RESPONSIBILITY TO PROTECT: UNITED NATIONS IN ACTION OR
UNITED NATIONS INACTION? - THE SRI LANKAN CASE

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ABSTRACT

RESPONSIBILITY TO PROTECT: UNITED NATIONS IN ACTION OR UNITED NATIONS INACTION? - THE SRI LANKAN CASE

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This thesis investigates the United Nations (UN) inaction at the end of the Sri Lankan civil war within the Responsibility to Protect (R2P) framework. It aims to understand international inaction in Sri Lanka in terms of the transformation of the discourse of responsible sovereignty and R2P from its emergence in 2001 to unanimous adoption in 2005. Contrary to critics who claim that the doctrine is a new interventionist norm and proponents who argue that R2P gets us closer to ending mass atrocities once and for all, this study argues that understanding non-intervention cases like Sri Lanka is crucial to examine R2P's efficacy. To this end, the thesis discusses the emergence and development of the doctrine through conceptual transformations of sovereignty and practical experiences drawn from humanitarian intervention in the 1990s. The inaction of the UN in Sri Lanka as a failure of R2P is discussed through themes of dysfunctionality, pathology, and indifference of international organizations.

Keywords: Responsibility to Protect, Sri Lankan civil war, United Nations, inaction, sovereignty as responsibility.

ÖZ

KORUMA SORUMLULUĞU: BİRLEŞMİŞ MİLLETLER HAREKET HALİNDE YA DA BİRLEŞMİŞ MİLLETLER EYLEMSİZLİĞİ- SRİ LANKA VAKASI

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Bu tez, Birleşmiş Milletler'in (BM) Sri Lanka iç savaşının sonundaki eylemsizliğini Koruma Sorumluluğu (R2P) çerçevesinde incelemektedir. Sri Lanka'daki uluslararası eylemsizliği, sorumlu egemenlik ve R2P söyleminin 2001'de ortaya çıkışından 2005'te oybirliğiyle benimsenmesine dönüşümü açısından anlamayı amaçlamaktadır. Doktrinin yeni bir müdahaleci norm olduğunu iddia eden karşıtların ve R2P'nin kitlesel vahşeti bir kez ve herkes için sona erdirmeye yaklaştırdığını savunan savunucuların aksine, bu çalışma Sri Lanka gibi müdahale edilmeyen vakaları anlamanın R2P'nin etkinliğini incelemek için çok önemli olduğunu ortaya koymaktadır. Bu amaçla tez, egemenliğin kavramsal dönüşümleri ve 1990'larda insani müdahaleden elde edilen pratik deneyimler yoluyla doktrinin ortaya çıkışını ve gelişimini tartışmaktadır. R2P'nin bir başarısızlığı olarak BM'nin Sri Lanka'daki eylemsizliği işlevsizlik, patoloji ve uluslararası kuruluşların kayıtsızlık temaları yoluyla tartışılmaktadır.

Anahtar Kelimeler: Koruma Sorumluluğu, Sri Lanka iç savaşı, Birleşmiş Milletler, eylemsizlik, sorumluluk olarak egemenlik.

To My Little Bird: Alâ

ACKNOWLEDGMENTS

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ABBREVIATIONS

AU	African Union
CAP	Consolidated Appeals Process
CHAP	Common Humanitarian Action Plan
EU	European Union
GCR2P	Global Centre for the Responsibility to Protect
HRW	Human Rights Watch
IASC	Inter-Agency Standing Committee
ICISS	International Commission on Intervention and State Sovereignty
IDP	Internally Displaced Persons
IICK	Independent International Commission on Kosovo
IPKF	Indian Peacekeeping Force
IRP	Report of the Secretary-General's Internal Review Panel on United Nations Action in Sri Lanka
LTTE	Liberation Tigers of Tamil Eelam
NATO	North Atlantic Treaty Organization
NFZ	No-Fire Zone
NGO	Non-Governmental Organization
PEA	Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka
R2P	Responsibility to Protect
UK	United Kingdom

UN	United Nations
UNAMIR	United Nations Assistance Mission for Rwanda
UNDP	United Nations Development Programme
UNGA	United Nations General Assembly
UNHCR	United Nations High Commissioner for Refugees
UNP	United National Party
UNSC	United Nations Security Council
UNOSOM	United Nations Operation in Somalia
UNPROFOR	United Nations Protection Force
UPFA	United People's Freedom Alliance
US	United States
USG	Under-Secretary-General

CHAPTER 1

INTRODUCTION

1.1   Background Information

After the end of the Cold War, understandings of sovereignty and intervention transformed when states' internal dynamics became an essential matter of concern instead of the dominance of interstate relations in international relations. Humanitarian interventions during the 1990s breached the rule of non-interference and respect for states' sovereignty which were the basis of the Westphalian order since 1648. The Peace of Westphalia refers to the collective term for Treaties of Münster and Osnabrück, which put an end to the Thirty Years War. It marks the start of the modern international system by constituting the state as the supreme power within its boundaries by liberating European rulers from the religious-political authority of Christendom (Jackson, 2005; Jackson & Sørensen, 2013; Lansford, 2000; Philpott, 1999; Rosenberg, 1990). Originated from the principle of state sovereignty was not intervening in internal affairs of other states, although it was not articulated until the end of the eighteenth century, and states did engage in interventions such as US interventions in Central America and the Caribbean (Krasner, 1999). Nevertheless, non-intervention was affirmed in major international agreements in the second half of the twentieth century, like the United Nations

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Charter and Helsinki Final Act in 1975 (Krasner, 1999). As the scope of domestic jurisdiction of states was defined quite broadly in the Westphalian system, humanitarian intervention was impermissible during the Cold War (Barnett, 2010; Donnelly, 2013; Finnemore, 2003; Philpott, 2001a; Roberts, 2004; Walling, 2013; Welsh, 2004; N. J. Wheeler, 2004). If a state was implementing policies that were discriminating a specific group such as women or ethnic minorities, it was an internal issue just as the state-sponsored mass murder. For instance, Vietnam was condemned by the UNSC when it intervened in Cambodia in 1979 to end the murderous regime of Pol Pot and the Khmer Rouge (Bellamy & Dunne, 2016; Thakur, 2018; Walling, 2013).

Once the Cold War ended, the Westphalian divide between internal and international spheres of human activity became blurred with the rising ethnonational conflicts, complex humanitarian emergencies as well as genocide (Thakur, 2006). Those internal conflicts with its transnational linkages are called "new wars" which were primarily fought over identity and had different methods of warfare and finance (Kaldor, 2012). To tackle those new wars, the UN undertook many peacekeeping operations as indicated in Figure 1, and tasks of the operations were expanded to cover many areas such as disarmament, protecting people in safe havens, and

providing   a   secure   environment   for   elections   (Kaldor,   2012).
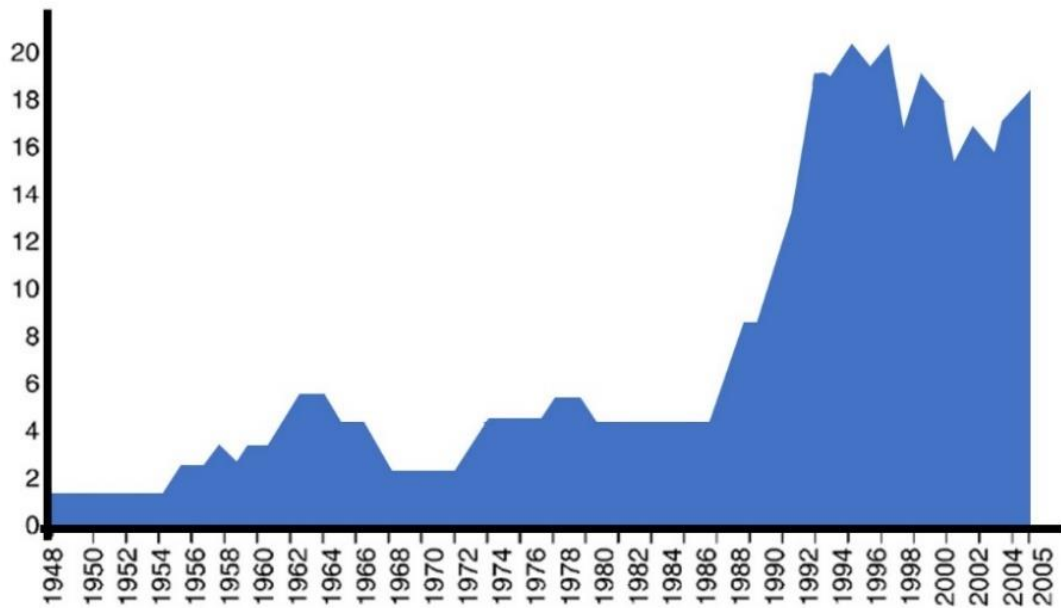
Figure 1.1. Number of UN peacekeeping missions between 1946–2005

Source: Thakur (2006, p. 20)

Although the number of UN peacekeeping missions was on the rise, UN operations in the 1990s showed that traditional peacekeeping could not handle the new world disorder (T. G. Weiss et al., 2017). With the new challenges of this disorder, peacekeeping in the form of observer missions transformed towards direct military interventions which are to be called peace-enforcement, like the intervention in Somalia in the early 1990s (Richmond, 2008). UNSC-authorized military activities were performed under Chapter VII of the UN Charter, which calls for action regarding maintaining or restoring international peace and security. Although the Council adopted several decisions following Chapter VII during the 1990s, disastrous results in the former Yugoslavia and Somalia led the UN to reconsider its

large-scale enforcement activities (Malone & Wermester, 2000). As a result, the Security Council increasingly utilized "coalitions of the willing" from member states. Some operations of this kind are Operation Uphold Democracy in Haiti (1994-1995), the Inter-African Mission to Monitor the Implementation of the Bangui Agreements in the Central African Republic (1997), and the International Force in East Timor in 1999 (Malone & Wermester, 2000). Those operations were UN delegated, often led by a single state and reflected the UN's avoidance of directly managing large-scale operations (O'Neill & Rees, 2005).

Also, peacekeeping experienced some kind of a revolution in the post-Cold War era. Once the type of conflict changed from interstate to intrastate ones, the traditional peacekeeping mandates remained weak to tackle this new type of conflict, as stated. As a result, the multidimensional peacekeeping notion was born. The traditional peacekeeping operations were essentially military in character and limited in terms of scope. Examples of traditional peacekeeping duties are observing, monitoring, reporting with the consent of the parties, and ceasefire monitoring. In contrast to traditional peacekeeping, the multidimensional peacekeeping operations deployed a mix of military, police, and civilian capabilities and aimed not only at the stabilization but also peace consolidation, long-term recovery and development, and several post-conflict tasks (United Nations, 2008). The multifunctional or multidimensional peacekeeping mandates consisted of elections, democratization, humanitarian assistance, and protection of civilians in the war (Malone & Wermester, 2000). Expanded mandates of operations, new actors participating in

operations, and new perceptions about using force to protect human rights in international relations gave rise to the notion of humanitarian intervention.

When NATO bombed Kosovo to protect Albanian populations from ethnic cleansing by Serbian forces in 1999 without UNSC authorization, humanitarian intervention became a subject of fierce debate. The use of force against a sovereign state without UNSC authorization created sharp divisions on sovereignty, human rights, and international security in international society (Walling, 2013). For example, the definition of international security was expanded to cover not only states but also individuals, which is the premise of "human security" (Barnett, 2010). Also, military interventions with humanitarian justifications during the 1990s transformed the notion of sovereignty from "sovereignty as authority" (controlling territory) to "sovereignty as responsibility" (respecting minimum standards of human rights) (Welsh, 2004).

In fact, the transformation of sovereignty became a doctrine after the release of the Responsibility to Protect (R2P) Report in 2001 to reconcile human rights and state sovereignty. The first principle of R2P was that sovereignty was not a right but responsibility to protect its people from killing and other serious violence (International Commission on Intervention and State Sovereignty [ICISS], 2001a). The second principle originates from the failure to actualize the first principle. If a state is not able or reluctant to perform this duty or becomes the perpetrator of the violence; then, the non-intervention principle gives way to international responsibility (ICISS, 2001a). So, the international community might act in place of

the state (ICISS, 2001a). The report stated that: "We want no more Rwandas, and we believe that the adoption of the proposals in our report is the best way of ensuring that."(ICISS, 2001a, p. VIII). The report also underlined that if the international community stays disengaged in ethnic cleansing, massacre, or genocide, it means being complicit bystanders. Despite the formulation and development of such a norm, non-intervention of the international community in the face of genocide, ethnic cleansing or massacre creates a puzzle that needs to be understood. This thesis contextualizes the UN's inaction during the genocide against Tamils in Sri Lanka. Thus, Sri Lankan civil war was taken as a case study to evaluate the efficacy of R2P in this thesis.

With R2P, "sovereignty as responsibility" became a prevalent discourse to avoid the humanitarian catastrophes of the past from occurring again and was thought of as a cure to the unwillingness of states to intervene to stop human suffering in distant lands (T. G. Weiss, 2016) Also, there would be no more "illegal but legitimate" interventions like the NATO bombing campaign of Kosovo because rules around military interventions were set sharply in R2P (Evans, 2008). Yet, only four years after its initial version, we see "R2P-lite", a much weaker version of what had been designed but a much more convenient one to get accepted by all member states in the UN in 2005 (T. G. Weiss, 2016). In the R2P-lite version, the UNSC approval became the essential requirement for military interventions to halt mass atrocities whereas ICISS left the possibility that they can be conducted without depending totally on the procedural rules of the UN Charter (T. G. Weiss, 2016). The doctrine's scope became limited, more attention was given to the prevention pillar,

and states' responsibility towards their citizens was highlighted. Those were the first signs of the post-intervention era where idealistic winds of pro-intervention were about to settle. Neither annual reports since 2009 nor problematization of sovereignty as a barrier to intervention was able to prevent or react to humanitarian tragedies to come, such as recent events unfolding in Myanmar, Colombia, and Palestine.

1.2   Aim of Research and Research Questions

Once perceived as a sovereignty-threatening norm, R2P found itself in this post-interventionist paradigm where the original ethos of R2P (how to take collective action in crises) was forgotten (Bellamy, 2015; Evans, 2011b; T. G. Weiss, 2016). The debate on sovereignty reached such a point that calling states to be responsible towards their citizens was regarded as the success of R2P (Adams, 2016; Bellamy, 2015). However, the aim of R2P was not to be a reminder. It was more of an answer to how to take collective action during crises. This thesis aims to understand the discourse of responsible sovereignty and R2P transformation in terms of international inaction in Sri Lanka and R2P operating under the post-interventionist paradigm. In the Sri Lankan case, there was neither calling the Sri Lankan government to be responsible, although it was responsible for the killing of many Tamils, nor collective action was taken to stop the genocide. Worse still, the Sri Lankan case remained mostly invisible in academic literature despite the UN itself made it clear that it failed the people of Sri Lanka.

The main argument of the thesis is that the UN was not able to deliver on its promise regarding reversing the traditional understanding of sovereignty through sovereignty as responsibility discourse embedded in the R2P norm in the Sri Lankan case. It is hypothesized that the Sri Lankan case reflects a failure of R2P and the indifference of the UN. It is also hypothesized that fading away of R2P's holistic approach is a crucial factor to grasp the inaction of the UN in Sri Lanka. The accepted R2P in 2005 was distinct from its initial version which had a holistic approach to gross violations of human rights with an active role attributed to the UN. Thus, the timing of the last stage of the Sri Lankan conflict (2008-2009) makes Sri Lanka an important case study to evaluate R2P after its adoption in 2005

This thesis asks the following questions: What lies behind the emergence of the notion that "sovereignty as responsibility" can dissolve the sovereignty/ human rights binary, and in what ways did it affect the UN inaction in Sri Lanka? The secondary questions are: What does the Sri Lankan case reveal about the efficacy of R2P? What factors contribute to and justify the non-intervention of the UN in Sri Lanka?

1.3   The Motivation, Significance, and Contribution of the Study

The motivation behind selecting this topic is to rethink the transformation of the taken-for-granted notion of International Relations (IR) through R2P: sovereignty. Traditionally, it meant freedom from external control or external interference. Outsiders were not permitted to be involved in the domestic affairs of

states. But the era of sovereignty was coming to a close because of several factors like globalization. The last session of the General Assembly of the 20th century signaled an end of an era for sovereignty which stated "traditional notions of sovereignty can no longer do justice to the aspirations of peoples everywhere to attain their fundamental freedoms" (United Nations General Assembly [UNGA], 1999b, p. 2). After the inaction of the international community in the Rwandan genocide and the UN failure in the Srebrenica massacre, there was a strong desire in the UN to redefine sovereignty. Although, this desire was affected by some practices, attempting to reconstruct one of the essential elements of IR shows that concepts are the products of historical and social conditions.

The attempt to transform the idea of sovereignty reveals that traditional hardline realists' interpretation of non-intervention and sovereignty was no longer valid (Taylor, 1999). Instead, sovereignty was started to be associated with being responsible and accountable to the international community. R2P doctrine in the initial version imagined responsible sovereigns (ICISS, 2001a). When they did not fulfill their responsibilities, there was an active role ascribed to the international community to prevent or respond to humanitarian crises. The accepted version of R2P in 2005 imagined responsible sovereigns too, but with the bit of role given to the international community (UNGA, 2005). In fact, military action would be case-by-case, and the prevention pillar was highlighted mostly. Thus, with the unanimously adopted R2P in the 2005 World Summit, the intervention/sovereignty binary that ICISS tried to solve was no longer in operation (UNGA, 2005). In other words, sovereignty was no longer problematized or seen as an impediment to the

intervention. Instead of the international community's responsibility and timely and decisive action, prevention and responsibility of each state towards their citizens were highlighted after the adoption of the doctrine (UNGA, 2005).

This thesis uses a social constructivist lens to understand how this binary emerged and came to an end. Two main reasons behind selecting this theoretical framework are the power of ideas in the international order and how ideas shape and change reality. Instead of treating "sovereignty as responsibility" as given, the thesis critically analyzes the transformation in meaning and its relation to inaction and indifference of the international community. The fact that R2P attempted to construct "responsible sovereignty" makes social constructivism highly relevant to this thesis.

The thesis is important to explain the gap between theory and practice of human rights through examining the Sri Lankan case within the framework of R2P. To do this, conceptualization efforts of sovereignty within the UN are critically examined. In addition to analyzing discursive patterns, the practice of R2P is assessed through the Sri Lankan case. The selected case is a case of non-intervention which makes it challenging to explain in contrast to a case of intervention such as Libya. Perceiving the UN as an independent actor and bureaucracy, this thesis accounts for the indifference of the UN during the slaughter of civilians in Sri Lanka (Cronin-Furman & Krystalli, 2021; Macrae, 2011; Niland, 2014; Obama, 2020; G. Weiss, 2012).

This thesis' contribution to the existing academic literature on R2P is twofold. First of all, analyzing a case where intervention did not take place allows

us to analyze the extent to which the "never again" slogan after Rwanda and Srebrenica became a reality. Following the horror of the Second World War and the Holocaust, the Genocide Convention was adopted by General Assembly in 1948 and it signified the international community's first commitment to "never again" after the atrocities committed in the war (*Genocide Convention*, n.d.). After Rwanda and Srebrenica where peacekeeping troops were on the ground, Secretary-General Kofi Annan committed to enabling the UN "never again to fail in protecting a civilian population from genocide or mass slaughter" (Annan, 1999b, para.10). In 2001, ICISS (2001a) stated: "There must never again be mass killing or ethnic cleansing." (p.70). Analyzing cases, where R2P was not invoked despite the ethnic cleansing or mass killing, can tell us more about R2P in practice. Whereas Libyan intervention was discussed frequently in the literature (Bellamy & Williams, 2011; Brockmeier et al., 2016; Dunne & Gifkins, 2011; Gifkins, 2016b; Kuperman, 2013; T. G. Weiss, 2011), cases of non-intervention took less attention. Among the cases where R2P could have been invoked were Bahrain (Hehir, 2015), Darfur (Badescu & Bergholm, 2009), Gaza (Ercan, 2015), Somalia (Nuruzzaman, 2013), and Yemen (Mahdavi, 2012). Instead of looking at justification, implementation, and success of the intervention in Libya, this thesis claims that the efficacy of R2P lies in non-intervention cases because they, as the blind spots, show the gap between theory and practice of doctrine. Sri Lanka is one blind spot that remained mostly invisible in the literature. Secondly, questioning why and how R2P could not protect the ethnic minority in Sri Lanka brings internalization and internationalization of the doctrine up for discussion.

1.4   Methodology

This thesis is a qualitative case study based on secondary data. Primary sources, as well as secondary sources, are used to analyze the transformation of sovereignty discourse within the framework of R2P. Former Secretaries-Generals' speeches (Kofi Annan and Boutros Boutros-Ghali), ICISS report in 2001, the annual UN Secretary-General's reports on R2P since 2009, reports from UN entities and bodies, and UN resolutions are among the primary sources used in the thesis. They show the persistent desire to redefine state sovereignty. Also, secondary sources such as online and printed books and journals are used. Especially, books and articles of Sudanese diplomat Francis Deng (1998) who first developed "sovereignty as responsibility" for Internally Displaced Persons (IDP) in Africa, and articles of Kofi Annan (1999a, 2000) were utilized to see how certain ideas about sovereignty started to change and eventually contributed to the emergence of R2P.

On the escalation of the Sri Lankan conflict, the thesis uses primary sources from several reports from some organizations such as the World Food Programme and Human Rights Watch (HRW). Among them, three primary sources are frequently cited. Those are two reports from the UN and one from an internationally recognized civil society human rights tribunal, the Permanent Peoples' Tribunal. The reason behind selecting reports from those organizations is their comprehensiveness. They included eye-witness accounts, racial statements of Sinhala political leaders, statements from survivors of massacres in Sri Lanka, written and oral accounts from Sri Lankan government officials, the UN internal e-mails, and correspondence with

the government of Sri Lanka, and videos and photographs. In addition, secondary sources such as online and printed books, journal articles, and web pages are used to make sense of the colonial history of the island, interactions between ethnic groups, and peacebuilding initiatives during the civil war in the country that lasted almost three decades.

1.5 Structure of the Thesis

This study has six main parts. The first chapter is the introduction of the thesis where the historical context behind the emergence of the R2P principle is discussed with reference to changing understandings of sovereignty and intervention in the post-Cold War era. Also, it includes the purpose, research questions, motivation, significance and contribution of the study, methodology, and organization of the thesis. Following the introduction, the second chapter is devoted to the conceptual and theoretical framework. In this part, sovereignty is analyzed by Krasner's four conceptualizations of sovereignty which allows us to discuss its philosophical, political, and legal roots. Then, the social constructivist point of view is presented to underline meaning is socially constructed. The main idea behind selecting this framework is to show ideas, norms and knowledge have been essential factors in constructing and reconstructing sovereignty. R2P is an appropriate example of how the meaning of sovereignty evolved in time, under what conditions, and through which justifications. The concept of legitimacy is crucial here to make sense of how states' using force against each other was justified historically. Furthermore, international organizations' constitutive role and their pathologies are investigated.

