
Problematizing sovereignty: Why did humanitarian intervention fail in Libya and Syria?

Darren Davids

MA Political Science

Department of Political Science, Stellenbosch University

Supervisor: **Prof. Pieter Fourie** (Department of Political Science, Stellenbosch University)

December 2021

Declaration

By submitting this thesis electronically, I declare that the entirety of the work contained therein is my own, original work, that I am the sole author thereof (save to the extent explicitly otherwise stated), that reproduction and publication thereof by Stellenbosch University will not infringe any third-party rights and that I have not previously in its entirety or in part submitted it for obtaining any qualification.

Date: December 2021

Abstract

Since its inception the United Nations (UN) has placed an increased focus on issues such as human rights and human security. This fact is underscored by the UN's adoption of the Universal Declaration of Human Rights in 1948 which states that everyone has the right to life. The United Nations highlights, in the first chapter of its Charter, its responsibility to uphold human rights, and the protection of the lives of people. However, the UN has apparently failed to uphold its commitment to protecting human rights during instances of war, genocide, and mass human suffering. Although the UN has intervened in previous crises during the 1990s, the UN has ostensibly been unable effectively to intervene during prominent armed conflicts such as the recent Libyan and Syrian crises.

The main research question informing this study seeks to determine why the UN has been unable to find a consensus on humanitarian intervention through an interrogation of the Libyan and Syrian crises. The primary research question is supplemented by three sub-questions that aim to determine the following: (1) Does Westphalian sovereignty provide states with blanket protection from all external interference, even if they are responsible for gross human rights atrocities?; (2) Can the Responsibility to Protect (R2P) concept be ratified by the UN in order effectively to deal with the current problems facing humanitarian intervention?; (3) Should the UN and other major powers be allowed to exercise control of another state when its government no longer has any control over the country? The study uses the English School as a theoretical lens to understand the nature of sovereignty. Through the use of the English School, this study analyses the two main schools of thought regarding intervention, namely the solidarist and pluralist approaches. Findings suggest that while R2P has attempted to serve as the new consensus of humanitarian intervention, the language encompassing the R2P tool has been severely watered down since its original conception. R2P effectively acts as a guiding framework for how states ought to behave and outlines their responsibility without placing a legal obligation on members of the UN Security Council (UNSC) to intervene. The Libyan and Syrian case studies reveal that intervention is largely driven by the self-interests of the permanent members of the UNSC. The Libyan intervention was largely driven by the geopolitical and economic interests of the United States, the United Kingdom, and France. Similarly, the UN finds itself in a protracted deadlock over the Syrian crisis due to clashing geopolitical concerns and interests of Russia and other permanent members of the UNSC.

Opsomming

Vanaf die begin van die 21ste eeu het die Verenigde Nasies (VN) 'n groter fokus op kwessies soos menseregte en menslike veiligheid geplaas. Hierdie feit word onderstreep deur die VN se aanvaarding van die Universele Verklaring van Menseregte wat bepaal dat almal die reg op lewe het. Die Verenigde Nasies beklemtoon in die eerste hoofstuk van sy Handves sy verantwoordelikheid om die menseregte te handhaaf en die beskerming van die lewens van mense. Die VN het egter klaarblyklik nie sy verbintenis tot die beskerming van menseregte tydens gevalle van oorlog, volksmoord en massale menselyding nagekom nie. Alhoewel die VN gedurende die negentigerjare by vorige krisisse ingegryp het, kon die VN klaarblyklik nie effektief ingryp tydens prominente gewapende konflikte soos die onlangse Libiese en Siriese krisisse nie.

Die hoofnavorsingsvraag oor hierdie studie is om te bepaal waarom die VN nie 'n konsensus kon vind oor humanitêre ingryping deur 'n ondervraging van die Libiese en Siriese krisisse nie. Die primêre navorsingsvraag word aangevul deur drie subvrae wat daarop gemik is om die volgende te bepaal: (1) Bied Westfaliese soewereiniteit state beskerming teen alle eksterne inmenging, selfs al is hulle verantwoordelik vir die wreedhede van die menseregte? (2) Kan die Verantwoordelikheid om te Beskerm (R2P) -konsep deur die VN bekragtig word om die huidige probleme waarmee humanitêre ingryping in die gesig staar effektief te hanteer?; (3) Moet die VN en ander groot moondhede toegelaat word om beheer oor 'n ander staat uit te oefen as sy regering geen beheer meer oor die land het nie? Die studie gebruik die Engelse Skool as 'n teoretiese lens om die aard van soewereiniteit te verstaan. Deur die gebruik van die Engelse Skool ontleed hierdie studie die twee hoof denkrigtings rakende intervensie, naamlik die solidaristiese en pluralistiese benaderings. Bevindinge dui daarop dat hoewel R2P gepoog het om as 'n nuwe konsensus van humanitêre ingryping te dien, die taal wat die R2P-instrument bevat sedert die oorspronklike konsep daarvan erg afgewater is. R2P dien effektief as 'n leidende raamwerk vir hoe state moet optree en gee hul verantwoordelikheid sonder om wettige verpligtinge op lede van die VN se Veiligheidsraad (VNSK) te plaas om in te gryp. Die Libiese en Siriese gevallestudies toon dat ingryping grootliks gedryf word deur die eiebelange van die permanente lede van die UNSC. Die Libiese ingryping is grootliks gedryf deur die geopolitieke en ekonomiese belange van die Verenigde State, die Verenigde Koninkryk en Frankryk. Net so bevind die VN hom in 'n langdurige dooiepunt oor die Siriese krisis weens botsende geopolitieke bekommernisse en belange van Rusland en ander permanente lede van die UNSC.

Acknowledgements

I would like to take this opportunity to thank everyone who has been part of my journey in obtaining my master's degree. To my parents, Jan and Tania, thank you for supporting me in every way imaginable. Thank you for your sacrifices and your unwavering belief in me.

To my mother, Tania, for her unwavering love and constant pep-talks. You have motivated me and pushed me to achieve things I did not know I was capable of achieving. To my father, Jan, you have sacrificed so much and helped empower me with something that can never be taken away. You both have provided me with everything and more throughout my life and I am privileged and grateful for this. The greatest gift you could ever give me; my education.

To my extended family and friends, and especially those who contributed in their various ways and means; thank you. To my partner, Rucha for all the love you have shared; you were the driving force that pushed me over the finish line, and I owe much of this to you.

Finally, to my supervisor, Prof Pieter Fourie, for his continuous support, guidance, and patience in the process of writing this thesis. Your knowledge, wisdom, patience, and understanding has been second to none. Your light-hearted disposition and encouraging demeanour helped carry and motivate me, and I thank you for walking this long road with me.

List of acronyms

| | |
|--------|--|
| ALF | Armed Forces of Liberia |
| ASL | Ansar al-Sharia |
| AU | African Union |
| BRICS | Brazil, Russia, India, China, South Africa |
| ECOWAS | Economic Community of West African States |
| ECOMIL | ECOWAS Mission to Liberia |
| ECOMOG | ECOWAS Cease-fire Monitoring Group |
| EU | European Union |
| FSA | Free Syrian Army |
| G-4 | Group of Four |
| GA | General Assembly |
| GNA | Government of National Accord |
| GNC | General National Congress |
| ICC | International Criminal Court |
| ICISS | International Commission on Intervention and State Sovereignty |
| ICJ | International Court of Justice |
| IMF | International Monetary Fund |
| IR | International Relations |
| IS | Islamic State |
| HOR | House of Representatives |
| HRW | Human Rights Watch |
| MENA | Middle East and North Africa |
| NAM | Non-Aligned Movement |
| NATO | North Atlantic Treaty Organisation |
| NFPL | National Patriotic Front of Liberia's |
| NPT | Nuclear Non-proliferation Treaty |
| NTC | National Transitional Council |
| OPCW | Organisation for the Prohibition of Chemical Weapons |
| P5 | Permanent five |
| P3 | Permanent three |

| | |
|--------|-------------------------------------|
| QCA | Qualitative Comparative Analysis |
| R2P | Responsibility to Protect |
| SDF | Syrian Democratic Forces |
| UK | United Kingdom |
| UN | United Nations |
| UNGA | United Nations General Assembly |
| UNOSOM | United Nations Operation in Somalia |
| UNSC | United Nations Security council |
| UNSMIL | UN Support Mission in Libya |
| US | United States |
| WMD | Weapons of Mass Destruction |
| WTO | World Trade Organisation |

Table of contents

| | |
|---|-----------|
| Declaration..... | i |
| Abstract..... | ii |
| Opsomming..... | iii |
| Acknowledgements..... | iv |
| List of acronyms | v |
| 1. Chapter 1: Introduction to humanitarian intervention..... | 1 |
| 1.1 Background and rationale | 1 |
| 1.2 Humanitarian intervention in Libya..... | 3 |
| 1.3 Humanitarian intervention in Syria..... | 4 |
| 1.4 Problem statement..... | 5 |
| 1.5 Research question | 7 |
| 1.6 Theoretical framework: English School and the problematising of sovereignty | 7 |
| 1.7 Research design and methodology..... | 11 |
| 1.8 Ethical consideration..... | 13 |
| 1.9 Outline of the study..... | 13 |
| 2. Chapter 2: Humanitarian intervention and the UN | 15 |
| 2.1 Introduction..... | 15 |
| 2.2 History of humanitarian intervention..... | 16 |
| 2.3 The legitimacy of intervention in international law | 21 |
| 2.4 The UN – A political organ..... | 25 |
| 2.5 UN Reform..... | 28 |
| 2.6 Responsibility to Protect..... | 30 |
| 2.7 Institutionalisation of R2P | 33 |
| 2.8 Concerns, legality, and opposition..... | 38 |
| 2.9 Conclusion | 40 |
| 3. Chapter 3: Theoretical Grounding – The English School | 41 |
| 3.1 Introduction..... | 41 |
| 3.2 The English School..... | 43 |
| 3.3 Pluralism and solidarism..... | 46 |
| 3.4 Solidarism, pluralism, and humanitarian intervention | 49 |
| <i>Table 1: Differences between pluralism and solidarism.....</i> | <i>53</i> |
| 3.5 R2P and the UN | 54 |
| 3.6 Sovereignty explained..... | 58 |

| | | |
|------|--|-----------|
| 3.7 | Types of sovereignty..... | 59 |
| 3.8 | Logic of appropriateness and logic of consequence | 63 |
| 3.9 | The utility of the English School | 65 |
| 3.10 | Conclusion | 67 |
| 4. | Chapter 4: The Libyan case study..... | 68 |
| 4.1 | Introduction..... | 68 |
| 4.2 | Gaddafi’s Libya | 69 |
| 4.3 | The Arab Spring: Libya and the UN-led intervention | 72 |
| 4.4 | Intervening self-interests..... | 75 |
| 4.5 | Libya: post-Gaddafi | 79 |
| 4.6 | Conclusion | 80 |
| 5. | Chapter 5: The Syrian case study..... | 83 |
| 5.1 | Introduction..... | 83 |
| 5.2 | Origins of the conflict | 85 |
| 5.3 | The Syrian Arab Spring and the resultant civil war..... | 87 |
| | <i>Figure 5.1: Timeline of the Syrian crisis</i> | <i>89</i> |
| 5.4 | UNSC stalemate and the veto | 91 |
| 5.5 | The Proxy war – regional and geopolitical interests | 93 |
| 5.6 | Regional interests – Saudi Arabia and Iran..... | 94 |
| 5.7 | Geopolitical political interests – Russia and the US | 96 |
| 5.8 | Conclusion | 99 |
| 6. | Chapter 6: The conclusion | 101 |
| 6.1 | Introduction..... | 101 |
| 6.2 | Summary of the study | 102 |
| 6.3 | Answering the research questions..... | 104 |
| 6.4 | Solving the research problem..... | 107 |
| 6.5 | Opportunities for further research..... | 108 |
| | Bibliography | 109 |

1. Chapter 1: Introduction to humanitarian intervention

1.1 Background and rationale

The social contract allows humanity to escape the brutish state of nature by relinquishing certain rights to the state in exchange for the protection of their remaining rights. Thus, the responsibility to protect its citizens from atrocities such as genocide, ethnic cleansing, and other crimes against humanity lies with the sovereign state. The Universal Declaration of Human Rights states that everyone has the right to life. The United Nations highlights, in the first chapter of its Charter, its responsibility to uphold human rights, and the protection of the lives of people. Realists argue that the protection of sovereignty is rooted much deeper in international law than the protection of human rights (Jubilut, 2012:310). Holding both human rights and the protection of sovereignty as core tenets in the international arena presents an axiological clash of ideologies, as both concepts are seen as core values in the 21st century international arena. This clash is most visible in the practice of humanitarian intervention when the use of force within the sovereign territory of another state is required to protect the human rights of a state's citizenry.

Humanitarian intervention is an emerging norm (this concept will be defined and detailed in Chapter 2) that calls for the protection of civilians when a state has blatantly failed to uphold its responsibility to its people. Throughout recent history, we have repeatedly seen states manifestly fail to protect their citizens from gross atrocities such as genocide and ethnic cleansing (the Cambodian Genocide, 1975-1979; Bosnian Genocide, 1992-1995; Rohingya genocide in Myanmar, 2016-present). The end of the Cold War signalled a new era in the international arena as the international community appeared to be injected with new vigour, as the United Nations Security Council authorized the use of "all necessary means" to create safe havens in instances of internal conflict and humanitarian relief, as early as December 1992 and April 1993. However, humanitarian intervention has always been more popular in theory than in practice and, as a result, we have seen the consequences of the United Nations Security Council's (UNSC) failure to react timeously in Rwanda, Kosovo, Myanmar, Darfur, and most recently, Syria.

In 2001, the horrors of the Rwandan genocide and the Kosovo War, led former UN Secretary-General Kofi Anan to challenge the international community to develop a new consensus to overcome the conflicting values of sovereignty and humanitarian intervention (Pradhan, 2017:2). The Canadian organisation, the International Commission on Intervention and State Sovereignty (ICISS), heeded the call to develop a new consensus and birthed the Responsibility

to Protect (R2P) report in 2001 (Law, 2017:90). According to the ICISS report, R2P should be seen as a response to the failure of the UNSC to intervene militarily in instances of gross human rights violations, as well its inability and unwillingness to stop mass atrocity and genocide (Pradhan, 2017:3).

The R2P report attempted to create a new norm of international law that fundamentally challenges the Westphalian notion of sovereignty by making a state's sovereignty contingent on its obligation to protect its civilians from mass violence (Cronogue, 2012:141). In the initial report, the ICISS outlined three core elements of R2P: the responsibility to prevent, the responsibility to protect, and the responsibility to rebuild (Berrang, 2014:2). Apart from the non-enforceable coercive measures, the responsibility to protect doctrine includes the possibility of military intervention. Six criteria have been imposed on military intervention: just cause, right intention, last resort, proportional means, reasonable prospects, and right authority (these concepts will be explained in Chapter 2) (Berrang, 2014:2). As the ICISS was aware of the problems regarding the UNSC and its use of the veto, it recommended a code of conduct that prevents the permanent five members – the United States, United Kingdom, France, Russia, China – (P5) from using their veto when a majority resolution has been passed if their own state's interests are not at stake (Berrang, 2014:2).

The introduction of R2P was supposed to be a radical shift in the way the international community dealt with issues of genocide, ethnic cleansing, and other crimes against humanity. Despite its ambitious attempt at reforming international community approaches to humanitarian crises, many scholars argue that original components of R2P had been watered down once it had made its way through the draft stage in the General Assembly (GA), and been adopted at the 2005 World Summit Outcome (Jubilut, 2012:326). The crimes responsible for triggering R2P were limited to only genocide, war crimes, ethnic cleansing, and crimes against humanity. After rigorous and tough negotiations, a compromise version of the original report was adopted by the World Outcome Summit in 2005 (Berrang, 2014:2).

R2P had its first chance to shine on the world stage when the Arab Spring hit Libya in 2011, ushering in countrywide protests and subsequent mass killings and human rights violations by the former Prime Minister, Muammar Mohammed Abu Minyar al-Gaddafi (Gaddafi). However, the excitement surrounding R2P was short-lived after it became apparent that the North Atlantic Treaty Organisation (NATO) had gone beyond its mandate by not only failing to sufficiently prevent the killing of innocent civilians, but also orchestrating a regime change

and overthrowing Gaddafi (Akbarzadehl and Saba, 2018:6). Since NATO's intervention, many argue that Libya is in a worse state than prior to the NATO bombing campaign, as the country has been in a de facto state of civil war, with two competing militia governments fighting for power and the state's oil resources since 2014 (Blanchard, 2016:3). Today Libya remains politically fragmented, with its security threatened by terrorist groups and interim authorities unable to form a stable government.

R2P appears to have failed to become the norm in international law that its creators hoped it would be, due to the ideological divide it fails to address, as it fundamentally challenges notions of sovereignty (Cronogue, 2012:141). Humanitarian intervention not only faces the challenge of addressing the "problem of sovereignty", but it also faces the problem of overcoming the limitations on the use of force prescribed by the UN Charter (Jubilut, 2012:313). The UN Charter was created within the paradigm of an international system that valued non-intervention as an integral aspect of state sovereignty (Jubilut, 2012:312). Sovereignty can be understood as one of the foremost normative structures on which international society is built (Ayoob, 2002:82). Humanitarian intervention, and more specifically military intervention, appears to be in direct contention with the normative concept of state sovereignty.

1.2 Humanitarian intervention in Libya

When the Arab Spring hit Libya in February 2011, thousands took to the streets calling for the removal of former Libyan leader, Muammar Gaddafi. Gaddafi responded with callous disregard for civilian life, killing hundreds of protestors in just the first few days of protests (Cronogue, 2012:141). In February 2011, the UNSC began an investigation into the situation in Libya through its 1970 Resolution (Jubilut, 2012:20). The then Secretary-General, Ban Ki-Moon briefed the Council, citing reports that nearly 1 000 people had been killed by violent indiscriminate use of force (Bachman, 2015:58). This was the first time the UNSC had ever explicitly mentioned the state's "Responsibility to Protect" (Jubilut, 2012:21). On 17 March 2011, the UNSC passed Resolution 1973, which authorized military intervention in Libya, aimed at protecting the lives of civilians (Kuperman, 2015:1). This was the first time R2P had been explicitly referenced in the wake of a humanitarian crisis, followed by the use of military force.

