RETHINKING THE RESPONSIBILITY TO PROTECT (R2P) NORM IN PROMOTING PEACE AND SECURITY: WHY IN LIBYA AND NOT SYRIA?

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A DISSERTATION SUBMITTED IN PARTIAL FULFILMENT OF THE REQUIREMENTS OF THE MASTERS OF SCIENCE DEGREE IN INTERNATIONAL RELATIONS

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FACULTY OF SOCIAL STUDIES

UNIVERSITY OF ZIMBABWE

MARCH 2015

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DEDICATION

To my dearest wife, Rutendo Munengami, without whose support I would not have done this.

ACKNOWLEDGEMENTS

ABBREVIATIONS AND ACRONYMS

ASF	African Standby Force
AU	African Union
EC	European Community
ECOWAS	Economic Community of West African States
EU	European Union
ICISS	International Commission on Intervention and State Sovereignty
LAS	League of Arab States
NATO	North Atlantic Treaty Organization
OAU	Organization of African Unity
OIC	Organization of the Islamic Conference
PSC	Peace and Security Council
R2P	Responsibility to Protect
SADC	Southern Africa Development Community
UN	United Nations
UNGA	United Nations General Assembly
UNSC	United Nations Security Council
UK	United Kingdom
US	United States of America

ABSTRACT

The Responsibility to Protect (R2P) principle remains a useful norm for promoting peace and security and a call for international humanitarian intervention. The research traces the evolution of the responsibility to protect doctrine as a basis for humanitarian intervention. The study analyses the credibility of the responsibility to protect principle by evaluating its implementation in response to humanitarian crisis. The study sought to explore the meaning and rationale, of the responsibility to protect and also investigate the variance in the application of the R2P doctrine in Libya and Syria. The research employed qualitative data collection techniques such as documentary reviews and interviews. In view of the inconsistence application of the R2P the study notes that the UNSC has been compromised by national interest of the UNSC members and application of the doctrine. The research further notes that the R2P doctrine was strengthened in Libya in 2013 and undermined in Syria by the failure of the UNSC to come to consensus on the ongoing Syrian crisis. It is agreed that the R2P doctrine lies an inherent weakness in that other members of the UN are incapacitated to take action. and should the UNSC fails to act where crimes against humanity have been committed. The study recommends for the consistent application of the R2P and for the UNSC not to consider national interest in their interpretation of the R2P doctrine.

CHAPTER 1

INTRODUCTION

1.1 Introduction

This is an introductory chapter of the study which traces the contextual background of the Responsibility to Protect (R2P) principle. The chapter also introduces the problem under investigation.The methodology of the study and the research are also part of this chapter .

1.2 Background to the Study

Responsibility to Protect (R2P) is one of the emerging doctrines in the discourse of international relations that has been propounded as a solution to achieve human security. Since its adoption in 2001, R2P has been heralded as a triumph by developed countries while developing countries have discarded it as a mere norm to protect the interest of powerful states such as United States (US), Britain, Russia and France. Instances of grave violation of human rights which happened in former Yugoslavia, Rwanda, Sudan, Libya and Syria have reinvigorated the debate on humanitarian intervention. The debate has been further invigorated by the question highlighting if states and the wider global community have indeed any ethical responsibility to react to such sporadic cases of violations. If so, what is the appropriate time for such a reaction? The context of this debate is an environment in which the discourse on security is shifting away from state security towards human security, at least in theory. In the aftermath of the post-Cold War dispensation, this has served to the shift of focus in the security research from national to to human security. As outlined by Jackson (2012), this in reality points to that instead of states or coalitions defending their nations against perceived and real external threats, the international community is guaranteeing the national security of nations whether or not that is converted into domestic security for their citizens. The post-Cold War conflicts have become complicated and diverse but its effects on human security have been catastrophic. The massive violations in Somalia in 1993, the 1994 genocide in Rwanda, and the massacres of 1995 in Srebrenica were the most prominent examples of human security challenges and also exposed the lack of policy at United Nations (UN) level to deal with such kind of threats to international peace and security.

However, the 1990s decade witnessed a number of humanitarian operations. One of these was the North Atlantic Treaty Organization (NATO) intervention in Kosovo in 1999. The NATO operation was however criticized by developing states, based on the argument that NATO got involved motivated by a desire to push its own interests rather than genuine humanitarian objectives. After the contested interventions of the 1990s, the UN formalized debate about humanitarian operations. Subsequently, the Kosovo Commission Report (1990:23) called for the UN to advance in the intricate matter of humanitarian intervention. It was outlined that the experience from NATO involvement in Kosovo pointed to the need to differentiate between legality and legitimacy. The Commission was convinced that the time was ideal for the presentation of a solid and defensible framework for humanitarian intervention. This would consequently guide any future responses to humanitarian tragedies and also be possibly used to judge claims for humanitarian intervention.

The then Secretary General of the UN, Kofi Annan responded to the call by proposing a counter balancing of the principle of "national sovereignty" with that of "individual sovereignty" when one of these situations arose. However, according to Gareth Evans, one of International Commission on Intervention and State Sovereignty (ICISS) co-chairs, Annan's proposal did not solve the central dilemma of when individual sovereignty should prevail over national sovereignty. With these unsolved questions, the government of Canada promoted the creation of the ICISS. The Commission was composed by a group of international experts led by two co-chairs, the former Australian Foreign Affairs minister, Gareth Evans, and the Algerian diplomat, Mohammed Shnoun. Other members included renowned academics and politicians such as Michael Ignatieff, Eduardo Stein and Ramesh Thakur. According to Stahn (2007), the idea behind R2P as proposed by ICISS was to steer away from interest-driven interventions and focus of attention to protecting civilians during such humanitarian disasters. The responsibility of the international community rests on three pillars: "to prevent, to react in the event that prevention failed, and to rebuild societies where protection had failed" (ICISS 2001: 13). Stahn (2007) R2P applies in the case of four distinct crimes: genocide, war crimes, ethnic cleansing and crimes against humanity, which had previously been defined under international law by the Rome Statute of the International Criminal Court (ICC). The recommendations of the Commission were formally adopted at the 2005 UN General Assembly.

However, the official framework and the modus operandi was codified at the 2005 UN World Summit where member states committed themselves the responsibility to protect its populations through appropriate and necessary means. Realizing the already available options for preventing and managing atrocities, the international community, through the UN, concerted to having the responsibility to use the necessary diplomatic, humanitarian and other peaceful mechanisms, in line with Chapters VI and VIII of its Charter driven by the need to protect populations. In 2011, Libya was caught in the murky waters of the Arab Spring. The demands by citizens for regime change were ruthlessly resisted by Gaddafi's government. With human security at stake, Libya became the first test case for the emerging norm. The United Nations Security Council (UNSC) adopted Resolutions 1970 and 1973 which paved way for military intervention explicitly justified as a reaction to a government's failure to live up its responsibility to protect its citizens.

It is without doubt that when the UN applied the Responsibility to protect principle in Libya in 2011, many human rights activists touted it as a model future of the application of the doctrine that supposedly obligates all states to protect civilians whenever and wherever they are threatened with mass killing. However, the international community's reaction to the Syrian crisis has raised a lot of questions than answers with regards to the applicability of the R2P doctrine. Although the UNSC passed Resolutions 2118 and 2139 there was little talk of outside intervention into the conflict even after tens of thousands of civilians were killed in by the government in the uprisings that began in March 2011. Sincere intervention talk only emerged with the advent of the regime's use of poison gas in 2013, which violated longstanding norms prohibiting the use of chemical weapons. In view of the above developments, this study therefore seeks to interrogate the inconsistency in the application of the R2P and the effect it has in promoting peace and security.

1.3 Statement of the Problem

There is consensus among policymakers, heads of States and civil society members that states have the responsibility to protect their citizens, and that the international community has the

responsibility to intervene in maintaining of peace and security. The R2P doctrine, after its first ever implementation in Libya, has not been applied in Syria. This has raised several questions with regard to the application of the principle of the responsibility to protect as the UNSC has applied it selectively. In spring 2011, the UNSCl approved an intervention in Libya in response to the Gaddafi regime's brutal suppression of political protests. In passing Resolution 1973 in March 2011, the Security Council authorized the establishment of a no-fly zone in a bid to protect the nationals and areas vulnerable to attacks. For the first time in its history, the UNSC approved the use of military intervention in a sovereign state against the express will of that state's government. In the aftermath of the intervention in Libya, the same issues and dilemmas have surfaced again with the malaise that has been engulfing Syria since March 2011.

The dilemma about intervention in Syria is deepening, and arguments rage about the justification, legality, and legitimacy of a potential military attack, especially without UNSC approval, and about any attack's aims and effectiveness. More crucially, it raises the question of whether the R2P doctrine obliges a response from the international community. Blaid (2014) argues that in the last three years, R2P has failed to find a way to Syria to stop the most tragic humanitarian catastrophe of recent years, a catastrophe that has seen more than 120,000 Syrians killed; millions more internally displaced or forced to seek refuge in neighboring countries. The question remains why is there no action based on the R2P action on Syria yet under similar context, intervened in Libya to enforce the doctrine. Therefore, and perhaps, the central question to be answered by this study is: Why has the UN failed to authorize action in terms of the agreed norm of R2P in Syria which appears to have the same conditions as Libya where such action was authorized?

1.5 Research Objectives

The main objective of the study is to examine the significance of the R2P doctrine as a norm in promoting peace and security in situations that call for humanitarian intervention

The specific objectives of the research are:

➢ To explore the meaning and rationale, of the responsibility to protect doctrine.

➢ To investigate the variances in the application of the R2P in Lybia and Syria and the implications thereof.

➢ To proffer recommendations on how the R2P doctrine should be consistantly applied.

1.6 Research Questions

➢ Why the UNSC did appliy the R2P in Libya and not in Syria?

➢ What is the extent to which the UNSC have the power to permit military intervention as a means to protect civilians?

➢ Does the R2P remain a useful norm in promoting peace and security?

➢ What could be the most desirable structural revisions required to ensure that international norms are upheld?

1.7 Significance of the study

The debate on the application of the R2P has been there since the emergence of the norm and it is ongoing. This study is of importance as it will attempt to identify gaps in literature which need to be filled with regards to its application. This study may help in unraveling the challenges and may be crucial not only to the researcher but to policy makers, African Union (AU) and UN. The study is of significance in that it helps define, and provide input into policy packages being debated in the academia circles and peace and security institutes on the applicability of the R2P principle.