The thesis perceives the UN as an independent actor and a bureaucracy that has control over information; thus, it can construct social reality through defining and labeling. But they are not flawless organizations that do not have dysfunctional behaviors. What generates dysfunction among bureaucracies is discussed by giving examples from the UN. In the last part of the second chapter, the indifference theme is presented regarding the UN.

The third chapter traces the emergence and development of sovereignty as responsibility discourse starting from the 1990s. Here, both theory and practice of humanitarian intervention and R2P are examined. In addition, annual UN reports on R2P are presented to see what R2P actually is and what kind of transformation it has undertaken. The fourth chapter presents the literature review where views of supporters, skeptics, and critics of the R2P are provided. It also illustrates the literature on Sri Lanka and R2P.

The fifth chapter is about the Sri Lankan case where the history behind the ethnic conflict between Sinhala and Tamils is presented. The colonial history of the island, discriminatory state policies since independence, different periods of civil war starting from 1983 are discussed. After showing the aftermath of the conflict and the UN's and other external actors' reactions to the conflict, the failure of R2P in Sri Lanka is discussed. Finally, the last chapter concludes the thesis and discusses the findings of the thesis.

CHAPTER 2

CONCEPTUAL AND THEORETICAL FRAMEWORK

2.1   Introduction

This chapter discusses concepts of sovereignty, human rights, and intervention that contributed to the birth of R2P and in turn, those were aimed to be changed through R2P. These concepts are the building blocks of the discipline of IR where heated discussions over the meanings of those terms were contested by scholars. The aim here is to underline the socially constructed nature of sovereignty, human rights, and intervention. For this purpose, the chapter introduces the social constructivist theory and how it understands those concepts. Following this, the constitutive power of International Organizations (IOs) and the theme of indifference are presented.

2.2   Concepts of Sovereignty & Human Rights and Intervention

This part presents the conceptualizations of sovereignty, non-intervention, and human rights and how they relate to each other. Starting with Krasner's definition of sovereignty as organized hypocrisy, this part traces the philosophical, political, and legal roots of sovereignty. Then, social constructivist understanding of those concepts is introduced to emphasize the role of ideas in shaping and changing realities and how different norms interact with each other.

2.2.1   Sovereignty and Non-Intervention: Organized Hypocrisy?

Sovereignty, human rights, and intervention are intertwined concepts that make it hard to describe each of them in isolation. All conceptions of human rights inevitably involve some constraints on the exercise of state sovereignty (Brown, 2002). But what does sovereignty mean? According to Krasner (1999), sovereignty has four distinct meanings. It can refer to domestic sovereignty, interdependence sovereignty, international legal sovereignty, and Westphalian sovereignty. Krasner is a realist IR theorist whose categorization of sovereignty is very useful to grasp the meaning of sovereignty although there is still no agreement on those four categorizations. For instance, Philpott (2001b) does not recognize interdependence sovereignty as sovereignty type since it entails mere power, not constitutional authority. Also, Biersteker (2013) finds Krasner's typology fixed, unchanging, and static which does not address the transformation in the meaning of sovereignty over time and across space. According to Smith (2001), Krasner's focus on Westphalian and international legal sovereignty ignores the fact that domestic sovereignty and interdependence sovereignty might be more influenced by the transformations in the international environment than the first two. Nevertheless, a brief examination of each meaning of sovereignty gives some hints of what sovereignty is and serves as an introductory point for the remaining part of the chapter.

Domestic sovereignty is the most commonly used one among others in political discourse (Krasner, 1999). It refers to final and absolute political authority in the political community and "no final and absolute authority exists elsewhere"

(Hinsley, 1986, p. 26). In Leviathan, Hobbes (1651/ 1998) described sovereignty as an artificial soul reflected in Leviathan, a giant sea monster in Biblical tradition. In Hobbes' understanding of sovereignty, the sovereign power derives its rights from its subjects who gave their consent to escape the state of chaos, the war of every man against every man where life is solitary, poor, nasty, brutish, and short (Hobbes, 1651/ 1998). To avoid this state of nature, people should regard their sovereigns as having absolute authority over them (Hobbes, 1651/1998). Preferring monarchy over other forms of government and insisting on absolutism, the sovereign's authority was indivisible, inseparable, and had absolute power in Hobbes' view. The indivisible sovereign power similar to that of Hobbes' Leviathan was described a century earlier by French jurist and political philosopher Jean Bodin. Bodin was regarded as the father of the modern theory of sovereignty (Maritain, 1950). He described sovereignty as "the absolute and perpetual power of a commonwealth" (Bodin, 1576/1992, p. 1). Until the late 1700s, sovereignty was suggested to reside in the political body of the monarch which was advocated by both Bodin (1576/1992) and Hobbes (1651/1998). Emerging in the struggles of the eighteenth century and appearing as a political form in the early nineteenth century, sovereignty has been expressed as popular sovereignty where citizens submit themselves to the authority of the states whose performance would reflect the will of citizens (C. Weber, 1995).

Interdependence sovereignty means the capability of controlling transborder movement by public authorities such as the flow of ideas, information, goods, people, or capital along the borders of their state (Krasner, 1999). Globalization is one of the forces that challenge this definition of sovereignty. According to Krasner,

a state might have other types of domestic authority structures like Westphalian and domestic, but it might experience problems in handling cross-border flows. Whereas domestic sovereignty entails authority and control, interdependence sovereignty primarily focuses on control and not authority (Krasner, 1999). The control was in the sense of the ability to regulate movements across a state's borders.

International legal sovereignty means the recognition of juridically independent territorial states (Krasner, 1999). It has been universally sought by rulers because mutual recognition has many benefits such as treaty-making, diplomatic immunity, and securing external resources which can increase rulers' ability to stay in power (Krasner, 1999). As Krasner explains, recognized states can participate in international organizations, extend diplomatic immunity, create special legal protections and diminish the transaction costs of being a party to agreements with other entities. Yet, the absence of recognition does not hinder the types of activities that recognition facilitates (Krasner,1999). Krasner gives the example of Taiwan in which the US established a special status when it recognized the People's Republic of China as the legitimate government in 1979. This act provided that Taiwan can still be a part of international financial institutions and the legal status of the Republic of China in American courts would not be influenced (Krasner, 1999).

Finally, Westphalian sovereignty is what Krasner's book was mostly interested in where he concluded that sovereignty is an organized hypocrisy. The reason behind this bracket will be explained later but first, we need to understand the last categorization of sovereignty. Westphalian sovereignty rests on two core

premises: territoriality and the exclusion of external actors from domestic authority structures (Krasner, 1999). IR field gives extensive coverage about the Peace of Westphalia, and it is predominantly considered to be the start of the modern system of nation-states by ending the Thirty Years' War (1618-1648) (Gross, 1948; Jackson, 2007; Morgenthau, 2004; Spruyt, 1996; Zacher, 1992). Osiander (2001) reflected on the standard view of the Thirty Years' War. It was seen as a conflict between universalist actors (the emperor and the Spanish king who were both members of the Habsburg dynasty) and particularist actors (specifically Denmark, the Dutch Republic, France, and Sweden as well as the German princes). Those actors went against the imperial overlordship and also the authority of the Pope, promoting instead the states' right to full independence and sovereignty (Osiander, 2001). Overall, the Peace of Westphalia with the two treaties that characterized it, the Treaty of Osnabrück and the Treaty of Münster, is the starting point in most of IR literature where norms of Westphalian order are regarded as sovereignty, territorial integrity, and non-intervention. It is here worth citing few quotations from IR on Westphalia. Morgenthau (2004) wrote: "the Treaty of Westphalia brought the religious wars to an end and made territorial state the cornerstone of the modern system" (p.294). Zacher (1992) stated that "the Treaty of Westphalia of 1648 which recognized the state as the supreme or sovereign power within its boundaries and put to rest the church's transnational claims to political authority" (p.59). He also noted that nonintervention in internal affairs was the derivative of state sovereignty.

Against this traditional portrayal of sovereignty, non-intervention, and territorial integrity stemming from Westphalia, some scholars challenged this view

(Osiander, 2001; Philpott, 1999). For instance, Osiander (2001) regarded this accepted version of Westphalia as a myth and he claimed that underlying ideas of this version were influenced by anti-Habsburg propaganda. Also, Krasner argued that the norm of non-intervention was not related to the Peace of Westphalia at all because it was not evidently acknowledged before the end of the eighteenth century. The principle of nonintervention was first proclaimed by philosopher Christian Wolff and jurist Emmerich de Vattel in the last half of the eighteenth century when they argued none of the states had a right to interfere in internal matters of other states (Krasner, 1999). The legal status of non-intervention is also affirmed in the UN Charter. Article 2(4) prohibits the use of force by states against the territorial integrity or political dependence of any state and Article 2(7) upholds the domestic jurisdiction of states (UN Charter, n.d.). Yet, it never matched with reality. Instead, non-intervention, Westphalian sovereignty, and international legal sovereignty have been frequently violated. Krasner (1999) calls it "organized hypocrisy" where powerful states' rulers justified their violations of Westphalian principles through several ways such as invoking the illegitimacy of revolutionary regimes such as the Holy Alliance or the protecting the Soviet commonwealth as in the Brezhnev doctrine.

Krasner's analytical categorizations and his analysis of sovereignty as organized hypocrisy are crucial to underline the multifaceted character of sovereignty. Although known as a realist, Krasner's position in his book is hard to define. Keohane (2010) regarded the book as a synthesis that interlinks different traditions without simply favoring all of them in an undiscriminating and

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contradictory fashion. In Krasner's view, hypocrisy, rulers' systematic violation of principles that once they adhered, occurs because logics of consequences dominate logics of appropriateness. In other words, Krasner contends that political actors' behavior is shaped by rationally calculated behaviors not rules, roles, identities, or norms. Although Krasner (1999) connects various theoretical traditions, he contends that "norms, though not irrelevant, do not have the weight that constructivism attributed to them." (p.51). Krasner (1999) also states that "constructivism's emphasis on intersubjectively shared understanding provides only limited guidance" (p.54). What Krasner's perspective does not provide is the role of ideas, changing normative context, how norms are challenged and replaced with new norms. Those were introduced to IR by constructivism.

2.2.2   Challenge of Social Constructivism

With the end of the Cold War, new challenges arose in world politics. Some of them were international change, the role of non-state agencies, and the problem of human rights. Neither neorealists nor neoliberals were able to account for or predict the systemic transformations reshaping the international order (Reus-Smit, 1996). In 1989, Nicholas Greenwood Onuf (2013) introduced the term constructivism to the IR and some of the most influential constructivist theorists are Alexander Wendt, Emmanuel Adler, Friedrich Kratochwil, John Gerard Ruggie, and Peter Katzenstein. The core claim of constructivism is that meaning is socially constructed (Adler, 1997; Hurd, 2008; Onuf, 2013; Reus-Smit, 1999; Wendt, 1999). Social structures comprise both material and social components. Shared ideas,

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beliefs, and values affect social and political actions (Reus-Smit, 2005). Constructivism is not a fundamental theory of world politics but a three-layered approach that entails metaphysics, social theory, and IR theory (Adler, 2013). There are also various positions among constructivist IR such as positivists, interpretivists, and postmodernists (Fearon & Wendt, 2002). Adler (2013) classified different strands as modernist, modernist linguistic, radical and critical. Yet, all strands of constructivism agree on social constructivist ontology in contrast to material and individualist ontology underlying realism/neorealism (Wendt, 1999). Military hardware, strategic resources, and money were seen as what constituted power in both neorealism and neoliberalism (Hurd, 2008). But the idealist or social ontology of constructivism emphasizes that the content and meaning of material forces, defined as power and interest, are constituted by ideas and culture (Wendt, 1999). So, constructivism does not deny material conditions, but the social context is important because it interprets the meaning of material resources. The well-known example from Wendt (1995) is that five North Korean nuclear weapons are more dangerous to the US than 500 British nuclear weapons.

Constructivism also accepts many premises realism presupposes such as anarchic international system, states' offensive capabilities, and states' desire to survive in this system. It also accepts the liberals' idea that states can cooperate in anarchy when certain norms and regimes are present (Chernoff, 2007). As Chernoff explains, the main difference between constructivists and other theorists stems from constructivists' understanding of the nature of systems and agents in world politics. States' identities and preferences are not fixed or unchanging but changing from one

state to another and they are affected by the character of the specific international system that they constitute (Chernoff, 2007). Both states' identities and interests and the international system's characteristics influence each other; thus, they are co-generative or mutually constituted (Chernoff, 2007).

Fearon and Wendt (2002) mention four aspects of constructivist reasoning on the construction of social objects and practices. First of all, it is preoccupied with the role of ideas in constructing social life. Secondly, it aims to show the socially constructed nature of agents or subjects. Constructivism does not treat agents as given but it problematizes them. It is interested in the constitutive conditions of possibility for specific modes of subjectivity and those conditions are historical; thus, the meaning of agent may change over time. Thirdly, the research strategy of constructivism is methodological holism in contrast to methodological individualism. Whereas individualism supposes that social scientific explanations can be reduced to interactions of independently existing individuals, holism rejects this view. What individualism rules out is "the possibility that social structures have constitutive effects on agents, since this would mean that structures cannot be reduced to the properties or interactions of ontologically primitive individuals" (Wendt, 1999, p. 27).

How agents related to the ideational or material structures was the part of the agent-structure problem, whether systemic structures can be reducible to preexisted agents or have a sort of autonomous life of their own (Wendt, 1999). The dominant ontology on this problem has been methodological individualism. In contrast to this

research strategy, Wendt emphasizes that holism shows agents might be constituted by social structures. The constitutive questions that constructivism asks imply certain hypotheses about the world that can be tested. For instance, the holist assertion that the causal powers of sovereign states are constructed partly by discursive structures that connect them to other states is a hypothesis about the nature of sovereign states (Wendt, 1999). Lastly, in connection with the last point, constructivism is more interested in constitutive theorizing instead of causal explanations.

2.2.3   Sovereignty and Intervention as Social Constructions

As Krasner's book suggested, some basic elements of sovereignty were territory, population, authority, control, and recognition. According to social constructivism, those components are socially constructed just like sovereignty itself (Biersteker & Weber, 1996). Claims to territory, authority, and national identity socially construct sovereign and non-sovereign entities (Biersteker & Weber, 1996). In neorealism, states are sovereign simply because of the anarchic character of the international system (Gilpin, 2002). Biersteker and Weber (1996) disagree because the socially constructed practices of sovereignty such as recognition, intervention, and language of justification are involved in the structures of international society. In their view, the modern state system is not established on a timeless principle of sovereignty. Instead, it is a production of a normative conceptualization that associates authority, territory, population, and recognition in an exceptional manner and a precise place. They arrived at this conclusion by differentiating the concepts of state and sovereignty analytically. According to them, states can be explained

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based on their claims to sovereignty whereas sovereignty can be described with the interactions and practices of states. Also, a constitutive relationship between state and sovereignty exists, and diverse practices construct, reconstruct, and reproduce both state and sovereignty. Recognition, for example, constructs sovereignty because sovereignty "exists only within a framework of shared meaning that recognizes it to be valid" (Ruggie, 1998, p. 870). What is sovereignty, asks Wendt (1995), "if not an institution of mutual recognition and non-intervention?" (p. 79).

Ideas, norms, knowledge, and culture have a crucial role during the construction, reproduction, or deconstruction of certain social facts. The examples to those social facts include money, refugees, terrorism, human rights, sovereignty, marriage, and even Valentine's Day which need human agreement in contrast to rocks, flowers, gravity, oceans, bombs, bullets which will continue to survive even if humans reject their presence (Barnett, 2014; Ruggie, 1998). The social construction of reality questions the taken-for-granted notions and sovereignty is one of them. As Barnett (2014) explains, sovereignty did not always exist but arose from historical forces and human interactions that formed new points for diversion concerning where political authority lied. The social construction of reality also means rules and norms are not static and timeless but they change according to the normative environment they came out of which in turn guide and constitute state and identities and interests (Barnett, 2014). Thus, change is a central concern in constructivist analysis: how social facts transform and how these shape politics (Finnemore & Sikkink, 2001).

The social construction of reality and the effort of actors to shape normative environments indicates the concept of legitimacy (Barnett, 2014). Humanitarian intervention is one attempt to create legitimate space for intervening militarily to protect citizens of other states (Finnemore, 2003). Finnemore analyzed the changes in the overall pattern of intervention and her analysis was based on military interventions, not intervention by other means such as diplomatic or economic. Based on her research, she concluded that the purposes for states' using force against each other have changed. Whereas humanitarian intervention was limited to Christians in the nineteenth century, it eventually included non-Christians as well and thus became universal. In her view, decolonization and expansion of universal human rights immensely contributed to this change with the creation of international institutions such as the UN and structures of law like human rights treaties. What is more important is that those social structures shaped and constituted contemporary humanitarian practices by transforming people's perception of sovereignty and their judgment of the situations under which it can be trumped by humanitarian concerns (Finnemore, 2003).

As this chapter showed, the traditional approach to sovereignty starts with the Peace of Westphalia and how it established sovereignty and non-intervention. Breaching them was not the exception but the norm which Krasner labeled as organized hypocrisy. But the picture is far from complete. After the Cold War, what accompanied sovereignty and non-intervention norms was human rights. R2P made sovereignty conditional on how states treat their population. R2P was a social fact where there was an agreement on its meaning, and it reconstructed another social

fact, sovereignty. With R2P, sovereignty could not be treated as being free from external involvement anymore. It was reconstructed in a way that only states who respect R2P principles on human protection were able to claim their sovereignty. Otherwise, the responsibility to protect populations would belong to the international community which can intervene militarily based on certain criteria such as just cause and proportionality. In this way, R2P claimed that it was not weakening sovereignty; quite the contrary, it was strengthening sovereignty. There have been states who accepted and who opposed those criteria and R2P overall. This situation of endorsing and rejecting the norm was consistent with constructivists' argument of the life-cycle of norms (Finnemore & Sikkink, 1998).

Norms are shared expectations regarding convenient attitude for a given identity which might be regulative or constitutive; they can either describe identities or prescribe behavior or they do both (Katzenstein, 1996). More importantly, norms are shared assessments; thus there must be agreement among actors to call it a norm (Finnemore & Sikkink, 1998). To explain the dynamics of this agreement and how norms influence actors' behavior, Finnemore and Sikkink argued that norms have a life cycle that consists of a three-stage process. Those are norm emergence, norm cascade, and internalization. Especially at the first stage, the role of international organizations such as the UN and the World Bank is important to institutionalize norms and influence the behavior of states (Finnemore & Sikkink, 1998). At the second stage, socialization is a major mechanism of norms cascade where norm leaders persuade others to comply, as they explain. But states are not the exclusive actors of socialization. International organizations also function as agents of

socialization through pressing selected actors to endorse recent policies and laws and to ratify treaties and by overseeing conformity with internationally accepted standards (Finnemore & Sikkink, 1998). Although they are agents of social construction, they can become captives of their own rules which results in being ineffective or counterproductive (Finnemore & Sikkink, 2001).

Overall, constructivism emphasizes the importance of ideas in social and political politics, social context, rule-governed action of states behavior, and the role of norms in social life (Checkel, 1998; Finnemore & Sikkink, 1998; Kratochwil, 1999). According to Checkel (1998), constructivism should equally consider the bad issues in world politics such as the role of social construction in ethnic conflict and war. Checkel also emphasizes that constructivism overstresses the function of social structures and norms which causes neglecting the agents who help to construct them at first. Thus, the outcome is that constructivism fails to investigate fully how norms engage with agents although it explains norms and social context (Checkel, 1998). The following parts of the chapter explain first the international organizations' constitutive power, and then their pathologies and the theme of indifference. Those parts help to approach the UN as an agent and bureaucracy who constructs categories, fix meaning, and help to diffuse norms. Yet, it is also inclined to dysfunctional behaviors which might cause the UN to be inefficient, ineffective, or unaccountable.

2.3   Constitutive Power of International Organizations

From a constructivist perspective, IOs such as the UN and the IMF are powerful. It is not only because of the possession of material and informational resources they have. They are powerful because of their ability to change the behavior of states, define norms and categories of legitimate social actions, and define the agenda for global governance (Barnett & Finnemore, 2004; Finnemore & Sikkink, 1998; Hurd, 2014). Barnett and Finnemore (2004) developed a constructivist understanding of IO behavior by treating IOs as bureaucracies. Bureaucracies are authorities and authority is a social construct that cannot be thought outside the social relations that constitute and legitimate it (Barnett & Finnemore, 2004; Biersteker & Weber, 1996; Handelman, 1995).

According to Beetham (1987), modern bureaucracies have four main features: hierarchy, continuity, impersonality, and expertise. In addition, bureaucracies do have some cultural values such as shared goals, moral understanding, and collectively recognized culture (Barnett & Finnemore, 2004). In Weber's (2007) understanding, the core of bureaucratic power is the control over information. Barnett and Finnemore (2004) add that bureaucratic power also is capable of converting information into knowledge. In other words, bureaucratic power constructs information in ways that give it meaning. So, what the development problem, poverty crisis, and human rights violation are all constructed by bureaucracies. So, they are the authorities that "classify, label and invest meaning in information . . . bureaucratic knowledge not only reflects the social reality as

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defined by the bureaucracy but also constructs that reality" (Barnett & Finnemore, 2004, p. 30). How IOs construct social reality is closely associated with the ability to create, define and map social reality.

According to Barnett and Finnemore, the constitutive power of IOs stems from three linked mechanisms: classification of the world, defining the meaning, and diffusion of norms. IOs construct problems by defining them. For instance, the IMF decides which economy is on the right track and UNHCR (the UN High Commissioner for Refugees) classifies who are refugees, migrants, or internally displaced peoples (Barnett & Finnemore, 2004). Those classifications matter in practice. Labeling a conflict as a civil war or a genocide makes a huge difference in terms of legitimatizing reaction or non-reaction from international actors (Mamdani, 2010).

IOs can also fix the meaning in a way to orient action and draw boundaries for acceptable action (Barnett & Finnemore, 2004). Barnett and Finnemore gave the example of the fixing of the meaning of security in the post-Cold War era through shifting the definition from state security to human security. Security threat was no more limited to military threats but extended to economic, environmental, health, and political issues. Finally, IOs are keen to spread global values and norms (Checkel, 1999; Finnemore & Sikkink, 1998). Although states and nonstate actors are involved in this process, IO authority is crucial to establish categories, fix meanings, and diffuse norms.

