre, and dance widely influenced universal modern culture. Hippy, Hip-hop, Punk rock, Rock 'n' roll, Greaser, Grunge, and Beatnik movements all born in the US, left their fingerprints on the trends of the 20th and 21st centuries. American technology and social media companies and digital presence

hold a monopoly over the world's digital space. (California) Studies of American broadcasting into the Soviet bloc, and testimonials from Czech President Václav Havel, Polish President Lech Walesa, and Russian President Boris Yeltsin support that soft power efforts of the United States and its allies during the Cold War were ultimately successful in creating the favorable conditions that led to the collapse of the Soviet Union. Satellite TV has become an engine for actively promoting American soft power in the Arab world in in a manner previously thought out of reach to the United States. The opening of the Arabic-language Alhurra satellite channel in early 2004 to provide news and entertainment in a more beneficial manner to the United States marked a major turning point in the development of US public diplomacy. Virginia-based Alhurra, which claims to be the world's largest Arabic-language news outlet, lacks the prestige and brand recognition of Al Jazeera, but its well-rounded presentation of news, has garnered a small but significant audience. Controversial radio innovations. (Evans G. a., 2002)[1]

[1] Evans, G. a. (2002). The Right To Protect. (S. COuncil, Intervieweur)

6. Ethical responsibility of the right to protect Evelyne & Jana

Rules of Engagement

Several people and governments are reconsidering the value and dangers of humanitarian action in the wake of September 11 and the Iraq War.
Does anyone even care anymore? asks Makfarlane, she said Observers are uncomfortable about the USA and its allies, including the UK, cementing their position as interveners. The potential for abuse of the notion that there is an international obligation to protect those suffering serious harm if their own state is either causing it or likewise reluctant or is unable to avert this was highlighted by ex post facto humanitarian justification of regime change in Baghdad.As a result, the tenuous agreement that had been forming concerning the legality of military interventions for particular human protection goals since the mid-1990s has been eroded and could suffer long-term harm. By merely bringing up the Iraq War, future efforts to step in and stop mass slaughter or persistent human rights violations could be shown as hollow. Additionally, Washington's military resources, in particular, are depleted in the fight against terrorism. How many people and how much money can be saved just to, in Nicholas Wheeler's words, "save the lives of strangers"?. Given the rising resource demands brought on by the threat of terrorism, it is essential to shift the responsibility to defend. Humanitarian actions that are not directly related to national interests may be seen as a distraction from urgent new security threats. Additionally, attacks on aid workers in Afghanistan and particularly Iraq have increased the risks for civilians relief providers. In other words, the outlook for victims seeking for humanitarian assistance is pretty gloomy. After September 11, 2001 and the conflicts in Afghanistan and Iraq, has the idea of a responsibility to protect gone out? perhaps there is yet a chance.

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likewise reluctant or is unable to avert this was highlighted by ex post facto humanitarian justification of regime change in Baghdad. As a result, the tenuous agreement that had been forming concerning the legality of military interventions for human protection goals since the mid-1990s has been eroded and could suffer long-term harm. By merely bringing up the Iraq War, future efforts to step in and stop mass slaughter or persistent human rights violations could be shown as hollow. Additionally, Washington's military resources, in particular, are depleted in the fight against terrorism. How many people and how much money can be saved just to, in Nicholas Wheeler's words, "save the lives of strangers"? Given the rising resource demands brought on by the threat of terrorism, it is essential to shift the responsibility to defend. Humanitarian actions that are not directly related to national interests may be seen as a distraction from urgent new security threats. Additionally, attacks on aid workers in Afghanistan and particularly Iraq have increased the risks for civilians' relief providers. In other words, the outlook for victims seeking for humanitarian assistance is gloomy. After September 11, 2001, and the conflicts in Afghanistan and Iraq, has the idea of a responsibility to protect gone out? perhaps there is yet a chance.

Invalid source specified. For humanitarian and mediation professionals interested in dealing with armed non-state actors, the study Rules of Engagement, Protecting Civilians via Dialogue with Non-State Actors is a crucial information source (ANSAs).