1.8 Methodology

1.8.1 Research Design

Research design can be defined as the structure of research; it is the glue that holds all of the elements in a research project together. According to Johnson (1994) a design is used to structure the research, to show how all of the major parts of the research project, the samples or groups, measures, treatments or programs, and methods of assignment, work together to try to address the central research questions. A case study method through comparative analysis was selected as the research design for this study. Case study method focuses on what Burns (2000) contends as a bounded system which is an entity in itself and allows examination in depth. Burns claimed that the researcher can probe deeply, undertaking intensive analysis of the subject of the case study examining the various phenomena. Study of a particular case might reveal insights, which Burns (2000) has found, may relate to the typical class of events from which the case has been drawn. According to Punch (1998), case study method allows for a variety of research questions and purposes which allows the researcher to develop as full an understanding of that case as possible. Isaac and Michael (1995) contend that a case study is exploratory in nature and the outcome of a case study may provide information and "possible hypothesis" to guide future research. The case study is useful to pioneer new ground which allows the researcher to bring to light important explanations. The researcher employed qualitative research techniques to explore the significance of R2P in promoting and maintaining peace. Qualitative methods such as interviews and documentary search were the major techniques for data collection

1.8.2 Data Collection Techniques

The study used qualitative data collection techniques which are documentary search and in-depth interviews. The research used documentary search technique which includes gathering of data in secondary sources. Documents such as books, magazines, newspapers, journals, articles, conference papers, and internet sources were consulted. These documents were sourced from various libraries such as UN Library, Harare City Council Library, US Public Affairs Library and University of Zimbabwe library. Electronic journals were accessed through internet. Documentary search helped the study by providing background information and to interrogate the development of R2P as an international norm. In depth interviews were conducted with key informants who have knowledge on the subject under study. The researcher conducted interviews with a sample of representatives of the 3 officials from the Zimbabwe Ministry of

Foreign Affairs, 5 AU member states, 2 academics at the University of Zimbabwe and diplomatic representatives of 5 members of the Security Council based in Harare.

1.8.3. Sampling Techniques

Purposive sampling was used to select key informants from representatives of UN and African Union member states, diplomats, academics officials in the Ministry of Foreign Affairs. According to Saunders et. al. (2003), purposive sampling facilitates the selection of informative respondents who will enable a study to answer its research objectives and achieve its objectives. In this regard, the technique was chose over others such as random sampling because purposive sampling allows the study to deliberately identify the sample which is directly involved or affected by the R2P norm. In this regard, the study interviewed the Deputy Minister of Foreign Affairs, the Director and the Administrative Officer responsible for UN issues in the Ministry of Foreign Affairs. These informants helped in giving Zimbabwe's perspective on the R2P norm and its application and non application in Lybia and Syria respectively. The study also purposively selected and interviewed diplomatic officials of five permanent members of the UNSC which are US, Britain, France, China and Russia. Information from these officials enriched the study on their different perceptions and interpretations of the application of the R2P. In addition five diplomatic officials from five AU member states were randomly selected and interviewed which are South Africa, Egypt, Morocco and others.

1.8.4 Data Presentation

Emerging themes and sub-themes were presented as research chapters. A qualitative narrative was then used to present the findings in a clear and transparent way which explains the R2P concept. According to Williams and May (2000) narratives is the process through which unrelated facts are merged together cognitively with the aim of making sense of our reality. The theoretical framework was the basis of narrative construction for the purposes of reflecting the theoretical arguments. In this study, narratives helped in presenting information about related data at every step of the causal process thereby contextualising the steps in ways that makes the research presentable.

1.8. 5 Data Analysis

Content and thematic analysis, was used to analyse data collected through documentary search and key informant interviews on the R2P doctrine. Research questions guided the researcher to ensure relevant data is analysed. Coding process was done which involved collecting and analyzing data through thematic content analysis, for example when talking of principles of R2P, data from all respondents would be converged and analyzed under that banner to be able to exhaust every theme from all angles.

1.9 Organisation of the Study

The study is divided into 5 Chapters. This chapter was an introduction chapter highlighting background to the study, statement of the problem, objectives, research questions and significance of the study. The chapter also discussed the methodology of the study. Chapter 2 outlines the conceptual and theoretical basis of the study. Chapter 3 discusses the implementation of the R2P in Lybia. Chapter 4 presents the research findings and analysis gathered from documentary search and interviews on the views of scholars and key informants as well as literature on why R2P in Libya and not in Syria. The chapter then interrogates the similarities and differences in both scenarios as to whether military intervention was indeed a necessity or not. The chapter further makes a prognosis of the future of R2P. The study concludes with chapter 5 making critical observations and giving recommendations for future studies.

1.10 Summary

This chapter has introduced the research study as a whole by giving a glance at the critical issues herein. The chapter highlighted that the controversy on the application of R2P has existed since its inception. It has been established that the development of R2P and its subsequent application by the UNSC has attracted support and criticism from various scholars and heads of states. The Chapter also highlighted the objectives, significance and research questions of the study. It has been highlighted that the study was qualitative in nature as the data was collected through interview using guides and from relevant documents and it was presented in narratives forms.

CHAPTER TWO

HUMANITARIAN MILITARY INTERVENTION AND THE RESPONSIBILITY TO PROTECT PRINCIPLE

2.1 Introduction

R2P is a concept which has been scrutinized and researched by a myriad of scholars. This chapter makes conceptualises and explores the R2P norm. The debate on humanitarian intervention is not a recent development as it has gained currency from the early years of the Cold War through the increased attention placed to protection of human rights. According to Rogers (2000), as articulated in Article 1, paragraph 3 of the UN Charter, the formation of the UN in 1945 with the main aim to promote and preserve international peace and security ushered a new dispensation to the international community. The formation of the UN and its subsequent involvement in humanitarian interventions in Kosovo, Iraq and Yugoslavia attracted attention of scholars from political and legal circles such as Thomas Weiss, Gareth Evans, and Bellamy among others. In this regard, these scholars studied humanitarian intervention from legal, political and ethical perspectives. A review of the relevant literature by scholars such as a Thomas Weiss, Ramesh Thakur, Mary-Ellen O'Connell, Aidan Hehir and Alex Bellamy reveals that the debate has generally centered on the legitimacy and legality of humanitarian interventions. This is operationalised through the investigation of cases as well as a review of their efficacy and/or success with minimal focus on the consistency of application of international norms. This chapter conceptualizes the humanitarian military intervention and the concomitant R2P norm.

2.2 Humanitarian Intervention

Holzgrefe (2010) outlines humanitarian intervention as the threat to employ force across state boundaries and is aimed at stopping the veldfire of grave violations of the fundamental human rights of individuals other than a country's own citizens. This is normally without the permission or express approval the state within whose territory force is to be applied. The evolution from humanitarian intervention to the contemporary R2P has been a fascinating piece of intellectual history, as Evans (2009) argued. The issue on humanitarian intervention has become the most topical concept and most actively debated issue in the field of global politics in the aftermath of the Cold War era. The academic contestation on the legitimacy and effectiveness of humanitarian

intervention has been topical in different schools of thought. Challenges emanate when the principles of sovereignty and non-intervention contravenes humanitarian intervention. The norm Article 2 (7) of the UN Charter includes the principle of non- intervention where it is outlines that sovereign states draw their power   from international law allowing them to exercise exclusive and total jurisdiction within their territories and international borders. Neighbouring and other states have a related duty not to intervene in a country's internal affairs. However, there arises a moral and ethical duty to intervene in order to protect unramed civilians from genocide and mass killings. The principle of sovereignty is derived from the responsibility of a state to protect its citizens. However, when a state fails to fulfill this duty, it loses its rights to sovereignty.

Many humanitarian military interventions were seen during the Cold War. Some of these interventions had the approval of the UN whilst some did not. According to Guraziu (2012), many scholars identify the 1990s as the decade of much humanitarian intervention. This is due to that the decade commenced with the establishment of safety zones for the Kurds from Iraq in 1991 and ended up with the NATO's aerial bombardments the former Republic of Yugoslavia in 1999.

2.2.2 Development of R2P

Humanitarian intervention debates have also tracked discussions on the evolving notion of state sovereignty due to the transforming security literature from national security to human security. King and Murray (2000) outlined that economic development and military security as the two dominant threads of foreign policy, became intertwined in the 1990s. One of the main outcomes was the shift in focus towards the emerging notion of human security. Bilgin (2002) observes that the end of the Cold War instigated the long overdue interest in revisiting the often held assumptions as well as practices concerning security. In the 1990s, academic discourse   moved beyond the traditional impressions of security to also take on board individual and societal dimensions. Bilgin (2002) further noted that certain developments of the Cold War-era explained this shift through the expanding gaps in economic opportunities both in and around states the

increasing hardships faced by peoples in the developing world who found themselves on the margins of a globalizing world economy. Other factors included the exhausting non-renewable resources which led families and groups to become refugees, rising anti-foreigner sentiment eg. Xenophobia and violence, in reaction to migration pressures from the developing to the developed economies, mushrooming intra-state conflicts that increased public interest in humanitarian intervention. These developments did not escape the practitioners' budgeoning interest in human security. Gareth (2006) notes that states have long accepted limits on their conduct, whether towards their own citizens or others. The UN Universal Declaration of Human Rights requires that states protect individual and social rights; the Geneva Conventions and various treaties and covenants prohibiting torture, trafficking in persons, or nuclear proliferation similarly restrict the right of states to behave as they wish. At the same time, there has been a shift in the understanding of sovereignty, spurred both by a growing sensitivity to human rights and by a reaction to atrocities perpetrated upon citizens by their own leaders. Sovereignty is increasingly defined, not as a license to control those within one's borders, but rather as a set of obligations towards citizens. Kofi Annan spoke of the sovereignty of the individual as well as of the state. Francis Deng, the Special Adviser on the Prevention of Genocide and the former representative of the Secretary-General on internally displaced persons, developed the concept of "sovereignty as responsibility." And chief among those responsibilities, it is argued, is the responsibility to protect citizens from the most atrocious forms of abuse. Simply put, people come first.

As an overall impact, especially of evolving discourse, at the start of the 2000s scholars began questioning whether or not states have a "responsibility to protect" populations from mass slaughter. The Report of the International Commission on Intervention and State Sovereignty (ICISS) published in December 2001, reflects on a new wave of debate that was propelled to the arena of international politics.

The responsibility to protect, per se, only exists since 2001 when the ICISS presented its report and created the term. However, previously, during the 1990s, there was a broad debate around the idea of the right to humanitarian intervention. This debate and its non-resolution is the *raison d'être* of both the ICISS and the responsibility to protect. In the 1990s, the intra-state conflicts

which are now considered a grave threat to international security than inter-state conflicts started to emerge. Just as the Second World War did, the end of the Cold War brought about a series of conflicts. In the case of the latter, these were intra-state violent conflicts that emerged after the collapse of the structures of the state and the vacuum left by the geo-political rivalry between two superpowers.