IO authority can be described as the delegated authority from states (Haftel & Thompson, 2006; Hurd, 2014; Karns & Mingst, 2010). For example, the UN's authority on peacekeeping flows from the mandate granted by member states through the Security Council. Nevertheless, perceiving IOs authority only as the delegated authority does not allow one to theorize IO action as in state-centric analyses. IOs also have a moral authority where they defend the universal values of the international community (Barkin, 2006, Chapter 2). This authority type allows the IOs to introduce themselves as nonpolitical and neutral actors. Lastly, IOs' authority stems from their expertise (Karns & Mingst, 2010). As Barnett and Finnemore (2004) contend, we want nuclear proliferation to be controlled by physicists or engineers and we want pandemics to be handled by doctors or public health specialists because they are the ones that have specialized knowledge on those issues.

The authority of IOs also generates a ground for their autonomous action, according to sociological institutionalism (Barnett & Finnemore, 2004; Biermann & Siebenhüner, 2009). This approach differs from the state-centric realist paradigm which posits that international bureaucracies are the sum of individual national interests (Waltz, 1979). In realism, there is no place for autonomy or influence of international bureaucracies that can go beyond the will and power of individual states (Grieco, 1988; Mearsheimer, 1994; Waltz, 1979). With the demise of the League of Nations and the post-1945 hegemony of political realism, the study of international organizations was disorganized, lacking theory and comparative research designs (Bauer et al., 2009). Sociological institutionalism rejected the state-centric focus of realism and rational institutionalist research which explained international

bureaucracies as a result of interstate cooperation (Bauer et al., 2009). Instead, it focused on organizational change, the relation of IOs with the environment, pathologies and power, and administrative leadership (Ege & Bauer, 2013).

IO's autonomous relations with states can be explained through five types of relationships (Barnett & Finnemore, 2004). The first one is autonomy by design which means states intentionally design some autonomy for IOs (Park, 2018). IOs in turn use their autonomy to promote states' interests. IOs also may act where states are indifferent. In this type, IOs have an expanded scope for autonomous action. Although states establish IOs for specific aims, once established, IOs form their own norms and operate procedures over time with their claim of expertise and impartiality (Barkin, 2006, Chapter 3). The third one is the inaction of IOs where they fail to actualize states' demands either because of standard bureaucratic slowness or refusing to carry out those demands. Furthermore, IOs can act which contradicts state interests such as building alliances with the public, nongovernmental organizations (NGOs), or other IOs on certain policies which can go against powerful states. But, this rarely happens. Lastly, IOs can transform the normative environment and states' understanding of their own decisions in such a manner that they are compatible with IO preferences. Thus, IOs do have agency and autonomy; they are more than instruments at the hands of states or passive servants of states. They are bureaucracies, political actors in their own rights and both shaping and being shaped by others (Barnett & Finnemore, 2004).

2.4   Pathologies of International Organizations

Understood as bureaucracies, IOs are supposed to be rational and effective in performing social tasks. Yet, IOs are inclined to dysfunctional behaviors. By looking at several factors, Barnett and Finnemore (1999) identified five aspects of bureaucracy that can generate a particular type of dysfunction, pathology. The criteria for judging dysfunction and pathology in their work is the publicly declared mission of the organizations. Whether organizations actually do what they uphold and achieve their goals is a crucial issue in their examination of dysfunctionality. Pathology occurs when bureaucratic power's sources themselves cause dysfunctional behavior (Barnett & Finnemore, 1999). In this respect, they mentioned five mechanisms by which bureaucratic culture can catalyze pathologies in IOs. The first one is the irrationality of rationalization. It happens once the means (rules and procedures) of the organization became ends in themselves (Beetham, 1974). One example of this mechanism is the UN-mandated elections. The UN involvement in reconstruction was to bring a stable and just government but its success became associated with the elections although most of the elections in many troubled states turned into counterproductive efforts such as in Bosnia (Paris, 1997). The second type of pathology in IOs is bureaucratic universalism. It refers to promoting universal rules while being negligent to contextual and particularistic concerns.

The third source of pathology is the normalization of deviance. As demonstrated by Barnett and Finnemore (2004), bureaucracies calculate deviations from accepted rules due to new environmental or institutional developments.

Another type of pathology occurs because of being insulated from feedback on their performance. Those who did not receive such feedback can build internal cultures that might conflict with the organization's goals and expectations. The last source of pathology is cultural contestation. Organized around the principle of division of labor, different segments of an organization can have diverse internal cultures. For example, impartiality and neutrality are the core values of the UN's humanitarian mission as well as helping people in need. In this case, humanitarian assistance might be delivered even though the provision of humanitarian relief can threaten the UN's principle of neutrality. Considering all mechanisms of pathological behavior, IOs as bureaucracies can be inefficient, ineffective, or unaccountable (Barnett & Finnemore, 1999).

2.5   The Production of Indifference

As an international organization, it is possible to imagine the UN as a bureaucracy. It is both the sum of its parts (states) because it represents them and an independent actor (Barnett, 1997). If one understands the power in terms of agency, the independence and power of the UN make little sense. But, as Barkin (2006, Chapter 5) emphasizes, the UN has a strong agenda-setting power and it facilitates defining what constitutes appropriate political behavior in international relations. To justify the UN's actions, the constituency of the UN which is the international community has been used. In the history of the UN, there are three often contradictory ways to portray it. It can refer to individual persons, collective "peoples" (based on nationality, ethnicity, or gender), and sovereign states (Barnett,

1997). The first two of them are connected to the universal rights of individuals and the last one is closely associated with the principle of non-interference and respect for state sovereignty. During the Cold War, the UN prioritized the security of states over the security of peoples and individuals where the UN operations were not essentially focused on human rights, humanitarian missions, or ethnic conflict (Barnett, 1997; Bellamy & Dunne, 2016; Donnelly, 2013). What lies behind this preference was mostly about the definition of international security which was completely about interstate conflict. After the end of the Cold War, international security was more than the security of states (United Nations Development Programme [UNDP], 1994). Instead, states were seen as the cause of insecurity, intrastate conflicts posed a greater threat to individuals' security, and the human security concept emerged (Barnett, 1997).

The UN peacekeeping operations were also transforming in addition to the conception of security. Once lightly armed UN troops were only monitoring ceasefires, second-generation peacekeeping operations aimed to promote domestic conflict resolution and nation-building (Doyle & Higgins, 1995). As a result of the rising number of intrastate crises and peacekeeping operations that were not successful to handle them, peacekeeping became bureaucratized through new departments, arrangements for military forces, and several reforms within the UN (Barnett, 1997). After failing in Somalia and Bosnia, the Security Council started to come up with certain criteria to approve or extend peacekeeping operations. Some of them were whether there was a real threat to peace and security, the safety of UN personnel, and the existence of a ceasefire. The bureaucratization of peacekeeping

and the emergence of those criteria led to the production of indifference, as claimed by Barnett (1997).

Published in the journal of *Cultural Anthropology* in 1997, Barnett's article provides an excellent social constructivist analysis of the UN's indifference to the Rwandan genocide. It is more than an "IR piece" because it reflects his own experience at the US mission to the UN as an expert on Rwanda and its central concepts were derived from anthropologist Michael Herzfeld. Barnett (1997) questioned why he and others in Security Council decided that the UN's needs outweighed the needs of those who were the victims of genocide. He asked how the goal of protecting the UN's reputation turned out to be a justification for not intervening. It was similar to Herzfeld's (1993, p. 1) question "how and why can political entities that celebrate the rights of individuals and small groups so often seem cruelly selective in applying those rights?". While Herzfeld's analysis was based on nation-states, particularly Western bureaucracies, Barnett used some of his insights in his criticism of the international community, the UN.

Barnett (1997) uses the term secular theodicy from Herzfeld to discuss how bureaucrats handle their indifference. The definition of secular theodicy is based on religious theodicy, a concept from Max Weber to describe the persistence of evil in a divinely ordered world (Herzfeld, 1993). Religious theodicy asks "how, if there is a truly universal deity, evil can exist in so many nooks and crannies of daily experience?" (Herzfeld, 1993, p. 6). The problem of theodicy has been resolved in diverse ways in different religions (M. Weber, 1965). The solutions provided certain

understandings of God, sin, and salvation such as the transmigration of the soul and predestination. Those solutions constituted theodicy. Nation-state bureaucracy and the ritual system of religion are similar for Herzfeld (1993, p. 10) because both are based on the belief that "the elect as an exclusive community, whose members' individual sins cannot undermine the ultimate perfection of the ideal they all share". Secular theodicy, similar to religious theodicy, invokes transcendence, the idea that a moral principle can transcend the peculiarities of time and place (Herzfeld, 1993). For instance, a belief in the transcendental purpose of nation-states can lead citizens of certain states to excuse bureaucratic indifference. But there is a crucial difference between the two. Whereas theodicy used by Weber was supporting belief against the indication of an imperfect world, Herzfeld claims that theodicy serves a pragmatic purpose. It turns out social means to cope with disappointment.

The UN inaction in Rwanda displayed a secular theodicy, according to Barnett (1997). Pushed to decide between protecting peacekeepers and Rwandans, risk of another failure after Somalia and in the midst of the crisis in Bosnia, officials at the UN were able to justify the inaction. Protecting the UN's survival, its interests, and its reputation was more important than protecting Rwandans (Barnett, 1997). In the end, Rwanda was devoid of strategic consideration, outside of most states' national interests and intervention there would be risky (Longman, 2004). Barnett admits that experts and bureaucrats including him were more dedicated to the survival of the UN than Rwandans. The inaction, the decision not to halt the genocide were characterized as ethical and moral because protecting the international community's organization and preventing another failure was more crucial.

So, in addition to discussions on human security and state security, UN security became a matter of concern in the post-Cold War era. The questions that asked within the UN after bureaucratization of peacekeeping were: how to better advertise success stories, how to depict failures as success (or at least to display that the UN was not to blame), and how to assure the UN was not overwhelmed with operations that had little chance of success (Barnett, 1997). Officials and member states of the UN invoked the discourse of the transcendental to protect the UN's interests as well as its reputation and revealed their own types of indifference and secular theodicy (Barnett, 1997). Following Herzfeld, Barnett (1997, p. 575) places the production of indifference in bureaucratic self-interest. From the social constructivist approach, identity is quite relevant to the production of difference/indifference. Identifying with bureaucracy "represents the emotional and mechanism for producing exclusion and apathy" (Barnett, 1997, p. 563). Besides, the bare presence of the UN in Rwanda permitted states and the Secretariat to cover themselves from responsibility, to blame others except themselves, and to evade accountability (Barnett, 1997).

2.6   Conclusion

This chapter started with Krasner's categorizations of sovereignty and his definition of sovereignty as organized hypocrisy. It showed that non-intervention, Westphalian sovereignty, and international legal sovereignty were always breached. After Krasner's work, the socially constructed nature of the meaning and the importance of shared ideas, beliefs, and values on social and political actions were

discussed. Social constructivism was introduced as a very useful lens to grasp the transformation of sovereignty after the Cold War which eventually became conditional upon respecting and promoting human rights through R2P. It was also useful to comprehend the constitutive power of the UN which can be treated as a bureaucracy based on Barnett and Finnemore's theorizing. Pathologies of international organizations and the indifference of the UN to genocide are also discussed through Barnett's work. The next chapter deals with the birth and evolution of R2P which reflects the importance of ideas regarding sovereignty and how they affected the practices of humanitarian intervention, R2P acceptance, and R2P practices.

CHAPTER 3

EMERGENCE AND DEVELOPMENT OF SOVEREIGNTY AS RESPONSIBILITY DISCOURSE

3.1   Introduction

This chapter shows how sovereignty as responsibility discourse emerged in the first place and how its meaning evolved. Starting with a brief discussion on humanitarian intervention, the chapter looks at Francis Deng's assertion of concept for the first time regarding IDP and Kofi Annan's two notions of sovereignty. Annan promoted a new international norm that was developing at that time and frequently spoke about failures of the international community to protect civilians in numerous places. In addition to conceptual development, four major instances of humanitarian intervention in the 1990s are analyzed which contributed to conceptual development further. The initial report of R2P in 2001 by the International Commission on Intervention and State Sovereignty (ICISS), as well as post-ICISS, are analyzed in the last part.

The change of pillars from expecting the international community to take an active role in protecting civilians to assuming states should take responsibility is striking here due to its atomistic ontology and its logic of "blaming the victim." Stressing this transformation in pillars and solutions provided to states in question, this chapter argues that the international community began to move from its

interventionist adventures towards the post-intervention era and resilience paradigm, especially after R2P's acceptance in 2005. This led to a new justification for non-intervention cases where R2P was confined to reminding the host state's responsibility or the violations of human rights altogether was ignored as in Sri Lanka.

3.2   Humanitarian Intervention

Humanitarian intervention was a vital practice for the emergence of the R2P doctrine. There are various definitions of the concept, but basically, it means "the coercive interference in the internal affairs of a state, involving the use of armed force, with the purposes of addressing massive human rights violations or preventing widespread human suffering" (Welsh, 2004, p. 3). Humanitarian motivations are said to be what makes humanitarian intervention different from strategic military interventions (Hehir, 2013). Using force to protect people is an old idea dating back to the just war tradition, which can be traced as far back as to Ancient Greece (Heraclides & Dialla, 2016). However, earlier works of Christian political theologists were taken to explain the origins of humanitarian intervention in the literature. For example, the writings of St. Augustine (354-430) underlined that a just war can be waged if there is injustice (Reichberg & Syse, 2002). The just cause for Augustine meant reacting against misbehavior, in the name of defending the innocent, penalizing the guilty, and sustaining peace (Reichberg & Syse, 2002). Similar to Augustine, Aquinas (1225-1274) defended that wars can be waged to uplift the good, punish evil-doers, and secure peace (Aquinas, 2006 as cited in Ercan,

2016). Those theologians and the Just War tradition provided moral consideration for the humanitarian military intervention and there are references to this tradition in the contemporary discourse. For instance, Wheeler (2000) identifies legitimate humanitarian intervention based on criteria from the Just War tradition: just cause, use of force as last resort, proportionality, and high chances of success. Similarly, Weiss (2016) describes ICISS' R2P Report as the modified just war doctrine.

Despite the influence of Augustine and Aquinas, the first authoritative statement on humanitarian intervention came from Hugo Grotius (1583-1645) according to Knudsen (1996). Grotius defended that preventing mistreatment of a state towards its own subjects was a just resort to war (Knudsen, 1996). The Grotian interpretation of the doctrine of humanitarian intervention suggested that there should be a universal right to punish the offender. In Grotius' sense of punitive war, each person has an executive power to uphold not only his or her own rights but also the rights of others (Chesterman, 2001). Thus, if the subjects were incapable of acting for themselves, another sovereign can intervene on behalf of the oppressed subjects. After Grotius, Pufendorf (1632-1694) defended a similar line of thinking. In the eighteenth century, Emmerich de Vattel (1714-1767) also defended that any foreign power can help oppressed people if a prince gives legitimate reasons to resist him or his tyranny leads to a national revolt against him (Heraclides, 2012).

It was not until the 1880s that British jurist William Edward Hall formulated the English phrase humanitarian intervention (Heraclides, 2012). Intervention in the Greek War on Independence (1821-1827) by Britain, Russia, and France was

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considered as the first armed humanitarian intervention, which was followed by interventions in Lebanon/Syria and Bulgaria in the second half of the nineteenth century (Finnemore, 2003). According to Finnemore, those cases revealed that religion was crucial for the motivation of humanitarian action and defining who was human. In the first case, European Powers were only interested in the murder of Christians, not Muslims, and the character of intervention was multilateral (Finnemore, 2003). In Lebanon and Bulgaria, the motivation was also saving Christians. However, interventions were unilateral because the French supplied most of the troops in the former case, and Russia intervened alone in the latter (Finnemore, 2003).

In light of those cases, Finnemore (2003) argued that European powers did not intervene to protect non-Christian during the nineteenth century. The pogrom against Jews, Russian massacres of Turks in Central Asia, mass killings in China during the Taipings rebellion, killings by colonial rulers in their colonies, or massacres of Native Americans in the US did not provoke intervention. As stated by Finnemore, the abolition of slavery, slave trade, and decolonization were essential to the universalization of humanity. Abolition of slavery and slave trade meant that human beings were finally viewed as humans, not property. The links between the universalization of humanity and decolonization were complex as colonialism was itself a humanitarian mission (Finnemore, 2003). Colonization was "a sacred trust, the white man's burden . . . . the mission of colonialism was to 'civilize' the non-European world- to bring the 'benefits' of European social, political, economic and cultural arrangements to Asia, Africa and the Americas" (Finnemore, 2003, p. 70).

Thus, the colonial humanitarian mission was to transform savages and barbarians into humans by "civilizing" them. However, as Finnemore maintained, by the mid-twentieth century, humanity was seen as inherent in individual human beings, not to be created or brought by external powers, with the effects of decolonization and self-determination.

Although the extent of who qualified as the human had expanded over time, norms about intervention also transformed. For instance, humanitarian military interventions must be multilateral to be legitimate in the twentieth and twenty-first centuries, which was not the case in the nineteenth century (Finnemore, 2003). During the Cold War, the humanitarian intervention had been unacceptable as human rights were part of the domestic jurisdiction of each state. In fact, non-intervention, sovereignty, and non-use of force were vigorously defended between 1945 and 1990 when the world was divided ideologically and politically between the western bloc led by the US and the eastern bloc led by the Soviet Union (Ercan, 2016).

The interventions during the Cold War were justified through the right of self-defense rather than humanitarian reasons, although they could have been justified on humanitarian grounds (Ercan, 2016). Three examples of this strict interpretation of the UN Charter and domination of non-intervention in international politics during the Cold War were India's intervention in East Pakistan, Tanzania's intervention in Uganda, and Vietnam's intervention in Cambodia (Ercan, 2016). All interventions had non-humanitarian reasons to intervene, but the intervening parties might justify their actions in humanitarian terms. The civil war in Pakistan led to the influx of

refugees to India, Amin's regime implemented abusive practices in Uganda, Pol Pot's murderous regime launched a policy of internal purification through atrocities and genocide (Finnemore, 2003). Nevertheless, none of the interventions were presented as humanitarian interventions. Vietnam was even condemned by the UNSC and subjected to economic sanctions (Thakur, 2018). Thus, stopping genocide and mass killing was a low priority during the Cold War, where the brutality of communist regimes was well known, such as Maoist China, North Korea, and several former regimes in Eastern Europe (Bellamy & Dunne, 2016).

As Bellamy and Dunne explain it was not only communist regimes that violated human rights. For example, South Korea's military regime executed suspected communists immediately before the Korean War, and the Indonesian military slaughtered 600,000 suspected and actual communists in 1965 (Bellamy & Dunne, 2016). Related stories can be found for right-wing regimes in Latin American countries, but there was not a concerted effort to stop them or protect vulnerable populations, although international laws prohibiting these crimes existed (Bellamy & Dunne, 2016). This was because Cold War politics downgraded human rights concerns below other foreign policy concerns where perpetrators were generally protected by one of the superpowers and sovereignty was mostly regarded as a more pivotal value than human rights (Bellamy & Dunne, 2016; Donnelly, 2013).

With the collapse of the Soviet Union and the end of the Cold War, the expectations from the new world order were high as a result of the end of global ideological rivalry where liberalism and human rights would finally prosper

(Bellamy & Dunne, 2016; T. G. Weiss, 2016). The former Secretary-General Boutros Boutros-Ghali (1992) welcomed the end of the Cold War, which paralyzed the UN system and underlined that era of absolute and exclusive sovereignty has passed in an ever more interdependent world. Human Development Report released by UNDP (1994) introduced the concept of human security. The report recognized that the conflicts were arising within nations rather than between them, and nation-states could become the source of insecurity. Therefore, it was time to transform the limited notion of national security towards the comprehensive concept of human security (UNDP, 1994). According to the report, components of human security encompassed economic security, food security, health security, environmental security, personal security, community security, and political security. UNDP (1994) stated some of the threats to human security: AIDS, terrorism, pollution, nuclear proliferation, global poverty, and environmental problems which were not local or national anymore; they were becoming global. Also, state sovereignty was further redefined through the establishment of two UN ad hoc criminal courts, multiple special hybrid criminal courts and International Criminal Court (Forsythe, 2012). As a result, in contrast to the Cold War era, human rights and human security were regarded as important as sovereignty.

With the changing notions of security and sovereignty and the demise of bipolar world order, multilateral humanitarian intervention operations in response to genocidal ethnic conflicts were started to be conducted. Examples of those multilateral humanitarian interventions are the US, British, and French attempts to protect Kurdish and Shiite populations in Iraq after the Gulf War, the UN mission to

end the civil war in Cambodia, the US, and the UN effort to build a democratic state in Somalia, deployment of UN and NATO troops to protect civilians from Serbian forces in Bosnia, NATO's campaign to put an end to ethnic cleansing of Albanian Muslims in Kosovo (Finnemore, 2003). The UN itself engaged in this practice in various places in the post-Cold War era: Northern Iraq, Bosnia and Herzegovina, Somalia, Rwanda, Haiti, Albania, Sierra Leone, Kosovo, and East Timor (Roberts, 2004). Although those involvements might seem like an interventionist approach, the use of force against the political independence of states and territorial integrity has been prohibited by the UN Charter since 1945 (UN Charter, n.d.). Article 2(4) emphasizes that none of the members shall use force against any state with two exceptions to this rule. Under Chapter 7, one is the right of self-defense against armed attack (Article 51), and the other is maintenance or restoring international peace and security (Article 42). Yet, this action should have authorization from the Security Council (Article 48).

The irony here is that there is a scope for humanitarian intervention within the Charter. First of all, two fundamental principles of the Charter might conflict: human security and state security. The UN was established to regulate interstate relations and concerned chiefly with security, stability, and survival of a state-centered international order which shows itself with the principles of territorial integrity, sovereign equality, and non-interference in internal matters (Oberleitner, 2005). Nevertheless, as one of the central purposes of the UN is promoting human rights for all, the question of what can be done once those fundamental rights are overridden within a state remained unanswered (Roberts, 2004). Secondly, what accounts for a

threat to international peace and security, as mentioned in Articles 42 and 51, is unclear. The first time UNSC referred to domestic human rights violations as a threat to international peace and security was Resolution 688 (Walling, 2013). It condemned Iraqi violations of human rights, particularly against Kurds. It also permitted humanitarian organizations to access Iraqi territory (UNSC, 1995). This was possible due to discretions given to the UNSC for maintaining international peace in those articles.