Following the adoption of Resolution 1970, violence in Libya escalated in the subsequent three weeks between the rebel groups and Gaddafi's security forces. On 17 March, France prepared Resolution 1973 which authorized a no-fly zone and called on member states to take "all necessary measures to protect civilians and civilian populated areas under threat of attack in

Libya" (Morris, 2013:1271). The resolution was passed with Russia, China, India, Brazil, and NATO member Germany abstaining from voting (Bachman, 2015:59). This was the first UN-mandated military intervention in a sovereign state, which the state's government did not consent to in the history of the organisation (Morris, 2013:1271). In response to the widespread human rights abuses recorded by UN observers, the United States, along with NATO, intervened with an airstrike (Pradhan, 2017:8). The death of Gaddafi and subsequent overthrowing of his regime set the stage for the current socio-political and economic fragility that Libya finds itself in today.

Russia and many other states have criticized NATO for allegedly exceeding their mandate, and orchestrating a regime change in Libya. However, supporters of NATO argue that the situation had reached a point where overthrowing Gaddafi was the only viable option (Pradhan, 2017:9).

1.3 Humanitarian intervention in Syria

It appears the excessive use of force and apparent use of R2P as a means of regime change has undermined any hope the UN may have of taking effective action in Syria. The Syrian crisis faces a plethora of problems and roadblocks which undermine the principle of humanitarian intervention in both international relations and international law (Halliyadde, 2016:215).

As the UNSC was locked in debate on what became Resolution 1973 concerning the Libyan crisis, popular waves of the Arab Spring had arrived in Syria. By the end of January 2011, swarms of protestors took to the streets and by March, Syrian President Bashar al-Assad had switched to increasingly violent tactics (Fung, 9:2015). The end of March 2011 saw several protesters shot and killed by the Syrian government, after the protesters demanded the release of political prisoners (Halliyadde, 2016:216). The retaliation by the Syrian government triggered widespread outrage from the Syrian people and resulted in days of violent protest that steadily spread nationwide over the following months (Halliyadde, 2016:216). In April 2011, the UNSC held its first meeting to discuss the situation in Syria, where many delegates strongly condemned the gross human right violations in the country.

In the first five months of the Syrian violence, the Council was unable to reach consensus on issuing a non-binding Presidential Statement due to divisions on how to interpret the situation (Gifkins, 2012:1). On 4 October 2011, Russia and China vetoed the first draft resolution, and have gone on to veto a further twelve and six draft resolutions, respectively (Iyase, Folarin, 2018:107). This apparent paralysis of the UNSC is likely due to the various geopolitical

considerations and complexities currently at play, as many observers see Syria as the stage of a regional and global proxy war.

Unlike the Libyan crisis, the Syrian crisis attracts a host of challenges as it is the centre of gravity for a number of complicated and increasingly unpredictable dynamics around a growing power struggle between the regional and international actors. As a result of regional competing interests, Syria has become a proxy war between the *Sunni axis* consisting of Turkey, Saudi Arabia, Qatar, and Egypt versus, the *Shi'a crescent* comprising of Iran, Iraq, Syria, and Lebanon. On the international front, and within the UNSC, China and Russia have shown support for the ruling regime, while US, France, and Britain among other European countries, support the opposition and various rebel groups. At the end of September 2015, the situation developed an extra degree of complication when Russia began conducting airstrikes in Syria to combat the US-backed rebels, as well as terrorist groups, at the request of the Assad regime. Russia's aggressive entry into Syria transformed the civil war into a proxy US-Russian conflict, effectively paralysing the UNSC (Stent, 2015:106). This regional and international political fragmentation underlies the current quagmire of a humanitarian intervention (Demir and Rijnoveanu, 2013:61).

On 4 April 2017, one of the deadliest uses of chemical weapons was conducted by the Syrian government, killing at least 83 people and injuring more than 293 (Brooks et al, 2018:1). The use of chemical weapons likely amounts to war crimes, as their use constitutes a flagrant violation of international law, particularly the 1993 Chemical Weapons Convention (CWC) (Brooks et al, 2018:1).

Despite the mounting evidence of atrocities and war crimes, veto-wielding states such as Russia and China have remained opposed to the use of R2P and greater military intervention sanctioned by the UNSC or NATO as a means to resolve the crisis. This has instead led to disagreeing governments making unilateral decisions in the Syrian quagmire and subsequently, reinforcing the notion held by many critics of humanitarian intervention that pragmatism and self-interest, and not normative considerations, affect states' behaviour (Welsh, 2013:388). Despite the pleas for intervention by many Western states, the UNSC remains in deadlock on this issue.

1.4 Problem statement

Humanitarian intervention has always been a hotly contested topic of debate in the field of International Relations, with no consensus on its legitimacy or legality being reached.

Humanitarian intervention is in direct violation of the UN Charter, which prohibits the use of force on member states. States have been willing to work around this prohibition of force and respect for sovereignty, but only when it suits their interests.

The statements by both former UN Secretary Generals Boutros Boutros-Ghali and Kofi Annan, claiming that state sovereignty is not absolute and exclusive and that it can be overridden in certain instances, demonstrates the inherent tension between international concern translating to intervention on humanitarian grounds, and the upholding of Westphalian sovereignty. This can be further translated to the tension that exists between traditional realism, and liberal institutionalism embedded within the fabric of the UNSC.

The Security Council appears to be an organisation birthed from realist ideologies and principles, cloaked as a liberal institution. Given the Council's track record, it appears to only adhere to these liberal ideals when it suits the interests of its powerful members. Concepts such as veto power, permanent membership, the rejection of liberal reforms, and its apparent inability to overcome the problem of sovereignty, are testament to its realist ideals and values, which appear to be in contestation with the liberal aims and goals of its Charter. Despite its mandate of using multilateral decisions for the maintenance of international peace and security, the protection of human rights, and various other liberal ideals, the Council and the international community have been unable to ameliorate the current norms and challenges facing humanitarian intervention and the protection of human rights.

The UNSC was formed out of the need for a multilateral approach to the maintenance of international peace and security. However, since the 21st century, this mandate has been extended to the upholding and protection of human rights in the face of gross atrocities. In recent years, this has been one of the biggest challenges facing the Council and the international community at large, with the UNSC being unable to fulfil its new mandate. Instead, it has been paralysed with arguments and considerations of sovereignty as the P5 are unable to reach consensus on the value and interpretation it places on state sovereignty.

Fundamentally, this study will concern itself with the following problem: *The Westphalian interpretation of sovereignty and the UNSC's various interpretations of sovereignty appear inherently incompatible with its mandate of upholding human rights and intervening when gross human rights, crimes against humanity, and various war crimes have been committed.*

1.5 Research question

One primary question and three sub-questions will be addressed in this research paper. The primary question can be articulated as follows: *Using the events of Libya and Syria as case studies, why has the UN been unable to reach consensus on humanitarian intervention?*

The sub-questions which will be explored in this study are:

- Has the interpretation of Westphalian sovereignty nullified the practice of state sovereignty from an absolute right of rule free from any and all external influence, to a responsibility to protect its citizens from mass atrocities?
- Can R2P be ratified by the UN in order to address humanitarian intervention in the international arena?
- Should the UN and its other major organs be allowed to exercise control over and interference in sovereign states in times of humanitarian crises?

1.6 Theoretical framework: English School and the problematising of sovereignty

To address the debate of sovereignty versus humanitarian intervention, the theoretical point of departure will consist of a deep deconstruction, critique, and problematising of the concept of sovereignty. This section will draw from Stephen D. Krasner's *Sovereignty: Organized hypocrisy* (1999) as well as Krasner's *Problematic Sovereignty: Contested Rules and Political Responsibilities* (2001). Drawing on Krasner through the use of English School theory, this study will explore whether arguments relating to sovereign integrity and the right of non-interference from external actors can be used as a justification in the face of mass atrocities and human rights abuses. Using English School theory, this study will show that the principle of sovereignty and humanitarian intervention are not contradictory principles in contestation with one another. This section will reveal the rules and norms relating to sovereignty that have repeatedly been violated by actors in the international arena. Finally, this critique on sovereignty will attempt to reveal that the concept of sovereignty as envisioned by the signatories of the Treaty of Westphalia has never truly existed.

The English School effectively occupies the middle ground in International Relations alongside constructivism, as it purports to explain the international system that combines theory and history, morality and power, agency and structure (Dunne, 2011:2). In a bid to address the historical and sociological facets of sovereignty, a historical, constructivist, and methodologically pluralist approach will be taken.

The English School's foundational understanding of International Relations is based on a tripartite distinction amongst international system, international society, and world political system. International Relations is therefore viewed through the three mainstream theories: realism, constructivism, and liberalism (Buzan, 2001:474).

International system (realism) understands the power and hierarchical relationship between states and the existence of international anarchy. International society (constructivism) recognises the institutionalisation of shared interests, rules, identity, shared norms, and institutions as the main focus of the English School. World political system (liberalism) recognises non-state organisations and fundamentally the global population as a whole (Buzan, 2001:475).

Theorists of the English School posit that the international system and international society possess an evolutionary nature, as the existence of the society presupposes the existence of the system (Dunne, 2011:19). According to Hedley Bull, an international system is formed when two or more states behave as part of a whole due to the potential impact their actions and decisions may have on one another. A system between states is formed when there is sufficient interaction between states that the behaviour of each is a necessary element in the calculation of the other (Bull, 2012:10). These states and the system they form exist within anarchy and lack the mutual recognition or acceptance of a common framework of international law, institutions, and norms (Dunne, 2011:10).

Meanwhile, an international society may evolve from an international system when a group of states within a system becomes conscious of certain common interests and common values, so that they conceive themselves to be bound by a certain framework of international laws, the machinery of diplomacy, the adherence to institutions, and the formation and acceptance of norms (Bull, 1977:13). However, this society of sovereign states possesses no centralised governmental structure, as it remains an anarchical society of sovereign states but bound by the social norms, rules, laws, and institutions that they have constructed amongst themselves (Suganami, 2010:19). According to Suganami, the key feature of this society is that states are still bound by international law despite being sovereign whilst operating in an anarchical arena. The English School overcomes the apparent contradiction between sovereignty and states being bound by international law by looking at the generative grammar used to explain and understand sovereignty (Suganami, 2010:19). Krasner takes the English School's approach and

looks at the various meanings and interpretations of sovereignty and attempts to distinguish between the various types of sovereignty.

According to Krasner, sovereignty can be understood in four different ways, namely: international legal sovereignty, Westphalian sovereignty, domestic sovereignty, and interdependence sovereignty (Krasner, 1999:5). These various conceptual approaches differ in terms of rules and logics of appropriateness; however, this study will focus its critique primarily on Westphalian sovereignty and, to a lesser extent, on international legal sovereignty. Krasner states that Westphalian sovereignty refers to the absence of external actors in a political organisation within a given territory, while international legal sovereignty refers to mutual recognition between two territorial entities with formal judicial independence. Both conceptions of sovereignty involve issues of authority and legitimacy, with its distinct logics of consequences and logics of appropriateness (Krasner, 1999:5). Krasner explains that the logic of consequences understands political action and outcomes as the product of rational calculating behaviour as a means to pursue a state's self-interest. Logics of appropriateness govern states' behaviour in given situations, as it sees political action as a product of rules, roles, and identities (Krasner, 1999:5).

Krasner refers to the non-intervention rule as Westphalian sovereignty; using a plethora of examples from the Cold War period, he explains that the principle has been honoured more in its violation than its adherence. Westphalian sovereignty has never been a principle capable of constraining the behaviour of state actors following a logic of consequence rather than a logic of appropriateness, as they have been seen to interfere in the affairs of other states when they deem it necessary to do so and within the boundaries of their power (Karp, 2008:323). This persistent challenge on Westphalian sovereignty, therefore, opens up the door for the establishment of new laws, and an international framework for concepts such as humanitarian intervention.

Intervention, namely armed intervention in the face of gross violations of human rights, has raised hotly contested debates, as humanitarian intervention appears to directly violate certain interpretations of sovereignty. Moral and ethical calls for violating the "supernorm" that is sovereignty have failed to be ratified and established in international law, so these interventions have traditionally occurred within a legal grey area (Dahlman, 2009:33). Sovereignty has always been presented as inherently incompatible with humanitarian intervention, both within

the practice of the international system and certain schools of International Relations (IR) thought.

When analysed through the Westphalian archetype, sovereignty and human rights are placed as co-existing international principles inherently contradicting one another in terms of policy prescription and adherence to the UN Charter. A state's right to sovereignty and human rights is put into a zero-sum competition, with one prevailing principle being upheld at the expense of the ability to uphold and enforce the other. However, the English School overcomes this false dichotomy with its solidarist argument, which holds that the international society can and does reach agreements about substantive moral standards and that the international society possesses moral agency allowing it to uphold these standards (Bellamy, 2003a:324). English School theorists state that a solidarist international society consists of a group of states that comprise the society which displays a degree of solidarity when developing international laws and frameworks. When the use of force is employed under the authority and recognition of international law, that use of force is seen as legitimate. This act of law enforcement can extend to the upholding of society's moral purpose (Bellamy, 2003a:324). R2P and its use in 2011 can be seen as the solidarist agreement within international society as to what constitutes a supreme humanitarian emergency and a legitimate act of intervention (Bellamy, 2003a:324).

The English School and its solidarist argument, therefore, claims that sovereignty is not a veil that tyrants, dictators, and human rights abusers can hide behind, as the international society has developed a world political system that adheres to values and moral concepts such as human rights, which, if violated, in extreme cases could confer the right to armed intervention (Bellamy, 2003a:325). This pluralistic approach by the English School appears to be better suited to addressing the problem of sovereignty and armed intervention than other mainstream theories.

Due to its pluralistic approach, Krasner's use of English School appears to be more effective than mainstream theories at addressing the problem of sovereignty as it seeks to provide a synthetic account of the rules of sovereignty that avoids the series of false dichotomies given by alternative theories such as power versus norms, materialism versus idealism, anarchy versus hierarchy, reasons versus causes (Dunne, 2011:8). The English School asserts that international relations and the rules within the system are made rather than given (Williams, 2013:11).

Neorealist and neoliberal institutionalists take Westphalian sovereignty as an analytic assumption or a given. The English School perceives sovereignty to be an internalised norm that has guided and not determined the behaviour of international actors (Krasner, 1999:44). Individually, neorealism and neoliberalism are seen as actor-orientated theories, as they understand states as unified autonomous actors. These actor-orientated theories solely focus on cause-and-effect relationships and material outcomes, whilst ignoring the presence of norms and social constructs enforced, changed, and violated by actors (Krasner, 1999:44).

Although liberalism appears to fundamentally exist antagonistically to the ideas and concept of Westphalian sovereignty, liberal theories and their various approaches to sovereignty appear to lack the ability to critically critique the practice of state sovereignty. It emphasises the autonomy of the individual, encompassing both person and state, whilst ignoring the hierarchical construction of the international system (Prokhovnik, 1999:68). Due to most liberal theories' lack of acknowledging the practice of state sovereignty, liberalism confuses the conception with the concept (Prokhovnik, 1999:68).

Liberal and globalisation theorists often assert that the state, in its current Westphalian context, is no longer a viable unit of analysis (Harrison, 2006:1). However, due to the composition and dynamics of the UNSC and the contested debates surrounding humanitarian intervention, English School theory appears best suited to tackle the problem of sovereignty.

1.7 Research design and methodology

To explain why humanitarian intervention has failed in the 21st century, this study consulted a plethora of academic journals, books, and online sources as points of reference. This research project is for the most part limited to a desktop study, as the method used to collect information is through the consultation of online secondary sources. Gathering data in the offline world comes with severe limitations, such as high costs, time spent searching, as well as the limited amount of data sources available in the digitalised age (Blank, 2008:6). For reasons such as declining cost, ease of accessibility, and ease of storage, desktop research continues to grow in popularity, a trend which is likely to encourage more use of online data in the future (Blank, 2008:6).

To fully understand why humanitarian intervention has failed in the 21st century, this study will draw on Stephen Krasner's work, *Sovereignty: An Organized hypocrisy* as the theoretical point of departure, as this study aims to problematise a theoretical principle without being bound to one theoretical point of analysis.

This research project will also make use of two case studies, comparing them in an attempt to draw a conclusion as a means to answer the main research question. The case study has a *contextual* or *descriptive* design as it aims to explore the differences between the two states and the variables that lie therein. The descriptive section of the case study attempts to give context to the events of Libya and Syria and attempts to explain *why* these atrocities occurred and the forces and influences that drive their occurrences. Case studies are seen as a useful methodological approach when attempting to answer “How?” and “Why?” questions, and in this role, it will be employed for explanatory research (Rowley, 2002:16). According to Rowley (2002), case studies are also effective when analysing contemporary events and the subject’s relevant behaviour. Case studies also allow researchers to use a variety of evidence from sources such as documents, artefacts, interviews, and observations (Rowley, 2002:16).

This research paper will make use of the qualitative comparative analysis (QCA) technique. The QCA approach is a way to envisage the relationship between theory and evidence derived from case studies (Rihoux, 2006:681). QCA can be understood as a research strategy at the epistemological level as well as a set of techniques. The QCA approach embodies certain strengths of the qualitative case study approach. It uses a holistic approach as it considers each case study as a complex entity that feeds into the analysis during the study (Rihoux, 2006:682) (Kennedy et al, 2016:7).

The sources used focused on themes relating to sovereignty, the theoretical critique of sovereignty, humanitarian intervention, R2P, the United Nations, the first Libyan Civil War, the 2011 military intervention in Libya, and the Syrian civil war. Due to the nature of the research question and sub-questions in this research project, a qualitative approach will be taken to accurately tackle the research topic at hand. According to Pierce, a qualitative method is preferred when attempting to explain the complexities of social and political life (Pierce, 2008:45). Qualitative methods demonstrate particularly well the merits of rigorous and stringent comparative methods (Berg-Schlosser, 2012:85). The qualitative method also allows the focus to be shifted from the individual to the group as a way to show how meanings are negotiated between members and the dynamics involved when dealing with complex and intertwined systems (Pierce, 2008:45). Qualitative methods allow for accurate “case-orientated” as opposed to “variable-orientated” comparisons to be made. It also allows for contextually sensitive and historically rigorous explanations to be explored, giving equal importance to each particular case (Berg-Schlosser, 2012:85).

1.8 Ethical consideration

Addressing ethical considerations is imperative when conducting research in the social sciences. In recognition of the ethical codes of conduct and in accordance with the policy for responsible research conduct at Stellenbosch University, this study ensured that all relevant ethical standards and approaches have been applied. Although the nature of the study was low risk, as no primary data was collected, this study adhered to the data collection and storage protocols as guided by the policies of Stellenbosch University. I understand that plagiarism is an offence against the laws of the Republic of South Africa and the regulations of the University. All information, quotes, and resources used throughout this study will be acknowledged in text as well as in the reference list.

1.9 Outline of the study

Chapter 1 provided a brief introduction to the study as well as a framework of how the study will be carried out. The chapter, therefore, identified the study's research focus, questions, and aims, the research methodology and theoretical framework that will be employed to analyse the case study.