These highly complex conflicts based on rivalries and ethnic and religious divisions showed the lack of capacity of international response. The debacle in Somalia in 1993, international passiveness in Rwanda in 1994, the powerlessness of UN troops in Srebrenica in 1995 and NATO's decision to bomb Kosovo in 1999 were the most eloquent examples of this lack of capacity. It became evident that there were neither adequate rules nor resources to respond to these threats to international peace and security. NATO's decision to intervene in Kosovo without authorisation from the UN Security Council represented the most significant moment in this debate. NATO bombed Serbian troops during 79 days invoking the right to humanitarian intervention. It is important to remember that it was not only Russia and China's threat to veto that prevented a UN-backed intervention. Several other countries, which as a whole constituted the majority of the world's population, including Brazil, India or Mexico (who would later support the responsibility to protect) also opposed the intervention in Kosovo.

A year later, in the 2000 UN General Assembly, the then Secretary-General, Kofi Annan, tried to progress in the debate within the organisation. During the same year, the Independent International Commission on Kosovo, a group of renowned independent academics, declared that the NATO bombings, albeit illegal as it did not have authorisation from the Security Council, were legitimate because all diplomatic means had been exhausted and a response was necessary.

It was also during the 1999 crisis in Kosovo that the former UN Secretary-General Kofi Annan wrote a landmark article in which he essentially challenged the traditional view on state sovereignty and the non-intervention principle, claiming that the principle of sovereignty contained in the UN Charter should be interpreted as a responsibility to protect individuals. R2P then emerged from a report written by the ICISS, and it represented   a   re-working of the traditionally sacrosanct international relations concept of absolute sovereignty. The responsibility

of the international community, according to ICISS (2000), refers to three points: "to prevent, to react in the event that prevention failed, and to rebuild societies where protection had failed."

In 2009, R2P was further strengthened when the UN Secretary-General Ban Ki-moon released the report "Implementing the Responsibility to Protect," outlining three principles, or "pillars," of R2P. The first pillar describes the new approach in relation to sovereignty, highlighting that states have the primary responsibility to protect their own civilians against mass atrocities crimes. Pillar two asserts that the international community is committed to providing assistance to states to build their capacities to prevent such mass atrocities, and that "prevention… is a key ingredient for a successful strategy for the responsibility to protect." The third pillar relates to cases where a state is unable to provide protection for its citizens, the international community has the responsibility to respond "collectively in a timely and decisive manner…to provide such protection." The UN General Assembly adopted a resolution (A/RES/63/308), taking note of the report and subsequent debate within the UNGA.

The R2P represents a new idea shifting the language of the debate from intervention rights to "responsibility to protect." A noted seminal scholar on the responsibility to protect doctrine, Evans (2013) noted that the emergence of R2P as an international norm was a clear evidence of a new rule of the then normal international law. In this regard, some parts of the growing literature on this subject matter focus on the question whether or not R2P is transforming into an international norm. Stahn's (2013) article, *Responsibility to Protect: Political Rhetoric or Emerging Legal Norm,* draws attention to the challenges of the doctrine as well as the current problems in order for R2P to become a legal norm. The widespread idea in the literature currently is that although the R2P notion is changing quite rapidly, it is still too opaque to be an international legal norm.

2.2.3 The Legality–Legitimacy Puzzle

The question on legitimacy and/or the legality of humanitarian interventions was originally dominated by scholars of international law such as Stark (2012) and Heir (2012). Different from other studied aspects of humanitarian intervention, these legal researchers appear to be in agreement on the point that humanitarian intervention is still some way before it becomes a legal

norm in the modern system. There is still disagreement on its legitimacy and also whether it should be established as an international legal norm or not. The debate features the restrictionist scholars such as Gerber and Bellamy (2013) against the counter- restrictionist scholars who include William and Evans (2012). In view of the polarization and therefore the absence of an total recognition or refusal of a duty or right to intervene, legitimacy of interventions premised on the R2P doctrine has remained slippery ground.

The transformation of the doctrine of humanitarian intervention plays a major role in understanding its nature and legitimacy. Some researchers study the legitimization of humanitarian interventions from the standpoint of the evolution of the doctrine. For instance, Abiew (2010) attempts to demonstrate a legitimate angle for humanitarian intervention through examining the progression of the principle and its practice arguing that state sovereignty was not incompatible with humanitarian intervention. Contingent from Abiew's argument is that whenever humanitarian intervention questioned, state sovereignty is also called into enquiry since outside intervention constitutes a breach of the sacredness of national sovereignty.

2.3. The Three Pillars of R2P

2.3.1 Responsibilty to React

According to ICISS (2000:33) the responsibility of the international community refers to three points: "to prevent, to react in the event that prevention failed, and to rebuild societies where protection had failed." Scholars have however, not agreed on when should the international community intervene. For the purpose of this study, six principles of humanitarian intervention identified by Evans and Sahnoun (2011) will be discussed. Evans and Sahnoun identify six principles that must be satisfied to justify military intervention. There must be a just cause threshold, four precautionary principles, and the requirement of "right authority."

2.3.1.1 Just Cause
Two situations should serve as triggers for military humanitarian intervention:
1. Actual or anticipated large-scale loss of life,

2. Actual or anticipated ethnic cleansing.

Unless the international community is satisfied to wait until large-scale murder or ethnic cleansing is already underway, it must be able to act if there is reasonable evidence that this will occur. Large-scale loss of life should not be limited to situations of genocide. The international community does not need to wrestle over whether there is the intent to destroy an ethnic, racial or religious group. Rather, they only need consider scale of the loss of life and whether the state can or will act to protect its citizens. It may be that a population is in danger of mass starvation because the state has collapsed (as in Somalia). It may be that a natural disaster has occurred and the state simply cannot act to protect its citizens. In either of these situations the just cause criteria would be met.

2.3.2 Precautionary Principles

2.3.2.1 Right Intention

Whatever other motivations a state may have to intervene in the humanitarian crisis in another state, the only intention that is justifiable in this situation is the intention to avert human suffering.

How do we ensure that a state has the right intention?

- Military intervention should always occur on a collective or multilateral basis,

- Assess whether the people to be protected support the intervention,

- Determine the extent to which other countries in the region are supportive and whether their opinions have been taken into account.

This is not to suggest that a state can be involved in a humanitarian intervention only if it is completely disinterested. In real life motives are often mixed. Given that military interventions are costly (in terms of resources and lives), countries that are involved may have an easier time justifying the intervention to domestic publics if there are multiple reasons for intervention. Even so, the only intention that justifies intervention is the goal of alleviating disaster.

2.3.2.2 Last Resort

Military intervention is the last option. It is justified only if nonmilitary options for prevention or peaceful solution have been explored. This does not mean that every other option has to be tried and has failed. In some cases the need may be so pressing that there is simply not time to try every option. The requirement is that, having considered all other options, there are reasonable grounds to believe that none of the lesser measures will be successful.

2.3.2.3 Proportional Means

The scale, duration and intensity of the intervention should be only as much as is needed to avert the crisis. Intervention should be commensurate with the stated purpose and in line with the magnitude of the problem. The effects to the political system should be minimized and only go so far as the intervention's purpose.

2.3.2.4 Reasonable Scenarios

There must be a good chance of success in averting the loss of lives or ethnic cleansing in order to justify the intervention. Beyond this, the results of the intervention cannot be worse than the consequences of inaction. If the intervention is likely to make matters worse and increase the conflict, then it should not be carried out.

In practical terms, the reality of this principle points to that military action would never be taken against the five permanent members of the Security Council even when all other criteria have been met. The same is true for the other major powers as well. However, in response to the protest of a double standard, Evans and Sahnoun countered that interventions could not be generally mounted for every justifiable case and it was also not reason enough for them not to be mounted in any case.

2.3.2.5 Right Authority

The United Nations is the institution where the members of the international system negotiate on the rules and norms that govern the society of states. The authority of the UN lies not in its coercive power, but in its legitimacy. So, it makes sense that the UN, and specifically the Security Council, should be the first place to seek authority for humanitarian intervention. The

problem is that the Security Council's history is less than perfect on issues of humanitarian intervention. When they have acted, they have not necessarily acted effectively.

2.4 Humanitarian Intervention versus R2P

Humanitarian intervention is different from the doctrine of R2P and difficult to give a comparison between the two. The Advisory Council on International Affairs (AIV) of the Netherlands asserts that the concept of R2P gives an emphasis on the imagination and interests of the threatened population of a given country. R2P is much a broader concept than humanitarian intervention as there are more actions possible including but not limited to prevention, reaction, rebuilding and possibly diplomatic pressure. International humanitarian intervention is made up of legally binding treaties, conventions and customary law. However, the R2P principle is at present not legally binding. There are however legal obligations for states concerning the R2P offences in other pacts and conventions such as the Genocide Convention. The Outcome Document describes that R2P is premised on the thinking that military intervention takes place with the sovereign country's agreement. Humanitarian intervention is generally not considered in the same vein with authorization as precondition. Furthermore, military options can also be considered in the preventive stage without the use of force. R2P only allows for the use of force as the very last resort when a state has apparently failed to protect its own citizens. A further difference is that R2P only talks to the crimes specified in the concept and would not relate to other humanitarian emergencies and disasters. R2P is also concerned with building the state's capacity to protect its citizens from human rights violations. Humanitarian intervention however did not cover these matters at all. The Red Cross advises that R2P was not humanitarian intervention by another name. It does allow however the use of force under Chapter VII of the UN Charter.

2.5 Conclusion

It should be apparent that nations have a R2P their own countrymen from atrocities. If a state is not able to act accordingly or does not have the measures to take action, the global community should be held accountable for the rights of these citizens. This chapter has gave an insight into the principles of humanitarian intervention and the R2P. This chapter has also highlighted the conceptual framework of the study which traced the evolution and principles of R2P. It has been noted that in as much as R2P is a basis for humanitarian intervention, it is based on several principles such as proportionality, reasonable prospects, right authority and last resort. In addition, issues of legality and state responsibility were discussed in relation to the principle of R2P. The following chapter discusses the crisis in Lybia and the application of the R2P principle.

CHAPTER 3

IMPLEMENTATION OF R2P IN LYBIA

3.0 Introduction

The previous chapters outlined the theory of R2P and major cases of R2P as experienced in the past were discussed. This chapter will discuss the Libyan case. Other matters previously mentioned will be crucial in this chapter. Focus will be on the R2P of the sovereign state as well as the global community. The issues surrounding the conflict as well as the evaluation of the use of the R2P doctrine will be provided. The UN acted at a very short notice after General Gaddafi troops attacked the protestors. The Libyan case will be discussed to enable a comparison with Syria to be made in the following chapter. The UN acted rapidly after the attack by the troops on Gaddafi rule protestors. Could this be the moment when the world community awakened and gave currency to the R2P doctrine? Were other factors at play other than the protection of the Libyans? This was a legitimate concern what with lessons from the Iraqi invasion? This chapter will cover sections such as Libya under Gaddafi, the rise of violence and the imposition of a No-Fly Zone, an analysis of United Nations Security Council Resolution of 1973, criticisms of Libya as well as the doctrine Responsibility to Protect among other issues.