Overall, as Weiss (2016) argued, the Charter includes both the intervention-outlawing doctrine of state sovereignty and the intervention-specifying norm of human rights. The tension between state sovereignty and human rights can also be understood by comparing the UN Charter and the Universal Declaration of Human Rights. Whereas the Charter bans violation of state sovereignty, the Universal Declaration of Human Rights guarantees individuals' rights against dictatorial governments. Thus, tensions between human rights and state sovereignty and protecting human rights and the use of armed force lie at the center of discussions on ethics of humanitarian intervention (Atack, 2002). It was this tension that underpinned Deng's and Annan's ideas. Furthermore, this tension showed itself in the initial R2P report, whose aim was to reconcile state sovereignty and human sovereignty to go beyond deadlocks around humanitarian intervention.

3.3 Sovereignty as Responsibility for Internally Displaced Persons

Francis Deng, a Sudanese diplomat and a former representative of the UN Secretary-General on IDP, used the "sovereignty as responsibility" concept for the first time in the 1990s for international protection of IDPs (Deng et al., 1996). Deng and his colleagues in the Brookings Institution asserted that the proliferation of internal conflicts in the post-Cold War era led to serious human rights violations and the collapse of states (Deng et al., 1996). Although those conflicts were internal, they reminded that those put tremendous stress on neighboring countries with the inflow of refugees and political dissidents. As a result, international response to conflicts posed major dilemmas for sovereignty traditionally viewed as a supreme and independent authority. According to them, sovereignty cannot be seen as a right, impunity, or license but a responsibility to perform the tasks for an effective government.

They expressed that Africa was substantially affected by those internal conflicts and their consequences. In their assessment, the situation was due to the bad management of governments in the region such as Uganda, Chad, Somalia, Rwanda, Ethiopia, and Liberia. In those places, the populations found themselves in a void of responsibility that was associated with sovereigns' tasks such as providing protection, assistance, and reconstruction (Deng et al., 1996). This vacuum of responsibility, in their opinion, necessitated international involvement. As sovereignty had internal and external dimensions, sovereignty became conditional upon the performance of the agent. In the event of failure, the right of inviolability

became invalid. "On the international level, then, sovereignty becomes a pooled function, to be protected when exercised responsibly, and to be shared when help is needed" (Deng et al., 1996, p. xvii).

As Weiss and Korn (2006) argued, patenting an idea is impossible, but the "sovereignty as responsibility" idea was a key legacy of Deng and the Brookings project on Africa. Deng (1998) transformed this idea as a legal framework for IDPs, the Guiding Principles on Internal Displacement, in 1998 when he introduced it to the UN. The Guiding Principles aimed to pay attention to the specific needs of IDPs globally by recognizing rights and guarantees for their protection. As stated in Principles 3 and 25, national authorities had the central responsibility to provide protection and humanitarian assistance to them. Nevertheless, they were also expected to request or accept aid from the international community. Although the consent of the affected country was sought for international aid, obligations imposed upon states by human rights law refrain them from declining offers of international assistance (Cohen, 2012). Thus, sovereignty as responsibility meant that sovereigns had the primary responsibility for IDPs. If they fail to sustain protection and assistance, they were expected to accept aid offers. This notion formed the very basis of the Responsibility to Protect doctrine.

3.4   Two Concepts of Sovereignty

The concept of "sovereignty as responsibility" found support from former Secretary-General Kofi Annan (1998) who reminded that sovereignty meant

responsibility, not just power, in his speech in the Ditchley Foundation Lecture. Two concepts of sovereignty clarified that the constituency of the UN was not limited to states but also individuals and resonated with the idea of human security. Reflecting upon the Charter of the UN regarding sovereignty, intervention, and human rights, he recalled that the Charter was "issued in the name of 'the peoples', not the governments, of the United Nations" (Annan, 1998). He defended that the job of the UN had been to intervene just as a policeman or doctor does to stop a fight or save a patient's life. There had not been a distinction between international conflict and internal ones, he added, because the Charter also protected the sovereignty of peoples. Since civilians became the main targets of violence in civil wars, the UN cannot leave and wait until the last minute to see spillover effects into neighboring states (Annan, 1998).

In his article in the Economist, Annan (1999a) commented on the tragedies in Rwanda, East Timor, and Kosovo. The title of his article was "two concepts of sovereignty", which referred to state sovereignty and individual sovereignty. This reflected the tension in the UN Charter regarding intervening to protect human rights and non-interference principle to protect sovereignty which was mentioned at the beginning chapter. According to Annan (1999a), inaction in Rwanda, illegitimate action in Kosovo, and authorizing intervention in East Timor only after an invitation from Indonesia proved that we needed new responsibilities and a consensus regarding what action is necessary in the face of those repeating tragedies, and when and by whom. He also mentioned a developing pro-intervention norm to protect civilians from large-scale killings (Annan, 1999, para.16).

The first footsteps of R2P are introduced into the UN via Annan's well-known question after problematic interventions in the 1990s: " If humanitarian intervention is, indeed, an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica- to gross and systematic violations of human rights that offend every precept of our common humanity?" (Annan, 2000, p. 48). This question was posed against those who firmly defended the principles of sovereignty and non-interference. He also reminded that no legal principle, including sovereignty, can shield crimes against humanity. Overall, the conceptual development of R2P was heavily influenced by the ideas of Deng (1998; 1996) on sovereignty as responsibility discourse and Annan (1999a, 2000) on two concepts of sovereignty.

3.5   Four Cases of Humanitarian Intervention

In addition to the conceptual development of the doctrine, R2P emerged only after the UN failure in conducting humanitarian intervention in several places. During the 1990s, nine significant military operations were conducted with humanitarian justifications, and five of them caused relatively fewer objections than others: Liberia, Northern Iraq, Haiti, Sierra Leone, and Timor-Leste (Evans, 2008). The other four cases, which are explained below, raised many questions regarding conceptual, operational, and political challenges of intervention which eventually led to the creation of R2P.

3.5.1 Somalia

The first time the Security Council authorized a Chapter VII intervention was the US intervention in Somalia which occurred for humanitarian reasons without the consent of the government (N. J. Wheeler, 2000). Somalia was ruled by a military dictator, Barre, from the late 1960s until January 1991, when he was overthrown by the militias of the United Somali Congress. The United Somali Congress' clan-based order led to a clan-based civil war where mass killings and expulsions of thousands of individuals increased in time (Kapteijns, 2013). After the ceasefire between parties in the capital, Mogadishu, the Council established a peacekeeping force (United Nations Operations in Somalia [UNOSOM I]) to monitor it. The mandate was later expanded to protect humanitarian convoys and distribution centers in Somalia as the ceasefire was ignored and fighting continued (*Somalia- UNOSOM I*, 2003). The situation deteriorated in October and November 1992 when UNOSOM troops in Mogadishu and airports came under fire. Then, UNSC passed resolution 794, which confirmed the US lead in intervention in famine-struck Somalia and authorized to use all means to establish a secure environment for humanitarian relief operations in Somalia under Chapter VII (*Somalia- UNOSOM I*, 2003). This is how the Unified Task Force was established for the delivery of humanitarian assistance that consisted of military units of many countries such as Canada, Egypt, France, Greece, Norway, Turkey, and the UK. The UN troops replaced the US-led multinational force with the establishment of UNOSOM II in April 1993 (Thakur, 1994).

Following this transition, several attacks against UNOSOM II troops began where 25 Pakistani soldiers were killed (*Somalia- UNOSOM I*, 2003). UNOSOM II became more assertive in the disarmament program after the attack, and the US forces, the US Rangers, and the Quick Reaction Force were deployed in Mogadishu to capture General Aidid (*Somalia- UNOSOM I*, 2003). Two US Black Hawk helicopters were shot down by Somalian militias during the operation, and 18 US soldiers lost their lives. This became the turning point for the intervention in Somalia and the US foreign policy towards the humanitarian intervention which is called "the Somalia syndrome", a term relating to terrifying TV images of dead American soldiers being pulled through the streets of Mogadishu by Somali militias (Patman, 2015). The rationale of US operations in Somalia was started to be questioned by the public and the print media in the US. Only three days after the incident, President Clinton announced the withdrawal of all US forces in Somalia within six months after sensing public and Congressional disapproval (Delaney, 2004). As a result of those factors, first US troops and then the UN mission withdrew in April 1995. Somalia syndrome produced the mistrust towards multilateral intervention in civil wars whereby Western countries became reluctant to pursue humanitarian objectives in distant lands (ICISS, 2001b).

3.5.2   Rwanda

As Somalia was associated with a syndrome, the Rwandan genocide in 1994 was total inaction of the international community, which would later be commemorated as "never again!" (ICISS, 2001a). From April to July 1994, Hutu extremist group

systematically murdered approximately 800.000 Tutsis and Hutu moderates (ICISS, 2001b). Those two ethnic groups lived in the same territory, spoke the same language, and had no pre-colonial record of conflict against each other (Clapham, 1998). During its colonial rule, Belgium politicized the differences between two groups in racial terms and particularly privileged the Tutsi as the favored ruling group (N. J. Wheeler, 2000). The Hutu rebelled in 1959, and Belgium forces withdrew from the region in 1961 when the Hutu came to power (N. J. Wheeler, 2000). From its independence in 1962, Rwanda experienced different cycles of ethnic conflict and violence. After Rwandan Patriotic Front was formed in 1987 by Rwandan exiles in Uganda, it invaded Rwanda in 1990 for recognition of the rights of Tutsi refugees (N. J. Wheeler, 2000). In August 1993, the Arusha Accords were signed by the Hutu dominated government, the Rwandan Patriotic Front and a series of external third parties with the peacemaking efforts of the Organisation of African Unity (B. D. Jones, 2001). Yet, the Arusha deal collapsed and was ignored while violation of human rights became more pervasive and the security situation in the region deteriorated (United Nations, n.d.). Although a UN mission, United Nations Assistance Mission for Rwanda (UNAMIR), was set up to monitor the implementation of the ceasefire in October, one hundred days of genocide was launched after President Habyarimana's jet was shot (N. J. Wheeler, 2000). The radio station became a key tool for genocide which issued specific instructions to the killers.

Just a few days after the beginning of the genocide in April, Belgium withdrew its forces because of the killing of its peacekeepers, and Security Council reduced

UNAMIR to a minimal force in the face of massacres (*Report of the Independent Inquiry into the Actions of the United Nations during the 1994 Genocide in Rwanda*, 1999). There was no international intervention until June when the French operation took place with UNSC authorization (B. D. Jones, 2001). However, France's intervention, Operation Turquoise, represented a dismal of international society's response to genocide: half a million refugees moved from safe humanitarian zones created by France to Zaire, and almost 30.000 were killed by cholera in the camps during July (N. J. Wheeler, 2000). Report of the Independent Inquiry into the Actions of the United Nations during the 1994 Genocide in Rwanda (1999) found that UNAMIR could have a more assertive role. Also, the ongoing genocide in that time should have led to the decision that neutrality cannot exist in the face of genocide. The report also stated that the UN failed to prevent and stop the Rwandan genocide in several respects such as the inadequacy of UNAMIR's mandate, unilateral withdrawal from ongoing peacekeeping operations, inadequate resources and the lack of political will of member states.

3.5.3   Bosnia

Just like the Rwandan genocide, the Srebrenica massacre found its place under R2P's first report as another "never again" situation (ICISS, 2001a). During the 1990s, numerous wars occurred in the former Yugoslavia, which was constituted of six republics until Tito died in 1980: Serbia, Croatia, Slovenia, Montenegro, Macedonia, Bosnia-Herzegovina, and additional two autonomous provinces in Serbia (Independent International Commission on Kosovo [IICK], 2000). With the

rise of Milosevic and Serbian nationalism, conflict erupted in the former Yugoslavia when two former Yugoslav republics, Slovenia and Croatia, declared their independence in 1991. The ceasefire was reached within months, and the United Nations Protection Force (UNPROFOR) was established to monitor the ceasefire. UNPROFOR's record in protecting civilians was disastrous considering the Srebrenica massacre, which occurred within a safe area under UNPROFOR's duty (ICISS, 2001b).

In the late 1992 February to March, a referendum for independence took place in Bosnia where the majority, Muslims and Croats, voted for independence and Serbs boycotted (Harland, 2017). The fighting began after the referendum when Serb militias seized Bosnian towns on the east side of the country and occupied 70 percent of Bosnian territory in August (McQueen, 2005). The international community's response was containment through an arms embargo on the former Yugoslavia, NATO-enforced no-fly zone in Bosnia, and economic sanctions imposed on Serbia (McQueen, 2005). Also, the UNPROFOR mandate was expanded over time. In May 1993, it became responsible for protecting five specifically identified safe areas, including Srebrenica. It is where Serbian forces killed over 8000 Bosnian men and boys in July 1995. Kofi Annan said that the UN failed to save the people of Srebrenica from mass murder by not taking decisive action to halt the suffering and the fall of Srebrenica was a tragedy that will forever haunt the history of the UN and the organization (UNGA, 1999a).

3.5.4   Kosovo

So far, the above cases reflected: a failed intervention in Somalia, inaction of the international community in the face of genocide in Rwanda, and a safe area becoming a graveyard in Bosnia. Whereas UNSC did too little too late in Rwanda, Kosovo was the polar opposite: it did too much too early (T. G. Weiss, 2016). Besides, NATO's bombing of Kosovo would be remembered as "illegal but legitimate" due to no authorization of the UNSC (IICK, 2000).

Serbia, one of the six republics within the Socialist Federal Republic of Yugoslavia, comprised two autonomous provinces: Vojvodina and Kosovo. Kosovo had always been a symbol of the nationalist desire for both Serbs and Albanians, although Albanians were the majority. After Milosevic removed Kosovo's autonomy and replaced it with direct rule from Belgrade, Albanians in Kosovo declared independence in July 1990 (ICISS, 2001b). The situation began to deteriorate in the mid-1990s. Serbian forces acted aggressively against Kosovar Albanians, accused of supporting the separatist Kosovo Liberation Army in the Drenica area in February 1998 (Welsh, 2006b). In March, The Security Council adopted Resolution 1160 under Chapter VII which established an arms embargo on Yugoslavia and called for autonomy for Kosovo (IICK, 2000). Nevertheless, increased attacks on civilians were continued, which led to the first public consideration of intervention by NATO in June 1998. Under this threat, Milosevic pulled back security forces and accepted Organization for Security and Co-operation in Europe's Kosovo Verification Mission. Neither Belgrade authorities nor armed Kosovar elements complied, and

many civilians were killed, kidnapped, tortured, and raped. After the massacre of Kosovar Albanians in Racak in March 1999, the US and NATO allies decided on a campaign of airstrikes against the Former Republic of Yugoslavia that lasted for 78 days (Evans, 2008).

The so-called "illegal but legitimate" intervention of NATO in Kosovo raised many questions and doubts. Using force without UN authorization meant violation of international law and threaten world order based on the centrality of the UN (Thakur, 2002). In addition, it created the possibility that it might be a precedent for the use of force in another place, although former Secretary of State, Madeleine Albright (1999, para.17), said: "it was a unique situation sui generis in the region of the Balkans." NATO actions in Kosovo also raised the question of whether other organizations such as the Commonwealth of Independent States and the Economic Community of West African States can resort to force for similar humanitarian justifications (Schnabel & Thakur, 1999).

The post-Cold War era was not only characterized by conceptual transformations in the meaning of sovereignty by also challenges of external military intervention for human protection purposes when it happened as in Somalia, Bosnia, and Kosovo and when it failed to happen as in Rwanda (ICISS, 2001a). Somalia reflected the expanded meaning of threats to international peace and security where the word "humanitarian" was used 19 times in Resolution 794, authorization of the first Chapter VII operation under UN command-and-control (UNSC, 1992). Yet, it turned out to be a failed intervention with the withdrawal of forces. Another failure of

protecting civilians was the Bosnian case where the UN was not able to prevent the massacre of civilians who were looking for shelter within the UN safe areas (ICISS, 2001a). Whereas Rwanda was the full horror of inaction, intervention in Kosovo became problematic which was not authorized by UNSC. Those cases constituted the policy challenge of the humanitarian intervention and "have provided a clear indication that the tools, devices and thinking of international relations need now to be comprehensively reassessed, in order to meet the foreseeable needs of the 21st century." (ICISS, 2001a, p. 11).

3.6   ICISS Report

Those four cases occurred when expectations were on the rise for an effective collective action after the end of the Cold War (ICISS, 2001a). After those interventions and Annan's question of how to respond to another Rwanda or Srebrenica, the Government of Canada established the ICISS with the initiative of Canadian Foreign Minister Lloyd Axworthy in September 2000. The Commission was expected to finish its work within a year and join the 56th session of the UN General Assembly to present its findings and recommendations for actions (ICISS, 2001a). Their mandate was a tough one: finding a new political consensus on military interventions to promote humanitarian objectives, which was a problematic issue in the UN Charter itself (ICISS, 2001a). The Commission included 12 people from different places such as Algeria, Canada, Germany, India, Russia, and Switzerland. This reflected the inclusiveness of the Commission, and it advised on reconciling military intervention and sovereignty. The report's name was the Responsibility to

Protect and it was prepared just before 11 September but published in December 2001 (ICISS, 2001a).

The main idea behind the R2P report, as stated in its basic principles, was that sovereignty implies responsibility for the protection of its people (ICISS, 2001a). If a population is going through serious harm and the state in question cannot and does not want to halt it, "the principle of non-intervention yields to the international responsibility to protect" (ICISS, 2001a, p. XI). Those words might have been written by Deng or Annan but what made this doctrine unique was its holistic approach (T. G. Weiss, 2016). The report included three types of responsibility: prevention, reaction, and rebuilding (ICISS, 2001a). The first component (prevention) of the doctrine included early warning and analysis, root cause prevention efforts, and direct prevention efforts. Democratic institution and capacity building, promotion of economic growth, and protecting the independence of the judiciary were some examples of prevention. Reaction implied coercive measures such as political, economic, or judicial ones (ICISS, 2001a). Non-military measures like sanctions in military, economic, political, or diplomatic areas were offered in the report before coercive military action. In extreme cases, the report stated, military action might be necessary (ICISS, 2001a).

The second component (reaction) included six criteria for military intervention (ICISS, 2001a). They were "right authority, just cause, right intention, last resort, proportional means, and reasonable prospects"(ICISS, 2001a, p. 32). Just cause referred to two main factors, which are vast numbers of deaths with or without

genocidal intent and large scale of ethnic cleansing. ICIS aimed to underline that the central aim of intervention must be to stop human misery with the right intention. Military responses were perceived as the last resort once every diplomatic and non-military effort was exhausted, according to the Commission. Proportional means reflected the necessity of minimality in the size, length, and density of the prepared military intervention. In terms of the results of the intervention, ICISS suggested that there must be a reasonable probability of success to be justified, such as halting atrocities and avoiding causing a larger conflict. The report identified the right authority as the Security Council but reminded Article 11, which gave responsibility to the General Assembly, especially concerning the maintenance of international peace and security. The report also referred to the "Uniting for Peace" resolution of 1950, which created an emergency special session in Korea and later in Egypt in 1956 and the Congo in 1960 (ICISS, 2001a). In addition to this procedure, the Commission referred to the regional or sub-regional organization if the Security Council fails to handle the problem in a reasonable time. As any international action can be blocked by the use of the veto by Permanent Five countries, the Commission suggested a guideline for the use of the veto about actions to stop a humanitarian crisis.

The third component (rebuilding) emphasized the commitment to bring permanent peace, advance good governance, and sustainable development (ICISS, 2001a). Security, justice, and economic development were the areas where post-intervention efforts should focus. Disarmament, demobilization, and reintegrating local security forces were of utmost importance for protecting all members of a

population in post-conflict areas. Besides, the exit strategy was to be prepared before intervening (ICISS, 2001a). Restoring the judicial system in the target country after an operation was equally important together with encouraging economic growth. In addition to those areas, the Commission maintained that rebuilding must be thought of as handing the society in question back to those who live in it. That is to say, those must take responsibility collectively for their future fate.

Overall, the four crucial elements which the ICISS (2001a) advised to the General Assembly was the idea of sovereignty as responsibility, threefold responsibility (prevent, react, rebuild), the threshold for military intervention (large scale loss of life or ethnic cleansing), and the precautionary principles (right intention, last resort, proportionality in means and reasonable prospects). The Commission concluded that dual objectives around sovereignty and human rights were reconciled through R2P. One objective was the strengthening of the sovereignty of states through increasing their capacities to protect their own citizens. The other was improving the capacity of the international community to respond once states are incapable or reluctant of protecting their own people.

What was remarkable about the report was the insistence on turning the terminology from humanitarian intervention to R2P. The ICISS (2001a) intentionally rejected adopting "humanitarian intervention" terminology; instead, it preferred to adopt a victim-centered language of those who seek support. In this preferred terminology, those who suffer from mass killing, systematic rape, or starvation were at the center, not the interveners' motivation or right. This choice of

focusing on human needs was related to the issue of human security. According to the report, it is meaningless to think of security only in terms of national or territorial security considering chronic insecurities which some people suffer, such as hunger, disease, crime, unemployment, and inadequate shelter (ICISS, 2001a).

With all its attempts to transform sovereignty, criteria for military intervention, three types of responsibility, and efforts to reconcile human rights and state sovereignty, ICISS aimed for one vital thing: "never again!". R2P, as a concept, is constructed because of the atrocities taking place in the world where the international community either failed to intervene or remained silent. Not only states who commit crimes but also the international community would have to be accountable. The preparation of the report was such a big moment for universal human rights which covered extensively the role of states, the international community, regional organizations, alternatives to general UN policy-making, and protection of civilians. International security was no more a concern for states only. It was the time of human security where people will not suffer again at the hands of repressive states.

3.7 Post-ICISS

It took four years until R2P was finally accepted by the UN in 2005 in the World Summit Outcome Document in the 138th and 139th paragraphs.

> Each individual state has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity . . . The international community should encourage and help states to exercise this

responsibility and support the UN in establishing an early warning capability.

The international community, through the UN, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter, to help to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. In this context, we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities are manifestly failing to protect their populations. (UNGA, 2005, p. 30, Paras. 138&139)

As stated in those paragraphs, it was a much weaker version of the initial conception of R2P. Weiss (2016) coined the term "R2P lite" for the 2005 version and argued that it could be seen as a step backward. It was a much weaker version because the Summit made the UNSC a sine qua non instead of the most favored decision-making process (T. G. Weiss, 2016). There was no more mentioning of Uniting for Peace procedures or interventions by regional organizations. Another crucial change was the four major crimes that were to be R2P's scope: genocide, war crimes, ethnic cleansing, and crimes against humanity (UNGA, 2005). In contrast, previously, ICISS included natural disasters as part of R2P. The "case-by-case" premise was another emphasis that proved that R2P could not go beyond the status

of the norm, and there was no willingness on behalf of member states to codify a rule for humanitarian intervention. Although the case-by-case premise rejected the one-size-fits-all approach to responding to mass atrocity crimes and allowed for some flexibility as Gallagher (2014) argued, it also meant a consistent implementation of R2P was impossible. Thus, it is not clear in what case R2P will be applied.