The improvement of civilian safety in times of armed conflict is the underlying commitment that guided the creation of this paper. In actuality, despite international efforts, civilians continue to make up the large majority of those killed in armed conflicts today and are increasingly the victims of atrocities. One of the primary protection problems, according to a study published in June 2009 by the UN Secretary-General, is ANSAs' disregard for international law. Furthermore, Mr. Ban Ki Moon urged Member States to come up with new initiatives to increase such compliance in his report. Also, in accordance with this advice, Switzerland has set itself the goal of providing the worldwide community with new methods and resources that may help ANSAs better adhere to international standards. As a result, it has supported this endeavor since 2009 on behalf of the Geneva Academy of International Humanitarian Law and Human Rights. The study is especially inventive since it was developed through a process of applied research and consultation that included all relevant actors, including ANSAs themselves. It was possible to address current issues and reflect concerns that are currently plaguing the sector because of this comprehensive approach.
The paper includes a comprehensive list of recommendations and conclusions.

They are targeted to a variety of interested parties, in particular humanitarian and mediation professionals, ANSA members, and states, which are the main entities responsible for protecting the citizens under their control according to international law. The main finding of the paper is the urgent requirement for greater humanitarian engagement with ANSAs. This indicates that the world community must make joint efforts in order to make a difference to civilians at risks. The results of many years of experience and knowledge in humanitarian work are the conclusions and recommendations. The Geneva Academy can view the publishing of this document as a success in the context of their ongoing initiatives to use research and international law education to prevent and lessen the atrocities of armed conflict. A special thank you is extended to all the professionals who gave of their time, knowledge, and viewpoints to further our shared objective of improving the protection of civilians during armed conflict.

The dispute over the so-called "right of humanitarian intervention" has dominated discussions of international peacekeeping since the end of the Cold War. Advocates of the right of intervention, primarily Western states, tend to support liberal internationalist claims that the Thinker guideline of the Cold War era, in which state security was prioritized, has been replaced by new international norms prioritizing individual rights to protection. The Responsibility to Protect, a two-volume study from the International Commission on Intervention and State Sovereignty, was published in December 2001 in an effort to formalize and gain more international legitimacy for new interventionist principles. rather than a moral movement away from the rights of sovereignty, the supremacy of the liberal peace thesis actually reflects the new power balance in the affairs of other countries in light of this report and other recent developments in international security. Just as the old theory of sovereign equality and non-intervention was reliant on the demands of Realpolitik, so too are the justifications for new interventionist standards as a framework for liberal peace. **Invalid source specified.**

Invalid source specified. States' absolute legal idea of sovereignty is as follows: "Absolute" in the sense that sovereignty can be present or not. There is no middle ground between on one hand a state having legal sovereignty, which means that it "is not subordinate to another sovereign but

is necessarily equal to it in international law," and on the other the absence of sovereignty; it is legally challenging to have a complex circumstance where a state has a partial sovereignty without raising the question of “relative sovereignty."

The Maputo regional roundtable participants, for instance, felt that Africa had been overlooked by the Security Council, contrasting the vast sums of money spent on the Balkans with the case of Liberia, where UN members failed to fulfill pledges of $150 million in support of subregional efforts, with the billions spent on the Balkans. The discussion emphasized the "strong relationship" between poverty and conflict and bemoaned the lack of suitable to nonexistent international responses to the issue of poverty. The steep decrease in the amount of bilateral aid disbursed and the steadily worsening trade terms were of special concern. **Invalid source specified.**

The veto of one or more of the Great Powers during the Cold War limited the UN Security Council's ability to act, which limited its ability to play a significant role in the approval of military involvement. The issue of UN mandate enforcement has grown more difficult in the context of UN Security Council activism over the past ten years. After the Gulf War in 1991, this was particularly evident in the case of Iraq, where there was disagreement over whether UN Security Council Resolution 688 had the authority to create the air-exclusion zones that limited Iraqi sovereignty in North and South Iraq. In the lead-up to the second Gulf War in 2003, there was also little consensus over whether UN Security Council Resolution 1441 authorized the use of military force.