Chapter 2 will be a literature review on Humanitarian Intervention. This chapter will concern itself with the history of humanitarian intervention, looking at its evolution through time and how it was practised versus its current state. Chapter 2 will briefly look at the contested discourse on state sovereignty and explore the legality of humanitarian intervention. Finally, the chapter will address humanitarian intervention in the UN and R2P in greater detail.

Chapter 3 will be a theoretical chapter critically dealing with sovereignty and drawing on Krasner's, *An organized hypocrisy*. This chapter will briefly outline the history of the concept, dealing with its evolution and practice, and an interpretation thereof. The chapter explores the theoretical and methodological underpinnings of Krasner's contribution to the deconstruction of state sovereignty from a neorealist presumption into an object of sustained inquiry.

Chapter 4 will introduce the first of the two case studies by discussing the humanitarian intervention in Libya. The first section of this chapter will be descriptive, as it briefly outlines the 2011 Libyan Civil War. The chapter will further detail the considerations explored by the UN and other international bodies to intervene, comparing the arguments for and against intervention. This section will also critically discuss the use of R2P, assessing its successes and failures.

Chapter 5 will discuss the lack of humanitarian and armed intervention in Syria. This section will be used to compare the events in Libya to those in Syria, and critically assess the similarities and differences in an attempt to understand why the UN has been unable to come to a consensus on the use of R2P

Chapter 6 draws conclusions based on the study as a whole. These conclusions address the identified research problem and research questions. Conclusions are also offered on humanitarian intervention in the 21st century and the role of the UN and other bodies in addressing the Libyan and Syrian crises.

2. Chapter 2: Humanitarian intervention and the UN

2.1 Introduction

To fulfil the aim of this study, which is to understand why the UN has been unable to find a consensus on humanitarian intervention, I will critically analyse and survey the literature relating to the relationship between the UN and humanitarian intervention. The aim of this chapter is to provide a clear, thorough, multi-layered, and holistic understanding of what humanitarian intervention entails, its previous manifestations, and its current place within the international arena in the 21st century.

To provide a clear conceptual picture of humanitarian intervention and the UN's relationship with the concept, this chapter will give a brief outline of the history of humanitarian intervention and show that this controversial doctrine has existed throughout history and is not a contemporary take on the protection and enforcement of human rights. I will proceed to explore the relationship between humanitarian intervention and states by assessing its legality and briefly touching on intervention in international law.

By briefly looking at humanitarian intervention's relationship with international law, this chapter will explore the sub-questions relating to the UN's ability to ratify the Responsibility to Protect (R2P) to sufficiently address the conundrum of armed intervention without the explicit invitation of the receiving state. To address this sub-question, I will explore literature touching on international law and international customary law; however, the aim of the paper is not to give a breakdown of the mechanisms and systems of international law as it is beyond the scope of this study. This section will make extensive use of the literature by academics such as Joel Westra and David Vesel, whilst critically interrogating the UN Charter. Furthermore, this chapter will interrogate literature concerning the political dynamics and structure of the UN in a bid to understand why the UN has been unable to make meaningful progress in overcoming structural hurdles facing the organisation. Finally, the chapter will critically engage with R2P and its role in the international arena

By engaging with the literature on R2P this study will critically analyse core tenets of the R2P concept in an attempt to understand why this seemingly controversial topic has been unable to live up to the expectations its creators had initially hoped. This chapter will critically engage and explore the above-mentioned subjects to fully answer the research question and its accompanying sub-questions.

2.2 History of humanitarian intervention

The problem of how to address widespread human suffering and violations of human rights has generated a plethora of debates and literature among governments, diplomats, academics, and media publications alike. The tension at the centre of this debate lies between the principle of sovereignty, a defining pillar of the United Nations (UN) system, and norms related to human rights. Most academic discussions surrounding humanitarian intervention focus on the question of whether there is a legal right of humanitarian intervention, whilst failing to take the history and norms of such actions into account, failing to acknowledge any past instances of humanitarian interventions (Welsh, 2003:1). Given the international stand-off period of the Cold War and the proliferation of interventionism in the 1990s and the ongoing debate, most scholars and governments mistake humanitarian intervention to be a recent phenomenon born in the 1990s due to the proliferation of armed intervention based on humanitarian grounds during that decade. 1991 saw operation “Safe Haven” and “Provide Comfort” for the Kurds in Northern Iraq, whilst 1992 saw the US & UN intervention in Somalia, Bosnia (1992-1995), the Economic Community of West African States’ (ECOWAS) intervention in Liberia (1991-1997) and (1999-2003), followed by NATO’s intervention in Serbia/Kosovo in 1999 (Heraclides, 2012:215). Despite the proliferation of humanitarian intervention in the 1990s, armed intervention is widely regarded as an old concept, which can be traced as far back as St. Augustine (354-430) and Thomas Aquinas (1225-1274) in their doctrine of “a just war” (von Elbe, 1939:668-670). Despite the concept’s early origins, it was not until the 19th century that it became more established.

In 1880 William Edward Hall, a British jurist and aesthete, first coined the term “Humanitarian Intervention” in his acclaimed *International Law*. However, he had not conceived the concept, as other terms had been previously used, such as “intervention of the general interests of humanity” and “intervention for humanity” corresponding to the French term, *intervention d’humanite*, or “intervention of the ground of humanity”, “intervention on the behalf of humanity”, all of which meaning the same thing (Heraclides & Dialla, 2015:12). From the 1830s to the 1930s humanitarian intervention was interpreted as “*interfering for the purpose of vindicating the law of nations against outrage in the interests of humanity for the purpose of stopping religious persecution and endless cruelties in times of peace and war*” (Heraclides & Dialla, 2015:12).

In 1912 Ellery Stowell, with the experience of the 19th century in mind, defined humanitarian intervention as “*reliance upon force for the justifiable purpose of protecting the inhabitants of*

another state from treatment which is so arbitrary and persistently abusive as to exceed the limits of that authority within which the sovereign is presumed to act with reason and justice” (Stowell, 1912:51). The term humanitarian intervention had undergone a series of changes and adjustments concerning its definition as interpretations of the term varied and vary to this day.

Despite competing definitions and debates about the term's origin, the intervention by Britain, Russia, and France in the Greek War of Independence (1821-1832) is largely perceived to be the first armed intervention on humanitarian grounds (Heraclides & Dialla, 2015:12). 1821 marked the beginning of the Greek War of Independence when Greek revolutionaries waged war against the ruling Ottoman empire. During the early stages of the revolution, Greek nationalists massacred thousands of Turks in the Peloponnese, however as the violence intensified both sides committed atrocities killing tens of thousands (Onuf, 2004:766). As the massacres involving Greek protestant Christians continued, religious sentiment to intervene was seen as an easy choice for Russia, a state already predisposed to intervention in general. Once the news of the atrocities committed and the plight of the Greeks had reached the rest of Europe, humanitarian and religious concerns fuelled public opinion in Great Britain, France, and Russia which led to the eventual intervention in 1827 and the independence of Greece in 1829 (Onuf, 2004:768).

The French intervention in Lebanon and Syria during the 1860 Mount Lebanon civil war is regarded as the second armed intervention based on humanitarian grounds during the 19th century (Heraclides & Dialla, 2015:148). Intercommunal tension in Lebanon and Syria peaked in 1860 when thousands of Maronite Christians were massacred by Muslim Druze groups in the area around Mount Lebanon (Karakatsanis, 2016:243). This conflict stemmed from decades-long tension between the groups, following the 1839 edict which granted non-Muslim Ottoman groups equal status to Muslims in the Ottoman empire. In July 1860 Muslim Druze groups rioted and protested the deteriorating economic conditions, subsequently targeting peasant and lord Maronite Christians, whom they believe was the cause of the deteriorating conditions (Fawaz, 1984:489) (Makdisi, 2002:601).

Moreover, since England and France had been acting as the protectorate of the local Christian groups, the two governments started exerting significant diplomatic pressure on the Ottoman empire once the news of the massacres had reached Europe (Karakatsanis, 2016:244). The presence of French and British warships in the Beirut harbour was one of the methods used to apply pressure on the Ottoman government. In 1860, French troops, alongside the Ottomans

stepped in to militarily intervene in the civil war which had broken out and oversaw the disarmament process of the Druze and the punishment of the perpetrators. In 1861 the events concluded after a multipartite committee agreed to establish a new governing regulation for the area (Karakatsanis, 2016:244).

The Bulgarian atrocities of 1876 triggered a wider international reaction by the great powers in what is known as the Great Eastern Crisis of 1875-1878 (Heraclides & Dialla, 2015:148). In April 1876 Bulgarian revolutionaries took up arms in what is known as the April Uprising (*Aprilsko Vastanie*) to oppose Ottoman rule and overthrow the Ottoman empire. However, the revolt was poorly planned and prematurely launched which subsequently ended in disaster. Following continued fighting, alarm bells of massacres started ringing through Europe, following reports about the suppression of the insurrection in South Bulgaria, which had reportedly seen over 25 000 Bulgarians massacred, over 100 villages destroyed and about 10 000 arrested and tortured (Roumen, 2005:4).

Britain and other parts of Europe became a scene of indignation and political campaign when the news of the Bulgaria atrocities finally made its way to British public life in mid-June 1876 (Roumen, 2005:5). Following the initial reports, no fewer than 3 000 news articles appeared in Britain and other parts of Europe, denouncing the atrocities. The reports of the atrocities inflamed public opinion resulting in protest meetings around the country calling for the British government to intervene, however, these calls did very little to affect British policy towards the Ottoman empire (Finnemore, 2002:8). By late 1856 Russia had grown increasingly agitated by the atrocities committed against the Christian Bulgarians and decided to intervene in the wake of the Bulgarian massacres, justifying their actions on humanitarian grounds and the Ottoman empire's violation of the 1856 treaty which was supposed to protect Christian minorities under Ottoman rule (Finnemore, 2002:8).

Following the successive world wars, and the beginning of the Cold War, an intervention based on humanitarian grounds was considered unthinkable by most states, despite it having support from a minority of international lawyers. The UN Charter's restriction on the right to use force by individual states to save victims of gross human rights abuses was widely accepted during the Cold War, whilst its practice was seen as a violation of the Charter (Wheeler, 2003:1). The UNSC found itself paralyzed by cold-war politics of the 1970s and 1980s, however, the 1990s saw a proliferation of SC-approved armed interventions which saw it extend the scope of its powers into matters previously considered the jurisdiction of the sovereign (Wheeler, 2003:8).

The 1990s saw a change in global perceptions of security, as international relations assumed a multi-dimensional complexity, making the utility of security forces more apparent. Security was no longer confined to military issues but widened to incorporate economic, environmental, social, and gender issues (Sesay, 1996:36). This reconceptualization of international security brought the concept of humanitarian intervention to the forefront.

The ECOWAS Cease-fire Monitoring Group (ECOMOG) missions in Liberia and Sierra Leone, for the first time, provided two clear examples of unilateral humanitarian intervention by a regional actor that enjoyed widespread support from the international community, setting the stage for an experiment in international politics (Levitt, 1998:334). In the 1980s former Liberian president, Samuel K. Doe (1980-1989) experienced a series of failed attempts to oust his brutal regime from power. However, Charles Taylor's rebel group, The National Patriotic Front of Liberia's (NFPL) in the December 1989 invasion of Liberia proved to be a much greater threat than previous attempts (Sesay, 1996:37). By early 1990 instead of making a serious attempt to flush out the insurgency, Doe's military forces, the Armed Forces of Liberia (ALF), which was predominantly of the Krahn ethnic group, resorted to summary executions and mass killings against the civilian population in Nimba County, home to NFLP rebels. These acts of brutality succeeded only in alienating the local population, which saw the Gio and Mano ethnic groups join Taylor's ranks. Taylor's NFLP determined to overthrow Doe started attacking not only Krahn civilian populations but the Mandingo population who had been accused of being ardent Doe supporters (Sesay, 1996:37). Both sides continued its scorch earth warfare, with the ALF committing atrocities such as the massacre at St. Peter's Lutheran Church in 1990, killing over 600 civilians (Howe, 1997:149).

ECOWAS member states continued to monitor the situation with growing trepidation, as Doe's government appeared to be losing control of Liberia. By July, Doe appealed to ECOWAS to initiate peacekeeping operations to forestall the terror and tension within the failing state (Levitt, 1998:343). ECOWAS immediately responded and in late July had agreed to a peace plan which consisted of the establishment and deployment of ECOWAS Ceasefire Monitoring Group (ECOMOG) to ensure and monitor the ceasefire of all parties (Adibe, 1997:473). Following the failed and protracted intervention of ECOWAS, the UN was invited to step into the Liberian quagmire due to the politico-military stalemate created by ECOWAS (Adibe, 1997:477). Following the late and somewhat inadequate response by the UN, 1997 saw an agreement to end hostilities, disarmament of warring factions, the establishment of political

parties, and an election which saw Charles Taylor as President of Liberia (1997-2003) (Tuck, 2000:1).

In 1999 the Liberian Second Civil war (1999-2003) broke out. By 4 August 2003, the ECOWAS Mission to Liberia (ECOMIL) was deployed with the US and international support. Taylor subsequently resigned a week later, following the deployment of the ECOWAS mission and the near-complete loss of control over Liberia. ECOWAS brokered a deal with Taylor, offering the former Liberian leader asylum in Nigeria after the organization brokered a peace deal with the rebels (Obi, 2009:122).

During the start of the first Liberian civil war, Somalia was also experiencing a humanitarian disaster. Somalia's state structures and functions collapsed following the dictator, Siad Barre's retreat from Mogadishu in January 1991. Leadership subsequently drifted to local communities and sub-clan level leadership (Clarke and Herbst, 1997:5). The first war against the Barre regime accelerated the ensuing civil war and the power struggle that followed, creating multiple humanitarian disasters. Violence and drought that had swept through the country had only proliferated the famine that hit the state in the ensuing months ahead. The fighting between November 1991 and March 1992 saw 30 000 – 50 000 non-combatants killed and the near-complete destruction of the city.

As public concern surrounding the atrocities in Somalia increased, Boutros Boutros-Ghali, the first post-cold-war secretary-general stated that the United Nations had emerged as the "central instrument for the prevention and resolution of conflicts and the preservation of peace" (Clarke and Herbst, 1997:5). After the disintegration of the state following the 1991 retreat from Mogadishu by former Somali dictator, Siad Barre, power and leadership drifted to local communities and sub-clan leadership. By November 1991 Somalia broke out into a full-scale civil war between sub-clan leaders Mohamed Farah Aidid and Ali Mahdi. The bloody civil war split the Somali capital, Mogadishu, in two, polarized along clan lines, killing an estimated 14 000 and wounding 30 000 (Wheeler, 2003:175).

The previous war against Barre and the accelerated civil war exacerbated internal population movements, creating multiple humanitarian disasters (Clarke and Herbst, 1997:5). Firstly, displaced populations were congregated in the Mogadishu-Baidoa-Bardera "triangle of death", becoming hostages to militia leaders who established and maintained control of ports and highways. Secondly, warlords blocked refugees from returning to their places of residence which were subsequently controlled by nonlocal clan groups (Clarke and Herbst, 1997:5).

Finally, the armed conflict devastated agricultural and livestock production, which was subsequently compounded by the drought that produced the famine, killing between 300 000 and 350 000 people during 1992 (Wheeler, 2003:175).

The humanitarian crisis garnered significant media attention in March 1992 when the Security Council Resolution 751 authorized the formation of the United Nations Operation in Somalia (UNOSOMI) (Malito, 2016:288). By November 1992, the UNOSOMI mission had transformed into a large-scale peacekeeping operation. However, the operation garnered criticism and disagreements related to the opportunity, legitimacy, and modality of intervention. Moreover, the operation suffered from problems relating to the interplay of different interests, aims, and strategies. In August 1993, following months of protracted ceasefire negotiations, violations of ceasefire agreements, and unabated fighting, the US command deployed a Joint Special Operations Task Force, the so-called Ranger Task Force. However, four months of fighting culminated on 3 October, when two US helicopter Black Hawk helicopters were shot down, killing 18 US troops. Following their defeat, the US announced their withdrawal. The UN mission, largely incapable of managing the conflict without US assistance, in March 1995 withdrew all combat and support troops (Malito, 2016:291). This intervention effort was largely seen as a failure, following the UN's inability to accomplish peace or create stable governance. The legitimacy and subsequent legality of intervention have always plagued the UN and intervening states, partly due to the seemingly murky waters these interventions typically take place, as non-interference and non-intervention are highly emphasised in the UN Charter.

2.3 The legitimacy of intervention in international law

Over the last 300 years, the legality of humanitarian intervention has changed significantly. Hugo Grotius, a 17th-century Dutch jurist, opined that a sovereign committing atrocity against its civilian population could justify other states taking up arms against that state in defense of a population that is unable to protect itself (Vesel, 2003:9). Despite not being a widely shared sentiment during his time, states during the nineteenth and twentieth centuries routinely chose to intervene in the face of gross atrocities and human rights abuses. In fact, before the advent of the UN Charter, the right to humanitarian intervention was assimilated by customary international law (Fonteyne, 1974:225).

Following the dissolution of the League of Nations, the United Nations ushered in a new global norm cantering on the concept of non-intervention underscored by state sovereignty. Following

the end of World War II, UN member states conferred “primary responsibility for the maintenance of peace and security” upon the Security Council (United Nations Charter, 1945:1). By having member states acknowledge, agree to, and ratify the provisions of the Charter, legal scholars have framed the Charter as an instrument of international peace. By framing the Charter in this way, member states have emphasised parts of the Preamble referencing the aim of UN member states to “live together in peace” and granting the organisation the legitimacy to take “effective measure for the prevention and removal of threats to the peace” (Westra, 2007:10). These provisions coupled with the explicit prohibition of force against a territorial sovereignty were seen as key components in maintaining the post-World War II international order and subsequent international peace.

During the establishment of the UN, major powers concluded that principles of state sovereignty and non-intervention ought to be given the utmost priority, as a means of avoiding inter-state conflict which was seen as a key element in maintaining the international order (Vesel, 2003:9). According to Vesel, Articles 2(4), 2(7), and Chapter VII are the sections of the charter most relevant to intervention, especially Articles 39 and 42. Article 2(4) codifies the principle of non-intervention by explicitly stating:

All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations (United Nations Charter, 1945:3).