Above all, it is crucial to stress that 9/11 did have an impact on the transformation from the initial R2P to the R2P-lite version where the sovereignty and security of states became more important than ever. In fact, in the post 9/11 era, the impetus behind sovereignty as responsibility was reversed where sovereign states' power within their jurisdictions was expanded (Welsh, 2006a). For instance, the Patriot Act in the US granted the government to arrest aliens without charge for seven days, and the Anti-Terrorism Crime and Security Act in the UK authorized the secretary of state to decline asylum claims of people suspected to be a threat to national security (Welsh, 2006a). In this securitized world order, it became harder to claim an international society based on rules (Dunne, 2003; Hurrell, 2002). Immediately after the attacks on New York and Washington, the President of the US, George W. Bush (2001, para.11) declared "there's no rules" when asked about the US forces' tactics in the war on terror. Also, sovereignty as responsibility discourse was distorted within the framework of the war on terror where two essential sovereign obligations of states were perceived as protecting their people and not supporting terrorism by any means (Lemann, 2002). Thus, responsible sovereigns were expected to protect themselves against terrorist threats in addition to protecting their citizens in the post 9/11 era.

From 2009 onwards, Secretary-General has released annual reports. After the World Summit Outcome Document, the first report was about implementing the doctrine that came out in 2009. Succeeded Kofi Annan in 2007, Secretary-General Ban Ki-moon was determined to translate R2P from words to deeds and ensure timely action to protect civilians from four major crimes (United Nations Meetings Coverage and Press Releases, 2007). For this aim, he presented his report to the General Assembly in January 2009. The report included a three-pillar strategy derived from the 2005 Summit and was as follows: the state's protection responsibilities, international assistance, and capacity building, and timely and decisive response (UNGA, 2009c). However, it was not the same pillars of ICISS' report. To recall, preventing, reacting, and rebuilding were three essential blocks of the initial R2P doctrine where there was much attention given to the active role of the international community. Contrary to this, the 2009 report directed its attention to the state in question. According to the first pillar, the state should protect its citizens since the international community might best play a supplemental role, not the primary one (UNGA, 2009c). The 2009 report also recalled that protection obligation was due to pre-existing, treaty-based, and customary international law. The second pillar aimed to assist states in four ways: supporting them to carry out their responsibilities (pillar one), encouraging them to operationalize this responsibility, assisting them to establish their capacity to protect and supporting states under stress before crises erupt (UNGA, 2009c). Only in the third pillar, the international community became activated through a timely and decisive response.

In paragraph 15, the report asked why "one society plunges into mass violence while its neighbors remain relatively stable" (UNGA, 2009c, p. 11). Protecting populations was about values and practice irrespective of a country's level of economic development; thus, it must be valid for all political and economic systems (UNGA, 2009c). Besides, the report related the occurrence of mass atrocities to the political choices of political leaders and institutional failures. Nevertheless, this perception ignores historical and economic factors contributing to the failure of states and assumes states as atomistic units. The atomistic ontology analyzes the world consisting of independent and distinct atomistic elements, and it is central to liberal thought (B. G. Jones, 2001). Just as individuals are responsible for their conditions, such as being poor in liberal thought, the failure of states to plunge into mass violence was reflected as their fault and responsibility. In other words, this approach locates the cause of attributes to the unit of analysis internally to that unit and blames that person or nation-state because of their success, failure, or poverty (B. G. Jones, 2001). According to Jones (2001), it creates a logic of "blaming the victim" which locates the causes of failures like poverty or war as internal, local to the nation-state. As a result, this logic only reflects the surface appearance of capitalist society and reproduces the prevailing social order (B. G. Jones, 2001).

First reactions to the 2009 report were mixed. For instance, China argued that R2P does not represent a norm of international law but only a concept and it should not be abused by any state (UNGA, 2009b). Russia, too, cautioned against undertaking rushed and rapid measures to apply the idea arbitrarily to particular countries (UNGA, 2009a). Yet, in 2008, Russia misused R2P in its intervention in

South Ossetia, Georgia where it claimed that it was protecting Russian citizens there (Allison, 2009; Evans, 2009). The Russian intervention was not a proper R2P case because it lacked UNSC authorization and was legitimated based on protecting the citizens of Russia. But, R2P was not a doctrine that addresses the responsibilities of a state for populations located outside its borders.

From 2009 onwards, each report had a different theme regarding the operationalization of R2P. Strengthening the early-warning and assessment capacity of the UN was the theme of the 2010 report (UNGA, 2010). The 2011 report was published following two successful preventive R2P actions in Kenya and Guinea and two cases of failure in Zimbabwe and Nigeria (Ercan, 2016). It stressed the role of regional and subregional bodies in carrying out the doctrine and referred to cases where R2P was invoked in a non-coercive manner: Darfur, Kenya, Kyrgyzstan, Côte d'Ivoire, Yemen, Abyei, and Syria (UNGA, 2011). In addition, the Secretary-General indicated that without reference to Chapter VII methods, a strategy for implementing R2P could not be completed. Nevertheless, the Secretary-General was assured that "the principle is translated from words into deeds at both the global and regional levels" (UNGA, 2011, p. 9).

The assurance in progress continued in the 2012 report where the Secretary-General announced that the international community had made tremendous improvement in concepts' development and practice (UNGA, 2012). Pillar I and pillar II were particularly advanced in 2013 and 2014, respectively (UNGA, 2013, 2014). 2013 report pointed out the importance of building resilient societies through

establishing state structures and structures which resembled liberal institutionalist approach as apparent since the acceptance of the doctrine. Resilient societies were defined by "good governance based on the rule of law, democratic principles and values, and accountability" (UNGA, 2013, p. 11). Those who lacked those mechanisms had a lack of state resilience to atrocity crimes which meant a low chance for peace and stability, as the report stated. Here again, we see that causality was established through relating factors of violence internally to states. It means that states which experience mass atrocity crimes are to blame since it is their fault for lacking good governance and democratic principles. Building national resilience was a recurring theme to prevent atrocity crimes in 2013, 2015, 2018, and 2021 reports, too.

Apart from the 2012 Report, none of the reports focused exclusively on pillar III. Instead, prevention was the focus most explicitly in 2013, 2017, 2018, 2019, 2020, and 2021. The latest report, for example, was mainly concerned with the work of the Office on Genocide Prevention (UNGA, 2021). A different thematic focus was chosen for 2020: prevention of gender-based violence which focused on pillars I and II (UNGA, 2020). Besides, trying to calm anxieties over state sovereignty due to pillar III stopped after 2018 where there was not even mentioning the word "sovereignty". Whereas in previous reports, it was indicated that R2P and sovereignty were allies, not adversaries, and how R2P reinforced and reasserted sovereignty (UNGA, 2011, 2012, 2013, 2014, 2015, 2018). The disappearance of the sovereignty paradox was due to the dominance of pillars I and II over pillar III in time.

The serious attention on prevention is a new way of justification of non-intervention of the international community. Rather than intervening, resilience is aimed, as clearly expressed in R2P reports. Under the resilience or post-interventionist paradigm of human security, there is no more protection paradigm of humanitarian intervention in the 1990s (Chandler, 2012). Instead, the resilience paradigm highlights prevention instead of intervention and empowerment as opposed to protection (Chandler, 2012; McLoughlin, 2020). Those who lack the capabilities for resilience are vulnerable and can either be thought of as an internal attribute or a result of objective circumstances (Chandler, 2012). In the resilience paradigm, the vulnerability was attributed internally to states, and reasons of genocide and other crimes were thought of as: "deliberate and calculated political choice, and of the decisions and actions of political leaders who are all too ready to take advantage of existing social divisions and institutional failures" (UNGA, 2009c, p. 12). The solution to this internal problem was international assistance and capacity building (pillar II), making vulnerable states more resilient. The 2009 Report underlined the need for "assistance programmes that are carefully targeted to build specific capacities within societies that would make them less likely to travel the path to crimes relating to the responsibility to protect" (UNGA, 2009c, p. 20).

3.8   R2P in Practice?

Since the acceptance of the doctrine in 2005, 92 UNSC resolutions have cited R2P, starting with the situation in the Democratic Republic of the Congo and Burundi in 2006 (Global Centre for Responsibility to Protect [GCR2P], 2021). On

the other hand, interestingly, cases where intervention did not take place like Darfur in 2005-2008, Sri Lanka in 2009, and Syria since 2012 were perceived as proofs of R2P's efficacy because not responding to crises, was at least framed by evoking R2P (Hehir, 2019). Darfur was important because Resolution 1706 was the first UNSC resolution mentioning R2P on a specific country in 2006 (Gifkins, 2016a). Thus, it was reflected as the test case for R2P. Contrary to those who argued Darfur was a "big let-down" due to the reluctance of member states to assume their collective responsibility to protect (Badescu & Bergholm, 2009), some even rejected Darfur as a test case due to the timing which preceded international agreement on R2P in 2005 (Gifkins, 2016a). For instance, Gifkins (2016a) suggested that the violence in Darfur escalated in 2003-2004 when the ICISS report did not have the normative weight it received in 2005. As prevention aspects of R2P were not yet improved when the conflict in Darfur intensified, it did not constitute a "good" test case (Gifkins, 2016a).

How should we decide whether the timing of a case is good enough for it to be the test case of R2P? If the 2005 World Summit Outcome is the correct starting point, what can we say about Sri Lanka when the violence intensified in 2008 and 2009? This thesis underlines that Darfur and Sri Lanka were not only cases of non-intervention but cases of failure, just as Rwanda and Srebrenica, where the international community did not take action.

After Resolution 1706 on Darfur in 2006, the subsequent resolution that UNSC passed on R2P was Resolution 1894 in 2009. It was about the protection of civilians and reaffirmed responsibility to protect once again (UNSC, 2009a). Then, Resolution

1970 and 1973 on Libya were issued in 2011. The former resolution condemned the violence and reminded Libyan authorities of protecting their populations (UNSC, 2011a). The latter was issued on 17 March 2011 when the UN authorized all necessary measures to protect civilians in Libya, enforced the arms embargo, and established a no-fly zone (UNSC, 2011b). NATO intervention took place two days later, which lasted for seven months. Particularly, Resolution 1973 and NATO intervention in Libya was perceived as "a textbook case of the RtoP norm working exactly as it was supposed to, with nothing else in issue but stopping continuing and imminent mass atrocity crimes" (Evans, 2011a, p. 40). Libya might seem in contradiction with the resilience paradigm described above. However, the resolution did not invoke the international community's collective responsibility to protect populations, as outlined in 2005. Instead, it evoked protection of the civilians which predates R2P (Ercan, 2016). Besides, both the no-fly zone and its prolonged imposition were introduced as assisting the agency of the Libyan people, empowering them in the process of securing themselves (Chandler, 2012). Thus, there was no assertion of external sovereign rights or that interveners took over responsibility for protecting Libyan people (Chandler, 2012).

In addition, it is not clear whether NATO aimed to protect civilians following UNSC authorization since it took actions inconsistent with this purpose, such as overthrowing Gaddafi (Kuperman, 2013). NATO and its allies also aided rebels who denied offers of ceasefire by the government, which eventually extended the war (Kuperman, 2013). NATO intervention in Libya brought many questions to the fore, such as why NATO intervened there but not Yemen and Bahrain, two close US allies

(Mahdavi, 2012; Nuruzzaman, 2013). Also, in contrast to the quick response in Libya, UNSC deadlocked about acting in Syria since 2011 primarily because of Russian and Chinese vetoes on Syrian-related resolutions.

3.9   Conclusion

R2P was a product of the changing conceptualizations of sovereignty and the several failed interventions in Somalia, Bosnia, Kosovo, and inaction in Rwanda. Particularly, the UN's failure in the Rwandan genocide and Srebrenica massacre became a motto: "never again!". The promise of R2P lied in its effort to find a ground for military intervention to protect civilians without offending the sovereignty norm. It was a marriage of norms: human security and state security or sovereignty and human rights. The promising R2P with its emphasis on prevention, reaction, and rebuilding turned into R2P-lite in 2005; a step backward, a weaker version of the ICISS report. Three idealist components where the international community was attributed an active role in protecting civilians faded away; instead, the state in question was the main focus in the 2005 version. The fault and responsibility were located internally to states which are to blame for their own failures in the three-pillar structure of R2P in 2005. The blaming constituted the main feature of the post-interventionist and resilience paradigm where prevention is prioritized over intervention.

CHAPTER 4

LITERATURE REVIEW

4.1   Introduction

This chapter introduces a survey of the literature on R2P. There has been an enormous interest in the literature towards humanitarian intervention and R2P since the post-Cold War era in the fields of international law and IR. For instance, Global Responsibility to Protect is a journal established in 2008 with its sole focus on R2P. It is one of the most-cited journals, 12th among Ethics and 20th among International Law journals indicated by Google Scholar (Bellamy et al., 2018). Despite the attention it gained, discussions around the topic are reproduced over time through various dilemmas (intervention versus non-intervention, human security versus state security). This chapter presents and discusses the main points of advocates, skeptics, and critics of the doctrine. Those categorizations are derived from Cunliffe (2017), who refers to three main stances towards the doctrine: boosters, skeptics, and critics. The logic behind using those categorizations is to see clearly what is expected from R2P, why and how R2P was opposed, and how pro-interventionist ideas interact with critics of the doctrine.

4.2   Advocates of the R2P

Among the strong proponents of the R2P have been commissioners and contributors of ICISS. Their ideas had a very strong impact on the policy-making of the UN on humanitarian intervention. The starting point for them was to reformulate sovereignty in a way that cannot impede future interventions (Evans, 2008; Thakur, 2002; T. G. Weiss, 2016). From their perspective, sovereignty was part of the problem in protecting human rights. They were completely against the idea and conceptualization of humanitarian intervention (Evans, 2008; Thakur, 2016b; N. J. Wheeler, 2000). Some of the supporters of R2P directed their attention to practices of R2P such as Libyan intervention (Bellamy & Williams, 2011; Thakur, 2013; Wyatt, 2019; Zifcak, 2012). Although it is still debatable whether Libyan intervention can be regarded as an R2P practice, supporters were sure that both intervention and regime change were the success of R2P (Bellamy & Williams, 2011; Thakur, 2013; Wyatt, 2019; Zifcak, 2012). Others affirmed that invoking R2P was also an indication of success (Bellamy, 2015; Gifkins, 2016a). For them what mattered was not military intervention per se but the number of resolutions and presidential statements citing R2P. All of the points highlighted by advocates of R2P were challenged quite harshly by critics and skeptics alike.

4.2.1   Commissioners and Contributors of ICISS

Commissioners of the ICISS Report have continuously emphasized the positive aspects of R2P through their publications and statements. Gareth Evans, a former

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Australian foreign minister, was one of the co-chairs of the ICISS. Evans (2008) claimed that R2P's emergence in 2001 and its acceptance at the 2005 World Summit get us closer to ending mass atrocity crimes once and for all. He tracked the sad history of mass atrocities and how they were perceived during different epochs, such as from the prehistoric times to Westphalia, the Holocaust to Cold War years, and, finally, during the 1990s. According to him, Westphalian principles institutionalized disregard of rulers towards atrocity crimes arising in another place, and sovereignty implied immunity from outside penalty or investigation for an extended period. From Westphalia to Holocaust, he maintained that states were not interested in mass atrocities outside their national or colonial borders. The UN's existence could not ultimately change this attitude neither since the UN founders' priority was preventing states from waging war against each other despite the genocidal horrors of the Second World War (Evans, 2008). The Cold War period was not very functional, said Evans, to deal with mass atrocities as two superpowers focused on the functioning of their alliance blocs and were indifferent towards the other bloc.

It was not until the birth of R2P that problems of humanitarian intervention will be handled properly. R2P shifted "the whole weary—and increasingly ugly—debate about 'the right to intervene' on its head and recharacterize it not as an argument about the 'right' of states do anything but rather about their 'responsibility'. "(Evans, 2008, p. 39). Also, reframing sovereignty as responsibility meant sovereignty no longer referred to control, and the international community has a secondary responsibility to protect when a state does not or cannot perform its responsibility (Evans, 2008). Here, in Evans' view, sovereignty was presented as a problem to be

overcome. Also, R2P meant a break from the past practices of humanitarian intervention by redefining this "problem" which would no longer be associated with rights of states but rights of civilian victims. The framing of "responsibility to protect" put the obligation on the shoulders of states primarily, and then the international community.

Like Evans, who was the co-chair of ICISS, Ramesh Thakur, a former UN Assistant Secretary-General, contributed to the emergence of R2P as a commissioner. He regarded sovereignty as responsibility as a novel concept that undermined the right of exclusivity and instead highlighted the responsibility of states internally to their citizens and externally to the international community (Thakur, 2002). He praised terminology adapted by the ICISS because, in contrast to humanitarian intervention that invoked the fear of domination, R2P symbolized international solidarity. Thakur (2016b) also condemned academics who still used the concept of humanitarian intervention with laziness and incompetence. From his perspective, R2P was such an improvement that it was able to solve almost all objections to humanitarian intervention (Thakur, 2016b). Similar to Evans' claims, here again in Thakur's view, there is a focus on the change R2P brought and how humanitarian intervention became a thing of the past.

After the first report on R2P by ICISS, a supplementary volume on this report was published in December 2001 (ICISS, 2001b). Contributors of this volume included over fifty scholars and specialists. Thomas G. Weiss was one of them as the commission's research director who stressed that R2P was a ground-breaking

work of the commission because it reconciled sovereignty and human rights in an imaginative way (T. G. Weiss, 2016). He argued that the traditional understanding of state sovereignty was already under threat in the 1990s due to renewed idea of self-determination, a stretched notion of international peace and security, and the collapse of state authority. This is reminiscent of liberal interdependence theorists who affirmed that state sovereignty was undermined by economic interdependence (Keohane & Nye, 1989). However, this claim was later falsified by Krasner (1999) due to its misplaced focus on control rather than authority. The loss of one kind of sovereignty cannot equate to the erosion of others as explained in Chapter 2; thus, the lack of interdependence sovereignty cannot be directly linked to international legal or Westphalian sovereignty (Krasner, 1999). The argument that globalization already eroded state sovereignty ignores the fact that losing control of the transborder movement did not violate the sovereignty and political authority per se. It is the intervention that does.

Nicholas Wheeler was another contributor to the supplementary volume, and before the emergence of R2P, he published a book in 2000, *Saving Strangers: Humanitarian Intervention in International Society*. It reflected much of the consensus among commissioners and contributors of ICISS alike. In his book, Wheeler (2000) promoted a solidaristic theory of international society on the legitimacy of humanitarian intervention. He addressed a characteristic feature of a solidarist society of states: states accept responsibility to protect their citizens and serve as guardians of human rights here and there. Thereby, he rejected pluralists'

contention that humanitarian intervention can weaken international order built on the rules of non-use of force, non-intervention, and sovereignty.

Contributors of R2P reflected diverse approaches of IR, mainly liberalism and the solidarist strand of English School. They have continued to support the doctrine's aims and further development in international relations. While doing so, they did not refrain from confronting and refuting critics' arguments (Chomsky, 2008; Cunliffe, 2017; Mahdavi, 2012; Mamdani, 2010). The conceptual and practical difference between humanitarian intervention and R2P was given prominence in their response to critics, as shown above. For instance, taking the two as the same was a misunderstanding for them since R2P included not only action but prevention due to its multifaceted character (Evans, 2008). However, if one looks at the ICISS (2001) report, only nine of its 85 pages were devoted to prevention. Also, it was not clear what is to be prevented by the international community or states and the relationship between prevention, reaction, and rebuilding (Bellamy, 2009). Thus, it might not be a misunderstanding but a reasonable comparison of humanitarian intervention and R2P considering vagueness and lack of attention to prevention in the report.

4.2.2   R2P in Practice

As commissioners welcomed the conceptual shift from right to intervene to responsibility to protect due to negative connotations of traditional sovereignty, some supporters of the doctrine pointed out R2P practices as proof of the doctrine's success. Departing from those who featured the prevention pillar and how it differs

from humanitarian intervention, some supporters were glad by the coercive turn. The coercive turn of the doctrine came in 2011 when the Security Council passed Chapter VII resolutions in Libya and Cote d'Ivoire to protect civilians after failing to act in Darfur, Sri Lanka, and the Democratic Republic of the Congo (Ercan, 2016). Especially, Libyan intervention was seen as "a triumph for R2P" (Thakur, 2013, p. 69). Although critics stressed the intervention exceeded its mandate of protecting civilians by overthrowing Gaddafi, advocates found regime change as the most viable strategy (Wyatt, 2019; Zifcak, 2012). Besides, Bellamy & Williams (2011) suggested that the lines between protection and regime change might be blurred when the threat to civilians comes from the regime. Against the insistence of several Council members such as Brazil, China, and Russia on rigid separation of civilian protection and regime change, they asked how the UN can offer protection to civilians "without targeting, weakening and ultimately changing the behavior of the regime in question." (Bellamy & Williams, 2011, p. 848).

Resolution 1973, which authorized all necessary measures to protect civilians in Libya and established a no-fly zone, signified a strong comeback of military intervention (Weiss, 2011). According to Weiss (2011), intervention in Libya should be welcomed since military humanitarianism is a necessary part of R2P, which was forgotten for years. Libya was such development that Resolution 1973 was passed by 10-0 votes in 24 hours, and preparation for intervention took only a month (Thakur, 2016a). According to Thakur (2016a), R2P gave Obama the necessary normative tool to act, and deploying no ground troops was the proof behind the limited objective of humanitarian protection.

Even before Libyan intervention, similar voices on the necessity of the use of force were raised. Regarding the January 2009 report of the Secretary-General, Ban Ki-Moon, Welsh (2009) argued that too much focus on assistance and capacity-building at the expense of hard power resulted in ambiguity over how the UN will mobilize the resources once peaceful means have failed. Egerton and Wheeler (2009) also argued that the use of force had the most significant potential to save strangers despite attempts to distance it from R2P. Thus, the problem was not too much military intervention but too little military intervention for them. It was the main logic of "R2P in practice" supporters. As Pattison (2010, p. 250) stated: "*(a)*humanitarian intervention is only one part of the doctrine of the responsibility to protect but that *(b)* it *is* a part of the responsibility to protect."