3.1 Libya's Policy under Muamar al-Gaddafi

Muammar Muhammad Abu al-Gaddafi, had been the leader of Libya from the largely peaceful September 1969 Libyan *coup d'état* where king Idris was deposed. The reason for the 1969 coup d'état was largely due to the excessive flaunting of wealth by the Libyan elite which had been financed by the country's large oil reserves. On the other hand, Libyans were living in abject poverty. From the beginning of the Gaddafi regime, the quality of the relationship with the West had been far from predictable. The United States of America enjoyed cordial relations with the Libyan monarchy. The Air Force base of Wheelus, which was located in Libya, was an important artery in the US military strategy for this region (Zoubir 2011). Furthermore, American oil corporations, such as ESSO, made huge profit margin from the exploitation of Libyan oil.

Whilst the Gaddafi regime made it abundantly clear that it would not choose sides in the Cold War, the Libyan relations with the West soured after the 1969 coup d'état (Zoubir 2006). A

myriad of reasons had been put forward to explain the organic link that existed between Libya and the Western commonage. The most identified cause pointed to the insatiable regime's penchant for nationalising Libya's natural resources in the 1970's (Robert and Kourides 1981). Other issues include Gaddafi's perceived support for international terrorism, increasing political and military alignment with the former Soviet Union and disagreement over a range of political hot potatoes, such as the Israeli-Palestinian conflict (Zoubir 2006). Towards the end of the 1970s onwards, a series of events was ignited that resulted in the severe deterioration of relations between Libya and the West. In the 1979 Iranian hostage crisis, Libyan authorities were blamed for failing to offer protection to the US embassy when it came under siege from protesters. The newly elected president Ronald Reagan consequently viewed the Libyan regime as an ally of Iranian Supreme Leader, Ayatollah Khomeini. President Reagan responded by imposing sanctions covering a wide range of spectrum ranging from diplomatic, economic, and military pressure on the Libyan regime. 1983 saw the US taking part in a failed attempt to overthrow and assassinate Gaddafi. It then and continued to bomb Libyan areas it dubbed centers of terrorist activity and training which were located around the towns of Benghazi and Tripoli in 1986.

Precipitated by the American bombings, the situation worsened. The Libyan regime struck back on December 21, 1988, through 'Lockerbie Bombing' of PanAm flight 103. There was also the explosion of a French UTA airplane over Niger on September 19, 1989 (Zoubir 2006). As a consequence, France, the United Kingdom and America issued a statement demanding the extradition of the responsible characters for the plane bombings. The Gaddafi regime refused to send the suspected terrorists and the United Nations Security Council passed resolution 748 in March 1992 which imposed wide sanctions on Libya. This led to a further international isolation of Libya for quite a while due to failure of adherence to the UK, USA and France demands. From the genesis of Libya's row with the US, international and regional isolation began to take their toll on that country's economy. Zoubir (2006), outlines that the Libyan economy which was supported by 95% of export earnings from crude oil revenues, exports income fell from $21.387 billion in 1980 reaching an all-time low of $6.442 billion in 1986. Although Libyan oil-exports started to recover a little after 1986, the recovery stopped completely after the 1992 sanctions which were imposed. The economy only started to show recovery after the sanctions were lifted completely. During the 1990s, the economic sanctions were beginning to take a major toll on

Libya as the socio-economic situation worsened. However in April of 1999, Libya then made a decision to extradite the two wanted suspects of the Lockerbie bombings who were to be then judged under Scottish law at The Hague.

The UN then suspended the sanctions it had imposed seven years earlier. However the US sustained its own unilateral sanctions. The Libyan decision to extradite the suspects of the Pan-Am Flight 103 bombing was viewed by many in the international community as an important turning point in Libya's relations with the international community (Deeb 2000). In explaining this about-turn in its foreign policy, Deeb argues that one of the major reasons for Gaddafi to wait for such a long time before the extradition of the alleged terrorists was that he was under pressure to get the internal hostilities under control, only then would he accommodate international demands made on the Libyan authorities (Deeb 2000).

In the period following the major shift in Gaddafi's foreign policy, Gaddafi became a fervent disciple of the West, as expressed in his surprising condemnation of the attack of the twin towers on the fateful day of 9/11(St John 2008: 101). The period around 2003 and 2004 saw Libya agreeing to take responsibility for the terrorist actions of the Pan-Am flight 103 and UTA flight 772 bombers. It paid out $2.7 billion and $170 million respectively in compensation to the victims' families. In December 2003, Libya made an announcement that it had on its own volition renounced all unconventional weapons, including its nuclear arsenal with the related delivery systems. This step eventually saw the removal of Libya from American bilateral sanctions and its removal of Libya from the State department's list of state sponsors of terrorism (St John 2008: 101). Around midway through the first decennium of the new millennium, it appeared Libya had appeased itself with the West once again. Political relations thawed and normalized. The Gaddafi regime had openly denounced international terrorism and oil exports were once again on the up (EIA 2011).

3.2 The Global Community's Reaction to the Civil War

On 15 February, 2011 major civil uprisings in Libya began with 500 to 600 people demonstrated in Benghazi in response to the arrest, intimidation and suppression of a human rights defenders. On February 17th, day of rage was held and wide-scale protests took place in Benghazi,

Ajdabija, Derna, Zintan and Bayda. During the protests, Libyan security forces fired with live rounds on the protesters killing at least 61 protesters (Bellamy, 2012).

The Libyan protesters organized themselves in the National Transitional Council (NTC) of Libya on February 27th in a bid to give a 'political face' to the revolution. On 9 March, the NTC gave a warning the international community advising that should Gaddafi's troops reach Benghazi, there would be a possible massacre of more than half a million people. The NTC was recognised by France which then rallied support from UK and Germany. This resulted in calls for the need for a no-fly zone over Libya.

The global community took a a few days without making any meaningful announcement despite the worsening situation inside the Libyan capital and the second city of Benghazi. The Europeans and the Americans were the first to present their positions on the situation before the matter was referred to the UNSC. The High Representative of the Union for Foreign Affairs and Security Policy, Catherine Ashton stated that they condemned the repression against peaceful demonstrators and deplored the violence and the death of civilians (Ashton: 2011:17). The United States, in a similar declaration stated that it reminded the Libyan officials on the importance of universal human rights, including freedom of speech and the right to peaceful assembly (Crowley 2011: 45). Although both declarations abundantly condemned the situation in Libya and asked for the Libyan government to respect human rights, the idea of any international consequence was nowhere in sight. Already, in the relatively early stages of the crisis, the contrast in the statements made and the February 21st statement by Ban Ki-moon following the images of Libyan forces firing on demonstrators is striking. The UN boss viewed the situation as unacceptable and implored it to be curtailed immediately. He labeled it a serious violation of international humanitarian law and deplored the bloodshed in Libya. Violence against demonstrators was to cease immediately and Gaddafi was urged to protect human rights, the freedom of assembly and free speech as fundamental principles of democracy (Ban 21-02-2011). As this was the first official communiqué on the situation, it is revealing that the UN Secretary-General immediately decided to qualify the situation as a 'serious violation of international humanitarian law'.

On the 22nd, the strength of the condemnations where enhanced. The catalyst of these new developments were two statements from the League of Arab States and the Secretary-General's Special advisor on the Prevention of Genocide and the Responsibility to Protect on the eve of the first Security Council meeting on the Libyan crisis. In a statement, the Special Advisor outlined that should the reports about Libya be true, the atrocities could potentially constitute crimes against humanity. He went on to remind the international community of its obligation to protect the population through preventing genocide, war crimes, ethnic cleansing, and crimes against humanity (United Nations Press Release 22 February 2011). The Arab League on the same day also suspended Libya's membership with the condition that the suspension would only be lifted when the violence stopped. This occasioned the first concrete steps taken against the Gaddafi regime.

Encouraged by the UN Special Advisor and the Arab League, the Security Council presented its first official press statement on the situation in Libya. In the statement the Council explicitly welcomed the action and statements made by the Arab League and expressed its deep concern on the situation in that country and called upon the Libyan Government to live up its responsibility to protect its citizens (Security Council Press Statement on Libya 22 February 2011). Within a day after the Security Council had made public its initial position on the situation in Libya, all other regional organizations like the Arab League, the African Union and the Organization of Islamic Cooperation also came with statements on the matter. Although the organizations condemned the violence the Libyan government had used against its people, there was a divergence of views on their classification of the situation. Some viewed it as purely domestic matter, or a likely to snowball into international consequences.

The Arab League had a preference for an unequivocal active stance by the international community. It had set the tone in being the first international organization to take drastic action through the suspension of Libya's membership (Bellamy and Williams 2012: 839). The OIC also condemned the actions of the Libyan government on its peoples urging a cessation of aggression, but did not in any way refer to any action being taken (OIC 22 February 2012). On the other end of the continuum was the African Union. In keeping with the other parties, it condemned the Libyan situation and even lauded the Security Council Statement. However it was also the first

organization to underscore the need to preserve and observe the territorial integrity and unity of Libya (AU 23 February 2011). It labeled the Libyan situation as an internal affair and in effect closed the door on any usual kind of foreign intervention.

The EU as a direct neighbor of Libya made a number of statements in the days that proceeded. It welcomed the UNSC statements and directly conferred the Responsibility to Protect on the Libyan government and the international community. It in the end urged the international community to take active steps against the Libyan government, advocating the use of restrictive measures such as arms sanctions, individual travel bans and an asset freeze (Ashton 2011). Before the Security Council adopted resolution 1970, the Secretary-General Ban Ki-Moon made a further statement in which he urged the international community to clearly come to some concrete action (Ban 23 February 2011). After the passing of the resolution, the Secretary-General soon after showed that he was an ambassador of further international action as he welcomed the sanctions taken by the latest UN resolution. He went further and stated that sanction on their own could not end violence and oppression. He called for even bolder action in the days that followed (Ban 23 February 2011).

Finally, on February 26th, the resolution 1970 was adopted after it had been proposed by France, the UK and the US. Curiously the Germans who would later abstain from voting on resolution 1973 had also proposed it. The resolution was adopted by all members. The resolution reiterated and welcomed all the earlier position statements by regional bodies. It condemned the Gaddafi government's atrocities in Libya, while it did not mention any similar statements made by national actors. (UNSC 2011).