This prohibition on the use of force expressed within this Article coupled with the emphasis on upholding and ensuring sovereignty remains a key principle in the international system. This is in effect a contractual agreement between powerful states and less-powerful states not to use armed force to alter or overturn the post-World War II world order (Westra, 2007:1). Upholding state sovereignty forms the cornerstone of the “global covenant”, which serves as the foundation of the global order. Furthermore, this article thus grants the privilege of state sovereignty to all member states and protects UN states from intervention of foreign powers and the associated threats of force. Article 2(7) further underscores the importance of state sovereignty when it states:

Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present

Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII (United Nations Charter, 1945:3)

By explicitly stressing and codifying the principles and laws relating to the protection of sovereignty, Article 2 provides the fundamental framework for the privileges and rights of Charter signatories (Vesel, 2003:10). Furthermore, Article 39 and 42 explores threats to international peace and security and offer solutions. Article 39 states:

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security. (United Nations Charter, 1945:9).

Article 42 grants the security council the use force to restore international peace and security under specific circumstances (United Nations Charter, 1945:2). Together, Articles 39 and 42 provide the UNSC with a basic framework to determine if a situation – be it contained within the borders of one state or not – constitutes a threat to international peace and security, and in doing so provides the Security Council with the mandate to intervene militarily. Based on the interpretation of the Articles of the Charter, the legality of humanitarian intervention, with and without the authorisation of the Security Council, has been called into question.

The contention lies in the legality of UN-mandated interventions in the event of a humanitarian crisis in sovereign states, and whether international law provides the vehicle for such intervention (Czernecki, 2003:395). Those opposing intervention (“anti-interventionists”) argue that the UN founders purposefully omitted language related to intervention. Furthermore, anti-interventionists assert that Article 2 (7) the UN cannot interfere with domestic affairs within the jurisdiction of any state. These anti-interventionists maintain that international law does not prohibit UN humanitarian interventions as the sovereignty of the state underpins the international order. This interpretation of the Charter is supported by declarations and continual condemnation of states who interfere, without consent, in the domestic affairs of other states. Meanwhile, interventionists (those who support UN-mandated interventions) assert that the General Assembly (GA) and the UN have never interpreted Article 2 (7) as a prohibition on UN-mandated intervention in the case of human rights violations. Rather, interventionists claim that upon “careful reading”, Article 2 (4) shows that the prohibition is not on coercion per se, but rather on the *unlawful* use of force, which does not disqualify armed humanitarian intervention.

Although the Charter serves as a general legal framework of its members' state's rules, rights and powers, the Charter is seen as an incomplete contract, lacking a centralised means of interpretation (Westra, 2007:5). The incomplete nature of this contract, therefore, opens these rules, rights, and powers to self-interpretation by the major powers as a consequence of their veto power. The Charter is unable to serve as an “institutional binding order” as the UN lacks an organisation with the authority to enforce and institute the rights, powers, and rules codified within the Charter (Ikenberry, 2001:63). By failing to define certain parameters and failing to address certain ambiguities inherent within the Charter, the Security Council functions as a quasi-judicial body (Schachter, 1964:960) which lacks the appropriate means of establishing international law through precedent.

Ambiguity within the Charter is pervasive, as it remains unclear as to which actionable threats or uses of armed force constitutes an attack against “the territorial integrity or political independence of any state” – Article 2 (4) – or an action which is undertaken in a manner consistent with “the inherent right of individual or collective self defense” – Article 5 (1) – or an action which is undertaken in line with “the Purposes of the United Nations”. The lack of clarity in these articles gives rise to competing arguments relating to the proper definitions of these parameters and the legality of most uses of armed intervention (Westra, 2007:13).

Established as a “principal judicial organ of the United Nations” (United Nations Charter, 1945:17) the International Court of Justice (ICJ) has jurisdiction over all UN member states who are subject to comply with the decisions of the ICJ in any case in which they are party to. However, in 1945, during Charter negotiations between the Permanent five members (P5), a resolution to assign the ICJ as the primary authority to adjudicate questions over Charter interpretation was explicitly rejected (Russell, 1960:643). Therefore, the ICJ has been relegated to deal only in cases that both states have agreed to bring before it.

Roughly only one-third of UN member states, including the United Kingdom, have subscribed to the ICJ’s compulsory jurisdiction under Article 36 (2), with many insisting on extensive reservations regarding its judicial authority over them (Gulati, 2020:11). As most states abstained from subscribing to the ICJ’s compulsory jurisdiction, the ICJ rarely adjudicates over cases regarding the Charter’s Article 2 (4) prohibition of force. The responsibility of resolving such disputes is therefore delegated to the Security Council as enforced by Article 39 of the Charter, which reads that the Security Council shall determine “the existence of any threat to the peace, breach of the peace, or act of aggression” (Westra, 2007:15).

Schachter opines that the Security Council, which functions more like a political body than a judicial body, has been left to deal with legal principles and recourse to normative judgments (Schachter, 1964:961). This distinction has had two fundamental implications for how the Charter is implemented. As previously stated, the Security Council lacks the required institutions or bodies responsible for assessing and codifying a system of precedent. When members bring certain issues before the Security Council, it acts on these matters; however, it lacks the authority to make legally binding interpretations with its decisions not intended to establish precedent (Higgins, 1970:5-6). Precedent remains crucial for the establishment of customary international law. As Vesel states, customary law has historically been derived from state practice and *opinio juris* (Vesel, 2003:13). For customary law to develop, state practice requires a “general and consistent” manner in which states behave, setting a precedent for future behaviour and judgements based on that behaviour, without reference to a court decision, international agreement, or treaty (Vesel, 2003:13). Furthermore, although the Security Council’s decisions are not intended to establish precedent, it eventually forms part of what Schachter (1964:964) refers to as a “stream of decisions that will normally be looked to as a source of law.” This is further underscored by Schachter's statement that when complaints and charges of violations are made, the UN tends to act as a political organ by adopting recommendations or decisions which avoid judgements. Thus, the UN is largely contrived to be a political organ, rather than a legal institution.

2.4 The UN – A political organ

Following the League of Nations' failure to prevent a Second World War, a surge of cries was belted from the world, urging world leaders to unite and create a new organisation that could serve as an effective custodian of world order and international peace. The failure of the League of Nations was in part due to the fact that major powers of the time such as the US and later Russia were absent from the organisation. Moreover, the failure of the League of Nations could be largely attributed to the fact that the organisation was too democratic and too centered on the sovereignty of states which subsequently resulted in its weakness, ineffectiveness, and eventual cessation of functioning.

Moreover, influential and major world powers did not play a key role in the maintenance of international peace and security through the League of Nations. The UN was created to facilitate the convergence of states and became the second intergovernmental organisation in the world, charged with the maintenance of peace, multilateralism, and global governance.

Major organs were formed by the UN which includes the General Assembly (GA), the Economic and Social Council, the Secretariat, the Trusteeship, the International Court of Justice, and most crucial to international peace and security, the SC. It was perceived that the new international order brought about by the end of WWII would be better sustained by multiple intergovernmental organisations. Within the realm of global peace and security, it was felt that the objective of global peace could be better attained through the institutional framework of a security council, which fostered the continual cooperation of wartime allies (Bourantonis, 2007:1). For this reason, the UN was created with the SC as its dominant organ, and the General Assembly and aforementioned organs falling beneath it (Bourantonis, 2007:1).

For the Security Council to effectively carry out its competencies, the SC relies on its member states. The SC consists of 15 members, five of which are permanent members whilst the remaining 10 are elected for two-year terms. The five permanent members consist of China, Russia, France, the United Kingdom, and the United States (US) – who are ever-present and wield veto power on all non-procedural matters. Meanwhile, non-permanent members are divided between five regional caucusing groups: one country from Eastern Europe, two countries from each of Western Europe and Others Group, the Latin America and Caribbean Group and Asia; and three countries from Africa (Gould and Rablen, 2017:146). Occasionally, the permanent members have issued joint statements that reflect their common positions on issues concerning the council, these include economic sanctions, counterterrorism, and the Non-Proliferation Treaty (Sievers and Daws, 2014:126). Moreover, the three western powers, France, UK, and the US are seen to vote together on many security-related issues.

France, UK, and the US, sometimes referred to as the P3, often coordinate their positions in the Council. These three western powers are also active in planning and leading many of the council's missions, initiating and processing informal drafting processes. These informal drafting processes and consultations are not provided for in the UN Charter, but they have been an integral part of UN diplomacy since the mid-1970s (Kolb, 2018:19). Draft resolutions and related decisions are often agreed upon during these informal closed-door consultations.

The permanent five (P5) wields significant influence over the decisions and resolutions agreed to by the SC. This influence has been defined as "the ability to determine outcomes" which could be either positive or negative (Bourantonis, 2007:5). The P5's positive influence is based on their ability to pass resolutions in the SC, stemming from their status as world power 'whose strength outweighs all others' (Bourantonis, 2007:5). P5 members can exert a significant

degree of influence upon non-permanent members and can compel them to vote in favour of decisions or resolutions in which the interests of the P5 are at stake. This influence is often exerted through the implicit or explicit threat of punishment or offers of rewards and favours. As a result, non-permanent members are often aligned to a specific voting or regional bloc as these non-permanent states are usually small to medium-sized countries dependent economically, militarily, and politically upon the support of a P5 member.

The veto right has granted permanent members a large advantage in voting power, whilst rotating members compete for a two-year seat without such far-reaching privileges (Hosli and Dörfler, 2019:35). Often, the SC finds itself within a deadlock (as in the case of Syria), usually because a permanent member cast or threatened to use its veto on the basis of protecting its national interest. According to Ade-Ibijola (2016:132), the P5 members routinely use their veto power as an instrument of political vendetta and to safeguard their national interests. As a result, the UN has faced distinct criticisms: the first relating to the efficiency with which they allow the SC to respond to its members' preferences, whilst the other criticism focuses on the equity in the distribution of power.

In terms of efficiency, the SC is often accused of being powerless and impotent because a single veto by a P5 member can override the preferences of all remaining SC members. The UN has largely been unable to effectively respond to the Syrian crisis, largely as a result of Russia's continuous use of the veto on resolutions relating to the conflict. The SC was also slow to react to other major conflicts, notably the 1994 Rwandan genocide. The inefficiency of the SC has led countries to bypass the organisation in favour of alternative multilateral options, such as NATO (Gould and Rablen, 2017:147).

On the criticism levied against the SC on the grounds of democratic equity, many scholars agree that the SC needs to be seen as fairer and more legitimate to effectively fulfil its mandate (Frey and Stutzer 2006; Stutzer and Frey 2006; Marchetti 2008; Cowling et al. 2010). One of the criticisms levied against the SC relates to the unequal regional representation of the SC. Gould and Rablen found that Asia and Africa are both substantially underrepresented, while Eastern Europe and Western Europe and Others Group were found to be overrepresented. The imbalance of both power and representation within the organisation has led many countries to call for a reform of the SC to better meet the needs of the international system and allow for greater representation of the council. However, reform in the SC often faces severe political

restraints as the P5 effectively has veto powers over any structural reform to the council (Sievers and Daws, 2014:126). Despite the apparent disparity in power within the UN, very little progress, since its inception, has been made in terms of reforming the UN.

2.5 UN Reform

The UN continues to operate as one of the largest and most powerful organizations in the international arena, despite a greatly differentiated international system from which it was born as a result of changes in technology, health challenges, transportation, flows of refugees, disarmament, new nuclear powers, etc (Yenigun, 2016:65). Radical changes in the international system and the perceived failure to effectively operate within this new system serve as one of the main drivers why the UN urgently needs reform. Moreover, the increase in UN membership and the resultant underrepresentation of certain regional blocs further fuels the reform debate.

The UN has seen a significant surge in membership since its inception in 1945; from its initial 51 members, the organisation has more than tripled to 193-member states. This increase in membership – largely driven by decolonisation – encouraged the UNSC to undertake significant procedural and structural changes to the organisation. The UNSC undertook its last significant reform in 1965, after the UN General Assembly (UNGA), voted to expand the number of SC non-permanent members from six to ten (Gould and Rablen, 2017:146). However, further attempts at significant reform have continuously failed.

Many scholars and states acknowledge that the UNSC needs to be reformed, largely to account for shifting global power and to strengthen the legitimacy of the institution. During the Cold War, global power gradually shifted, with France and the UK declining in relative power whilst states such as Germany, Japan, and several other states in the South-eastern hemisphere grew in standing (Bourantonis, 2007:1).

The UN continues to play a central role in the international arena despite the change of the international system in the post-Cold War era, the organisation's legitimacy being questioned and the clear need for a radical revision of its structure (Yenigun, 2016:65). States largely favour reform that ensures broader representation of the general membership of the UN, which has grown considerably since its inception in 1945 (Hosli and Dörfler, 2019:35).

Many countries have drafted proposals to state their case for permanent membership to the SC. These arguments have often focused on the concerned countries' population size, economic power, and their financial or peacekeeping contributions to the UN. The Group of Four (G-4)

states – Brazil, India, Germany, and Japan- have campaigned for their seat with a proposal that Germany had put forth. Despite the G-4's proposal and many others like it, no proposal has gained the requisite support for the ascension of new permanent SC members. Proposals like the G4's and others are routinely rejected by regional rival states, as the quest for permanent membership usually stirs up rivalries that ensure defeat. For example, the group opposing the G4 is known as Uniting for Consensus. The regional rivalries between the groups can be understood as following: Italy opposes Germany, Argentina and Mexico oppose Brazil, and South Korea alongside China opposes Japan (Suparmanto, 2015:21). Despite hundreds of draft proposals for the expansion of the SC, none have achieved the requisite support to be passed.

Decisions regarding procedural matters require a two-thirds majority (9/15) to be passed by in the UNSC, while substantive decisions require the vote of nine members and a concurring vote of the permanent members (Krause and Ronzitti, 2013:76). Actions relating to procedural matters of the UN require a majority vote of nine members. A resolution cannot be passed if a permanent member vote against it, however, the resolution can be passed if a permanent member chooses to abstain from voting, provided that the motion has the requisite nine voters. Only a codified negative vote by permanent members is recognised as a veto. As long as procedural rules are followed, resolutions can still be passed, regardless of a permanent member's abstention (Krause and Ronzitti, 2013:76). Moreover, any substantial changes to the UNSC would require an amendment of the Charter; as a result, Article 108 stipulates that:

Amendments to the present Charter shall come into force for all Members of the United Nations when they have been adopted by a vote of two-thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by two-thirds of the Members of the United Nations, including all the permanent members of the Security Council. (United Nations Charter, 1945:8)

This high decision-making threshold for institutional change, underscored by the P5's veto powers has ensured that institutional change cannot be guaranteed unless it is signed off by the permanent members. Fundamentally, the UN was designed in a way to prevent institutional change from being used against the preferences of its creators (Hosli and Dörfler, 2019:38).

The SC often fails to act or find consensus on pressing or sensitive issues due to the political interests of its members rather than due to the principled decisions about the gravity of the situation. For decades after the Cold War, the SC has been criticised for applying double standards (Kolb, 2018:19). The SC's squabbling and overlapping interest underscore its failure

to stop gross human rights abuses in Rwanda in 1994, in Bosnia and Herzegovina between 1992 and 1995, and in Kosovo in 1995 (Kolb, 2018:19). This perceived failure fuelled discontent within and outside the organisation and subsequently brought the legitimacy of the organisation further into question. The dangers of a paralysed SC were apparent and consequently prompted world leaders to find a new consensus and approach to dealing with gross human suffering. In a bid to address this perceived failure, the former SG, Kofi Annan called on the world to find a new consensus on intervention and saving human lives. In September 2000, the Canadian politician and academic, Lloyd Axworthy in conjunction with the Canadian government heeded the calls and created the ad hoc commission, which eventually bore the R2P doctrine.

2.6 Responsibility to Protect

As previously illustrated, military intervention in states by their more powerful peers has always been a source of great contestation in the field of international relations; as questions related to state survival and intervention without consent remain closely intertwined (Oliveira and Verhoeven, 2018:7). In the closing years of the last century, this contentious topic was particularly stressed by the critical gap between the needs and humanitarian distress felt in countries such as Rwanda, Srebrenica, and Kosovo and the codified rules to address these humanitarian distresses (Thakur, 2002:323). A distinct parallel gap between the codified best practice of intervention, as articulated by the UN Charter, and actual state practice has plagued the UN since its inception. The social contract calls for the sovereign to take responsibility for protecting the lives and promoting the welfare of citizens. However, when a state is unable or unwilling to protect its citizens, or if it is the perpetrator of violence against its citizens; it is often thought that the UNSC ought to intervene. This has often proved more complex and difficult to achieve.

The 1994 Rwandan genocide stands as the symbol for international inaction, while Kosovo in 1999 ignited the debate surrounding the consequences of armed intervention when the international community is divided (Thakur, 2002:324). In the wake of the 1999 Kosovo controversy surrounding the legality of the intervention, numerous academic articles and reports were commissioned to examine the legality and legitimacy of intervention for humanitarian purposes (Breau, 2016:17).

Two important reports relating to these topics came from the Netherlands and Canada. However, instead of focusing on the legality of intervention, these reports birthed the novel

concept of “Responsibility to Protect” (Breau, 2016:17). In the first report, commissioned by the Dutch foreign ministry in 1999, the Advisory Council on International Affairs jointly with the Advisory Committee on Issues of Public International Law argued for the emergence of legal obligations to protect human rights as a counterpoint to sovereignty. The joint committee’s report argued that:

the international duty to protect and promote the rights of individuals and groups has thus developed into a universally valid obligation that is incumbent upon all states in the international community, both individually and collectively...The CAAV and the AIV, therefore, consider it extremely desirable that, as part of the doctrine of state responsibility, efforts are made to further develop a justification ground for humanitarian intervention without a Security Council mandate.

Proponents of R2P often assert that this doctrine forms part of the law of state responsibility (Breau, 2016:17). Moreover, despite not exclusively using the word “responsibility to protect”, the authors underscore the responsibility of the sovereign to protect its citizens.

The International Commission on Intervention and State Sovereignty (ICISS)’s report, commissioned by the Canadian government, was the first to introduce the phrase “responsibility to protect”. In December 2001, the commission published its report and sought to achieve three things. First, the authors, sought to reframe the normative interpretation of intervention with the concept of the responsibility to protect. Second, the report places the responsibility of protection with the sovereign at the state level and with the Security Council on the global level. Finally, it asserts that when the concept of R2P is invoked, it is done with efficiency, effectiveness, and with due process and diligence (Thakur, 2002:325). The ICISS attempted to ameliorate the perceived false dichotomy existing between humanitarian intervention and state sovereignty. Fundamentally, the report calls for the reconceptualization of sovereignty, adding a new dimension to the concept; namely, that sovereignty consists of a threefold responsibility by states (Smit, 2013:1). On a foundational level, the ICISS built R2P and subsequently the notion of sovereignty upon three non-sequential core pillars. To prevent, to react, and to rebuild. Therefore, the ICISS reframed sovereignty as a responsibility and not an inherent right.