The concept of rebuilding

Many people will recall the 2005 United Nations (UN) World Summit as the day when the organization's reformation plan, proposed by outgoing Secretary-General Kofi Annan, fell short. (Garrigues, The responsability to protect: from an ethical priciple to an effective policy , 2007). The Human Rights Council and the Peacekeeping Commission were established, for example,

despite the fact that the differences over the Security Council's restructuring were unable to be resolved. The acceptance of the obligation to protect concept was one of the less talked-about topics. (International commitssion on Intervention and stte sovereignty , 2001)[1] The endorsement of this principle looked unimportant at first view. However, the International Commission on Intervention and State Sovereignty's (ICISS) statement, which officially established the responsibility to safeguard principle in 2001, displays an evolved, intrinsically contentious, and vitally important idea. The responsibility to protect stems from a fundamental concept: when a government does not fulfil l the basic principle of the modern state of providing protection to its citizens, the international community must assume this responsibility. (convention, 1948)[2] That is to say, that the principles of sovereignty and non-intervention that for hundreds of years served as a carte blanche for the behavior of state governments at a domestic level are no longer sacred. Sovereignty becomes a conditional right. If a state does not fulfil l its obligation of guaranteeing the security of its citizens, especially if it does so consciously, it loses its right to invoke sovereignty as the basis for preventing an international intervention which intends to exercise this responsibility. Moreover, the idea is an improvement over the right to responsibility in terms of the global Community. At the conclusion of the Cold War, the discussion about intervening in cases of genocide or grave human rights violations gathered momentum.

The bloody crises in Somalia, Rwanda, the Great Lakes region, the former Yugoslavia, and Haiti sparked contentious debates, protracted reactions, and swift actions. According to the so-called "liberal intervention" perspective, the right to protection was exercised in Kosovo in 1999 when NATO intervened to stop Serbian forces from carrying out acts of racial cleansing against the Albanian-Kosovar population. The right to intervene in humanitarian situations served as justification for this action. Because of Russia's resistance, the UN Security Council did not back NATO's move, which made it much more contentious.

[1] International commitssion on Intervention and stte sovereignty . (2001). *responsability to protect* .

[2] convention, U. (1948). The UN convention for the prevention and sanction.. *Fride*.

The right to humanitarian intervention has always been controversial, especially among governments and scholars from Southern nations. Several concerns arose due to suspicions regarding the intentions of various Northern states: Who decides when intervention is appropriate? Why did we not intervene in other situations like Kosovo? What forms of interventions are appropriate? For the case of Many commentators, both from the North and the South, claimed that the intervention in Kosovo was made too soon and too forcefully, or, in colloquial Anglo-Saxon, "too much, too early." In reality, the interventions of the 1990s created something akin to a quagmire: there was no intervention when it was necessary (Rwanda); intervention came too late (Bosnia, the Great Lakes); was carried out under unclear mandates (in all cases); was planned with the intention of trying to leave as soon as possible (the United States in Haiti); and was justified by a combination of political and humanitarian reasons (Kosovo). The first general inclination to intervene for humanitarian grounds gave way to the pragmatic caution of intervening only when necessary and with specific goals. In addition, there are many parties involved, including the states directly affected, the UN, regional security organizations, NGOs, and academia as well as journalists - changed their enthusiasm for interventions to disillusionment as a result of their failure. In light of this, it was essential to define the notion in order to move forward with practical actions that combined what was politically and morally feasible, and to extend the protection horizon as far as possible, or in other words, to make it broadly inclusive. In this regard, the duty to protect entails a significant advancement in both normative and empirical research. Not only is there a change from state sovereignty to responsibility, but there are also specific principles about humanitarian intervention that are outlined, such as the use of proportionate measures and the idea that armed action should only be used as a "last resort." Furthermore, the principle emphasizes that international organizations, nations, and NGOs should prioritize conflict avoidance above interventionist methods. It is an impressive accomplishment for the "Group of Wise Men" who drafted the document that was ultimately approved at the 2005 UN World Summit that the responsibility to protect could be approved unanimously after the controversy caused by the right to humanitarian intervention, even if it was a significantly modified version of the ICISS text.