4.2.3 R2P Invocation

Another proof of success provided by the supporters is the increased references to R2P by UNSC Resolutions and presidential statements. Whereas only six resolutions cited R2P until Resolution 1973 on Libya, 86 resolutions were issued since 12 March 2021 (GCR2P, 2021). Among those resolutions, 22 were for Sudan & South Sudan, 13 for the Central African Republic, 9 for the Democratic Republic of Congo (DRC), and 8 for Mali (GCR2P, 2021). Apart from them, Cote d'Ivoire, Liberia, Somalia, and Syria were other places that resolutions targeted (GCR2P, 2021). Gifkins (2016b) found the rising invocation of R2P through resolutions quite favorable. She explained that at least, the responses of the UNSC were within the R2P framework. Therefore, she rejected the view that consensus was lost after

Libyan intervention. On the contrary, referencing R2P after 2011 became easier than before, and it turned into a standard element of the internal negotiations (Gifkins, 2016b). In addition to the invocation of R2P, indirect mention by the Council was pointed to as the adoption of R2P language. For instance, in response to Gaza and the DRC crises, the Council did not explicitly use R2P but humanitarian assistance, diplomacy, and inquiry (Bellamy, 2015). Even in those cases, Bellamy (2015) claimed that the Council stressed the need to protect populations from war crimes and crimes against humanity.

Although R2P became part of the world's diplomatic language, as Welsh (2013) noted, it is not clear how invoking the doctrine shows its efficacy. In fact, the invocation can legitimize inaction. For instance, during the Arab Spring, none of the resolutions invoked pillar III as the ground for action (Hehir, 2016). Between 2011 and 2015, eight resolutions on Arab Spring mentioned R2P, which involved crises in Libya, Syria, and Yemen. Nevertheless, in each reference, the focus was exclusively on pillar I, the host state's responsibility to protect its population (Hehir, 2016). None of the solutions referred to pillar III, the international community's responsibility to protect (Hehir, 2016).

4.3   Skeptics of the R2P

The skeptical view does not radically challenge sovereignty as responsibility discourse or the doctrine. Instead, it points to some weak points of the doctrine. Those are rational choice calculations of the states, the unwillingness of the P5, and

the veto issue (Gallagher & Ralph, 2015). This part details argument developed by skeptics.

4.3.1   Rationality and R2P: Unfriendly Bedfellows

Following realist IR theory, Murray (2013) suggested that security, power, and self-interest motivate states in an anarchic system. He argued that human security and responsibility discourse emerged by the end of the 1990s in contrast to the realist approach of states acting rationally. However, they eventually met with the unwillingness of great powers, who resisted changing their interventionist strategy in the light of moral and normative arguments (Murray, 2013). Expecting that R2P would change the behavior of states would only be an optimistic ideal in this view since power politics will triumph over morality. From the Hobbesian perspective, morality follows the establishment of sovereignty. It is the reversal of R2P where power follows the transformation of moral norms (Moses, 2013). Thus, assuming states being responsible agents is wrong (Murray, 2013).

Despite advocates' insistence, Murray (2014) claimed Libya cannot be regarded as "R2P in action" but a deliberately planned strategic decision by UNSC P5 members and NATO. In Libya, there was no civilian-focused intervention that the Security Council approved but a rational calculation confronted with regional spillover and the prospect of oil and gold reserves (Murray, 2013). Thus, instead of troops, strategic strikes from 35.000 feet were preferred, which cost less than troops'

employment. It is the direct opposite view of Thakur's (2016a) reference to the absence of troops as proof of the limited aim of humanitarian protection.

Libyan intervention is called Rationality to Protect by Murray (2014) to underline those rational calculations behind interventions. For Murray (2014), Syria is the best example of Rationality to Protect where the military is stronger than Libya's, Russia supporting the Assad regime, and lack of political will of Western powers to intervene multilaterally. Besides, as Moses (2013) underlined, military intervention under R2P can only justify the actions of the great powers. In other words, sovereign immunity, which advocates felt worried about when it comes to civilian protection against perpetrator states, is only removed for weak states and not powerful.

4.3.2 Duty to Consider Intervention

In addition to rational choice and realist arguments, R2P was not perceived as a norm by other skeptics since states were still unwilling to save strangers who live in different parts of the world (Reinold, 2010). The duty to prevent was praised by advocates, as shown above, but Reinold reminded that this duty was affirmed by states when they signed the Genocide Convention in 1948. So, her question was why we needed R2P in the first place, considering prevention duty predates R2P. In her view, as long as there is no binding obligation under international law to intervene, words will yet to be matched by deeds. In this respect, she took the case of Darfur, where Western states failed to respond to Khartoum's failure to protect its citizens

by the end of 2003. They were also late to replace African Union (AU) Mission in Sudan with the UN mission in Sudan. Only in 2007, the hybrid force, UN-AU Mission in Darfur established but lacked helicopters and other critical transport resources (Reinold, 2010).

Against supporters' presentation of increasing invocation as a positive signal for the development of an international "norm", Reinold (2010) reminded that states have refused to make a principled commitment. The Outcome Document also stressed that UN member states will act on a "case-by-case" basis (UNGA, 2005). What emerged from the R2P debate is at best "a duty to consider intervention", as the Darfur case proved, in Reinold's view. Lacked with the legal codification and binding obligation, R2P's efficacy will certainly be bound up with political will, as skeptics confirm.

4.3.3   A Great Slogan

In contrast to R2P critics who posited that it might be easily abused as an interventionist framework (Ayoob, 2002; Chandler, 2004) and R2P advocates who supported the prevention pillar, Hehir (2010) asserted that the importance of R2P was minimal. It was "undoubtedly a great slogan, though little else" (p. 234). From Holocaust to Srebrenica, Rwanda to Darfur, "never again" declarations were circulated in the international community but with little practical utility (Hehir, 2010). This failure, for Hehir, partly stemmed from the idealistic belief that moral pressure could change states' behaviors. Yet, he maintained, R2P cannot transform

world politics without changing enforcement mechanisms and existing laws. He asked why states' behavior would change with a doctrine that brought no new obligations at all. Instead of intervention, R2P is more likely to lead to non-intervention by targeting the responsibilities of the host state, and prevention focus would be counter-productive in terms of enforcement (Hehir, 2010). His point has an empirical dimension recalling invocation of the norm was mostly about pillar I, the host state's responsibility.

4.4 Critics of the R2P

Critics of the norm have challenged sovereignty as the responsibility from diverse perspectives. Overall, their interpretation of the R2P can be listed as an endeavor to sustain Western hegemony (Mahdavi, 2015), the evasion of Western responsibility (Chandler, 2009), a more hierarchical world order (Chandler, 2006; McCormack, 2008), and suspension of sovereignty for specific states (Mamdani, 2010). Other critics considered R2P as a doctrine of exceptionalism that resembles a paternalistic model of state power (Cunliffe, 2017), contributing to the new militarism (O'Connell, 2010) and the new doctrine of imperial right (Chomsky, 2008).

4.4.1 Responsibility to Protect Regimes

Mahdavi (2015) acknowledged that R2P provided a normative agenda and institutional structure for global justice but the execution of reaction will come from

the most powerful forces such as the US, EU, and NATO. For him, it is impossible to think of R2P apart from unjust hegemonic global order where geopolitics trumps abstract norms and ethics. From a postcolonial approach, he investigated the selective and arbitrary implementation of international law in Iraq, Israel/Palestine, Libya, and Syria. This inconsistency in reaction pillar resembled a "Cinderella Shoe" approach where strong parties will only intervene if it fits their interest (Mahdavi, 2015). Unfortunately, for him, the UN could not challenge this approach since it remained marginal in the execution process despite its central role for justification of reaction.

Both Syria and post-revolutionary Iran were complex cases for R2P implementation, but R2P was not implemented due to realpolitik (Mahdavi, 2012). It was not implemented in Yemen and Bahrain either. Looking at several cases in the Middle East and North Africa, Mahdavi (2012) argued that R2P can refer to the "responsibility to protect regimes" of the above countries, not people. In contrast to non-intervention in those places, double-standard policies of the West and the reality of inconsistent coercive intervention became apparent with the Libyan case (Mahdavi, 2012). Because reaction can only be possible through powerful or who has the means to intervene, it is not reasonable to expect R2P's implementation can be consistent, just, and fair, as claimed by Mahdavi.

4.4.2 Evasion of Western Responsibility

Mahdavi's analysis is vital to underline the inconsistent application of R2P in the region and realpolitik's dominance on interventions. Yet, he did not consider the development of the doctrine in time. In other words, his insights were based on the initial three responsibilities as stated in the doctrine in 2001, consisting of prevention, reaction, and rebuilding. However, those components changed after the 2009 Secretary-General's Report which was based on the 2005 World Summit Outcome. The revised version of R2P consisted of responsibility of each state, international assistance, and capacity building, and finally, timely and decisive response (UNGA, 2009c).

In this sense, Chandler (2012) asserted that a shift from intervention to post-interventionist was taking place. Instead of the protectionist paradigm of humanitarian intervention in the 1990s, R2P should be thought of within the post-interventionist paradigm of human security (Chandler, 2012). Under this paradigm, the main attention was on prevention instead of intervention and the aim was to make the vulnerable resilient in Chandler's opinion. His understanding challenges other critics who saw R2P as a new interventionist norm. From the initial establishment of the concept, a shift from intervention discourse to agency-based and post-interventionist discourse was apparent (Chandler, 2012).

Having said that, by post-interventionism, he did not mean that we will not see military interventions in the post-2005 era. Military means can still be used but the conceptual content is totally different, like in the Libyan case. Against those who

posited Libya was the textbook case of R2P, Chandler (2012) stated explicitly that international interveners did not assume sovereign responsibility to protect the Libyan people. Instead, the no-fly zone and its extended imposition were presented under the name of promoting the agency of the Libyan people to secure themselves. Overall, it was the language of capacity building and good governance that was at work there (Chandler,2012).

Since R2P became a matter of state capacity and the reaction pillar started to fade, the blame for humanitarian crises was situated at the level of a postcolonial state (Chandler, 2009). So, in this picture, Western states will not take direct responsibility to promote and protect human rights. Thus, for Chandler, the discourse of responsibility was meant to divest Western responsibility instead of accepting it. Also, Chandler showed that the problematization of Western responsibility dated back to Somalia, Kosovo, and Iraq, where the crisis of interventionist West became apparent. One crucial example he gave about relieving Western states of direct responsibility is the development of the AU. The US, Britain, and France involved training African troops and international funding given to the AU to establish five regional brigades by 2010 (Chandler, 2009). In this way, P5 managed to defer its direct responsibilities to the AU by indirect intervention mechanisms.

4.4.3   R2P as a New Interventionist Norm

Although he called attention to the evasion of Western responsibility in R2P, Chandler's approach evolved in time. Previously, he analyzed R2P within the liberal

peace thesis framework and contended that R2P was a new interventionist norm (Chandler, 2004). In the liberal peace understanding, the promotion of human rights and democracy should be followed with interventionist means, if necessary (Chandler, 2004). Thus, Chandler maintained that morally based ideas became prevalent in global politics to make interventions look legitimate, such as in Kosovo. R2P was born out of a necessity to establish an international consensus on moral, legal, and political aspects of humanitarian intervention (Chandler, 2004). In other words, it was a way out of strict UN Charter restrictions on the use of force. Nevertheless, Chandler (2004, p. 76) stated: "If there can be no guarantee of the 'morality' of the actions of major powers it makes little sense to dismantle the UN Charter restrictions on the use of force on the basis of moral necessity.". Therefore, morality in R2P served well to the West since no mechanism existed to check the morality of major powers' intentions in intervening. This sounds like the skeptical view on R2P which posited that states cannot be moral actors as they are guided by rational calculations.

Similar to Chandler's assertion, McCormack (2008) claimed that redefining state sovereignty and reversing pluralist norms of non-intervention and sovereign equality can lead to new interventionist strategies. Besides, the human security framework in R2P hinted at a more hierarchical order because of the separation between states, which can deliver security for their citizens and those that cannot (McCormack, 2008). This interpretation was similar to Mamdani (2010) who claimed that R2P resulted in a bifurcated international system where there were de facto trusteeship

territories on the one hand and sovereign states on the other. Whereas the former represented the West, the latter corresponded to states in the Middle East and Africa.

Another strand of viewing R2P as an interventionist norm warned about the dangers of promoting the new rules on the use of force (O'Connell, 2010). From this perspective, R2P can contribute to the new militarism which started with the Kosovo crisis. Advocating the doctrine, in this sense, was equal to supporting the new acceptability of war. O'Connell suggested recalling an additional R2P that should not be forgotten: responsibility to peace. As she said: "if the concept is becoming an obstacle to humanitarianism, its creators should not resist its passage into history" (O'Connell, 2010, p. 48).

Bringing a more radical voice, Bricmont (2009) claimed that insistence on the distinction between R2P and humanitarian intervention was to sell the doctrine. The ideology behind this was integral to the history of Western stance towards the world in his opinion. This stance went back to the 1970s when the "right to intervene" was dominant in international politics and resorted to the newly decolonized countries' humanitarian catastrophes to justify Western powers' interventions (Bricmont, 2009). Against those who claimed that sovereignty is a license to kill, he argued, sovereignty was, though imperfect, the protection of weak states against strong ones.

Identification of R2P with the third pillar, timely and decisive response, is where critics are apart from each other. On the one hand, as stated above, evasion of Western responsibility is at the heart of the matter. On the other hand, some insist R2P is almost the same as humanitarian intervention and its ideology. The first one's

potential to explain cases of non-intervention is higher and is used in other chapters. However, it is essential to note that interventions are more discussed than non-interventions. Libya, without doubt, is the most striking example in this regard.

4.4.4 R2P and Structural Problems of Unequal International Order

In addition to those pluralist critics who underlined R2P strengthened the West and led to a more hierarchical world order, the postcolonial approach holds that the doctrine is an intellectual and political product of the unjust hegemonic global order. In this order, unequal power relations have generated structural restrictions for the UN (Mahdavi, 2015). It is not R2P per se, which is to blame since it only manifested colonial path-dependencies and cannot solve structural problems that the unequal international order keeps sustaining (Mallavarapu, 2015). Thus, the broader history of interventionism and the colonial era cannot be separated from R2P in this view. The postcolonial approach is quite beneficial to explain interventionist logic and where intervention in the name of humanity occurred. Yet, it cannot fully explain where intervention did not take place. For instance, according to Mamdani (2010), R2P brought a bifurcated international system. One represented sovereign states and their citizens with political rights. The other was de facto trusteeship territories whose people need external protection. The latter corresponded to failed or rogue states of Africa and the Middle East, whose sovereignty was suspended (Mamdani, 2010). But this does not mean that "successful" states will always intervene in "failed" states once they fail to fulfill their duties. In other words, it is not clear how sovereignty is suspended for failed states if the international community withdraws

from interventionist adventure and if we are in the post-interventionist stage in world politics; both in terms of action and conceptual baggage.

The reason behind most of the critics' opposition to doctrine is the dangers of sovereignty as responsibility discourse. They rejected the perception that sovereignty is a license to kill. Instead, sovereignty has been the only protection of weak states against strong ones (Ayoob, 2002; Bricmont, 2009; Mamdani, 2010). Nevertheless, this logic overlooks the post-interventionist shift brought by the 2009 version of R2P. In contrast to taking interventionist adventures, the international community continuously evoked pillar I, the responsibility of each state. It resulted in a higher disregard of the international community and the evasion of Western states' responsibility.

4.5   Sri Lanka & R2P

Despite numerous works having been published regarding the history of civil war in Sri Lanka, there has not been much attention given to its relation to R2P. Hopgood (2014) investigated conflicts in Darfur and Sri Lanka within the context of R2P. In contrast to pro-intervention lobbying efforts regarding Darfur in the US, Tamil civilians were left alone and faced with inaction from the international community (Hopgood, 2014). As he explained, the absence of an R2P lens for Sri Lanka mostly flowed from the legitimate killing of the Liberation Tigers of Tamil Eelam (LTTE) in the context of the global war on terror. He also related the international inaction, which led to 40,000 dead Tamils, with Chinese support to the Sri Lankan government

and the US and Europe's efforts in sanctioning the government in the Human Rights Council. The post-hoc action was an example of cheap talk as he stated, and Sri Lanka displayed the end of the intervention narrative. As a place where the action did not take place, "Sri Lanka is the ghost that should haunt those who claim R2P is an embedded norm." (Hopgood, 2014, p. 203).

Lewis (2010) also stressed the frequent use of counter-terrorism discourse for legitimating the war against LTTE by the government and the paradigm of counter-insurgency. As a way of containing the insurgency of LTTE, the counter-insurgency campaign included kidnappings of LTTE supporters by allies of the government such as ex-military or criminals and the use of proxy fighters in the eastern province (Lewis, 2010). Lewis argued this campaign weakened rule of law and political pluralism and led to the "illiberal peace" standing as an alternative to liberal peacebuilding.

Kingsbury's (2012) book, "Sri Lanka and the Responsibility to Protect" is an essential study for the relation between the doctrine and the region. His primary focus was how the war in Sri Lanka, particularly the final phase, should have invoked R2P principles and political and practical problems associated with the implementation of the doctrine there. By investigating the ethnically specific nature of the war in Sri Lanka, he looked at how Sinhalese nationalism rose and how discriminatory policies fed that nationalism since its independence in 1948. Apart from historicizing the civil war that lasted three decades, Kingsbury assessed geo-strategic factors and their influence on decision-making regarding possible R2P in Sri Lanka. Amongst those

factors, ties of the government with Iran, Russia, and China were crucial since those states were also against separatist claims and had minimal interest in human rights (Kingsbury, 2012). Along with Russian and Chinese opposition against resolutions about Sri Lanka, LTTE's worldwide recognition as a terrorist organization further contributed to the failure to invoke R2P principles. "In the end, no country cared enough about Sri Lanka's Tamils to want to go to the trouble of invoking R2P." (Kingsbury, 2012, p. 152).

According to Kingsbury, it was essentially the final phase of the war that the international community could have exercised more authority. Especially at the end of 2008 and the first months of 2009, it was crystal clear that crimes against humanity and war crimes were being committed where army commanders had "complete operational freedom". In the last weeks of the war, he addressed that 20,000 civilians were killed in "the no-fire zone" while the world stood by and watched this humanitarian catastrophe taking place. As a result, he identified four central reasons why R2P has not been implemented in Sri Lanka. Those involved uncertainty of the international community whether R2P was a legitimate type of action, LTTE's recognition as a terrorist group, failure of timely economic sanctions, and the possibility that China and Russia would block R2P principles regarding Sri Lanka (Kingsbury, 2012). Departing from this study on Sri Lanka & R2P, this thesis problematizes the inaction of the UN in Sri Lanka by analyzing the development of R2P since its emergence. The thesis also uses a social constructivist lens to situate the interaction between theory and practice of R2P.

4.6   Conclusion

This chapter analyzed differing arguments on the doctrine's implications both conceptually and practically. Whereas proponents that included contributors to the doctrine emphasized sovereignty impeding protecting human rights, critics viewed it as the protection of weak states against strong ones. Critics further warned that sovereignty as responsibility discourse evaded Western responsibility and would legitimize inaction. It was resisted by supporters who referred to rising R2P invocation and R2P practices, particularly Libyan intervention. Nevertheless, there is still disagreement in the literature on whether Libya was an R2P case or a rationally calculated military intervention that went against the civilian protection premise that skeptics underlined. The chapter also showed works on the link between Sri Lankan conflict and R2P. As shown above, it received little attention as an example of non-intervention compared to much-contested arguments about interventions.

CHAPTER 5

A FAILURE OF R2P: SRI LANKAN CASE

5.1   Introduction

This chapter investigates the Sri Lankan conflict, particularly the Eelam War IV between 2006 and 2009 when R2P was not invoked or implemented despite the evidence that many Tamils were being killed at that time. The civil war in the region lasted three decades from 1983 to 2009, and the main parties to the conflict were the LTTE and Sri Lankan armed forces. Because of the limited scope of the thesis, it is not possible to explain every bit of the detail of the civil war from the beginning. Thus, the final stages of the conflict (2008-2009) are the primary focus of this part to grasp the relationship between R2P and the Sri Lankan case. To do this, a brief history of the conflict between Tamils and Sinhalese is discussed which is followed by the latest stage of the war where R2P could have been invoked.

5.2   Brief History of Sri Lankan Conflict

Sri Lanka as a multi-ethnic country was under European colonial rule for four centuries starting from the Portuguese rule in 1505, then, the Dutch and the British colonized the island (Nissan & Stirrat, 1990). The Portuguese name for the island was Ceilao and became Ceylon with British rule (Kingsbury, 2012). After gaining independence in 1948, the Sri Lankan government embraced Sinhala-Buddhist

nationalism and implemented exclusionary policies towards ethnic minorities on the island (DeVotta, 2007). The post-colonial state-building strategies restricted Tamils', the largest minority group on the island, access to education and public services. Declaration of the Sinhala as the only official language and Buddhism as the official religion of the state led to increased grievances among Tamils. In the mid-1970s, Tamil separatist militant organizations were established in response to Sinhalese domination, including the LTTE in 1976 under the leadership of Prabhakaran (D'Costa, 2012). Tamils desired to build an independent Tamil Eelam state. Although deadly anti-Tamil riots had been taking place since 1958, the anti-Tamil pogrom on 23 July 1983 became a turning point in Sri Lankan history where more than 3,000 Tamils were killed brutally (Kingsbury, 2012). Beginning in 1983, the civil war in Sri Lanka continued for almost three decades and came to an end with the slaughtering of thousands of civilians by the Sri Lankan armed forces and LTTE.

5.2.1   British Colonialism and Independence

Sri Lanka is an island country in South Asia, situated on the Indian Ocean and very close to the southern tip of India (D'Costa, 2012). Due to its shape and closeness to India, it is called the "teardrop of India" (Holt, 2011). It is a diverse country ethnically, linguistically, and religiously where 21 million population comprises a large majority of Sinhalese and minorities such as Tamils, Muslims, Burghers, Veddah, and other minority groups (Internal Review Panel [IRP], 2012). The common languages spoken are Sinhalese and Tamil. The ethnic groups were, of

course, not homogenous. For instance, the "Tamil ethnic group" might refer to Jaffna Tamils, Colombo Tamils, Christian Tamils, or Hindu Tamils (K. D. Bush, 2003). Yet, the ethno-political conflict in Sri Lanka occurred between two groups: Sinhalese and Tamils. An overwhelming portion of Sinhalese is Buddhist and Tamils are mostly Hindu who wanted to create a separate state in the island named Eelam, Tamil state (G. Weiss, 2012).