The first pillar centres on the responsibility of the sovereign to prevent and protect its population from falling victim to genocide, war crimes, ethnic cleansing, and crimes against humanity (Bellamy, 2015:45). The then UNGA Secretary-General Ban-Ki Moon (2007-2016)

described this feature as the bedrock upon which R2P is built. This pillar requires states to evaluate the situation from the point of view of victims of the atrocities instead of from the view of those considering intervention. The ICISS places the responsibility to prevent deadly conflict with sovereign states, and the communities and the institutions within them. Furthermore, the report stresses the importance of root cause prevention efforts to ensure states pursue long-term effective preventative strategies (ICISS, 2001, 22). This pillar has significant consequences on concepts such as human security and underscores the responsibility of states to create environments that negate the potential of mass human rights abuses and atrocities.

The second pillar, the responsibility to react, calls on the international community to react to when preventative measures have failed and when a state is unable or unwilling to redress the situation (ICISS, 2001:29) Furthermore, it codifies the responsibilities of the international community to respond to compelling human needs with appropriate measure, which includes but is not limited to coercive measures such as sanctions, international prosecution, and in extreme instances, military intervention (Breau, 2016:20). Certain conditions are to be met before the international community implements political, economic, and legal interventions; however, an even higher threshold of conditions to be satisfied before the international community responds with military action.

Whilst the ICISS does not offer a universally accepted single list of criteria to be met before the SC considers military intervention, R2P calls for a “Just Cause” threshold to be satisfied before the international community can militarily intervene. The report asserts military intervention is justified when the SC attempts to prevent or reduce the following incidents:

large scale loss of life, actual or apprehended, with genocidal intent or not, which is the product either of deliberate state action, or state neglect or inability to act, or a failed state situation;” or “large scale “ethnic cleansing,” actual or apprehended, whether carried out by killing, forced expulsion, acts of terror or rape. (ICISS, 2001:32).

According to the report, the *Just Cause* threshold for military intervention is met if either or both of these conditions are identified by the international community.

The third pillar, the responsibility to rebuild, centres on reconstruction, reconciliation, and recovery, particularly after the military intervention, to address the causes of the conflict and avert future atrocities (Bellamy, 2012:3). The international community is responsible for

fostering the restoration of state capacity, a durable peace agreement, good governance, and sustainable development following a military intervention. Following the military intervention, serious consideration should be given to a post-intervention strategy. Intervening states have previously exited conflict-ridden states too soon or without adequate measures to sustain peace, resulting in states battling the underlying problem which necessitated intervention (ICISS, 2001:39). These foundational pillars and accompanying principles were created to guide the use of R2P.

Furthermore, fearing potential misuse of R2P the ICISS developed a series of ‘precautionary principles’, as it foresaw the intense political scrutiny and hurdles to implementation. The four principles are aimed at reconciling the tensions inherent between state sovereignty and armed intervention. These four principles call on states to consider the following before invoking R2P; the right intention, last resort, proportional means, and reasonable prospect (Bellamy, 2012:3).

For the right intention, the ICISS states that the primary purpose of an intervention is to halt or avert human suffering and atrocities. Fulfilling the obligation of the right intention is achieved through multilateral operation and underscored by regional consensus and the victims concerned. The international community ought to consider the invocation of R2P’s military action as a last resort after every non-military option had been exhausted (Bellamy, 2012:3). The international community ought to be certain that lesser measures would not have succeeded. The third principle, proportional means, calls on the Security Council to ensure that the duration and the intensity of the security operation is the minimum force required to secure the defined human protection objective. Lastly, reasonable prospects assert that intervening states do their due diligence and only intervene if there is a reasonable chance that intervention would be successful and that the consequences of an action will likely not be worse than inaction (Bellamy, 2012:3).

Leaders who had called for a new consensus for humanitarian intervention lauded the efforts and accomplishments of the ICISS. Despite numerous setbacks, the former Secretary-General Kofi Annan (1997-2006) paved the way for the ratification and institutionalisation of R2P through the machinery of the UN (Ercan, 2015:40).

2.7 Institutionalisation of R2P

The ICISS report appeared to have gathered dust after its commission, particularly in the wake of the 11 September 2001 terrorist attacks on the World Trade Centres. However, the 2003 unilateral invasion of Iraq by the United States and the UK left the international community

deeply divided over its legality and subsequently left the SC in crisis. During that same time another humanitarian crisis began emerging in Darfur, Sudan, which left the international community paralysed over what to do in the face of large-scale human suffering (Breau, 2016:22).

In December 2004, Secretary-General Kofi Annan introduced the R2P report, commissioned by the ICISS, into the UN with the “Report of the Secretary-General’s High-level Panel on Threats, Challenges and Change” document. Member states agreed to and accepted their responsibility of protecting their population as well as the international community. However, member states rejected the overall report, amid fear of the potential abuse of the policy document (Ercan, 2015:41).

Annan, during his second attempt to place R2P into the agenda of the UN, suggested R2P be discussed under the heading of “Freedom to Live in Dignity” instead of collective security. This approach complemented the ICISS's initial objective of conceptualising R2P way from a “right to intervene” to a “responsibility of every state” as a responsibility to protect instead of a right to intervene as initially understood by member states (Murthy and Kurtz, 2016:42). In 2005, R2P was on the agenda of the 2005 World Outcome Summit, one of the largest gatherings of heads of government in history, with over 170 governments participating in the discussion (Burke-White, 2011:12). On 24 October 2005, through the World Outcome Document, members of the General Assembly unanimously accepted R2P. However, the acceptance of R2P was not without significant debate and deliberation leading up to its acceptance.

Several states, especially the US, resisted several stipulations as prescribed by R2P, leading up to the World Summit. During the negotiation process, the then US Ambassador to the UN, John Bolton, argued that the international obligation to protect was not on the same level as the domestic duty of states. Furthermore, Bolton asserted that the SC needed the freedom to decide on courses of action on a case-by-case basis (Carvin, 2010:53). As a result of a series of deliberations, debates, and amended drafts, the World Outcome Document adopted a watered-down version of the document initially drafted by the ICISS.

Various regional blocs, aligned groups, and states sharing similar ideological perspectives espoused various opinions and objectives to the R2P document proposed. Various groups offered their aligned normative perspectives on the R2P document introduced. The P5 members offered an *exceptionalist* perspective and opined that due to their position within the UNSC, the group ought to maintain its current freedom of action to effectively decide about its

interventions. Cuba, Venezuela, and Belarus offered an *anti-imperialist* perspective and argued that the interference of major western powers was at the root of gross human rights abuses. The anti-imperialists claimed that R2P would be used as a tool by western powers to militarily intervene and punish states that stand against their interests. States such as India, Pakistan, Malaysia, Brazil, and others offered a *non-aligned* perspective and stated that the principle of sovereignty was fundamental in protecting weaker states from major western powers and that issues of human rights abuses were legacies of post-colonial states who struggle to rein in armed groups within its borders. Members of the African Union (AU) with a *regional emancipation* perspective on global norms underscored the importance of regional requirements and opined that regional actors ought to militarily intervene within its regions it is concerned with (Murthy and Kurtz, 2016:42). The various debates and contestations around R2P were considerable.

The US and UK explicitly rejected any wording which pertained to, implied, or resulted in a “legal obligation” to intervene. Negotiations finally reached an agreement after UN member states insisted that the words “responsibility to protect” always be linked to four specific crimes, namely, genocide, crimes against humanity, war crimes, and ethnic cleansing. Debates surrounding the adoption of R2P into the outcome document continued, with issues surrounding the wording of certain elements hotly contested.

The second pillar of R2P was of particular interest to some states and more specifically, the issue of military intervention in the instance when states are themselves perpetrators of atrocity crimes and are not perceived to be lacking the capacity to deal with these crimes. For certain authoritarian regimes, this hit too close to home and they opined that governments need assistance instead of “reckless intervention” to deal with situations of internal unrest (Murthy and Kurtz, 2016:44). Annan and many other human security advocates felt that it was crucial to include the threshold of governments being “unwilling” to protect their population. However, China and other authoritarian regimes felt that the issue of the threshold was synonymous with the question of a criteria for the use of force. For authoritarian regimes, this perceived criteria, coupled with the “code of conduct” not to use veto power when the four atrocity crimes were being committed was seen as an automatic trigger for interventions.

On the question of veto restraint, the P5 remained vehemently opposed, whilst countries such as India remained steadfast in their belief that the veto power should be curbed. India’s insistence that veto restraint should be exercised and the P5’s unwillingness to adopt this clause

threatened to derail the negotiations in the final hour. Moreover, the United States insisted on several non-negotiable last-minute changes that had to be added to the document. In the end, Canada, and the European Union (EU) ensured that the R2P section was carried through to the final World Outcome Document. The final document reflects the various perspectives of the UNGA and UNSC members, resulting in a watered-down version of the original ICISS document.

Paragraphs 139 and 138 of the World Outcome Document, on the primary responsibility of states for their population, removes the obligation of member states to formulate a prescriptive framework that could require collective international. In October 2005, GA member states adopted R2P within the World Outcome Document, with Chapters 138 and 139 reading as follows:

138. Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing, and crimes against humanity. This responsibility entails the prevention of such crimes, including their incitement, through appropriate and necessary means. We accept that responsibility and will act in accordance with it. The international community should as appropriate, encourage and help States to exercise this responsibility and support the United Nations in establishing an early warning capability (World Outcome Document, 2005:30).

139. The international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian, and other peaceful means, in accordance with Chapters VI and VIII of the Charter, to help to protect populations from genocide, war crimes, ethnic cleansing, and crimes against humanity. In this context, we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing, and crimes against humanity. We stress the need for the General Assembly to continue consideration of the responsibility to protect populations from genocide, war crimes, ethnic cleansing, and crimes against humanity and its implications, bearing in mind the principles of the Charter and international law. We also intend to commit ourselves, as necessary and appropriate, to helping States build capacity to

protect their populations from genocide, war crimes, ethnic cleansing, and crimes against humanity and to assisting those who are under stress before crises and conflicts break out (World Outcome Document, 2005:30).

Proponents of R2P hailed the adoption of the policy as a watershed moment in terms of the normative evolution of the principal. Others were less convinced of this watershed moment as they perceived the newly adopted version as a watered-down "R2P lite" due to its inherent limited ability to address the lack of political will if and when the SC finds itself paralysed in the face of mass atrocities (Murthy and Kurtz, 2016:39).

According to Kolb, paragraphs 138 and 139 do very little to provide states with guidance for the SC to deal with atrocity crimes beyond broad references to the UN Charter, namely chapters VI, VII, and VIII. As a result, the original ICISS report, the High-Level Panel on Threats, Challenges, and Change, and even the SG's report "In Larger Freedom", greatly overshadows and provides much more guidance and structure on how the SC should respond to these challenges (Kolb, 2017:358). Moreover, the nuances of wording display an inherent disconnect of member states and underscore the varying degrees of commitment they have to the idea of R2P. Furthermore, the exclusion of the veto restraint highlights the inherent shortfalls of the paragraph adopted in the World Outcome Document, compared to the ICISS report. No references to the idea of a veto restraint are made, let alone a legally binding constraint. Although the idea of a veto restraint was introduced in a previous draft, it was phrased as a mere invitation to restrain the use of the veto (Kolb, 2017:358). The Outcome Document also failed to affirm the ICISS's suggestion that the General Assembly and/or regional organisations, in certain circumstances, authorize military intervention for 'human protection purposes' if the SC finds itself unwilling or incapable of doing so (Morris, 2013:1270).

Although R2P in the World Outcome Document falls short of what many scholars and proponents of the policy norm had hoped it would be, the collective endorsement of R2P as a universal policy document on the international stage signals a fundamental shift in how states understand their rights and obligations during humanitarian crises.

The designers of R2P were succeeded in fundamentally cutting the tension between state sovereignty and human rights. By agreeing to the three pillars of R2P, states have fundamentally accepted the notion of *sovereignty as a responsibility* as R2P embeds the notion

of human rights in the idea of sovereignty (Martin, 2011:156). However, many within the UN understood that further work was required to realise R2P as the tool for humanitarian intervention that its creators had envisioned.

In 2009, the then Secretary-General Ban Ki Moon took the steps to operationalise R2P by creating two positions within the UN: the 'Special Adviser on the Prevention of Genocide' and "Special Adviser to the Secretary-General with a focus on the Responsibility to Protect' (Martin, 2011:171). During this period the Secretary-General also held the first General Assembly Informal Interactive, the first substantive meeting since 2005 on R2P in July of 2009 where various states were able to advance a range of views on how to best implement R2P as well as their individual "constructive concerns" (Hehir, 2019:98). This was preceded in January by the UN Secretary General's report *Implementing the Responsibility to Protect*.

2.8 Concerns, legality, and opposition

During the 2009 plenary meetings on the R2P document, states were allowed to comment on the trajectory and commitments of R2P. Cuba voiced concern over the inherent ambiguity within the document and opined that similar ambiguities could be used to justify spurious humanitarian interventions. Additionally, Cuba also objected to the exclusive rights of the P5 to determine whether intervention was legitimate. In the same breath, Cuba also stated that it recognizes that the responsibility to protect and promote the human rights of its people lies with the state. Similarly, Nicaragua argued that the Charter was to be respected, and noted that R2P was not in itself a law (Hehir, 2019:90). Additionally, it also noted that the general principles of R2P were not controversial. Sudan critically outlined its concerns surrounding the potential abuse of the principal and highlighted the existing parallels between R2P and imperialism. Despite Sudan's statement being largely centred on imperialism, Sudan refrained from challenging the consensus that there is a limit to sovereignty (Hehir, 2019:91)

Likewise, countries such as North Korea, Venezuela, and Pakistan expressed similar sentiments by voicing their concerns surrounding the ambiguity of R2P and the potential danger it poses to weak states and reminded the GA that R2P is not a new law, while at the same time reaffirming its continued commitment to the principle (Hehir, 2019:90).

As a norm in the international arena, the Outcome Document does not codify the R2P concept as international law. According to Welsh, the Outcome Document does not create any legal obligations, nor can it compel states to act. However, the document serves to place political pressure upon states when faced with instances of atrocity crimes (Welsh, 2016:3). Therefore,

the document is merely a global consensus that echoes existing international legal rules. Most states can express support for the concept as no constraints or costs are imposed onto states. According to Pandiaraj, the Outcome Document reaffirms previously agreed-upon rules, treaties, and customary laws prohibiting and requiring the prevention of war crimes, crimes against humanity, and genocide (2016:806).

Pandiaraj states that paragraph 138's affirmation that "*Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing, and crimes against humanity*" is well established in international law. The commitment to protect populations from war crimes, crimes against humanity and genocide is derived from the Convention on the Prevention and Punishment of the Crime of Genocide, the four Geneva Conventions of 1949, and customary international law stemming from the jurisprudence of the International Criminal Tribunal for the Former Yugoslavia (Pandiaraj, 2016:806) (Kolb, 2017:371) (Breau, 2016:129).

Furthermore, both paragraphs 138 and 139, on the primary responsibility of states for their populations, indicates a reluctance on the side of signatories to form a regulatory framework that would require collective action or even the use of force (Kolb, 2017, 352). Signatory states simply agree to a declaration that they are prepared to take timely and decisive action through the SC and therefore ignore prescriptive terms such as duty and responsibility. As a result, the World Outcome Document allows for states to varying their degrees of commitment, depending on the relevant actor and form of action (Kolb, 2017:352).

The varying degrees of commitment by states and the initial ambiguity is underscored by the fact that R2P and its contents are still under discussion and subject to the unique interpretations by the SC. According to Pandiaraj, R2P is not yet a well-defined and coherent concept. However, under customary international law, the practice of states will fundamentally shape the process by whereby the norm of R2P is further developed and formed.

The document reaffirms the *responsibility* of the international community to take appropriate and peaceful measures in line with chapters VI and VIII of the UN Charter. However, the document avoids the term and responsibility when it comes to Chapter VII action, and instead expresses a preparedness to act, which connotes a voluntary action upon the international community. The acquiescence of most states to the World Outcome Document therefore merely reads like a moral imperative and political commitment (Pandiaraj, 2016: 807) (Bellamy, 2014:374). There is little evidence of any substantial progress on the concept of R2P

since the first Informal Interactive Dialogue in 2009 to the 2017 Interactive Dialogue. States have continually shown widespread support for the first and second pillars; however, the third pillar remains divisive.

No state has ever openly declared opposition to the fundamental principles underlying RP2 – the first and second pillars – however, the opposition has consistently focused on the third pillar, with the central themes focusing on issues of potential misuse and underscoring the parallels seen in colonialism (Hehir, 2019: 93). Despite supporting the initial Outcome Document, various states such as Russia have argued that there remains little clarity as to R2P's meaning, whilst suggesting that intervention has never worked in practice and further cautioned against its misuse. Additionally, China has also voiced its support for pillars I and II but similarly expressed its opposition to external intervention without consent (Hehir, 2019:96). The P3 has continuously praised R2P but has essentially fallen short of any proposals or ideas on how to effectively implement the norm.

So far, states have routinely voiced support and widespread consensus for the first and second pillar of R2P, however, the third pillar highlights significant divisions among the world states, and most crucially, the P5. The controversy surrounding the third pillar has resulted in it rarely appearing at the Interactive Dialogues. The third pillar has become so divisive that certain scholars have argued that it should be scrapped to remove any further disputes or conflicts relating to the pillar (Morris, 2013:1282).

The widespread opposition to pillar three is largely owed to the resultant fallout from the NATO intervention in Libya in 2011, which will be further discussed in Chapter 4. NATO's implementation of a "no-fly zone" and the subsequent regime change, and resultant civil war has largely emboldened opposition to the third pillar (Hehir, 2019:97). However, the arguments traditionally advanced by opponents of R2P and the third pillar typically precede R2P's existence, as some opponents view R2P as a reincarnation of colonial-era humanitarian intervention. Thus, developing states such as Sudan, Cuba, Nicaragua, Pakistan, etc have historically been wary of initiatives that they perceive as an attempt to undermine the principles of sovereign equality and sovereign inviolability.

2.9 Conclusion

This chapter has shown that humanitarian is not a newly emerging norm founded after the Cold War, but a concept that has existed within the international arena for centuries. Fundamentally, the act of intervening for the sake of humanitarian purposes stretches as far back as St.

Augustine (354-430) and Thomas Aquinas (1225-1274) in their doctrine of “a just war”. Although the concept of humanitarian intervention has always existed, it was not until the end of the Cold War, that the proliferation of humanitarian crises had brought the concept to the forefront of the international arena. However, due to numerous reasons, the UNSC often found itself unable to effectively respond to these crises. Following the tragedies in Rwanda and Srebrenica, the UN Secretary-General challenged the international community to find a new consensus on humanitarian intervention. As a result, the ICISS birthed the R2P report which was eventually adopted by UN member states at the 2005 World Outcome Summit. Despite the World Outcome Document's many perceived shortfalls when compared to the original ICISS document, the acceptance of the World Outcome Document represented a major shift and consensus-building on the concept of humanitarian intervention. Furthermore, the Outcome Document challenges the traditional notion of sovereignty from an absolute right of rule, to sovereignty as a responsibility. However, despite the near-universal acquiescence of the World Outcome Document, member states continue to cautiously oppose the third pillar of the R2P document, emphasizing sovereign equality and sovereign rights of the state. Permanent five members, particularly China and Russia have continued to challenge the third pillar of R2P, citing territorial sovereignty.