However, this idea and the people, organizations, and states that backed it have faced a difficult path that continues today. (Straw, 2005)[1] Particularly, the Iraq War provided the idea with an almost insurmountable barrier at first. When a small coalition led by the United States (US) and the United Kingdom (UK) chose to invade Iraq in 2003, the war's justifications—the alleged threat of a terrorist attack using Iraqi chemical and biological weapons—were already under scrutiny. When they used the obligation to defend Iraqi residents as justification for invading the country, their fabrication of the truth that led them to begin an unlawful war without the aid of the international community was made worse. This attempt to justify the war not only severely damaged the reputations of the US and the UK, but it also gave the right to humanitarian intervention skeptics more ammunition to support their claim that the principle was nothing more than a cover for Western neo-imperialist goals.

Invoking the duty to protect in the context of Iraq was a mistake, which the UK government implicitly acknowledged by ceasing to discuss it. Darfur is the current conflict that poses a threat to the future of the duty to protect. In this instance, international passivity toward a circumstance that seems an obvious case to invoke the usage of the principle is to blame, not a risk of manipulation of the concept. Only a select few politicians have managed to state this publicly. In one of his farewell speeches, Kofi Annan stated as such: "When I look at the murder, rape, and famine that the people of Darfur are experiencing, I feel that we have not progressed much beyond 'lip service' says Garrigues.

Since the ICISS released its report and coined the phrase in 2001, the responsibility to safeguard has only really existed in name. However, the concept of the right to humanitarian action was the subject of a significant debate earlier, in the 1990s. The ICISS and the duty to protect both exist to address this dispute and its inability to be resolved. Intra-state conflicts, which are now regarded as posing a greater danger to international security than inter-state conflicts, began to appear in the 1990s. The conclusion of the Cold War resulted in a number of conflicts, much like

[1] Straw, J. (2005). Labour party conferance .

the Second World War did. The latter involved violent intrastate conflicts that arose as a result of the dissolution of state institutions and the void created by the conflict between two superpowers. The inability of the international community to respond was demonstrated by these extremely complicated conflicts that were founded on rivalries and racial and religious divisions. The most eloquent examples of this lack of capability were the disaster in Somalia in 1993, international passivity in Rwanda in 1994, the ineffectiveness of UN soldiers in Srebrenica in 1995, and NATO's decision to strike Kosovo in 1999. It quickly became clear that there were insufficient laws and funding to address these risks to global peace and security. The somber and unequivocal conclusions of the UN Secretary-report General's on the fall of Srebrenica show the displeasure that followed lackluster international responses: "The protected areas and security zones may be used to protect the civilian population in armed conflicts. Such areas would need to be demilitarized by agreement between the belligerents, as is the case with "protected areas" and "safe havens," which are recognized in international humanitarian law, or they would need to be genuine security zones fiercely defended by a deterrent military force that is worthy of its name. It did not take long for the international community to recognize the necessity to modify international responses to conflicts' evolving nature. The conventional approach to peacekeeping operations was changed within the UN. The 1996 Report of the Panel on UN Peace Operations, often known as the Brahimi report after its president, the Algerian Lakhdar Brahimi, advocated a shift away from the integrated mission's paradigm in favor of one focused on the military operations of blue helmets. Other UN fields of activity, like as institutional improvement and gender, which are essential to ensuring a durable peace and complement the work of the blue helmets, have been strengthened in these integrated missions, under civilian direction and with a considerably stronger civilian presence. But there was a discussion that went beyond the UN and state entities due to the inadequate international response capabilities. Voters all around the world became more quickly aware of war and humanitarian disasters with the introduction of the so-called CNN effect, increasing the emotional urgency of the international political reaction. (Garrigues, Humanitarian intervention of the responsibility to protect , 2006)[1]

[1] Garrigues, J. (2006). Humanitarian intervention of the responsibility to protect . *Fride* .