The burgeoning international support peaked with the United Nations Security Council Resolution 1973, on March 17, 2011. Resolution 1973 demanded an immediate cease-fire and an end to violence and attacks on civilians. There was an imposition of a no-fly zone over Libya and accelerated the strength of the arms-embargo over Libya. Crucially, the resolution authorized the member-states to take any required measures to protect civilians and civilian areas from the threat of attack and explicitly excluded any foreign occupation force from the Libyan territory (UNSC 2011). This last aspect is particularly important as it allowed the intervening forces to go

beyond the mere enforcement of a no-fly zone but also allowed engagement with Libyan troops, though only from the sky when they could be viewed as a threat to the civilian population.

Once the no-fly zone had been set up, the tension between sovereignty versus intervention, the resolution 1973 that had been so carefully circumvented became evident. The three states accounting for the bulk of the military gear needed to impose a no-fly zone had unequivocally stated that Gaddafi had to go. This goal it seemed, they were attempting to achieve through an interpretation of resolution 1973, which would obviously go beyond its strict mandate. On the other hand the regional organizations, Russia and China were anxious to ensure that the territorial sovereignty of Libya would not be violated and were for a strict interpretation of the resolution.

In the first weeks, many of the actors who had initially been cynical on the efficacy of a no-fly zone voiced serious criticisms on the way it was being done. The first reservations were already to be voiced on the day the no-fly zone imposition started. The OIC stated that it in principle supported the provision in the resolution that excludes foreign occupation forces of any form on any part of the Libyan territory and requested for the adoption of a new resolution by the Security Council to cancel the provisions of Resolution 1973 as soon as the motivation behind its adoption have ceased to matter (OIC 2011). Although the statement cannot be characterized as a criticism of resolution 1973, it certainly emphasized the OIC's wish that the international community restrained itself in the enforcement of the resolution and expressed its call for the command to be terminated as soon as possible. Ihsanoglu, (2011) observed that in the four days later the OIC repeated their demands, and called on all players who were engaging in military offensive in Libya to refrain from targeting areas of humanitarian concerns.

The OIC was supported by a number of regional organizations in its position which was critical about the way substance was given to the Libyan no-fly zone. On March 20th, the Arab League Secretary-General, Amr Moussa, made a statement deploring the large scope of the US-European bombing campaign in Libya and stated that on Sunday that he was to call a league meeting to reconsider Arab approval of the western military campaign (Cody, 2011). Although this statement was revoked on the following day, it marked the second regional organization which raised serious concerns on the way the no-fly zone was being enforced. On April 26th, The

African Union publicised an official communiqué on the situation in Libya. The AU once again called the international community to respect that the singular objective of Resolution 1973 was to ensure the protection the civilian population. The AU urged all parties to avoid actions, including military operations targeting Libyan senior officials and socio-economic infrastructure. There was anticipation that the resolutions would worsen the Libyan crisis and result in the international community failing to reach a consensus.(AU) 26-04-2011). This communiqué highlighted the limitations prescribed by resolution 1973 as indicated by the statements given by other African regional organizations, which was just on the protection of the Libyan nationals. This was in stark contrast to the pro-active position that the US, the UK and France had taken on the Libyan intervention. Resolution 1973 had not mandated the removal of Colonel Gaddafi but had only called the protection of civilians and civilian populated areas from attack of any force. All the large contributors to the intervention force however had openly taken the side in the conflict and stated that Gaddafi had to go. Curiously, none of the regional organizations had mentioned to the abdication of Gaddafi.

Perhaps one of the revealing arguments which seemed to indicate that the main objectives of the intervening forces in Libya had spiraled beyond just the protection of civilians and had escalated into enforcing a regime change is that the military operation subsequently ended only ten days after Gaddafi was captured and killed. NATO clearly related the death of Gaddafi to the end of its mission (NATO 28-03-2012). Placing the above reactions of African regional organizations into Russian and Chinese perspective, there seemed to be only mild denunciation of the way the no-fly zone was upheld. Since the operationalisation of the no-fly zone, both Russia and China openly voiced their regret over having abstained from voting on Resolution 1973, stating that the intervening forces had overstepped their mission in implementing a no-fly zone and interpreted it as a strategy by the West to institute an illegal regime change (Emerson 2011, p. 1).

Strictly focusing on the text of United Nations Security Council Resolution 1973, it can be inferred that this was a victory for the Responsibility to Protect doctrine in international relations. However, a number of remarks must be made. The Resolution focused exclusively on protecting civilians and populated areas and does not choose sides. This fits well within the Responsibility to Protect doctrine's primary commitment. However, the 2001 ICISS report also

argues for responsibility to prevent and the need to address both the root causes and the direct causes of internal conflicts ((ICISS) 2001, p. 7). One could argue that it is not easy to look into the root causes of the atrocities committed by the Gaddafi government. Given the correct interpretation of the UN resolution, the root causes of the Libyan conflict were to be only resolved through peaceful means, arms embargoes and economic sanctions.

The core of Resolution 1973 was on the imposition of a no-fly zone over Libyan territory to help protect civilians. Considering that the Responsibility to Protect doctrine places great value on both national sovereignty and proportional means, it outlines that the scale, duration and escalation of planned military interventions should be at the very minimum secure the defined human protection objective (ICISS 2001: 13).

3.3 Was 'Operation Unified Protector' Really Humanitarian?

A number of principles had been debated in order for humanitarian intervention to be legitimate, the most important of which, are discussed below.

From the data which was collected, most researchers believed that firstly, there should be massive losses of life, whether with proven genocidal intent or not. This could be a result of either deliberate state action. It can be put forth that this was certainly the case in Libya as a result of the intentions expressed in Gaddafi's speech of March 16th when he called out that he was prepared to kill the rats in referring to the protesting Libyan citizens.

Secondly, the primary intention of the intervening countries must be on the need to stop or put an end to human suffering. In order to safeguard the unadulterated intentions of the intervening forces, the actions should ideally be multilateral. Although one can claim that the Libyan intervention stopped human suffering in the short term, it is quite debatable on the product of the long-term effects of the intervention and what was in the background of the forces that were intervening. It is hard to claim that the intervention was not an all out military operation, since the operation was made up largely of the imposition of a no-fly zone with soldiers on the ground. Arguably the consequences of no action would have been worse than action taken. Finally, the 'Right Authority' measure is also met, since R2Pct prescribes that the most appropriate body to authorize military action is the United Nations Security Council. This military intervention must

be premised on the protection of human lives. The UNSC Resolution, 1973 to put this norm into practice. The adoption of such resolutions is uncommon in the history of the Security Council. It was the first time the UN called for international military action against a member state in a bid to prevent civilian massacres (Kinsman 2011).

It is also crucial to underscore that are also a numbers of critics who argue against the Libyan intervention was a good operationalization of the Responsibility to Protect. Pattison (2011) argues that although the situation in Libya was very serious to warrant humanitarian intervention on the grounds of R2P the forcible regime change by an external parties does not fall within the R2P mandate. Pattison outlined that tracking forced regime changes showed that often more harm than good was realised. This then had him question whether such interventions have anything to do with the protection of civilians or it was just to do with the removal of Qaddafi (Pattison 2011: 273).

If the intervening forces' major goal was the removal of Gaddafi, this would be an argument for the a claim that the forces abused the Responsibility to Protect doctrine to court international sympathy and support for an operation which in reality did not have a humanitarian end goal. It is revealing to distinguish between the UN, the regional and the national levels positions concerning a possible regime change, and to what extent one can claim the actions went beyond the scope of possibilities that resolution 1973 legitimately provided. Allin and Jones (2011) propound that it is almost not possible in most cases to conduct a successful humanitarian intervention without choosing a sides. The incidents in Bosnia and Kosovo indicated that humanitarian intervention cannot be neutral without the creating a contradiction. Intervention makes sense once a side is taken.

The Libyan intervention followed from an argument based on the inconsistency situations where the international community decides to act. The Libyan operation was seen as illegitimate because the United States, France and Britain were not also intervening in countries such as Bahrain, the Democratic Republic of Congo, Syria, and Saudi Arabia, where dictatorship and violations of human rights are the order of the day. The global community's decision not to intervene in these cases, while the response to a call from Libya's rebels was rapid is hence viewed as evidence that the Responsibility to Protect was not the driving motive for the

intervention. Other outside motivations appear to be the major drivers in deciding when to intervene.

A double-edged counter-argument against the above is presented by Allin and Jones (2011) whose first argument is on the importance of the viability of an intervention. The mixture of problems amenable to military intervention is a small one. The urgent problem in Libya was generally not to create a democracy but just the prevention of a massacre. Their second argument is in the context of the first. It is premised on the limited resources of the international community, including even those of the United States. These limitations became evident when military became involved (Allin and Jones 2011: 208). Although many more interventions might be viewed as legitimate, states invariably must make a decision on where to intervene and where not to. This however does not affect the legitimacy of an intervention.

3.4   Russia and China versus NATO

In both periods leading up to resolution 1973 and Operation Unified Protector one can argue that there were roughly two sides on the matters. In one side was the intervention-skeptical camp and on the other side were those for the intervention. The crucial actors in the skeptics camp were the Russia and China who are both permanent Security Council members and, to some degree, regional organizations where Libya is a member-state viz. the OIC, the AU and the LAS. The most influential members in the interventionist camp were the remaining permanent members of the Security Council in the form of France, the UK and the US who were supported to some level by the UN Secretary-General Ban Ki-moon. An important achievement of the Responsibility to Protect doctrine is that it is supposed to have overcome the duality of state-sovereignty and non-intervention on the one hand and the responsibility of the international community to intervene in possible cases of widespread human rights violations. The 2001 ICISS report and Resolution 1973 are both a very good specimens of how to balance these two seemingly different positions. What the Libyan case has illuminated however is that while the foundational documents upon which guided the actors may be very well balanced, the actors themselves can be quite the contrary.

It has been highlighted that Russia and China have underscored many times the importance they attach to the independence of the Libyan state. This notion of sovereignty seemed to supersede all other considerations. It was only after some regional organizations, in the form of the Arab League, had made it clear that they would support the enforcement of the no-fly zone by the international community that they were persuaded on the need not veto a resolution calling for such a no-fly zone. It has to be said in some quarters that although African regional organizations eventually asked for a no-fly zone, they never always underlined the need for a limited nature of such a no-fly zone and the necessity to do away with it in the shortest possible time, ideal as soon as the direct threat to Libyan civilians had been extinguished. Not even one of the actors in the skeptics camp ever clearly said that Gaddafi had to be removed.