Chapter 3 will provide a theoretical and conceptual framework that further explores the notion of sovereignty. This section will consist of a deep deconstruction, critique, and problematizing of the concept of sovereignty and critically analyse the evolution of the notion. Through the use of English School theory, this study will explore whether arguments relating to the sovereign integrity and the right of non-interference from external actors can be used as a justification in the face of mass atrocities and human rights abuses.

3. Chapter 3: Theoretical Grounding – The English School

3.1 Introduction

The theoretical framework is one of the most important aspects of the research process as it serves as a guiding blueprint when answering the research question, namely: using the events of Libya and Syria as case studies, why has the UN been unable to find a consensus on humanitarian intervention? The theoretical framework will serve as a blueprint for the paper moving forward, as it seeks to ground the study and explain concepts such as Westphalian sovereignty, R2P, and humanitarian intervention as it relates to the research question. The selected theory will serve as a guide to support the study and provide structure as to how the study will be approached epistemologically, methodologically, and analytically (Grant and

Osanloo, 2014:13). The theory English School was selected based on its utility in dealing with topics such as intervention, sovereignty, and international societies and global governance organisations. Furthermore, the understanding and interpretations of sovereignty is a crucial element of the English School, as it critically engages with topics such as intervention when discussing its pluralist and solidarist approach to IR. The English School recognizes the existence of international systems and societies, such as the UN, and offers to explain their behaviour through this solidarist and pluralist approach. Using the English School's solidarist and pluralist approach, the debate over whether the UN and its other major organs should be allowed to exercise control and interfere with the sovereign affairs of a state in times of humanitarian crises will be further explored. This will be done by exploring the English School's multi-faceted approach to IR.

This theoretical approach offers a coherent framework within which many of the fragmentations and diversities of IR are synthesized. The English School allows for a blend of approaches rather than focusing on ontological dichotomies such as realism versus liberalism, as it attempts to synthesize its various approaches to best explain the international system it analyses. The English School provides for a shift in perspective so that it sees "competing" theories not as an alternative, mutually exclusive interpretations, but as linked theories with certain shared grounds and interpretations, each illuminating different facets of reality.

Furthermore, inherent historicism offers a useful opportunity to challenge the Westphalian-dominated foundations of many mainstream IR theories. The English School views IR through an intersectional paradigm, taking theory and history, morality and power, and agency and structure into account. This deconstruction of the IR system will be discussed throughout a series of sections within this chapter.

The first section of this chapter will explain the theoretical underpinning of the English School theory. This section will further highlight English schools' contribution to IR theory. This section will explore the English School's take on humanitarian intervention. Finally, this segment will explain the pluralist and solidarist approach to intervention, and where intervention is currently situated within the context of the English School.

The second portion will focus on sovereignty and provide a historical account of the evolution of the concept. The third section will largely draw on Krasner's work in *Sovereignty: Organized hypocrisy* (1999) as well as Krasner's *Problematic Sovereignty: Contested Rules and Political Responsibilities* (2001). This segment will further explore how sovereignty has been performed

in the international arena whilst also explaining the rules guiding states' behaviour. The final two segments of the chapter will deal with sovereignty and its discontents and the hypocrisy of the concept of sovereignty, respectively.

3.2 The English School

The English School of International Relations is considered, by a handful of academics, to be one of the oldest schools of thought challenging mainstream American IR theory, with its theoretical and empirical roots dating back to the 1950s. The English School attempts to synthesize IR theories by offering an account of world politics which amalgamates theory and history, morality and power, and agency and structure (Dunne, 2011:1). Although the English School's distinct and systematic approach is comfortably situated among mainstream IR theories today, in the 1980s this would not have been the case. This is mainly because the theoretical landscape of world politics was divided between realism, pluralism, and structuralism (Dunne, 2011:2). However, the English School adopts elements of the aforementioned theoretical frameworks and synthesizes them to form a tripartite distinction among them.

Two core elements separate the English School from other contemporary theories of IR, namely: its three key concepts, and its theoretically pluralist approach (Buzan, 2004:6). The defining concepts of English School are international system, international society, and world society (Buzan, 2004: 6). Within the theoretical discourse, these three concepts broadly line up with realism, rationalism, and revolutionism. The three concepts are defined as follows:

The *International System* (realism) relates to the first unit within International Relations, the state. Broadly speaking, International System refers to power politics among states and places the concept of the anarchical international system at the centre of the interactions between states (Buzan, 2004:6). This approach shares certain parallels with mainstream realism and neorealism and is similarly well developed and understood. According to Bull, an international system of states is formed when two or more states have sufficient interaction between them, resulting in their actions impacting one another as well as the decisions each state makes to the point that these states behave – at least in some measure – as if they were a part of a whole (Bull, 2012:9).

When states maintain regular contact with one another, resulting in sufficient contact with each other that the behaviour of each is a necessary element in the calculations of the other, we find that these states form an international system. This understanding of the system is based on an

ontology of states and is generally approached with a positivist epistemology, materialist and rationalist methodologies, and structural theories (Buzan, 2004:6). This distinction is the most basic within the English School and exists before the International Society (Buzan, 1993:331).

International Society (rationalism) represents the institutionalization of shared interests and goals among states within the international system. The creation and maintenance of shared norms, rules, and institutions are put at the centre of IR (Buzan, 2004:7). States within the international system go beyond having to factor in the behaviour of the other in their calculations and instead establishes a continuous dialogue, understanding, and creating an institution to serve as a conduit for their relations and the maintenance thereof (Buzan, 1993:330). The international system presupposes the international society. Whilst the system can exist without the society, the inverse is not possible (Buzan, 1993:331).

According to Krasner, the ontological given for international society is its inherent institutional structure which can be largely defined by the goals and shared ambitions between states within the system. These structures are not directly observed. Instead, the international society plays out within the context of the behaviour of statesmen, diplomats, and other individuals in their capacity as representatives of the states (Krasner, 1999:42). Therefore, despite the anarchical structure of the international system, states come together to form a society – an anarchical society of sovereign states (Suganami, 2010: 18).

An anarchical society of states might seem like two contradicting ideas, however when defining the concept of anarchy, one can see that this is not the case. According to the definition adopted by most English School theorists, anarchy can be defined as the *absence of rule; disorder; confusion*. Within the context of international society, the term here is used exclusively in the first of the senses. According to Bull, whereas social order normally presupposes the state, the same logic does not apply to the international context. Therefore, in the international context, anarchy in the first sense (absence of rule) does not entail anarchy in the second sense (disorder and confusion).

This society of sovereign states possesses no centralised governmental structure as it remains an anarchical society of sovereign states bound by the social norms, rules, laws, and institutions that they have constructed amongst themselves (Suganami, 2010: 19). According to Suganami, the key feature of this society is that states are still bound by international law despite being sovereign whilst operating in an anarchical arena. This is largely because states choose to abide by these laws and norms to maintain the society within which it finds itself.

Finally, *World Society* (revolutionism) recognizes individuals, non-state actors, and their global identities, and eventually the global population as a whole rather than as part of the state (Iftode, 2017:2). World Society encompasses all people who belong to a single community based on their shared norms, values, beliefs, and identities, but transcending the state. According to Bull, the concept encompasses the totality of global and social interaction as the concept of world society is driven by the functioning and evolution of the international system. The expansion of the international system and the levels of communication among individuals throughout the global system has created an unprecedented level of mutual awareness among different parts of the human community (Bull, 2012:269). Some might argue that this due to the proliferation of the internet and new technologies, however, states play a significant role in what it allows their populace to see and hear as it can control the conduits of communication to a significant degree. This revolutionist concept is mostly about forms of universalist cosmopolitanism (Buzan, 2004:7).

Furthermore, the English School understands that the pressures concerning the transformation from international society to world society do not lie with states or the international society itself. Instead, the transformative pressures from international society to world society are found outside of the core institutions of the international society of sovereign states. Economic, environmental, technological, and civil society pressures, which possesses a logic and momentum that is divorced from institutions of international society greatly affect the conduct of social, political, and economic affairs, thus forming the drive and pressure of international society to world society (Williams, 2005:27). These transformative pressures are pushing for greater cooperation, sharing of norms, and institutional symbiosis in ways that are exogenous to institutions of international society. The proper functioning, survival, and flourishing of the international system generate the necessary conditions for large-scale, long-distance, transnational economic and social activity to occur (Williams, 2005:27). The ability of the international system to bring stability among states is of fundamental importance in the evolution of world society. According to Williams, the operation of institutions within international society such as diplomacy, international law, transnational civil societies, transnational economic activity and technological advancements are creating new organisations, practices, and normative positions that are novel in Westphalian terms (2005:27).

The creation of organisations such as the International Criminal Court (ICC), the World Trade Organisation (WTO), and the UN, despite requiring interstate order and being created by the

international community through diplomatic channels and agreements, underscores the very incorporation into the international society of a global logic that is exogenous to the structure of the international society (Williams, 2005:27).

However, world society and the movement towards it are largely perceived as the more utopian variation in the evolution of the three concepts. Although the definition of World Society can be explained and that we can offer an account of its characteristics, the notion of World Society remains vague, unstable, and seemingly underdeveloped.

The lack of sufficient attention and development of World Society is because these three concepts came into being during the Cold War period. The Cold War era was characterized by a period where international politics was not focusing on human needs, and even concepts such as International Society were coming under threat. This meant that most political theories struggling to explain the current structure of the world were largely neglected. This may account for World Society's lack of development during the Cold War era; however, it does not explain why it remains underdeveloped at present (Iftode, 2017:2). Nevertheless, Buzan suggests that following the end of the Cold War, global attention and the sphere of collective consciousness shifted to human rights. This resulted in a phase of perceived unity between states through interdependence, trade, and culture (Buzan, 2004: 31).

This was largely evident following the proliferation of humanitarian missions following the end of the cold war. Furthermore, during that time and in the preceding year's dozens of African states gained independence and joined international organisations such as the UN, building and contributing to the formation of the International System, and eventually the World Society. This newly found human rights prioritization further added to the solidarist and pluralist debate regarding humanitarian intervention.

3.3 Pluralism and solidarism

Hedley Bull ignited the solidarism and pluralism debate in his 1966 essay "The Grotian Conception of International Society" where he distinguished between two conceptions: solidarism and pluralism (Bain, 2010:1). The debate between the two distinctions is concerned with theorizing different kinds of order within the international system, particularly the actual and potential extent of the shared norms, the enforcement of the law, and institutions within the system of states (Buzan, 2004:45).

Furthermore, the two conceptual frameworks have been deployed to serve three main purposes: an empirical description relating to a specific type of order; a normative framework with which to critique the idea of order; and a theory capable of accounting for change and that can accurately explain the transition from one kind of order to another (Bain, 2010:1). However, in this chapter, these shared norms will particularly relate to issues such as human rights, with particular focus on questions related to humanitarian intervention and the responsibility of great power states to suffering populations (Buzan, 2004:46).

The basic position of pluralists can be summarized as follows. The pluralist conception of international society is entrenched within the realist understanding of international relations. Pluralists are state-centric, empirical, and consequently believe that international law is positive law i.e., only made by states (Buzan, 2004:46). A pluralist international society is realist in nature and its perception of the international arena. A pluralist international society views other states as a potential rival, and as a result, is only willing to agree on a limited number of rules to ensure coexistence. These states are perceived to be existing in anarchy, but maintain certain sacrosanct rules, such as the right to life and the right to sovereignty, thus respecting certain international laws and treaties (Buranelli, circa 2010:2).

On the international system, pluralists look to custom and treaties as a source of international law and perceive it binding to the extent that states have given consent, explicit or tacit, therefore confining legal inquiry to empirical investigations, basing its conclusions and outcomes on the actual behaviour of states (Bain, 2014:164). According to Buzan pluralists take the state as the de facto main unit of human society, with state sovereignty being interpreted as the Westphalian model of sovereignty. Similar to realism, pluralism concerns itself with the perseveration and the cultivation of the political and cultural difference and distinctness found throughout human history. All of this results in a narrow conception and understanding of international society, which restricts the understanding of the world to shared concerns about the degree of international order under anarchy for necessary coexistence, thus boxing itself into ideas relating to agreements of mutual recognition of sovereignty, rules for diplomacy and promoting principles of non-intervention (Buzan, 2004:46). The inherent difference between the two concepts lies in the inherent tension found between addressing the needs and imperatives of the state versus the needs and imperatives of humankind (Stivachtis, 2018:3).

Concepts such as the moral imperative of the state do not appear in the pluralist/realist lexicon as it is believed that the concept of morality and justice is defined differently by each state. Pluralists argue that these imperatives and concepts should be defined and explored by each state, preserving the diversity and the order of the system to protect weaker or other states from a forced homogenization or from the external imposition of "what is right" (Buranelli, circa 2010:2).

Conversely, a solidarist international society, which sits closer to the cosmopolitan conception of international society, possesses a wider scope relating to common interest and values, going beyond the concept of coexistence of the state systems and instead, creating a framework that recognizes individual humans as the main unit of analysis (Bain, 2010:45). The more cosmopolitan conception of the international society views humanity as one, and tasks diplomats, statespersons, and individuals to translate or share the immanent solidarity of interests and shared values into reality (Buzan, 2004:47).

The individual is elevated to the main unit analysis in respect to international law and for sustained cooperation in a larger field of issues, such as human rights, environmental protection, the interpretation of sovereignty, and humanitarian intervention (Buranelli, circa 2010:2). In the solidarist view of international society, the mainstay concepts of pluralism – sovereignty and non-intervention- are defined in a less rigid way (Buranelli, circa 2010:2). Solidarists accept that the scope for international cooperation is far larger than that of the state-centric pluralist, embracing the sharing of norms and values. The increased scope for cooperation creates a space for the possibility of embracing new and emerging norms, rules, and institutions about functional cooperation and concepts such as the use of force, human rights, and the responsibility and mandate that states have regarding their citizens i.e., upholding human rights and the responsibility to protect (Buzan, 2004:47).

However, as previously stated, pluralism and solidarism are analytical lenses relating to judgments and potentiality about international society. It focuses on the actual and potential extent of solidarity existing in international society. Furthermore, it also relates to the actual and potential extent of shared norms, rules, and institutions within our society of states (Buzan, 2004:45). Therefore, it is erroneous to see these concepts as mutually exclusive, as it perpetuates a false dichotomy relating to the "real" or "potentiality" of the international system. It is erroneous to speak of these concepts in oppositional terms, as they remain interlinked and coexist with each other. It is a narrow conception of the pluralist-solidarist debate to assume

that pluralist focus on the "real" and actual events unfolding in the international system, while solidarist focus on the "ideal" or "potentiality" of the international system (Weinert, 2005:35). Solidarism focuses on the real, as much as pluralism focuses on the ideal. A more relaxed interpretation of pluralism is likely to accept broad-based initiatives of solidarist, whilst solidarist are open to admitting to the inherent complexities of "solidarity" and the limitations of a cosmopolitan ethic (Weinert, 2005:35).

Placing pluralism and solidarism as mutually exclusive conceptual lenses threatens and weakens the potential of the English School to use its methodologically pluralist framework as a medium between state-centric realism and cosmopolitan world society (Buzan, 2004:50). Therefore, issues, such as humanitarian intervention and sovereignty, which pluralists and solidarist seemingly appear to disagree on should be used as a tool to show that these concepts have a complicated history and future in both the implementation and realisation thereof. The concept of R2P is a prime suspect for the solidarist argument and ostensibly underscores the dichotomy.

3.4 Solidarism, pluralism, and humanitarian intervention

The question concerning the legitimacy of humanitarian intervention in international society has both a normative and descriptive component. The descriptive component requires a study of state practice, which was already covered in the previous chapter; while the normative component relates to the question of whether humanitarian intervention should be permitted within a society of states that are ostensibly construed around norms of non-intervention and non-use of force (Wheeler, 2000:26). The debates between pluralists and solidarist concerning humanitarian intervention usually consist of three key issues. First, pluralists and solidarists are unable to agree on what constitutes a supreme humanitarian emergency that would justify intervention. Second, they argue over where there is a right of intervention under this "supreme humanitarian emergency". Finally, they struggle to overcome questions relating to how intervening states should conduct themselves when intervening? (Bellamy, 2003b:501).

The debates concerning humanitarian intervention usually arise when governments have turned the machinery of the state against its citizens, or where the state has collapsed and is no longer able to conduct its internal affairs and uphold its end of the social contract. A pluralist international society defends the theory on which the society is built as they opine that states uphold the plural conceptions of the "good". However, there remains a glaring contradiction between the moral justifications of states, and actual state practice (Wheeler, 2000:27).

Pluralists emphasise the sacrosanct nature of sovereignty and the importance of non-intervention. Pluralist state that upholding and respecting the norms of sovereignty and non-intervention is the only defence that weak states have against the strong (Bellamy, 2003b:423). Furthermore, they state that there is no agreement – nor a possibility of an agreement – as to what would constitute a supreme humanitarian emergency that would justify humanitarian intervention (Bellamy, 2003b:500). Given that international peace and security is dependent upon the reciprocal recognition of state independence, pluralist claim that armed intervention is illegal and illegitimate because it violates the fundamental norm of international society, a pluralist society that is.

Furthermore, pluralist rejects the notion that states within the international society are entitled to place a minimum standard of humanity upon other states, due to the narrowly construed views of the pluralist international society. Pluralists hold that human rights are construed within a specific cultural context and are therefore not universal (Bellamy, 2003b:500). Additionally, they contend that any attempt to form universal ethics or common standards of humane governance will always be informed by an underlying cultural bias. Pluralists state that the problems of certain states, even those who are deemed as "failed" states remain the problems and domestic concerns of that state. Pluralists maintain that these problems are not the concern of the wider international community of states, let alone the humanitarian community unless assistance is expressly requested (Williams, 2005:24). Finally, pluralists reject both the notion that the empirical norm of intervention is being established and that it should be developed. Pluralists state that even the most well-intentioned intervention threatens the international order.

Conversely, solidarists within the English School have argued that sovereignty is not a veil that states can hide behind when they have committed mass atrocities. Solidarists state that in extreme cases, humanitarian intervention – and the subsequent violation of non-intervention – ought to be explored when states have manifestly failed to protect their citizenry.