In the pre-independence era, those two groups had only dynastic wars but they lived more or less at peace together for almost two millennia (K. D. Bush, 2003). What happened after independence was closely related to the colonial experience of the island. The first colonial power who ruled the island was the Portuguese and later the Dutch. After the Portuguese and Dutch, the British colonized the whole island in 1815 when ethnicities were politicized through various means such as the colonial census and educational policies (Seoighe, 2017). For example, the 1881 census categorized seven races: Europeans, Sinhalese, Tamils, Moormen, Malays, Veddas, and others (Wickramasinghe, 2014). Thus, the census turned flexible social categories in Sri Lanka into fixed categories that were based on birth.

Most importantly, political representation was established on a racial basis by the British. For instance, the Legislative Council was established in 1833 and included members from Sinhala, Burgher, and Tamil who were to represent their communities (Nissan & Stirrat, 1990). This was crucial in terms of consciousness of ethnic identity and belonging which would later drag the country into a civil war. Colonial divide and rule policy also marginalized Buddhism and instead favored

Tamils and Christians over Buddhists (DeVotta, 2007). Whereas caste and ethnicity in Sri Lankan society had some level of fluidity before the British, colonial rule boosted fixed interpretations of social hierarchy which reflected Britain's own caste and tribal practices (G. Weiss, 2012).

Nevertheless, the effects of British rule on ethnic polarization in Sri Lanka were not that much destructive during its rule between 1796 and 1948 compared to the demise of British rule. After the independence in 1948, minority Tamils found themselves in a disadvantaged position where they lost the privileged position British provided in the colonial era (Kingsbury, 2012). Also, the colonial ordering transformed the island from self-sufficient Lankan kingdoms towards a unitary state (Seoighe, 2017). As Kingsbury (2012) explains:

> The United Kingdom established the independent Ceylon as a unitary state, choosing not to create the new state as a federation and in doing so ignoring the continuing influence of the island's separate ethnic identities that it had otherwise acknowledged. (p.52)

In addition to polarized ethnicities by the British colonial administration in the island and the unitary political structure of the new Sri Lankan state, Sinhala-Buddhist nationalism was embraced by the state after independence. The main source of the Sinhala-Buddhist ideology was the Mahavamsa, a sacred text written by Buddhist monks in the sixth century AD and revised by government-funded work since 1815 (Clarance, 2007; DeVotta, 2007; Seoighe, 2017; Spencer, 1990; G. Weiss, 2012). It is basically the Buddhist chronicles that have promoted and

contributed to Sinhala-Buddhist nationalism. In this text, it is mentioned that Buddha came to the island three times, and Prince Vijaya, the first Sinhalese to arrive at the island, was sent by Buddha to secure the land for Buddhist teaching (Seoighe, 2017). Originating from Mahavamsa, the Sinhala-Buddhist nationalist ideology claims that the island belongs to Sinhala Buddhists only and those who do not agree with the Sinhala Buddhist supremacy are enemies (DeVotta, 2007). Sinhala-Buddhist nationalism became the post-colonial state's hegemonic ideology which paved the way for the marginalization of ethnic minorities and discrimination based on ethnicity (Seoighe, 2017).

The first signs of discrimination towards minorities, but especially Tamils, came with Sinhalese-dominated United National Party (UNP) government's Ceylon Citizenship Act which was released immediately after the independence (Wickramasinghe, 2014). It made Tamils working in the plantations obtain citizenship almost impossible and they were perceived as the alien and marginal group (Kingsbury, 2012; Wickramasinghe, 2014). Furthermore, in 1956, Bandaranaike's Sri Lanka Freedom Party passed the Sinhala Only Act which made Sinhala the official state language (Seoighe, 2017). By this act, the very existence of Tamil people and the Tamil language were ignored. Repressed and discriminated against under Sinhala-dominated politics where they cannot even have access to legal process due to the language barrier, Tamils became radicalized as a result of the impossibility of peaceful negotiations with Sinhalese to obtain civic equality (Kingsbury, 2012). Thus, nationalist-oriented policies in the fields of education,

language policy, and recruiting for state employment confronted a course of counter-organization, and the Tamil political movement began (Seoighe, 2017).

Although the Eelam Tamil national group had attempted to safeguard its identity and self-determination through non-violence means inspired by Gandhi, two decades after independence, this nonviolent political action started to change (Permanent Peoples' Tribunal [PPT], 2013). The years between 1973 and 1977 were regarded as the twilight years in Tamil militancy when establishing a sovereign socialist state of Tamil Eelam was declared by Tamil United Liberation Front (Wickramasinghe, 2014). With this declaration, the demand for Tamil separatism became crystal clear. Several Tamil separatist militant organizations were established to build a new state. For instance, Tamil Students Federation was established in 1970 which renamed the LTTE in 1975 (Wickramasinghe, 2014). LTTE became one of the world's most outstanding guerilla forces with its huge army, navy, and ill-famed suicide squad (Thiranagama, 2013). It was also one of the two main actors during the civil war who fought against Sri Lankan armed forces. LTTE had one very specific aim: building a separate state, a Tamil homeland, Tamil Eelam.

5.2.2   Civil War Begins: Eelam War I

Although the anti-Tamil riots began by 1956 with the Sinhala Only Act, 1983 riots turned into the start of the civil war where Sinhalese mobs utilized official voter registration lists to detect and mark Tamils (*Report of the Secretary-General's Panel*

of Experts on Accountability in Sri Lanka [PEA], 2011). July 1983 riots killed

thousands of Tamils and will later be called "Black July" of the island (D'Costa,

2012; Imtiyaz & Stavis, 2008; Seoighe, 2017; G. Weiss, 2012). Two years before

the riots, police and paramilitary forces set the Jaffna Public Library on fire in 1981

which contained ancient records about Sri Lankan history and Tamils regarded this

assault against their education and culture (Ananthavinayagan, 2019). In return, they

attacked Sinhala soldiers and killed them in northern Sri Lanka on 23 July 1983

which Sinhala mobs reacted by killing hundreds of Tamils (Ananthavinayagan,

2019). The anti-Tamil violence during July 1983 was unlike previous riots: Tamil

citizens were burnt alive with no reaction from the government and it resulted in

large-scale displacement as well as migration of Tamils abroad (Wickramasinghe,

2014). The violence was constructed as a defensive response to the threat of Tamil

militants and President Jayawardena's message only after a few days of the war

contained neither apologies nor messages to the victims (Wickramasinghe, 2014). It

has been claimed that it was sponsored by segments connected to the UNP regime

and even tolerated by the government and president Jayewardene (Uyangoda, 2010).

Unfortunately, it would not be the last massacre. According to the Permanent

Peoples' Tribunal on Sri Lanka (2013), 44 massacres were committed by state forces

from July 1983 to May 1987 which killed over 2000 Tamils.

Atrocities strengthened the Tamil separatist movement both in terms of rising

recruitment and in terms of legitimacy. India also became more active in Sri Lankan

politics after July 1983 as Tamils in southern India were protesting against the

atrocities and calling their government to intervene in Sri Lanka (Uyangoda, 2010).

The Indian connection to the island had been shaped by cultural, political, and geographical factors. India is the closest neighbor of Sri Lanka and more than sixty million Tamils residing in the state of Tamil Nadu share cultural, linguistic, and religious ties with the Tamils in Sri Lanka (Keethaponcalan, 2011). Thus, conflict in Sri Lanka was never an internal matter of Sri Lanka for India but had possible spillover effects which concerned its security. From the 1980s onwards, India held several diplomatic meetings to end the violence, and eventually, the Indo-Sri Lanka Accord of July 1987 was signed between the Indian prime minister and the Sri Lankan president to build a system of devolution of power in exchange for surrendering weapons by Tamil militia groups (Uyangoda, 2010). The Accord also allowed India to deploy the Indian Peacekeeping Force (IPKF) in the northeast of the island in 1987.

5.2.3   Eelam War II & Eelam War III

Eelam War I ended with signing the Indo-Sri Lanka Accord. Under this accord, the government pledged to devolve power to the provinces and IPKF committed to disarming Tamil militias (Shastri, 2009). Yet, the accord faced strong hostility and mobilization from diverse groups and IPKF ended up fighting against LTTE as the latter did not surrender their weapons (Shastri, 2009). The war between Indian peacekeeping troops and LTTE lasted between 1987 and 1990. The new Sri Lankan government forced India to retreat its forces from the island. After IPKF withdrawal, the Eelam War II began which continued until the peace negotiations with the government under President Kumaratunga in 1994 and 1995 (Stokke, 2006).

Immediately after IPKF left Sri Lanka, LTTE-related suicide killings multiplied. Among those assassinations, two high-level diplomatic figures were killed in the 1990s: Prime Minister of India, Rajiv Gandhi, and President of Sri Lanka, Premadasa (Samaranayake, 2007). The assassination of Gandhi by a Tamil suicide bomber believed to be a member of LTTE led India to proscribe the LTTE as a terrorist organization in 1994 (Keethaponcalan, 2011). Throughout the 1990s, both government forces and the LTTE massacred civilians.

Nevertheless, the change of government after the presidential election in 1994 brought fresh hope to the people of Sri Lanka who suffered from the violence in the country. Kumaratunge came to office as the first Sinhalese leader who committed to engage in discussion with the Tigers and implement expansive devolution of powers to the regional level (Shastri, 2009). In January 1995, the government and the LTTE agreed to sign a Declaration of Cessation of Hostilities which marked the end of Eelam War II (Uyangoda, 2010). The government had two main objectives: weakening the LTTE militarily and engaging directly with the Tamil people and the non-LTTE parties to accept the government's unilateral offer and then henceforth isolate the LTTE both politically and militarily (Uyangoda, 2010). Yet, none of the objectives were achieved. There was only a short period of honeymoon where three-month ceasefire collapsed with the start of Eelam War III in April 1995 when LTTE sank two naval vessels in the south of the island (Wickramasinghe, 2014)

After the breakdown of the peace talks, the government began its biggest offensive which aimed to take Jaffna, the capital of Tamil Kingdom long before the island was colonized, according to its policy of "war for peace" (Clarance, 2007). Eventually, the army took control of the Jaffna Peninsula which was under the control of LTTE for a decade. In return, LTTE strengthened its position in the north of the country as well as setting up strong bases in the east (Kingsbury, 2012). The government of Sri Lanka banned the LTTE in 1998 and classified it as a terrorist organization after it invaded one of the most respected Buddhist temples on the island (Shastri, 2009). The US and Canada in 1997 proscribed the organization, too (Shastri, 2009).

Eelam War III lasted until the Ceasefire Agreement in 2002 which was signed by the United National Front government and the LTTE and followed by six rounds of direct negotiations (Uyangoda, 2011). Norway became the mediator of the agreement due to its historical links with Sri Lanka as well as its experiences of peace mediation elsewhere (Goodhand & Walton, 2009). To oversee the ceasefire, the Sri Lankan Monitoring Mission was established with its staff from different Scandinavian countries (DeVotta, 2009). Soon after the ceasefire, several violations have been reported by both sides which included kidnappings, harassment, and killings (Shastri, 2009). In 2003, the LTTE had unilaterally annulled the ceasefire and proposed to create an Interim Self-Governing Authority in the northeast (PEA, 2011). It escalated Sinhala-nationalist protests who were against the signing of the ceasefire from the start and stimulated a deeply nationalist coalition of political parties, the United People's Freedom Alliance (UPFA) (PEA, 2011).

In March 2004, just before the parliamentary elections, a faction inside LTTE broke away from the organization under the leadership of Colonel Karuna (Shastri, 2009). Later, he formed a political party, the Tamil Makkal Viduthalai Pulikal, and became a member of the ruling UPFA. It harmed LTTE's status both politically and militarily (Shastri, 2009). As the ceasefire slowly collapsed, the Sri Lankan government could perfectly articulate its war against the LTTE within the international war on terrorism framework (Höglund & Orjuela, 2011). Even before 9/11, terrorism was a part of the Sri Lanka national discourse to refer to the LTTE. For instance, President Wijetunge's popular phrase in 1993 emphasized that: "There is no ethnic problem in Sri Lanka, only a terrorist problem." (Kleinfeld, 2005).

In December 2004, the Indian Ocean tsunami hit Sri Lanka and took the lives of more than 30.000 people (G. Weiss, 2012). This disaster was expected to suspend the conflict which did not happen as both sides accused each other of abusing overseas tsunami-related aid to finance the conflict (D'Costa, 2012). The conflict became dense again with the assassination of the Sri Lankan Foreign Minister, Kadirgamar, and the superintendent of police of Jaffna in 2005 (Shastri, 2009). For both murders, the guilt was ascribed to the LTTE (Goodhand & Korf, 2011). Kadirgamar was an important figure in proscribing the LTTE abroad, blocking the organizations' financial support networks, building counter-terror discourse for the atrocities, and formulating the conflict as a separatist terrorist war (Seoighe, 2017).

With the election of Rajapaksa as president of Sri Lanka in 2005, the country was dragged on the full-scale war once again for the last time until 2009. The

Rajapaksa's UPFA government had three major principles: the necessity of military victory for a political solution, the LTTE's defeat, and the east and north were to be demerged (Goodhand & Korf, 2011). Following those aims, Rajapaksa mobilized people under nationalist discourse which he frequently used during elections. In contrast to Kumaratunge who promised to start talks with LTTE, Rajapaksa was determined to counter it. The ethnic conflict was to be solved through military means for Rajapaksa and any kind of devolution that previous governments considered was unacceptable (Goodhand & Korf, 2011). He also introduced himself as a near-mythical figure in Sinhala-Buddhist ideological terms, as a ruler who could decisively end the war and crush the Tamil threat to the Sri Lankan unitary state (Seoighe, 2017). The government rejected all principles which were related to the conflict resolution mechanisms of the peace process (Lewis, 2010). It also rejected being equal partners with LTTE in negotiations, concessions in either territory or political power, and the necessity of external mediation (Lewis, 2010). While following those aims, the government became allies with China and other anti-Western regimes like Iran and Myanmar to resist international opposition to its counter-insurgency campaign (Lewis, 2010; G. Weiss, 2012).

In summary, before the start of Eelam War IV some crucial developments were: a section separated from the LTTE to cooperate with the government, the 2005 presidential electoral victory of Rajapaksa who aimed to bring a military solution to the conflict, and the LTTE's persistent attacks on civilians (IRP, 2012). In addition to those events, LTTE became more and more isolated as the EU also proscribed the organization in the mid-2006 which further strengthened the legitimacy of claims of

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the Sri Lankan government. From the mid-1990s to 2006, the LTTE controlled almost one-quarter of Sri Lanka's territory and was financed through the Sri Lankan Tamil diaspora collecting millions of dollars from businesses, front organizations, and voluntary contributions (DeVotta, 2009). The locations under the control of the LTTE were large parts of northern and eastern Sri Lanka from the 1990s until May 2009 where it operated as a de facto state with its own police, courts, banks, and jails together with a highly developed military with the ground, air and naval capacities (PEA, 2011).

5.2.4   Eelam War IV: The End

Eelam War IV started when the LTTE shut the Mavil Aru anicut in the Eastern Province and deprived almost 15.000 farming families of water in 2006 (DeVotta, 2010). The government responded with counter-military operations to recapture the Mavil Aru. It also launched several military operations to take over the LTTE areas in the east and the north. Sri Lankan security forces captured the Eastern Province, the Vakarai region, from the hands of the LTTE (Wickramasinghe, 2014). Also, much of the East under LTTE control was back in government control in July 2007. After taking the East, the army focused on the North, the Wanni particularly, where they implemented a bombing campaign to destroy the LTTE (C. Smith, 2011). LTTE responded by bombing key air force bases next to Colombo's Bandaranaike International Airport in March 2007 (Wickramasinghe, 2014). During the airstrikes of the government, the LTTE's political leader as well as five senior leaders were

killed in November 2007 (Kingsbury, 2012). The government also announced that it withdrew from the 2002 ceasefire agreement in the early days of 2008 after LTTE bombed a civilian bus (Wickramasinghe, 2014).

Throughout 2008, heavy fighting continued in the districts of Mannar, Vavuniya, and Mullaitivu which are in the northwest, south, and southeast of the Northern Province (C. Smith, 2011). As a result of the security forces' offensive in the North, 250.000 Tamils have been displaced which made a total number of 450.000 since the start of the war (Wickramasinghe, 2009). In April 2008, Amnesty International (2008) condemned the LTTE for its use of child soldiers, targeting of civilians, and indiscriminate attacks like using suicide bombers. It also condemned LTTE's use of civilians as human shields. Yet, there was only blaming for the LTTE and not the government even though both parties severely violated human rights.

In September 2008, the Sri Lankan army advanced on Kilinochchi, LTTE's de facto capital, and attacked the UN offices there although it was designated as a safe area (PEA, 2011). The UN terminated its operations there and relocated its staff from Kilinochchi to Vavuniya as did other international organizations after the government's announcement that humanitarian workers' safety cannot be guaranteed (G. Weiss, 2012). The departure of international staff was tragic and became a decisive point in the final stages of the war because "from that moment on, there virtually no international observers able to report to the wider world what was happening in the Vanni" (PEA, 2011, p. 21).

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After capturing Kilinochchi in January 2009, the army advanced into Vanni from multiple directions and took over important LTTE bases (PEA,2011). With the intensification of the conflict, the government declared a No Fire Zone (NFZ) which was supposed to be a safe area for civilians (IRP, 2012). Civilians were told to move those areas through local officials in Vanni, public appeals, and leaflets released from aircraft (IRP, 2012). Yet, the government shelled on three consecutive NFZs (PEA, 2011). In the first NFZ, Vallipunam hospital and the UN hub were shelled by the army which resulted in high numbers of civilian casualties (IRP, 2012). In February, the government announced the second NFZ in a coastal strip in the northwest of Mullaitivu town (IRP, 2012). Here, LTTE did not permit civilians to quit the area and used them as a human buffer while increasing its practice of forced recruitment from civilians, especially children (PEA, 2011). According to the 2008 HRW (2008) report where they interviewed 35 eyewitnesses and humanitarian aid workers, LTTE increased its forced recruitment practices dramatically, including children which are prohibited by international law.

By the time the government was claiming to conduct "humanitarian rescue operations", the second NFZ suffered from increased shelling by the army who advanced towards the coastal strip (PEA, 2011). The third and last NFZ was declared by the government on 8 May 2009 which was a tiny part of the southern portion of the second NFZ (IRP, 2012). Towards the middle of May, almost 100,000 civilians were trapped within three square kilometers where the government kept shelling going until 19 May when the leadership of LTTE would be killed (PEA, 2011). There

is no reliable figure on the number of people who were killed but it was estimated that 40,000 civilians were massacred in the final weeks of the war (PEA, 2011).

The LTTE had been defeated by the army by May 2009 after thirty years-long civil war. Although the numbers are still debatable, the PAE (2011) estimated up to 40,000 civilian deaths and almost 30,000 persons displaced from the battle zone. The same report highlighted how the Sri Lankan government distorted the realities of the final stages of the war, especially between September 2008 and 19 May 2008, where it committed war crimes and crimes against humanity just like LTTE did. Whereas the government presented its attacks as a policy of "zero civilian casualties", it was increasingly targeting civilians and even shelling hospitals on the frontlines, as the report stated. From the start of 2009 until May, Tamil civilians were trapped and prosecuted in a beach, a small corner of the Vanni, the north-east coast of the country, as the LTTE was forced into there (IRP, 2012; PEA, 2011). To describe the cruelty of this stage of the war, which Weiss (2012) called "the Cage" where the heat was extreme and there was little food, water, or medicine, but even worse was the blockade of the Sri Lankan army where civilians were constantly bombed.

Although the UN Panel of Experts and UN Internal Review did not cite it directly, what happened in Sri Lanka can constitute genocide. The meaning of genocide within the UN is found in the UN Convention on the Prevention and Punishment of the Crime of Genocide. In Article II, it is stated that genocide refers

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to any acts with an intent to destroy either the whole or parts of a national, ethnic, racial, or religious group. Those acts are:

(a) Killing members of the group;

(b) Causing serious bodily or mental harm to members of the group;

(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

(d) Imposing measures intended to prevent births within the group;

(e) Forcibly transferring children of the group to another group. (*Convention on the Prevention and Punishment of the Crime of Genocide*, 1951, Article II)

Considering the sections above, the Sri Lankan government achieved its objective of eliminating Tamil people through massacres committed in the last stage of the war. HRW (2013) found out that state security forces committed rape and sexual violence against men, women, and children between 2006-2012. Regarding Section (c), malnutrition of Tamil people reached below fifty percent in 2013 and most of them were living below the poverty line (PPT, 2013). In terms of Section (d), it was claimed that government health workers were forcing women to accept a coercive implant, a type of birth control that was placed under a woman's skin (PPT, 2013). Nevertheless, PPT stated that it was not clear if this policy was targeting only Tamil people and there was no evidence of Section (e). Overall, it can be stated that there was a clear intent of the government to eliminate a specific ethnic group within the country and erase the Eelam Tamil identity.

5.2.5   The Aftermath of the Conflict

After the war ended in May 2009, civilians emerging from the conflict zone were taken into closed camps surrounded by barbed wire and military (Wickramasinghe, 2014). PEA (2011) estimated the number of IDPs housed at Menik Farm and other places near Jaffna, Mannar, Trincomalee, and Vavuniya districts was approximately 290,000. According to PEA (2011), Menik Farm near Vavuniya became one of the largest IDP sites by housing 250,000 civilians where the entire Vanni IDP population was held by the government for the screening. During the screening process, suspected LTTE members were detained arbitrarily, and later some of them were taken into rehabilitation centers by the government (PEA, 2011). Those separate closed detention facilities for LTTE suspects were not subjected to external scrutiny for years and PEA estimated that the alleged LTTE cadre remained vulnerable to rape, torture, and disappearances.

The camps were overcrowded with a lack of food, shelter, water, and sanitation which caused diseases, suffering, humiliation, and death of civilians (Amnesty International, 2010). The report also revealed that women were subjected to gender-based violence including most seriously rapes at Menik Farm and several civilians were tortured during interrogations. After visiting IDP camps only three days after the end of the war, Secretary-General Ban Ki-moon affirmed that the camps were by far the most horrible scenes he had seen ("U.N. Seeks Full Access to Sri Lankan Refugee Camps," 2009).

5.3 The UN's and Other External Actors' Reaction to the Conflict

The only military intervention that occurred in Sri Lanka was by India through airlifting supplies to the Jaffna peninsula which broke the blockade of the Sri Lankan government and placing a peacekeeping force under the terms of the Indo-Sri Lanka Accord of 1987. To recall, although the peacekeeping force was supposed to disarm militias, they ended up fighting against them until 1990. It became the longest war India fought (DeVotta, 2017). After this event, India has not intervened militarily in the region. In 1991, the assassination of the former Prime Minister, Rajiv Gandhi, was linked to the LTTE and India categorized the LTTE as a terrorist organization (Destradi, 2010). After the proscription, it became impossible for India to become a part of diplomatic negotiations or a mediator regarding the Sri Lankan conflict because it could not have any type of direct contact with the organization. Thus, starting in 1991, India started to follow a hands-off foreign policy towards the civil war in Sri Lanka (Destradi, 2010).