The interventionists appeared much less concerned with questions on Libyan territorial sovereignty. The French, the English and the Americans had all clearly said that Gaddafi had to leave office. Such a situation where these states would later provide the bulk of the NATO intervening force and so unashamedly choose sides in a supposedly humanitarian intervention, very much violates the boundaries set by the Responsibility to Protect doctrine. An intervention should be focused only on the prevention of human rights violations. It seems hard to accept that those actors, who so apparently aligned themselves with one of the aggressive parties would show any restraint in strictly abiding to the boundaries set in the resolution 1973.

3.5 Summary

This chapter unpacked the events leading to the Libyan crisis and the application of the R2P. The conditions precipitating the conflict as well as an evaluation of the use of the R2P doctrine were included. The UN acted rapidly after the attack of the Gaddafi troops on the protestors. Could this be the time when the world community opened its eyes and invoked the R2P doctrine? Did it have to do with other factors other than just the protection of the Libyan civilian population with the hindsight of the last situation in Iraq?

CHAPTER 4

THE PUZZLE OF R2P IMPLEMENTATION: LIBYA VERSUS SYRIA

4.0 Introduction

The application of the R2P doctrine and the ultimate response of the global community were outlined and discussed in Chapter 3. In the case of Libya, the UNSC sanctioned the NATO forces intervention in accordance with the R2P. In the period that followed this intervention, thousands of Syrians lost their lives in an swelling conflict between forces allied to President Bashar al- Assad and the opposition. The fighting has forced many to flee to neighboring states. The skirmishes are threatening to split the nation in pieces. In the Syrian case, however, the UNSC was not active. No sanctions or military interventions have been agreed on. The UN has not yet taken any action to stop the murders and human rights violation by the Syria regime. In this chapter the Syrian conflict will be unpacked through the lens of the R2P and why this doctrine was ignored in this crisis. The Libyan and Syrian cases will also be juxtaposed with the intention to determine why the global community's reaction to the two hotspots has been very different and what these reactions inform us on the current standing of the R2P doctrine.

4.1   The Syria Conflict Background

The Syrian uprising traces its origins to the protests that started in March 2011. The major driver of the protests was the arrest and torture of children who had painted revolutionary slogans on a school wall. The security forces had shot at demonstrators and killed several and in the process more citizens joined in the protests. The unrest prompted protests in every part of Syria, with the subsequent demand of Assad's resignation. By July 2011, thousands of protestors had taken to the streets in towns and cities across the country.

The conflict in Syria had a major religious component. Assad and his family were from the Alawite, a minority group. The Syrian population is largely made up of Sunni Muslims, while on the other hand the government, the security forces and Shabiha militia are dominated by the Alawites. The Shabiha militia enjoyed protection from the regime of Assad since the 1970s and

had been fighting embedded with Syrian government forces to deal a fatal blow to the uprising. There are many opposition groups which came together in the anti-Syrian regime movement. The Syrian National Council (SNC) is the umbrella body that has the Sunni majority and was put together in Turkey in October 2011. The SNC had advocated for regime change in Syria and the overthrow of the Syrian regime by a united opposition. They had turned down dialogue with Assad and requested international protection of the Syrian civilians. The SNC then sanctioned the setting up of the Free Syrian Army (FSA) and publicly proclaimed it towards the end of July 2012.

The FSA is made up of members who deserted the Syrian Armed Forces and also the common men and women who took up arms to take on the Syrian government. In response to the protests, the Syrian government offered very minimal concessions and used violence to diffuse the armed protestors. The Syrian regime took some strides in March 2011 and lifted the emergency laws which had been enforced from 1963. They also announced a new cabinet which was however still under the control of Assad.

The Human Rights Council (HRC) strongly condemned the wide and state organised systematic acts that that violated human rights, the state sponsored violence, mayhem and the blanket attacks on civilians by the Syrian government (Gifkins 2012). Major felonies by the Syrian government include extra-judicial killings, the murder and jailing of protestors, physical torture and ill-treatment of the populace. The HRC was concerned in about the killing of children and also that many children had been victim to unlawful arrests, ill-treatment and had been sexually assaulted. According to information from the UN Office of the High Commissioner for Human Rights (OHCHR), the number of deaths per month has increased rapidly from the summer of 2011, from around 1000 deaths per month, to an average of 5,000 since July 2012.

The head of the opposition group, Rami Abdelrahman had said that the actual death toll could a lot higher as the government army and rebels often understated their losses. Pillay (2013) outlined that the casualties were higher than expected and the situation was truly shocking. There were more than 400,000 Syrians who had fled into the neighbouring states viz. Jordan, Lebanon,

Iraq and Turkey. Another 2.5million citizen were presumed to have been internally displaced due to the fighting. The UN estimates that up to 4million people in Syria will require humanitarian assistance.

4.2 The International Response to the Syrian Crisis

The Western powers demanded that Assad leaves office and requested the UNSC to take active action. Gifkins (2012) noted that four weeks after the uprising, the members of the UNSC tried to find common ground for a Press Statement on Syria, but this could not be achieved. The UNSC had no consensus on how to respond to the Syrian crisis. There are sharp views on the interpretation of the situation in Syria. The UNSC could not agree on the creation of a resolution or a non-binding communiqué in the first five months of the conflict. Disagreements also arose on what measures had to be taken to address the violence that led to two vetoed resolutions on the issues of sanctions and change of government. The SC agreed for the deployment a unarmed UN military observers in Syria after more than a year since the start of the crisis. This operation was quickly mothballed as a result of increased violence against the UN observers.

The GCC made a statement recalling citizens from Syria and expelled the Syrian ambassadors. The statement was a strong condemnation of the widespread killings of unarmed Syrian civilians and urged Arab leaders to take concrete steps in response to the dangers faced by the Syrian people. The League of Arab States (LAS) suspended Syria's membership in November 2011 and placed economic sanctions and put in motion a peace agreement with the regime of Assad which called for an end of the violence against protesting civilians. The LAS attempted to negotiate with opposition figures and also tried to observe the implementation of a peace plan. The LAS then called for Assad to step down and asked the UNSC to do a resolution. The LAS proposal was however vetoed by Russia and China. Masters (2012) puts it forth that as the permanent members of the UNSC, these two countries had vetoed three resolutions aimed at isolating the Assad regime. Masters (2012) further outlines that this opposition comes from the fear of a repeat of a western backed military intervention akin to the Libyan operation. The EU had passed more than ten rounds of sanctions on the government of Syria since the beginning of the conflict. The EU had a raft of sanctions including asset freezes and travel bans that were imposed on

members of the Syrian government and its military. An arms embargo was put in place and further sanctions were placed on the Syrian Central Bank. The importation of Syrian oil was also banned.

America made a draft resolution and was concerned about human right abuses by Syria. It also expressed regret on the killing of people and called for a highly developed team of 30 unarmed UN military observers to be sent into Syria and expressed support for Koffie Annan's suggested six point plan. Sharp and Blanchard (2012) observe that the draft of the US was put to a vote on 14 April 2012 and it passed with support from all the members for the SC Resolution 2042. Resolution 2042 was the first one passed by the SC addressing the situation in Syria and explicitly called for an end to the violence after 13 months of protests and human rights violations in Syria.

Gifkins (2012) points out that the differences between the European and Russia draft resolutions were that the draft of France and the UK had sections on sanctions should Syria not comply with Resolution 1942. The Russian draft did not have such proposals. The SC could not in July 2012, adopt a proposed resolution that would have imposed sanctions had Syria failed to meet the demands to end the violence. China and Russia voted against the resolution with Pakistan and South Africa abstaining from the vote. The resolution would have resulted in the SC acting under Chapter VII of the UN Charter to demand real and demonstrated compliance, within 10 days of the adoption with further demands in the former resolutions that the Syrian government forces pull back military concentrations from civilian centers and stopped the use of heavy weaponry on its population. One day later the SC passed Resolution 2059, which extended the UNSMIS mission for a further 30 days. It also made the condition that any further renewal of UNSMIS would be on the cessation of the use of heavy weapons by the Assad forces and a cooling in violence by all sides.

Before the R2P situation could be appraised in Syria, two other fundamental issues divided the UNSC. There had been no common position between the Western members and the rest of the states on an interpretation of the situation on the ground and the various ways of describing the

conflict. On the one hand, Western states saw the conflict as violent repression and repression of protestors and mass human rights abuses committed by the Syrian government. Conversely, Assad argued that the Syrian government was the real victim of terrorism and had earlier warned in a statement that Syria has been a victim of a foreign conspiracy, arguing the country was faced with planned destruction from war directed from abroad (Gifkins, 2012). Gifkins further outlines that the Russian and Chinese media had always argued that the regime of Assad was lawfully dealing with a violent insurgency of terrorists and criminals. India, Brazil and South Africa have also stated that the violence had actually been perpetrated on the Syrian government. These diverse interpretations on what is really happening in Syria made it difficult for the UNSC to find common ground on condemning the human rights abuses. The second fundamental issue dividing the UNSC on Syria, as noted by Gifkins has been on the measures to be taken in response to the crisis.

The issue of sanctions, regime change and the possibility of military intervention has been never been far from controversy. Sanctions issues have to be in line with the resolutions of the UNSC. The elements of R2P must be assessed, before any military intervention can take place. Regime change is a corollary for the applicability of R2P. The first draft resolution was vetoed by Russia and China as this document had the possibility of imposing sanctions on Syria if it did not comply with the resolution. Russia and China subsequently vetoed the second draft resolution and voiced support for the proposal by the LAS that called for Assad to resign. In Libya's case, the LAS acted was essentially a gatekeeper. The LAS had requested for the imposition of a no-fly zone and safe havens for the protection of civilians. Without that LAS statement, Resolution 1973 would never have seen the light of day in the SC. Military intervention had been put on the table in drafts before the UNSC for the case of Syria, but Russia and China had vetoed them. Evans and Sahnoun (2013) argue that the disputes on the question of how to interpret and address the Syrian situation left the UNSC unable to pass a resolution for nearly 22 months after the conflict started.

4.3 R2P and Syria

The crisis in Syria remains a unique case for the global arena to put an end to mass atrocities that initiate R2P. From the view of the Independent International Commission of Inquiry on the Syrian Arab Republic (CoI) the situation in Syria fits well with the scope of R2P. The CoI (2012) stated that the Syrian government has apparently failed in its duty to protect its citizens. As previously mentioned, R2P has three components namely an obligation to protect citizens from atrocity crimes, when there is clear evidence of ongoing crimes against humanity and where a state would be unable or unwilling to stop them. In the case of Syria, the international community must initially exhaust all peaceful options including diplomacy and sanctions. Should these measures fail, the third component of R2P behooves the international community to only use military force as a last resort. There is a great deal of evidence that human rights have been trampled on in Syria by the all the parties. The case of Syria presents a test case for R2P. However, after more than twenty-two months nothing is yet to happen. Piscatori (2012) stated that regional organizations, individual nation and the UN had dragged their feet on the Syrian crisis.