Additionally, solidarists have said that states are required to adhere to a minimum standard of decency before they are entitled to rules concerning sovereignty and non-intervention. English School writers such as R. J Vincent suggest that the international community has a duty and moral obligation to intervene if a state manifestly and systematically violates human rights, underscoring the basic principles of the R2P doctrine (Wheeler, 2000:28). However, much like in the provisions provided by R2P, the argument for intervention does not mean that rules of

sovereignty and non-intervention are discarded, as these continue to be constitutive rules of the international society (Wheeler, 2000:28). Instead, as suggested by the R2P document, statehood, and its associated privileges such as non-intervention and sovereignty, is dependent on the ability and intention of states to uphold their responsibility to their citizens.

This view is largely underscored by solidarist sentiment which suggests that normative commitments to the individual outweigh national interests (Weinert, 2005:29). The implementation and acceptance of R2P as a new potential norm underscores the solidarity of the international system, as the international system becomes cognisant of the fact that ideas and practices of the political community need to be reformulated. Furthermore, it highlights an international will to effectuate international relations that transcend narrowly conceived self-interest and power politics (Weinert, 2005:29).

Solidarism places the individual at the centre of the political and moral universe and connects sovereignty to a logic of responsibility, which is similarly echoed by the R2P document. By placing human security as a primary responsibility of the state, the ethical, intellectual, and practical frontiers of the state are significantly altered (Weinert, 2005:31). Furthermore, a more relaxed pluralist would likely accept the importance of the first pillar of R2P, which stresses the importance of prevention. Although individuals are R2P's immediate referents and beneficiaries, the state subsequently becomes the ultimate beneficiary. This is mostly because sustained insecurity, war, genocide, mass atrocities, etc threatens human capability and livelihood of people, and thus in turn affects a state's stability and sustainability. A secure and stable state is derived from secure, safe, and stable communities. Ultimately, the first pillar of R2P attempts to defend the sovereignty of the state by calling upon the state to uphold its responsibility of creating secure and safe communities. Thus, when a state adheres to its responsibility of protecting its citizens, it ultimately defends sovereignty because it is within the state's best interest to uphold a minimum standard of decency.

Furthermore, the 2001 ICISS report as introduced in the previous chapter, attempted to overcome the ongoing solidarist-pluralist debate concerning humanitarian intervention. The ICISS report argued that the pluralist-solidarist debate was unhelpful for three reasons. Firstly, it argued that the debate was often too concerned about the potential claims of the intervening states, rather than focusing on the needs of the individuals who require the intervention. Secondly, by framing the argument around the act of military intervention, it fails to highlight the need and importance of preventative efforts and peace-building pre-and post-conflict. And

third, the language used in the “right to intervene” debate is effectively used in a bid to overcome sovereignty, which should not be the case (ICISS, 2001:16). Rather, the ICISS stressed the importance of using the language of the “responsibility to protect”. Reframing the debate and phrasing it as the responsibility to protect, looks at the individual requiring the help instead of placing normative concerns and considerations upon the state. Thus, the debate acknowledges that the primary responsibility of protecting the individual lies with the state and that intervention can only be contemplated if the state is either unwilling or unable to protect its citizens (ICISS, 2001:16). Lastly, the ICISS stated that the question of intervention and subsequently R2P should not focus on intervention, but that it should be placed alongside prevention and post-conflict building (Bellamy, 2003a:325).

The report continued and stated that states have a responsibility to protect their citizens, something both pluralists and solidarists would agree on. The report continued that thus if a state manifestly failed to protect its citizens, the Security Council may need to take measures in extreme cases, something that both pluralists and solidarists will disagree on whether they should (Bellamy, 2003a:327). At the heart of the problem, debates about norms and international society simultaneously tackle issues of "what ought to be" and "what is" (Bellamy, 2003a:328). Therefore, it appears that the debate still comes down to whether they should. Bellamy notes that shifting the debate has done very little in addressing and answering the question. The debates surrounding humanitarian intervention remain rooted within the political practice and the practice of states within the international society.

Politically, it would appear that the UN, as an organisation based upon sovereign states reflects a pluralist international society, which has significant implications on humanitarian intervention. The UN and its member states personify the inherent tension that exists between cosmopolitan solidarists and pluralist values (Newman, 2013b:6). As previously stated, the pluralist view of international society emphasises state sovereignty, mutual recognition, and non-intervention. Although the UN maintains that international order within the international society must be maintained, the UN has simultaneously moved beyond its absolutist pluralist vision of pluralism as evident by the endorsement of a series of policies, including R2P. However, the pluralist worldview remains entrenched within the UN (Newman, 2013b:6). The UN promotes and protects state sovereignty in the conventional Westphalian way, exhibiting the lack of homogenisation between normative and empirical changes occurring on the ground.

Humanitarian intervention is fundamentally a critical and solidarist approach in the international society; however, the construction of the UN and the member states which form it prevents the UN from adopting the critical solidarist approach. The critical conceptualisation of the solidarist approach – and R2P – challenges the institutional reality of the UN. The solidarist approach raises questions about existing policy in the UN and international society and the interests they may serve, leading to the fundamental challenging of constructions such as sovereignty, non-intervention, and “high politics”.

Despite endorsing R2P, the UN struggles to overcome its inherently pluralist nature. According to solidarists, there remain real and structural constraints hampering the UN, as the UN attempt to homogenise its naturally pluralist nature with its seemingly solidarist policies and endorsements. Although the UN has highlighted the importance of human rights since the turn of the century, the UN maintains a remarkable threshold for tolerating human rights abuses in its member states countries' (Newman, 2013b:7). The failure of the UN to develop a cohesive and rigorous framework for addressing civil war and even genocide – whilst preferring to assess incidents on a case-by-case basis underscores the inherent pluralistic nature of the UN. Although the UN seeks to overcome these problems, the solutions to issues such as humanitarian intervention, and the responsibility to protect is considered from the perspective of existing norms and policy assumptions as a starting point. Thus, when analysed through the lens of pluralist international society, the UN considers stable states to be the foundation of the international society – not individuals (Newman, 2013b:7).

Table 1: Differences between pluralism and solidarism

| <u>Pluralism</u> | <u>Solidarism</u> |
|--|--|
| View on sovereignty and intervention | View on sovereignty and intervention |
| <ul style="list-style-type: none"> • Pluralists emphasise the sacrosanct nature of sovereignty and the importance of non-intervention. • Pluralists state that sovereignty is the only defence that weak states have from powerful states. | <ul style="list-style-type: none"> • Solidarist claim that sovereignty is not a veil that states can hide behind when they have committed mass atrocities. • Solidarists state that in extreme cases, humanitarian intervention – and the subsequent violation of non-intervention – |

| | |
|--|---|
| <ul style="list-style-type: none"> • Pluralists reject both the notion that the empirical norm of intervention is being established and that it should be developed. • Rejects R2P, as pluralists state that the concept threatens notions of sovereignty and the international order. | <p>ought to be explored when states have manifestly failed to protect their citizenry.</p> <ul style="list-style-type: none"> • Solidarists have said that states are required to adhere to a minimum standard of decency before they are entitled to rules concerning sovereignty and non-intervention. • Agrees with the various pillars of R2P |
| <p>View on statehood</p> | <p>View on statehood</p> |
| <ul style="list-style-type: none"> • Perceives statehood as a natural right of the sovereign which cannot be given or received but is instead a constant. • Emphasizes the maintenance of interstate order above human rights. | <ul style="list-style-type: none"> • Believes that statehood can be lost if the sovereign manifestly fails to uphold its responsibility to protect its citizenry. • Places an emphasis on upholding human rights and justice. |
| <p>Perception of international society</p> | <p>Perception of international society</p> |
| <ul style="list-style-type: none"> • View states as the main actor in the international area and subscribes to a state-centric association. | <ul style="list-style-type: none"> • Solidarists view humanity as one, and task diplomats, statespersons, and individuals to translate or share the immanent solidarity of interests and shared values into reality. |

Source: the author

3.5 R2P and the UN

Due to the inherent pluralist nature of the UNSC and the broader UNGA, R2P remains controversial in the way it is conceptualised, defined, and invoked. Furthermore, the UN problematises R2P due to its perceived normative implications for world order. States with more pluralist aligned worldviews – which constitute rising powers such as China, India, Russia, and Brazil – have raised numerous reservations, contrary to the prevailing solidarist axis of states which promote R2P (Thakur, 2013:61). According to Newman, these reservations suggest that the current tension regarding R2P is indicative of broader tensions on the global

stage related to world order, the balance of power, and the perceived shifting of global norms (2013:236).

Thus, the concerns of the emerging pluralist powers, such as Russia, China, and other members of the Non-Aligned Movement (NAM) reflect the tensions about the legitimacy and authority of norm diffusion, collective decision making, and the role of international institutions (Newman, 2013a:236). The changes in the balance of power, particularly concerning emerging powers, carry implications for potentially emerging norms such as R2P as these pluralist states grow increasingly resistant to solidarist concepts such as intervention. Disputes concerning R2P are the manifestation of tensions that have always existed on the global stage, but which are more pronounced as non-western powers rise in influence and power. These tensions are indicative of the inherent friction between pluralist approaches to human rights – which are underscored by a Westphalian, statist worldview, and which emphasizes non-intervention – and the more Western solidarist world view which makes sovereignty contingent upon a set of responsibilities (Newman, 2013a:236). It is thus evident that rather than building a more solidarist approach to international society, R2P is exposing the fissures on the global stage that exists between UN member states who maintain opposing solidarist and pluralist worldviews. This fact is particularly obvious when states discuss the R2P policy.

Following the UN Secretary General's 2009 report, 'Implementing the Responsibility to Protect', states espousing a more solidarist world view emphasized R2P's first and second pillar, and further stressed the importance of non-military forms of coercion, such as sanctions and the potential for referrals to the ICC (Ki-Moon, 2009:13). Solidarist felt that by stressing the importance of these options, the debate would shift from 'humanitarian intervention' (Newman, 2013a:238). However, despite the solidarists' attempt to shift the debate, R2P still does not share widespread consensus either in principle or practice. The disapproval of the concept is merely a reflection of the broader fault lines and power struggles within the global order.

The global order serves as a reflection of the distribution of material power, shifts in norms, and perception. The relative increases and changes in power and influence of emerging markets such as China, Russia, Brazil, and India and the subsequent changes in institutions and their norms reflect the shifts in the global order. The rise of these powers has resulted in normative conflicts relating to international politics, institutionalisation, and emerging norms within institutions such as the UN. These powers are not idle bystanders, and as a result, they tend to

resist international policies and emerging norms which they perceive to be in opposition to their pluralist perception of international society.

As previously stated, one of the most contentious issues concerning R2P relates to the scope and application, particularly the third pillar: the responsibility to react. Pluralist states have paid a significant amount of attention to the interventionist connotations of R2P and whether an armed intervention has succeeded in helping the victims and countries it claims to aid during humanitarian crises. Furthermore, these emerging powers and several other pluralist-aligned non-Western states have raised their concerns over how the R2P debate has been dominated by some of the more solidarist western states.

Pluralist states claim that R2P reflects the perceived post-Westphalian international system and human solidarist international system that solidarist aim to impose upon the world. The adoption of the R2P document at the 2005 World Summit agreement has had a direct impact on the formation and subsequent debates concerning the development of the pluralist-solidarist international society. R2P has imposed a certain expectation upon the international society and new expectations concerning the debate around human security and intervention. R2P has sought to shift the debate on human security within a historical, political, and legal context situated in an evolving international society with evolving international standards of conduct for states and individuals, including the development of new and stronger norms to safeguard human rights (ICISS, 2001:6). Solidarist states are arguing that the world is indeed moving towards the post-Westphalian model it has envisioned – where those in power control sovereignty – to an international society where sovereignty is based upon a state's ability and willingness to adhere to its commitments made when it signed onto the R2P report in 2005.

According to this approach to sovereignty, admission into the UN can no longer serve as a validation of sovereign states and a shield against unwanted interference in a state's domestic jurisdiction (Slaughter, 2005:620). This shift in the international society reflects a solidarist norm of 'individual sovereignty', whereby the legitimacy of the state is not only contingent upon recognition of the wider international community and control of territory, but also upon a responsibility to fulfil certain standards of human rights and human welfare for citizens; however, this solidarist approach is vehemently combatted by pluralists.

Whilst there is no clear distinction between a solidarist west and a pluralist non-western world, nor a solidarist north versus a pluralist south, non-western states have traditionally articulated pluralist arguments. Furthermore, it serves as a stark oversimplification to pit R2P in

opposition, purely in terms of the global south challenging Western-dominated political order (Hofman, 2015:276). However, states which have been promoting R2P as the new international norm have also been associated with the broader cosmopolitan push for greater liberalisation, democratisation, and the containment of rogue states (Blair, 2009:14). Therefore, despite a series of attempts to narrowly define the principle, the tension stemming from R2P can best be explained through its relationship with this broader liberal agenda and push to global solidarism (Newman, 2013a:242).

Thus, R2P cannot and is unlikely to be truly embraced by the UN and the UNSC due to conflicting worldviews of member states and not due to the lack of political will as it is often implied. Whilst the international community has never managed to reach a consensus on the relationship between individual justice and international order, R2P highlights these inherent questions, as the very concept which was adopted by member states at the 2005 World Summit highlight's these tensions amid a shift in the global distribution of power and changing attitudes relating to sovereignty, human rights, and the broader international system. According to Hofman, the contestation of states is not always rooted in their strategic attempt to maximize their utility. Instead, Hofman argues, contestations such as the adoption of R2P may be rooted in pre-existing local norms that may conflict with the emergence of a new norm. This may be due to various reasons, including differing cultural backgrounds, the knowledge that gives rise to different interpretations of a norm, or historical experiences or events which make certain actors wary of adopting these new norms (Hofman, 2015: 277).

Furthermore, if tensions from R2P serve as a reflection of the emerging solidarism in the international society, then the emerging norm and the subsequent push to greater solidarism is likely to face stiff resistance due to the global shift in power and the fact that these emerging powers do not subscribe to the same solidarist worldview. Thus, although more than 150 heads of state signed the 2005 World Summit Outcome Document, it remains evident that the perceived fundamental change in the concept of sovereignty and humanitarian intervention, as expressed in the ICISS report, is not fully embraced by all states.

Furthermore, normative concerns relating to R2P's implementation, interpretation, and the potential for abuse have also been raised (Hofman, 2015: 277). Some states, who have internal sensitivities relating to separatists' movements or local insurgencies have voiced their reservations about R2P, often not out of fear of being targeted, but because these states feel that the situation is domestic in nature and that armed intervention through R2P might

exacerbate the structural drivers of the violence (Newman, 2013a:243). Another critique often voiced relates to the perceived selectivity and double standards of the UNSC. States like India, Pakistan, Cuba, and Iran have highlighted the power imbalances in the international society and criticized the perceived lack of equality in the face of international law and international society. They frequently allege that powerful states, not small weaker ones, will be the driving forces behind R2P and the choices concerning who gets to intervene and why (Hofman, 2015: 289). Despite adopting the norm in 2005, debates surrounding R2P, and its various contentions continue to this day.

R2P remains a controversial topic concerning humanitarian intervention, and even more so following the Libyan intervention in 2011 – something that will be discussed in the following chapters. The current R2P doctrine has been narrowly conceived and is inescapably part of the broader discussion concerning humanitarian intervention. Although many pluralist states would want to argue otherwise, R2P has shifted global perceptions relating to sovereignty to a belief that sovereignty and the associated legitimacy of the state are contingent upon meeting certain standards relating to human rights. However, this concept is not universally accepted as pluralists maintain that sovereignty is a 'super-norm' which forms part of the cornerstone relating to the order in the international society.

3.6 Sovereignty explained

To better understand the perceived sacrosanct nature of sovereignty and the reason for its near immovable status, it is important to understand the various types of sovereignties and how it is realised. Throughout history, the concept of sovereignty has been contingent, evolving, and contingent on the dominant values of the time. Realists and neo-classical realists in International Relations traditionally interpret sovereignty as a fixed and exogenous attribute of states and perceive sovereignty to be an absolute principle (Lake, 2003:305). Scholars influenced by a post-colonial approach have understood that sovereignty is not an absolute principle or universal truth and is instead based on discriminatory claims and perceptions of statehood. This was most evident during the colonial periods (Mathieu, 2013:2).

Sovereignty is understood as a social construct embodied in bordered territorial organisations referred to as 'states' and is expressed in various degrees and forms (Jackson, 2007:1). Both sovereignty and anarchy can be understood as a social construction as it is produced and reproduced through the practices of actors in the international system (Lake, 2003:208). Sovereignty is inherently part of the international system as the behaviour and rules guiding

state behaviour facilitate the existence of sovereignty. As these concepts are social constructs, they are therefore not immovable and are subject to change. Sovereignty is therefore understood and produced as a result of an agreement or recognition.

For many scholars, sovereignty is thought to have arisen in and around the 1648 Peace of Westphalia (the 1648 Peace of Westphalia consist of two separate treaties, Münster and Osnabrück), which ended the Thirty Year's War, and set the foundation for our understanding of sovereignty, which concerns an authority which has exclusive control over the territory (Lake, 2003:305-306; Hayman and Williams, 2006: 522; Dunne and Little, 2014:321; Sampford, 2016:61; Ruggie, 1993: 163). However, Krasner has pointed out that the traditionally perceived model of sovereignty and the way it has been interpreted since the 1648 Peace of Westphalia has fundamentally changed the international system (Krasner, 1999:23). Some writers, such as Andreas Osiander, has gone even further and stated that the theorized discipline and notion of sovereignty which has developed as a result of the Peace of Westphalia is "largely imaginary" and that "the accepted IR narrative about Westphalia is a myth" (Osiander, 2001:251).

According to Karp, it would be egregious to develop normative visions about how the world ought to be, if they are based on a reality other than the one true nature of the international system we observe today (Karp, 2008:316). Krasner shows that sovereignty in the international system has not truly existed as perceived following the 1648 Peace of Westphalia, and instead it has taken various forms and characteristics.

3.7 Types of sovereignty

According to Krasner, four various types of sovereignties exist namely: domestic sovereignty, interdependence sovereignty, international legal sovereignty, and Westphalian sovereignty – which will be our main focus. These sovereignties do not covary and states are sometimes able to have one but not the other. Furthermore, states are also able to have more than one of the aforementioned types of sovereignties at the same. Although the various types of sovereignties may be associated with each other, the loss or absence of one does not necessarily result in the erosion of the other. These sovereign states and the various types of sovereign states exist in a state of anarchy. The various forms of sovereignty can be understood as follows:

Domestic sovereignty refers to the establishment and organisation of public authority within a sovereign, and the level of control exercised by that authority (Lake, 2003:305). These authorities, who can exercise effective internal control, can be organised in various ways

without compromising international legal sovereignty or Westphalian sovereignty. These authorities can be organised in various ways including monarchies, governments, or divided among different institutions. State authorities and their subsequent domestic sovereignty can affect international legal sovereignty by virtue of its ability to conduct external relations. However, for the most part, the effectiveness of the political authority within their borders may also vary without necessarily affecting its international legal or Westphalian sovereignty. According to Krasner (1999:10), a state with or without effective domestic control can still maintain its full international legal sovereignty, as is the case with Australia and the Central African Republic, respectively. These states are still internationally recognised as sovereigns who have equal voting rights on the various international bodies to which they belong, despite their various degrees of control within their domestic polities.