The discussion of humanitarian intervention spread to academic and NGO communities, among others. According to Paul Kennedy, in the instance of the UN, the Kosovo conflict resulted in a significant decline in public support for the organization. One argument was the "droit d'ingérence," or right to intervene, which was first advanced by Bernard Kushner, a co-founder of Médecins sans frontières and the current minister of foreign and European affairs of France. The right to interfere backed the use of military action as a last resort to intervene in a humanitarian crisis scenario and criticized "the ancient conception of the sovereignty of states, enshrined in the preservation of killings." The issue of which rules should apply to what was argued to be a moral obligation and what, in some situations, necessarily indicated a non-consensual military action remained open, however, given the lack of a normative precedent in this area. On the other side, many believed that the right to intervene posed a neo-colonial threat to the world's most defenseless and impoverished nations because it was a blatant violation of the fundamental concept of state sovereignty. Abdelaziz Bouteflika, the president of Algeria, voiced these worries during the 1999 UN General Assembly general debate and even defended sovereignty as "the last defense against the laws of an unjust world." Nevertheless, groups like the Red Cross were vehemently opposed to the concept of combining military involvement and humanitarian relief. They assert that the inherent impartiality being linked to something as political as a military invasion would naturally put humanitarian aid in a precarious position.

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CONCLUSION

With all the above being said, the right to protect is quite controversial; since it involves generally international partners and most of the time foreign neighbors. It paves the way for foreign interference and it introduces into the balance of power of the contested territory political ramifications which are inherent from the grievances of the interfering entity; in that mindset, the right to protect creates a new paradigm for the prospects of the contested territory; since there is intervention for the purpose of the protection of the domestic people, then the assumption that the state has already failed becomes a forgone conclusion, and therefore with the interference comes the responsibility of nation building. Whether in Iraq, Afghanistan or many other theatres of intervention, state building has proven to be a catastrophe, leaving the destined people in a situation of disarray with often the accusations of looting or profiteering leveled at the intervening entities. But what strikes most is the inability of advanced nations to understand the difference of culture and background between them and the people in contested territory. In fact, it is this difference that fueled the rise of ISIS in Syria which was blown out of proportion by the joining of forces of Izzat Ibrahim Al Douri and a big chunk of the disbanded Iraqi army on one hand and the Islamic Caliphate on the other. This heavily trained army that by now had participated in many war theatres contributed to the prowess of ISIS, facing a novice recruited official Iraqi army that had so far never been into battle. At the very end of the conflict, Iran gained more influence in Iraq, the US had to retreat under the weight of a war weary public opinion after almost a $Bn. 1000 expenditure, whereas the Iraqi people had to settle for a dysfunctional government and more poverty. Nevertheless, the concept of R2P cannot be completely revoked, because humanity cannot and should not stand idle in the face of tyranny and the committing of atrocities. It is perhaps what brought back the prospect of intervention in the wake of the Ukraine war, a justified intervention in the face of a ruthless Russian army that bombards powerplants and population centers indiscriminately. But there again, one look at the geopolitical map can decipher a whole set of international interests. In that global paradigm, perhaps the question becomes, what are the boundaries of interventionism, and maybe there would reside future political maneuvering within an international legal order. Perhaps the reliance of rogue instigators on the weak memory of the global inhabitants has become a powerful tool; it has been since 1948 that the Israeli government is advancing slowly but surely within the PLO boundaries. The ruleset there is clear, if no mass-killing occur the united states will keep on stalling the UNSC with its Veto Power and then on the long run Palestinian territory will become blue territory and the weak memory of the world would simply adapt to the new status-co. Therefore, the question becomes one to demarcate interventionism.

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