There has been a lack of international attention or intervention regarding the Sri Lankan conflict (Goodhand & Walton, 2009; Harris, 2010; Höglund & Orjuela, 2011; Kingsbury, 2012). It received some attention after the influx of Tamil refugees and asylum seekers to Europe, Canada, and Australia in the mid-1980s but this did not generate a reaction vis-à-vis the government (Frerks & Dirkx, 2016). The main reason behind the lack of attention was the view that " the conflict as a legitimate, internal struggle of a democratically elected government against a separatist movement, which –the government asserted- did not need any form of

'internationalisation'" (Frerks & Dirkx, 2016, p. 20). Nevertheless, the Sri Lankan peace process was heavily internationalized after the peace talks guided by Norway and three other co-chairs (Japan, the US, and India) and an international monitoring mission to monitor ceasefire (Goodhand & Walton, 2009). Unfortunately, the ceasefire existed in name only following LTTE's bilateral termination of the agreement in 2003 and renewed hostilities in 2006 (PEA, 2011). In 2006, Sri Lanka approached the Indian government for some armaments to crush the LTTE once and for all (G. Weiss, 2012). Yet, it was refused by the Indian government due to the fear of hurting its domestic political base in Tamil Nadu (G. Weiss, 2012).

After India's rejection, the Sri Lankan government found another ally who would supply arms, financial assistance, and fighter jets: China. The Chinese had historical ties with Sri Lanka where it has been claimed that Chinese Buddist monks visited the island back in 401 AD and regarded Sri Lanka as the major station for Asian trade (G. Weiss, 2012; T. Wheeler, 2012). Sri Lanka was also one of the first countries to recognize the People's Republic of China in 1950 (T. Wheeler, 2012). Since 1950, China has been the country's biggest supplier of conventional arms which reached a peak with the Rajapaksa government (Stockholm International Peace Research Institute, n.d.). Some numbers are worth reconsidering the Chinese role in crushing the Tigers by the government. Those are Chinese aid corresponding to the more than 50 percent of external funding obtained by the Rajapaksa government, doubled trade volume between countries from 2005 to 2010, and Chinese arms sales constituting 50 percent of its arms imports between 2006-2009 (Lewis, 2010). What those numbers also reveal that transfer of weapons was thought

to be used for self-defense of the Sri Lankan government which has been a core doctrine of China's export control regulations (T. Wheeler, 2012).

From the Chinese perspective, the LTTE was a terrorist organization and the Sri Lankan government had a right to procure arms as a legitimate sovereign actor (T. Wheeler, 2012). Close relations with China served well to the government as the conflict could not be put on the UNSC agenda formally. Together with Russia and some other states like Vietnam and Libya, China insisted that it would block any attempts to raise the matter of Sri Lankan conflict formally in UNSC (Lewis, 2010). Unable to put Sri Lanka on its agenda, the UNSC only held informal interactive dialogue meetings without written records or formal outcomes (IRP, 2012).

In addition to China, the Rajapaksa government supported an increasing role for other non-Western donors such as Pakistan, South Korea, and Iran (Goodhand & Walton, 2009). This was due to traditional donors', like the US, Canada, and EU, conditionality on Sri Lanka to get better at its human rights records for its foreign aid receipts (Wickramasinghe, 2014). As Rajapaksa was determined to crush the Tigers, it was not a surprise that he turned more and more towards the East. Along with India, Norway, China, Pakistan, South Korea, and Iran, other external actors who were included in the peace process were the EU, Japan, and the US. Those three actors together with Norway were the co-chairs of the Tokyo Conference on Reconstruction and Development of Sri Lanka (2003) which was held in June 2003 in Tokyo. The conference aimed to encourage parties to enhance their efforts to make further progress in the peace process. Conditioning the Sri Lankan government to

respect the principles of human rights, democracy, and rule of law, donors offered an assistance of $4.5 billion for the four years between 2003 to 2006. The LTTE was not invited to the conference after the US banned the LTTE as a terrorist organization (Shastri, 2009). Although the LTTE did not join, donors promised that they would provide assistance, reconstruction, and development of the North and East which were mostly under LTTE's control. Yet, some donors suspended their assistance to the North-East while assisting the government in the south (Burke & Mulakala, 2005). Thus, "the government left Tokyo with their pockets full, donors left Tokyo locked into a declaration that they were ill prepared to implement. The LTTE were simply left out." (Burke & Mulakala, 2005, p. 18).

The UN's engagement in the Sri Lankan civil war from 2007 to the end was very minimal and remained secondary to the other external actors' efforts. After Colombo's demand for the relocation of UN humanitarian staff in September 2008, Ban Ki-moon issued a statement which neither challenged the government's request nor commented on the army's shelling of Kilinochchi, declared as NFZ (United Nations Secretary-General, 2008). It also did not mention trapped civilians who were unable to leave the Vanni. Instead, it only recalled the parties of the conflict to their obligations under international law (United Nations Secretary-General, 2008). Just a few days before the civil war ended by the killing of LTTE's leader, Velupillai Prabhakaran, on 18 May 2009, UNSC (2009b) issued one and only statement on Sri Lanka: expressing grave concern about the deteriorating humanitarian crisis in the north-east. The statement condemned LTTE for its acts of terrorism and using

civilians as human shields. But, it also acknowledged "the legitimate right of the Government of Sri Lanka to combat terrorism" (UNSC, 2009b).

The emphasis on terrorism was repeated by Human Rights Council, a UN body, after the war ended by reaffirming "the respect for the sovereignty, territorial integrity and independence of Sri Lanka and its sovereign rights to protect its citizens and to combat terrorism" (UNGA, 2009d, p. 3). Thus, the sovereign "right" to protect the citizens was accompanied by the fight against terrorism which made the former impossible. The Human Rights Council's resolution after the war also condemned attacks by the LTTE on civilians and overlooked the crimes the government was committing at that time. So, there was the paradox behind the UN activities: warning the government about the devastating effects of military solution after it withdrew from the Ceasefire Agreement in 2008 while accepting the government's right to initiate counter-terrorism operations (UNGA, 2009d; UNSC, 2008). The government was the legal, sovereign, and legitimate actor. The LTTE, on the other hand, was the illegal and terrorist which made counter-insurgency operations of the government legal, regardless of their effects on civilians. The government's fight against terrorism was one of the reasons that R2P was not able to be brought to the table.

Although it remained secondary, the UN responded to the conflict with several mechanisms. Some of the UN bodies that were engaged in Sri Lanka were the Department of Political Affairs, the UN Policy Committee, the UN Development Assistance Framework, UNHCR the 2008 Common Humanitarian Action Plan (CHAP), and the Executive Committee on Humanitarian Affairs (IRP, 2012).

Reported from one UN worker's perspective, UNHCR, the agency which has protection-specific duties, was reporting protection information "in a very controlled way, in bed with the government" and hesitant to confront egregious instances of harm and abuses (Keen, 2009, p. 81). Among those agencies stated, the UN Development Assistance Framework and the CHAP were the operational bases of the UN in Sri Lanka (IRP, 2012). CHAP is a part of the Consolidated Appeals Process (CAP) which was created by the Inter-Agency Standing Committee (IASC), the longest-standing and highest-level humanitarian coordination forum for the UN system (IASC n.d.-b). CAP promotes cooperation between host governments, donors, aid agencies, NGOs, and the UN agencies to respond to natural disasters and complex emergencies (IASC, n.d.-a). As part of CAP, the CHAP analyzes the context where conflict takes place, best, worst, and most likely scenarios, roles, and responsibilities of participating organizations (IASC, n.d.-a). In the context of Sri Lanka, CHAP was able to solicit more than $140 million from donors but failed to identify the Sri Lankan state as the major source of protection and humanitarian concerns (IRP, 2012).

Not mentioning the government as the perpetrator of crimes against humanity and war crimes was apparent in the briefing of the Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator (USG-Humanitarian Affairs) in 27 February 2009 when the conflict was intensified. USG-Humanitarian Affairs visited Sri Lanka as part of the strategy of high-level visits by the UN officials since 2007 (IRP, 2012). In his briefing to the UNSC, USG-Humanitarian Affairs expressed his concern over civilians being squeezed into the Vanni pocket, a narrow

coastal strip of 14 square kilometers (UN Office for the Coordination of Humanitarian Affairs, 2009). While the briefing reported LTTE as preventing civilians from leaving there, it did not acknowledge government fire resulting in casualties too, and was actually happening in NFZ that the government declared. As a matter of fact, according to the Peoples' Tribunal on Sri Lanka (2013) in addition to massacres committed in the final phase of the war against Tamils, gathering civilians into NFZs for the "purpose of large scale killings, targeted assassinations to eliminate outspoken Tamil civil leaders who were capable of articulating the Sri Lankan genocide project to the outside world also demonstrate a calculated strategy employed by the state" (p.19).

The UN's failure to protect Tamils in the last stage of the conflict was made public by an internal panel created by Secretary-General in 2012 (IRP, 2012). Some of the aims of the panel were providing an overview of the conflict, analyzing the UN actions during the final stages of the war, and assessing the effectiveness of the UN system with regards to the intensifying fighting (IRP, 2012). After reviewing almost 7,000 documents, the Panel found that:

> Sri Lanka mark a grave failure of the UN to adequately respond to early warnings and to the evolving situation during the final stages of the conflict and its aftermath, to the detriment of hundreds of thousands of civilians and in contradiction with the principles and responsibilities of the UN. (IRP, 2012, p. 28)

The Panel also highlighted that although R2P was raised in the final stages of the conflict, referring to R2P was seen as more likely to undermine the UN action instead of strengthening it. Besides, "inconclusive" discussions on the concept left UNSC skeptical about placing Sri Lankan situating on its agenda which was not already a subject of a UN peacekeeping or political mandate (IRP, 2012). Some of the other issues raised by the Panel were: relocation of the UN staff from Vanni in September 2008 due to the government's threat that they were no longer safe there, the UN failure to confront the government on obstructing humanitarian assistance, the UN avoidance of mentioning the government's responsibility and the inadequate understanding and assessment of the conflict within the UN (IRP, 2012). As a result, the Panel explicitly stated that the UN made a systemic failure in Sri Lanka. The elements of this failure were listed as the UN's lack of shared sense of responsibility for human rights violations, internal UN crisis-management structure's incoherence, UN action's focus of development instead of conflict response, insufficient political support from member states, and outdated framework for member states' engagement with international human rights and humanitarian law protection crises (IRP, 2012).

The establishment of the Panel was not very welcomed by the Sri Lankan government. In response, Secretary-General Ban Ki-moon said the establishment of the Panel "does not in any way infringe on the sovereignty of Sri Lanka" (UN News, 2010). Also, the government has the backing of the UN on its discursive focus on R2P in light of terrorism, which the government conceptually associated before the end of the war (Nackers, 2015). In June 2008, Ambassador and Permanent

Representative of Sri Lanka to the UN, Dr. Dayan Jayatileka stated that "the Sri Lankan State is in the process of exercising its responsibility to protect its citizens' Right to Life from the threat of terrorism" (Lankaweb, 2008, para.3). Speaking at the Eighth Session of the UN Human Rights Council, he added if any party would try to invoke R2P regarding Sri Lanka outside of the UNSC, "they must be prepared for a full spectrum of resistance by the Sri Lankan people and State who'll defend their sovereignty by any means necessary" (Lankaweb, 2008, para.3).

The government also promoted its reflection on the conflict by its official media website. On the website, Senaratne (2008) argued that terrorism also threatens civilians and the R2P should be extended to R2PT, Responsibility to Protect from Terrorism. He added: "Dead or alive, we are victims of LTTE terrorism, first and foremost." (Senaratne, 2008, para.17). At the 2009 General Assembly debate on R2P, Kohona (2009), the Permanent Representative of Sri Lanka to the UN, claimed that democratically elected governments can practice its vital R2P to save its people from a terrorist group. According to this view, what the Sri Lankan government did was an R2P intervention though a different one from what is accepted internationally. It was Sri Lankan type of R2P or R2PT. Not mentioning the government as the perpetrator of crimes, acknowledging the government's right to fight against terrorism, stressing sovereignty of the Sri Lanka and failing to invoke R2P in Sri Lanka, the UN fed the government's association of terrorism and R2P. The reasons mentioned above also justified the inaction of the UN in Sri Lanka.

5.4   Assessment of Sri Lankan Conflict within R2P Framework: Making Sense of Non-Intervention

Non-intervention in Sri Lanka was a product of the absence of intervention/sovereignty binary. This absence was constructed through several discourses which invoked and prioritized the Sri Lankan government's sovereignty. As stated above, resolutions from UNSC and Human Rights Council on Sri Lanka recognized the legitimate right of the government to combat terrorism. The latter resolution reaffirmed the respect for the government's sovereignty and its "sovereign rights" to protect its citizens as well as its fight against terrorism (UNGA, 2009d). There was no more mentioning of responsibility nor an expectation from Sri Lanka to be a responsible sovereign. The Human Rights Council's resolution on Sri Lanka also welcomed the victory of the government as well as its "promotion" and "protection" of human rights while the government had already shelled civilians and massacred several Tamils in the latest stage of the war (UNGA, 2009d). The resolution included the following statements: "reaffirming . . . the principle of non-interference in matters that are essentially within the domestic jurisdiction of states" and "reaffirming the obligations of states to respect human rights law and international humanitarian law while countering terrorism" (UNGA, 2009d, p. 3). However, R2P was born to give responsibility to the international community to handle issues of domestic jurisdiction of states if civilians are unsafe. Those statements, in a way, reflected the pre-R2P world order where the sovereignty/ human rights binary was generally resolved in favor of the former.

Recalling the pillars of R2P, the first pillar is about states' responsibility to protect their citizens. In the Sri Lankan case, the government did not fulfill this duty. Instead, it used indiscriminate use of force against civilians, blocked humanitarian agencies for supplies to civilians, and failed to protect displaced persons (IRP, 2012; Kingsbury, 2012; PPT, 2013; PEA, 2011; G. Weiss, 2012). It was not the responsible sovereignty R2P imagined which is "based on the politics of inclusion, not exclusion" (UNGA, 2009c, p. 10). It was even condemning the UN's letter dated 14 December 2010 as an infringement of sovereignty (PEA, 2011, Annex 2.11). The letter detailed the mandate of the Secretary-General's Panel of Experts in Sri Lanka before the meeting with the government (PEA, 2011, Annex 2.8). In return, Acting Ambassador Silva replied that the Sri Lankan government "does not accept any 'mandates' or 'terms of reference' which have not only been drawn up unilaterally, but also constitute an infringement of sovereignty of Sri Lanka, which the Government it constitutionally obligated to protect" (POE, 2011, Annex 2.11, p. 151). It was fundamentally the direct opposite of what R2P attempted to achieve. As the 2009 Report on R2P stated, sovereignty does not grant immunity to those who order, provoke or commit crimes regarding the responsibility to protect (UNGA, 2009c).

The second pillar of R2P is about international assistance and capacity-building which is not very useful if the state is committing crimes (UNGA, 2009c). Confronted with this kind of situation, the report suggests that the international community should look for ways of timely and decisive response, the third pillar. In this last pillar, R2P recommends conducting on-site investigations. So, those

missions deliver messages directly to key decision-makers such as discouraging them from offensive acts that could make them subject to prosecution by the IIC or ad hoc tribunals (UNGA, 2009c).

In Sri Lanka, several UN bodies were on the mission but failed their protection responsibilities. IRP (2012) listed the following on the failure of the UN: the staff of the UN Country Team and United Nations Headquarters preferred not to speak up about the government, the UN in United Nations Headquarters and Colombo was unwilling to address the government's responsibility for attacks against civilians and content and tone of UN communications with the government was ignorant. Added to them, the UN did not refer to the government as the perpetrator of crimes (UN Office for the Coordination of Humanitarian Affairs, 2009; UNGA, 2009d; UNSC, 2009b).

5.5   Conclusion

The civil war in Sri Lanka was shaped by the colonial history of the island where ethnicities were politicized under British rule. After independence, the government embraced Sinhala-Buddhist nationalism and implemented several policies that were discriminating against Tamils based on their ethnicities such as Ceylon Citizenship Act and Sinhala Only Act. Those policies confronted a process of counter-organization in which Tamils wanted to build a separate state and established LTTE for their aims. Starting with the anti-Tamil pogroms in 1983, the war came to an end in May 2009 which caused up to 40,000 civilian deaths. This

chapter analyzed the aftermath of the conflict, external actors' reactions to the conflict, and the UN failure during and after the war. The next chapter, conclusion, sums up discussions of the thesis and evaluates R2P's internalization within the UN within the framework of inaction in Sri Lanka despite the commitment that inaction was not an option (UNGA, 2010, p. 16).

CHAPTER 6

CONCLUSION

The idea of using force for humanitarian reasons has been controversial since the Just War Tradition which became the basis of military action in humanitarian intervention and R2P. Especially, in the post-Cold War era, the legal, moral, operational, and political challenges of humanitarian intervention became visible with the external military interventions in Somalia, Bosnia, Kosovo and inaction in Rwanda. After the failures of the UN in those cases, R2P was born to form a global political consensus on how to proceed from paralysis towards action within the international system, specifically through the UN. In other words, R2P was formed to make the UN work in the future when confronted with similar cases. It also aimed to reconcile tensions between human rights and state sovereignty. The UN handled and resolved this contradiction differently during and after the Cold War. Whereas the security of states was prioritized during the Cold War, the situation was reversed in the post-Cold War era with the emergence of the notion of human security, the rising numbers of intra-state conflicts, and sovereignty as responsibility discourse.

Sovereignty was no longer defined as exclusive control over territory and R2P reminded both the states and the international community that they had three types of responsibilities (prevention, reaction, and rebuilding) where a population is in danger due to an internal conflict. R2P mediated sovereignty and human rights

tension by adding a responsibility dimension to sovereignty. Thus, from the start, it problematized how sovereignty was understood in international relations. The attempt of R2P to bring a new understanding to sovereignty shows the importance of ideas and norms in the process of constructing certain social facts, as social constructivism suggests. Benefiting from social constructivism, this thesis perceived the UN as an agent and bureaucracy which has a constitutive power. In this respect, R2P is a crucial instance of the power of the UN to bring new rules and constitute meanings in international relations.

Despite its efforts to reconcile the contradiction between human security and state security, R2P practice has been far from perfect. To analyze the gap between theory and practice of the doctrine, the thesis analyzed a case of non-intervention where R2P could have been invoked: Sri Lanka. Inaction and indifference of the UN towards the LTTE and Sri Lankan armed forces slaughtering of civilians where they were trapped in a strip of coastal shrubland in Vanni was striking. The actions of the government constituted acts of genocide against Tamils according to the UN Convention on the Prevention and Punishment of the Crime of Genocide. Besides, the reports prepared by the Secretary-General suggested that the government committed war crimes and crimes against humanity. Those crimes are specified under R2P where states and the international community have a responsibility to protect civilians against them. R2P aimed to prevent and react to another Rwanda or another Srebrenica and the Sri Lankan case turned out to be another failure because the UN failed to protect Tamils there. Moving from polemics to action, the aim of R2P, failed once again.

Instead, the "never again" motto, the basis of R2P from the start, became a situation of "yet again" due to several factors which contributed to non-intervention. Some of those were the government's Global War on Terror narratives which led to the isolation of LTTE, international disagreement on R2P, and possible vetoes by China and Russia in the UNSC if R2P would be on the table. More importantly, the UN justified its non-intervention by acknowledging the legitimate rights of the Sri Lankan government to combat terrorism, not mentioning the government as the perpetrator of crimes against civilians and stressing the sovereignty of Sri Lanka during and after the conflict. The discourse of the security and sovereignty of the Sri Lankan state was more dominant than the discourse of rights and protection of civilians who were trapped in the conflict zone. Although R2P was a crucial attempt to reconcile them, binaries of state security/human security and sovereignty/human rights were not resolved as R2P aimed.

The thesis presented a literature review on R2P which was not fruitful to analyze a case of non-intervention. Sri Lankan example suggests that neither critics' argument on R2P as a new interventionist norm nor supporters' belief that R2P gets us closer to ending mass atrocity crimes once and for all are convincing. Instead, what Sri Lankan civil war reflects is that the UN failed in Sri Lanka by reversing the R2P norm that it created in the first place. Although geopolitical factors, the political will of member states, and a possible deadlock in the UNSC were important in the Sri Lankan case, those factors do not explain how the UN betrayed the principle it constructed. To investigate this problem, this thesis analyzed the transformation of R2P from its creation in 2001 to acceptance at the 2005 World Summit. Three pillars

defined in the accepted version were: states' responsibility to protect their citizens, international community's assistance and capacity building, and finally timely and decisive response. With the accepted version, there was less role for the international community but more emphasis on states' responsibilities. The fault and responsibility were located internally to states which are to blame for their own failures. The thesis argued that it was the main feature of the post-interventionist and resilience paradigm where prevention is prioritized over intervention.

Analyzing Sri Lanka in this post-interventionist era, this study found that the UN failed to implement R2P in the Sri Lankan case. The inaction, indifference, and disregard of the UN showed that although R2P was internationalized through getting accepted at the 2005 World Summit, General Assembly's holding informal dialogue on R2P, Secretaries-General preparation of reports annually, it was not internalized yet by the UN. Whether organizations do what they uphold was the definition of the dysfunctionality of organizations, according to Barnett and Finnemore (1999). So, not invoking R2P in Sri Lanka can be seen as a dysfunction of the UN. This dysfunctionality confirms the hypothesis of this study that the Sri Lankan case reflects a failure of R2P and indifference of the UN. It also confirms that fading away of R2P's holistic approach is a crucial factor to grasp the inaction of the UN in Sri Lanka.

The UN inaction can also be called a pathology that occurs when bureaucratic power's sources themselves cause dysfunctionality in Barnett and Finnemore's definition. The relocation of the UN staff in Sri Lanka, blaming the LTTE for civilian

casualties, and backing the discourse of terrorism of the government were some of the ways the UN handled its indifference. Thus, the UN inaction in Sri Lanka displayed a secular theodicy as in Rwanda while the annual UN reports continued to be published. It was possible because secular theodicy invokes transcendence, the idea that a moral principle can transcend the peculiarities of time and place. R2P's development also resembles transcendence that human rights are as important as sovereignty. Yet, the sovereignty/ human rights binary was not resolved in favor of the latter in Sri Lanka and the conflict in Sri Lanka was kept exempt from R2P principles by the UN.

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