Piscatori (2012) rounds off by arguing that action can only be taken when a just cause and political will exists. There are many numerous tools that can be used to put an end and respond to genocides. They range from mediation to financial sanctions, which may be more efficient and acceptable than military solutions. Pascatori arguments are particularly revealing in the use of the R2P doctrine on the Syrian situation.

4.4 Why Intervention Was Seen in Libya and not Syria?

In 2011, the UNSC authorized unanimously, the use of all the feasible measures to protect the population from imminent massacre in Tripoli, Benghazi and other places in Libya. Presently, the UNSC can just not agree on the situation in Syria. There are challenges on the measure to take from not only on the significant step of military force, but also on even less intrusive measures such as war arms embargo, targeted sanctions or referral of leaders to the ICC. That inertia to act comes despite a death toll in excess of 60 000 and a very grim outlook even more dire than was the case in Libya two years ago. The same problem as that of humanitarian

interventions of the 1990s remains. While human rights and lives of all civilians must be protected, the willingness of some nations to be involved foreign territories and the ability of a military force to save lives in danger varies widely as a function of the specific circumstances. The UNSC has to decide which on the course of action on a case-by-case basis.

The conflicts in Libya and Syria are arguably and apparently both domestic in nature. For Guiora (2012) the motives are historical and contained in dangerous regimes that have repressed civilians for years. In both countries a brutal regime was willfully torturing, imprisoning and killing its own countrymen. In both cases, scores of citizens had to flee their homes with the realisation that the ruling power would not entertain any opposition. Open orders to fire saw the indiscriminate shooting by the army into crowds of citizens. As Guiora (2012) argues, both governments were decimating their own citizens. On the one hand, it was easier to come to an international agreement with regards to intervention on Libya than for the case of Syria as a result of several factors. The appalling reputation of Gaddafi as a hated figure in the region, the timing of the intervention and the possibility of huge refugee flows into Europe made it much easier to sanction a resolution. Conversely, regional politics and interests can be attributed to the inaction on Syria.

According to Gifkins (2012) disagreements on the interpretation of the Syrian situation and how to address it had left the UNSC unable to pass a resolution as it did in Libya. There are different reasons for unwillingness by the UNSC to take action. The differences between Libya and Syria, on coercive military action can be viewed differently. These aspects on the political, the principal of sovereignty and the strategy to be used factors will be outlined.

Defections from the regime in Libya began to occur rapidly after the protests started. Government soldiers joined the opposition in growing numbers. This has not been the case in Syria. Very few defections occurred from the Syrian military and government until very recently. It soon became clear that the scale of defections pointed to a well organized opposition in Libya. Syria's case is different. No organized Syrian opposition has emerged as happened in Libya. The forecast had been that religious violence would break out in Syria. This was not the case in

Libya. Starr (2013) notes that the delicate political situation in Syria and the region made it more difficult to create international consensus and this still divides the UNSC. Iran and Hezbollah (Lebanon) are important allies of Syria and have shown clear support for the regime of Assad. Conversely, Qatar and Saudi Arabia have been providing financial and military aid to the main opposition group in Syria. Turkey is also an important player in the region. It has put pressure on the Syrian regime to implement reforms, but had Syria ignored the calls resulting in Turkey becoming a supporter of the Syrian opposition.

The LAS as the major regional organisation in the Middle East, became involved with the Libyan crisis from its start. The LAS attempted to mediate and pressed the UNSC to impose sanctions like the establishment of a no-fly zone and also intervened in the interest of protecting Libyan citizen from mass atrocities. In Syria's case, the LAS has been more unwilling to intervene due to that that many of its members have close political, economic and bilateral relations with the government of Assad. Because of the lack of a strong voice from the LAS, the UNSC has been unwilling to take coercive action. The final political consideration is that the regime of Gaddafi was very isolated in the Middle East region due to its negative reputation. Libya had no close relations with its nearby Arab states. Syria is another issue altogether as it is very active in the Middle East politics. According to Masters (2012), Assad's government was a recognized stable government at the very heart of a politically unstable region. Syria also has a great number of allies in the Arab world and this serves as a strong deterrent to UNSC condemnation and action. There are strong views in the region among support for the Syrian opposition. These complex geopolitical relationships have fanned the existing divisions within the UNSC. The US has tried to limit the influence of Iran in the region. Russia attempted to strengthen its influence in the region and prevented Western intervention intent on deposing the regime of Assad.

The key issue in the UNSC negotiations and debates was the principle of sovereignty. This principle and its commitment to non-interference in the domestic affairs of states stand in contrast to the right to intervene which is the third pillar of R2P. As mentioned in chapter two, there are different viewpoints (restrictionists and Counter-restrictionists) on the interpretation of

state autonomy and the consensus to intervene. Restrictionists argue that military intervention was likely to be illegal since the UN Charter forbids the use of force against another country. Counter-restrictionists however argue that state autonomy was not absolute and intervention was justifiable when preventing atrocities, even in situations where the atrocities occurred within the borders of the responsible state.

According to Zifcak (2012) in the Security Council it could however always be expected that arguments concerning the relative strengths to be given to the preservation of state autonomy, and to the need to end governmental killings would play a critical role in determining the action or lack thereof that the Security Council will approve.

The unwillingness of the UNSC to intervene in Syria was also due to the influence of the implementation of Resolution 1973 in Libya. Despite that the resolution was adopted, opposition on the grounds that Libyan sovereignty would be affected was at play. The violence in Syria grew at the time the intervention by NATO took place in Libya. This left some members of the SC worried that a resolution on the Syrian case could be result in military intervention and regime change. The mandate given in Resolution 1973 was clearly on the protection of civilians and their areas under threat of attack. However NATO still executed this mandate, as discussed earlier. According to the Royal United Services Institute (RUSI), the realities of the Libyan experience have loomed large over Syria, with resultant support from Russia and China to block any planned intervention in response to Assad's crackdown the opposition which RUSI states, could justify the R2P.

China- can be viewed as a restrictionist when it stated that the autonomy of Syria and territorial integrity had to be respected by the global community. China and Russia did not support a draft resolution that would have seen UN sanctions imposed on Syria. These states and other strong powers had not been willing to support any resolution that would be drafted by the West to push for the overthrow of the government of Assad. According to Starr (2013) Russia came with another resolution and stated that based on earlier approaches and together with the Chinese, they had prepared a draft resolution to which had been changed as events developed mindful of

the concerns of other members in the UNSC. The Russian delegation had argued that at the idea behind the Russian and Chinese draft was the desire to respect for the national autonomy and territorial integrity of Syria with the attendant non-intervention. Russia also outlined that the situation in Syria could be discussed in the SC without bringing in the outcomes of the Libyan operations.

Strategic concerns played a crucial role during the SC debates about intervention in Libya and Syria. According to Zifcak (2012), an important question for the Council members that would have addressed was whether or not the direct interventions as undertaken in Libya and Syria were likely to achieve the protective objective without causing more harm to civilians. This question has resonance with the element of reasonable prospects discussed in chapter four in the Libya case and in an earlier section for the case of Syria. The answer to this question is affirmative in the Libyan case and negative in the case of Syria. An important element is the military capabilities of both states. Gaddafi commanded a divided and weak army of around 50,000 which was also poorly trained. He had been effectively isolated in the region and there was little chance that other states would enter the fight to defend the regime of Libya. Syria has a much larger, better trained and more powerful army. Its military command and security intelligence services were well organized and had allegiance to the government. Syria's military also has a modern air defense system and technology which would make it more difficult for NATO to enforce a Syrian no-fly zone. In addition, given the densely populated character of the nation, bombing or fighting would see heavy civilian casualties.

Any military intervention as happened in Libya would have a higher risk of failure. Shanahan (2012) unpacks the expose by the Australian foreign minister to intervene in Libya. The minister stated that the case of Libya was to be seen as a special case deserving of military response and the reason why Libya fell within a different category due to the mass use of the full armed forces. A full security force was used on innocent civilians with massive levels of destruction right across the nation of Libya. These issues cited as the reason for military intervention under R2P existed in Syria, but the international community had just passed sanctions and issued condemnations against the government of Assad. Shanahan argues that the problem with the

practical appeal of R2P was that the members for the UNSC to justify a military action based on the doctrine, they had never explained why they could not call for it in comparable circumstances.

In addition, the respective interests of various UN members had played a major role in discouraging the SC to call for an intervention in Syria. The main player in this case had been Russia which had been the main opponent of any direct international action on Syria. As mentioned previously, the central argument against an R2P intervention was the principle of on-interference with a sovereign state. However, it is apparent that Russia is gaining many political, economic and strategic investments in Syria which outweighed the already 60000 lives of citizens killed.

4.5 Conclusion

The aim of this chapter was to unpack the Syrian conflict Syria, access the R2P doctrine to the situation in Syria and to make a comparison between Libya and Syria. The UN determined that the Assad regime was committing crimes against humanity on its own citizens, but the UNSC remains apparently paralyzed for over two years to lead in the process to protect the general population. The UNSC appears not able to agree in condemning the violence and on the action to address the impasse. Western powers attempted to put in place strong sanctions against the regime of Assad, but China and in particular Russia had overruled all such efforts. Part of the reason for the hesitation and a lack of will by the UNSC to even consider military intervention is due to a plethora of factors. The geopolitical circumstances of the Syrian crisis are not similar to the case of Libya. The trepidation for action is also a result of the way Resolution 1973 was executed by the NATO. Some members of the SC have put forth the argument that the NATO stretched its protection mandate by directly supporting opposition groups and calling for a change of government. National interests also play a role in the decisions to intervene. It is from this reality that the principle of R2P cannot be applied to Syria as the three elements are not fulfilled. Both Libya and Syria were subject to comprehensive sanctions. For both countries, resolutions were imposed and measures were put in place by the regional and international organizations. In the case of Libya, agreement existed that all peaceful measures had been

exhausted with military action as the only way to secure the protection of the Libyan people. In Syria, human rights violations have been seen for almost two year and the opposition, in line with Western and Arab governments, has repeatedly cried that now was the time for the imposition of a no-fly zone.

Regrettably, the factors surrounding the Syrian crisis are not similar from those of Libya. The way the UNSC mandate in Resolution 1973 was carried out has scared the international community to act in Syria and start another situation that could spiral out of control. Some nations have not been willing to even consider non-military measures as they are concerned that military force would be the next logical step should the other measures fail. R2P has been dogged by the same problems on humanitarian intervention even before the existence of this doctrine.

CHAPTER 5

CONCLUSIONS AND RECOMMENDATIONS

5.1 Conclusions

The Responsibility to protect is a practice that was established from practice. The many document nasty violent conflicts towards the end of the twentieth century, which led to terrible human rights abuses and the decimation of innocent people made it apparent that the international community had to act fast if long lasting peace was to be created. Every conflict is however different and in every case particular interests will be at stake. To test the inconsistency between the norm as it is written and its impact in practice this thesis analysed two case studies viz. Libya and Syria. Even though both cases are recent events, they both contribute substantially to this study. The hypotheses were that the Libyan case showed a textbook example of implementing the written Responsibility to Protect norm in practice. There is congruence in both purpose and impact. The Syrian case is a different kettle of fish altogether as the purpose and impact do not dovetail.

The two cases both have similar backgrounds in terms of how the conflict played out. Both nations were under the influence of the Arabic Spring revolts targeting the ruling regimes and the leaders. In both states the opposition forces yearned for democracy and took to the streets. In both scenarios, the demonstrations were put down violently and this precipitated violent conflict between the government troops and the opposition. The question then becomes why the international community applied the Responsibility to Protect principle in Libya and not in Syria.

Chapter one gave a synopsis into the R2P doctrine and the methodology of the study. The R2P doctrine is a result of the humanitarian tragedies of the 1990s. There has been a growing sense that a key aspect of state sovereignty had to do with the protection of the nation's own citizens. Following the genocides in Rwanda and Srebrenica, it became clear that some certain states or governments went beyond just overlooking to protect their citizen, but also were also active participants in the violence on the unarmed citizens.

Chapter two gave a grounded conceptual background of the R2P doctrine. The arguments for the unwillingness of the international community to intervene in some situations was due to the principles of state sovereignty and non-interference. The UN Secretary-General Kofi Annan called on the UN to come to a consensus on how to respond to similar challenges as they would arise in the future. After years of deliberations, the international community was ultimately able to produce a framework that clearly outlined that the responsibility was for incumbent upon all nations to protect their own citizen from mass atrocities. It was as a result of this challenge that the Government of Canada delivered a report in 2001, which included the concept of Responsibility to Protect. The ICISS advised that each state had a R2P its own citizens from harm. When a state was unable to do so or a when the state did not have the measures to take action, consequentially the global community was required to take up the responsibility for the protection of the human rights of these citizens. The ICISS also backed the call that any form of a military action in the name of R2P had to fulfill six criteria to be justify any measure of intervention. The criteria include just cause, the right intention, last resort, use of proportional means, reasonable prospects, and possession of the right authority.

This chapter also gave an analysis of the conflict in Libya and an evaluation of the applicability of the R2P doctrine. Following sporadic and targeted attacks on the civilian population by the regime of Libya, the UNSC adopted resolution 1970 with no dissenting voice and this made clear reference to the R2P. The human rights violations committed by the regime of Gaddafi were still taking being seen. The UNSC demanded an immediate end to the war in Libya, including a stop to ongoing attacks on civilians in Resolution 1973. The UNSC then authorized member states to take the required measures to protect civilians from the threat of attack in their country, while excluding occupation by foreign forces of any form on any part of Libyan territory. A few days later and in accordance with the resolution, NATO planes started struck at the Gaddafi forces. Many states were not happy with the outcome and intervention by NATO and said that NATO had stretched its R2P mandate to its absolute limit and even beyond. There are two crucial questions that must be answered with regard to the NATO action. Firstly, the R2P doctrine needs to be assessed to whether it was applicable to the intervention in Libya. Secondly, should it be

considered relevant, and then the question that comes up would be on whether NATO's action in Libya was in accordance with the mandate set in Resolution 1973. The six R2P principles as outlined in chapter two are satisfied in the case of Libya. Military intervention could be justified in this scenario. However, NATO action in Libya had not been within the confines of Resolution 1973. The NATO-led force had overstretched its protection mandate.

A few weeks after the uprising in Libya, the protests were seen in Syria as well. When the population went into the streets to call for political freedom and against government corruption, the demands were met with the employment of military force by the government of Assad. In both cases the international community and regional players spoke strongly against the attacks and deplored crimes against humanity. The international community enforced a no-fly zone over Libya and gave support to rebels in their struggle against the army through the NATO operation in Libya. Comparable human rights abuses and the use of violence by the Syrian government on civilian protestors have been seen but the international community has generally failed to intervene effectively. There have been more many civilian casualties in Syria and actually more serious than in Libya. Two years have lapsed in the Syrian crisis with still no effective action taken by the international community, but the UN took action in Libya after just a couple of weeks.

The major question that then arises is why R2P was invoked in Libya but not in Syria's case, despite the similarities in human rights violations by the both governments. This was discussed in chapter four. The crisis in Syria is another test for the international community to stop mass murders that prompt the R2P. The situation in Syria fits arguably into the rubric of R2P.In assessing the R2P doctrine to the Syrian scenario three conditions cannot be met and they include right intention, reasonable prospects and the UNSC authorization. The absence of a response of the UNSC on the issue in Syria and the widespread human rights violations by the regime of Assad points to a lack of consistency in the application of R2P, potentially undermining the principle. Disagreements on the interpretation of the situation in Syria and how to address the situation have left the UNSC ill-prepared to pass a motion as it did in Libya. There are a number of reasons for the lack of will by the UNSC to take action in Syria. These have to

do with political relations, the principle of sovereignty and the strategic location of Syria through its proximity to Turkey.

An assessment of the R2P doctrine showed that the criterion for military intervention in Libya was fulfilled. This has not been the case for Syria. The applicability of the R2P doctrine in Syria, points to a lack of the right intention as the UNSC does not agree to the imposition of sanctions on the Assad regime. Intervention must have the support of all the people for whose benefit the intervention is intended. There have however not been heard a strong voice for an intervention from the concerned citizen. The opposition is also divided on the issue of intervention by the SC. The citizens had not requested for a no- fly zone in order that cannot be targeted by the military planes of the regime. Another matter in relation to the element of right intention is the involvement of regional organisations, which can aid the international response to the protection of civilians. They can however also block crucial actions. The LAS and its representatives on the UNSC had attended the intervention in Libya but Lebanon had prevented the UNSC from condemning the government mayhem in Syria on civilians. An intervention must be supported by the people for whose benefit it is intended but Syrian opposition groups had initially disagreed on whether foreign military intervention was necessary. The aspect of reasonable prospects was also not met in Syria as military intervention would be the solution to all the different challenges faced. The third element not fulfilled was the condition of the right authority. For Syria, authorization by the UNSC is not there due to the vetoed resolutions by Russia and China.

There are some common threads between the cases, but the reality is that there are even more diversions. Both the Libya and Syrian conflicts are domestic in nature. The motivation has been historical and targeted at murderous regimes which have repressed their populations for years. In both states a brutal regime was intentionally torturing, imprisoning and killing its own citizens. In both cases, thousands of citizens had been forced to flee their homes with a clear realization that the regime could not brook any opposition. Orders to open fire orders had been given with indiscriminate shooting by the army into the protesting crowds. It was easier to come to international consensus with regards to intervention in Libya than in Syria due to many factors.

The poor standing of Gaddafi in the region, the timing of the intervention and the possible huge flow of refugee into Europe made it easier to support a resolution. This is not the case for Syria with geopolitics and regional interest being blamed for the lack of action.

The violence in Syria escalated when the NATO intervention took place in Libya. This concerned some members in the SC fearing another resolution on Syria could be lead to more military intervention and regime change. The mandate in Resolution 1973 was simply to protect civilians and their areas from attack, but the NATO exceeded this mandate, as outlined in chapter three.

The inertia by the SC in the Syrian case has cast a dark future on the R2P doctrine. The implementation of the R2P doctrine in cases where coercive interventions are in question is likely to be more selective. There is the need to keep in mind that the Libyan and Syrian cases are just two cases and there should not be an inference that the SC will act the same on Syria in pursuing a case for the application of R2P. The major delays that characterized former interventions in Rwanda and Darfur did not occur in Libya. The authorization by the UNSC came rapidly and NATO's intervention was within days of Resolution 1973. However it appears that the international response to the Syrian crisis draws parallels with the inaction of the UN in the Rwandan genocide. A position that could be concluded is that the R2P doctrine is still missing a very important element that relates to what should the world community can do when the SC fails to act in the case of massive crimes against humanity.

The people of Syria would surely prefer a result as happened in the other 'Arab Spring' states like Tunisia and Egypt. An outcome birthed from the effort of citizens and not by an foreign intervention. As the uprisings spread during the spring and summer of 2011, observations pointed to little support for direct foreign interference. It is hoped that Syria follows the Tunisian and Egyptian examples of people driven regime change. Should they fail to liberate themselves then the world community must be involved. Regional and international pressure on the regime of Assad must be enhanced.

5.2 Recommendations and the Way Forward on the R2P

The puzzle remains why R2P has been seen in one case but not in another. Whilst common perceptions on R2P state that theoretically, intervention in Syria should have taken place; the reality on the ground paints a different picture. An evaluation of the R2P doctrine in Libya showed that all conditions were met. The implementation of Resolution 1973 by the NATO is a further case in point. NATO went beyond the confines of its brief. In evaluation the R2P doctrine in Syria, another outcome emerges as only three of the elements of R2P are met. Importantly, the Syrian opposition groups had initially disagreed on foreign military intervention. Regional blocs such as the LAS cannot support the intervention as members were not in agreement. The further element of right authority was also missing as there was no authorization by the UNSC due to vetoed resolutions by Russia and China. Several factors such as extent of geopolitics and the military resources of Syria have made it difficult to unpack the reasonable prospects.

The ineffective actions of the SC on Syria weigh down any future prospects on the R2P doctrine. Zifcak argues that the implementation of the R2P doctrine as it relates to coercive interventions are under scrutiny and likely to be more much more selective. There is also a need to keep in mind that the Libyan and Syrian cases are simply two cases and that there cannot be a conclusion that the SC would use the same ruler in Syria in following the R2P doctrine. The inference that can be made is that the R2P doctrine still misses a crucial component particularly on the action to take should the SC fail to act where crimes against humanity have been committed. Williams ed outlines this in an article on what should be done when the SC fails in such cases.. One argument being that nothing can be done, with no express authority on the use of force under R2P. Williams ed. further outline the existence of an alternative. This alternative being that in the face of inaction by the SC, regional groupings should be able to put in motion limited use of force to protect the civilians. In their proposal, the R2P third pillar should enable low level military operations in limited instances. In Libya's case, Anne outlined that regional, blocs and institutions with the inclusion of sovereign states in particular Turkey, Saudi Arabia and Qatar, should guarantee a no-fly zone and the establishment of safe passages for refugees.

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