Interdependence sovereignty concerns authorities' ability to control the movement of transborder goods, persons, pollutants, capital, diseases, etc. Interdependence sovereignty focuses fundamentally on control rather than legitimate authority (Shah, 2018:34). Krasner notes that the activities over which the state effectively has control are declining amid new issues such as terrorism, drug trafficking, currency flows, and spread of diseases, which are a product of interdependence or new technologies that are becoming increasingly transnational rather than remaining at the domestic and national level (1999:12). Although a loss of interdependence sovereignty does not necessarily mean a loss of domestic sovereignty, it does, however, speak to a level of diminished internal or domestic control, as a diminished control over what flows into a country's borders will naturally speak to a reduced control within the borders (Shah, 2018:35).

States who cannot control movement across their territorial borders can still be recognized by the international community and be perceived as a judicial equal. However, a loss of interdependence sovereignty could result in authorities losing their Westphalian sovereignty. When states struggle to regulate the flow of goods across their borders, they are likely to turn to an international organisation (the practice of international legal sovereignty) and create agreements, which results in the creation of external authority structures, effectively undermining their Westphalian sovereignty. However, due to the nature of the aforementioned domestic and interdependence sovereignty, this study will instead remain focused on the nature of Westphalian sovereignty and International legal sovereignty to a lesser degree.

International legal sovereignty concerns the mutual recognition of statehood, usually between two or more territorial entities that have formal juridical independence (Karp, 2008:324). This conception of sovereignty is concerned with recognising the status of a political entity in the international system. States who possess international legal sovereignty are recognised as a legal and sovereign entity on the international system, and thus the state is ostensibly treated as an equal. The basic rule of international legal sovereignty is that the recognition of statehood is extended to entities, states, and governments with territory and formal juridical autonomy. States are able and willing to recognise others, however, the action is not always reciprocated. The decision to recognise or withhold recognition can be used as a political tool to either support or weaken a government (Krasner, 1999:15). Although weaker states have argued that recognition of states should be automatic, stronger states – some of whom would like to use recognition as a political tool – have rejected this call. Previously, states have recognised other states even though they did not necessarily have control over their claimed territory.

Westphalian sovereignty, the traditionally perceived model of sovereignty refers to an institutional agreement between members of the international society that is based on two principles; namely, territory, and the exclusion of actors from a states' domestic political and authority structures (Krasner, 1999:20). Fundamentally, Westphalian sovereignty is concerned with the rule of non-interference. States who maintain effective Westphalian sovereignty may be faced with a constrained external environment, however, they are free to create the policies and institutions of their choosing.

The 1648 Peace of Westphalia Treaty set the foundation for the idea of non-intervention and equality of all states in the international system (Shah,2018:21). These states can independently select their form of governance and act independently regardless of geographical size, wealth, or material strength.

Westphalian sovereignty is perceived to be violated when external actors or governments determine domestic authority structures, policies, institutions, and so forth. Westphalian sovereignty can be violated in several ways, including through intervention, coercion, or invitation. Powerful states are can sometimes use their material capabilities to enforce changes in the authority or government of less powerful states, subsequently violating the perceived international norm of non-intervention. Whilst coercion and intervention are inconsistent with international legal sovereignty, a voluntary invitation does not infringe upon international legal sovereignty, however, it does violate Westphalian sovereignty (Krasner, 1999:20).

Fundamentally, the norm of Westphalian sovereignty is understood as the existence of states within specific territories, within which domestic political authorities can legitimately exercise their will and power. The rule of non-intervention, which is always violated through coercion or invitation, remains a fundamental element of statehood (Hayman and Williams, 2006:522).

Weaker states have traditionally been strong advocates of the rule of non-intervention. Furthermore, in the latter part of the twentieth century, international organisations and treaties such as the United Nations and the 1975 Helsinki agreement have similarly endorsed the principle of non-intervention as well as the principle of human rights despite the apparent tension between the two doctrines. As previously stated, Westphalian sovereignty and the emergence of the human rights doctrine are usually understood in terms of their perceived mutual incompatibility (Reus-Smit, 2001:522).

Although Westphalian sovereignty can be violated through intervention and invitation, the literature on invitation has received less notice as scholars have confounded international legal sovereignty and Westphalian sovereignty (Krasner, 1999:22). These invitations may occur when a political authority voluntarily compromises their domestic autonomy by joining an international institution, accepting conditionalities emanating from treaties and so forth, Whilst intervention compromises both international legal sovereignty and Westphalian sovereignty, invitation-only violates Westphalian sovereignty and to a lesser degree, it can also compromise domestic autonomy.

These invitations violate the Westphalian sovereignty because they constrain the decision-making capabilities of political authorities. For example, the rulings of the European Court of Justice are legally binding for members of the European Union. Similarly, conditions tied to loan agreements from the International Monetary Fund (IMF) may constrain both the Westphalian sovereignty and domestic sovereignty of states as they may stipulate that government make policy and institutional changes as part of the loan agreement.

It is thus evident that states have, whether willingly or unwillingly, insofar as they uphold their commitments to the treaties and various accords, violated their domestic and Westphalian sovereignty when they signed the UN Charter and pledged to uphold human rights. Since the end of World War II, states have signed more than two dozen human rights accords that cover a large range of issues ranging from genocide, torture, slavery, refugees, stateless persons, etc. Although these UN agreements have limited or often no enforcement mechanisms or provisions for reporting violations, states have nonetheless signed up to these accords and

agreed to honour them. Through honouring these agreements, states thus behave in accordance with both a logic of appropriateness and a logic of consequence.

3.8 Logic of appropriateness and logic of consequence

In the context of IR, political and social environments are characterized by two logics, namely, the logic of appropriateness and the logic of consequences. Logic of consequences understands political actions as a product of analytical thought and consideration. A logic of consequences is traditionally the result of deliberate consideration of alternatives and assessment of their outcomes and preference-driven choices aimed at furthering the interests of a specific state, group, institution, organisation, or individual (Schulz, 2014:2). Classical game theory and neoclassical economics are both examples. Actors who are driven by the logic of consequences usually engage a form of analysis to evaluate the ramifications of their actions if they make a particular choice.

Meanwhile, the logic of appropriateness is primarily driven by norms and 'rule-based' actions, as these actions are taken as they are driven by rules and precedent (Schulz, 2014:2). These rules are usually fixed responses to certain situations. These rules can originate from prior action or precedent from other actors. The "appropriateness" does not connote actions that are morally or ethically appropriate, rather the logic of appropriateness refers to an action which is consistent with relevant rules (Schulz, 2014:2). States whose behaviour is driven by a logic of appropriateness internalise the norms which they conform to not to maximise their interests, but because the norms, rules, and precedent dictate that they behave in a particular manner or make specific choices which are expected, rightful, and legitimate (Shah, 2018:22).

Both international legal sovereignty and Westphalian sovereignty can be understood in terms of their norms or logic of appropriateness: recognising judicially independent legal authority over a specific territory; exclude external actors from the affairs of a legitimate authority who has territorial control over a specific geographical area. However, both of these logics are routinely violated, with Westphalian sovereignty being violated more often than legal sovereignty (Krasner, 1999:6). This is because powerful states find it more compelling to act based on a logic of consequences than the logic of appropriateness. States frequently find their domestic and international legal sovereignty violated through mutual agreements. However, violation of Westphalian sovereignty has traditionally been achieved through coercion or imposition, with the weaker state often in a position worse off than what they had previously been in (Krasner, 1999:7).

This is predominantly because the international system is too complicated for any set of performative rules, including that of sovereignty, to be applied rigidly across the international system. Throughout history, and as previously demonstrated in Chapter 2, the international system has been dominated by a logic of consequences instead of a logic of appropriateness. Westphalian sovereignty has been honoured more in its violation than in its adherence. Historically, states have chosen to violate the perceived sacrosanct rules of non-intervention as per Westphalian sovereignty in pursuit of maximising their own interests and subsequently violating the logic of appropriateness.

International norms and rules can sometimes be contradictory, such as the concept of non-intervention and the protection of human rights, with no higher authority to adjudicate and resolve these contradictions. However, power asymmetries characterize the international system with stronger states seemingly able to choose among various rules and norms, selectively applying which one best suits their interests at a particular moment. European powers were able to determine the rules and norms of the international system during the era of colonialism (Strang, 1996:24). However, following the end of World War II, the international system drastically changed and new norms and rules have since emerged. Particularly since the inception of the UN, the international system has seen a flurry of new norms accepted by the international system.

Since 1945, governments have voluntarily signed and agreed to various accords, like the commitments to uphold and respect human rights, litigious standards such as R2P, and they have even joined organisations such as the WTO which requires them to behave in a certain manner, compromising their various types of sovereignties.

The underlying fact of current international relations is that states operating in the international system are no longer free from external control, notwithstanding the forces of globalisation which in some ways appear to be eroding Westphalian sovereignty (Lake, 2003:23). As previously stated, stronger states do not hesitate to dictate the rules and norms of the international system or coerce changes in the authority structure of weaker states as long as it serves to further the stronger state's interests.

States can exert their will on others, usually through coercion or imposition, and unlike contracts or accords, they usually take place because of the large power asymmetry between countries, a defining feature of the international system. For example, the United States' logic of consequences has resulted in it intervening in the domestic affairs of its neighbours because

it serves its best interests. This can be seen with the US's foreign policy in Latin America over the last two decades (Shah, 2018:24).

Nonetheless, the outcomes, rules, and logic of appropriateness are dictated by the powerful whose violations or adherence to international norms are based on calculations of material or ideational interests. Requiring states to adhere to sovereignty and the associated norms falls short of organised hypocrisy.

3.9 The utility of the English School

The above-mentioned concepts have been highlighted and extensively discussed as it plays an important role when considering and explaining the behaviour of the various stakeholders in the Libya and Syria case studies. These analytical tools and concepts have been highlighted as they will be used to address the research problem and research questions first in Chapter 1 of this study. These analytical tools are useful for analysing the events of Libya and Syria as case studies in a bid to understand why the UN has been unable to find a consensus on humanitarian intervention. These tools' theoretical lenses can conceptualise the tension that has manifested between the various powers on the global stage. Furthermore, the various theoretical concepts such as sovereignty are critically analysed in both theory and practice. Furthermore, the English School is selected as a theoretical point of departure to further highlight the duality of pluralist and solidarist state interaction within an organisation such as the UN, which was ostensibly created, among other purposes, to serve as a conduit for the shared norms and interactions of the international community.

The English School was selected as a theoretical point of departure, as states' interaction as defined by the International Society broadly speaks to the reality and shared interests of organisations such as the UN, which had previously been discussed in Chapter 2. International Society reflects the current state of the UN and the international world order as it describes a society of states, which maintain shared interests, sustained cooperation, and communication and have thus formed an institutional coalition to protect, advance, advocate, and express these shared interests, such as human rights, on the global stage. Furthermore, the creation of the UN in the international society signals that these shared values and rules of the institution have become codified, thus putting greater pressure on states to adhere to the shared interests and values as agreed upon within the International Society. However, despite the institutionalisation of these shared norms, an inherent tension remains prevalent throughout the

UN regarding humanitarian intervention, among other things, as exhibited by states who maintain pluralist and solidarist worldviews.

Solidarist states, such as the established P3 and several others endorse the R2P concept, as these states feel that sovereignty is not an absolute given or a veil that states can hide behind when committing mass atrocities against their citizenry. However, these values place tension not only on the UN Charter, which was founded upon the principles of non-intervention but similarly on the more Pluralist aligned states. Since the 1990s, the UN has placed a larger emphasis on upholding human rights, however, certain members of the UN maintain that the needs, rights, and privileges of the state need to be prioritised above the rights and needs of the individual. Furthermore, these Pluralist UN member states highlight the perceived sacrosanct nature of sovereignty. The pluralist and solidarist tension will later be explored in Chapters 4 and 5 to show how these tensions manifested, and how tensions between UN member states in the International Society are expressed regarding intervention, sovereignty, and R2P.

The UN currently finds itself in a deadlock concerning the utility, morality, and efficacy of R2P following the events of Libya. R2P encompasses the values and shared norms held by member states of the UN, as the UN has indicated and showed a perceived commitment to human rights. However, the concept is similarly at odds with the pluralist states who feel that the concept violates the Westphalian sovereignty of states. These pluralist states perceive Westphalian sovereignty, as supported by the UN Charter, as an inviolable concept. Emerging markets, notably Brazil, India, Russia, China, and to a lesser degree South Africa (BRICS nations), and dozens of other countries, claim that sovereignty forms the cornerstone of the international society and that it should not be violated. However, these states have been shown to act hypocritically on several occasions.

It will be shown that states have more frequently chosen to act in accordance with the logic of consequences rather than a logic of appropriateness as and when it suits their national interests. This has most frequently been seen displayed by powerful states, showing a willingness to act counter-intuitive to the logic of appropriateness. States, especially powerful ones who are least likely to face severe consequences on the global stage, are more likely to act in accordance with the logic of consequences rather than the logic of appropriateness. States, some of whom swear by the inviolability of sovereignty, have frequently violated the Westphalian and International Legal sovereignty of other states in a bid to further their national interests.

3.10 Conclusion

To address the debate of sovereignty versus humanitarian intervention, the theoretical point of departure consisted of a deep deconstruction and exploration of humanitarian intervention through the lens of the English school. When applying the theoretical tools to address the research question and research problem it is imperative to understand the theory and its methods of application. This chapter also draws from Stephen D. Krasner's *Sovereignty: Organized hypocrisy* (1999) to better understand the nature of sovereignty and its rules on the international system. Drawing the English School theory, this chapter showed that arguments relating to sovereign integrity and the right of non-interference from external actors cannot be used as a justification in the face of mass atrocities and human rights abuses.

Furthermore, this chapter has shown that states have ratified the R2P agreement and have agreed to uphold the norms and rules relating to the principle. R2P is ostensibly no longer in contention with sovereignty as it is an emerging norm that is and continues to shift the normative behaviour and our understanding of sovereignty. However, although R2P has been ratified and adopted as an international norm or policy prescription, it has nonetheless been accepted and embraced as a policy tool to drive the logic of appropriateness in the UN.

Using English School theory, this chapter showed that the principle of sovereignty and humanitarian intervention are not contradictory principles in contestation with one another. This section revealed that the rules and norms relating to sovereignty have repeatedly been violated by actors in the international society. Finally, the deconstruction of sovereignty has shown that the concept of sovereignty as envisioned by the signatories of the Treaty of Westphalia has never truly existed.

4. Chapter 4: The Libyan case study

4.1 Introduction

As previously stated in the first chapter, Libya will be used as a case study to help answer and address the research question “using the events of Libya and Syria as case studies, why has the UN been unable to find a consensus on humanitarian intervention?”. This chapter is crucial to the study as it will offer insights into why the UNSC authorised an armed intervention into a sovereign state that did not request an armed intervention from the international community.

Furthermore, the Libyan case study offers a unique insight into the workings of the UNSC relating to humanitarian intervention, as it marks the first UNSC led intervention whereby the UNSC explicitly references R2P and the responsibility of the international community to save protect human life. The Libyan case study will reveal the conditions under which the UNSC is willing and able to conduct armed interventions to uphold its responsibility of protecting human life.

Using Libya as a case study is also practically important as it offers several insights. The geographic location of Libya serves as a point of intersection to Africa, Southern Europe, and the Middle East, and remains an important player in the Maghreb sub-complex in the Middle East regional security environment. The political uprising in Tunisia and its spillover effects had a significant impact on Libya and other Middle Eastern countries. This political uprising in Tunisia and its political protests and quest to seek democratisation spill over reshaped the Middle East in a matter of months. Furthermore, as a result of the increased regional destabilizing effects of the Arab Spring, global powers conducted the first armed intervention through R2P.

In this chapter, the study utilizes the vast literature concerning humanitarian intervention in Libya and discusses the events before, during, and after the international-led intervention. The first case study of Libya will be used to discuss humanitarian intervention to understand what the current UN-led consensus on intervention looks like. Chapter 4 will first provide a brief introduction to the state of Libya and explain the failures of the Libyan state which resulted in the mass protests, spurred by the Arab Spring, which eventually led to the collapse of the Libyan state. The literature will show that weak state institutions, pervasive corruption, ethnic fuelled grievances, and lack of accountability led to the eventual downfall of former Prime Minister Muammar Mohammed Abu Minyar al-Gaddafi (Gaddafi).

Following the first section on the introduction to Libya, this chapter will provide an analysis of the UNSC response to the Libyan crisis and seek to explain why issues such as sovereignty and non-intervention were not of paramount importance as compared to the case in Syria. This section will show that the national interests of intervening states ultimately led the UNSC to intervene in the Libyan Arab Spring.

The study will go into more detail relating to the role of French, US, and British forces and seek to explain why the P3 appeared to have a vested interest in the conflict. Chapter 4 will show that the NATO forces went beyond their mandate by not only failing to sufficiently prevent the killing of innocent civilians but orchestrating a regime change and overthrowing Gaddafi when the UNSC approved the use of R2P.

R2P, its use, and the consequences of its use will also be discussed in this chapter. The study then goes on to outline the discussions about R2P in the Libyan context. Chapter 4 will explain R2P's legitimacy and how the NATO intervention has undermined its legitimacy and perceived effectiveness at preventing humanitarian disasters. The study will seek to determine whether R2P manifestly failed to live up to its expectations and explain what this means for the doctrine moving forward.

4.2 Gaddafi's Libya

In September 1969, Gaddafi and a group of young military officers orchestrated a successful "bloodless coup" against King Muhammed Idris as-Senussi. The "free officers" took control of the country and encountered very little resistance from the people, the elite, or the main tribes who had all grown fed up with the rule of the King. The coup was recognized by the Arab and Western world, and Gaddafi's government soon attained legitimacy on the international stage (Hamada, Sökmen, and Zaki: 2020:3).

Gaddafi had a unique perception of the role of the state and sought to replace the previous format of state institutions with the "Jamahiriya", a new form of political engagement, which enabled citizens' direct participation in the decision-making process rather than confining decision making in the upper levels of government (Mundy, 2018:18). Gaddafi sought to abolish the various state institutions and laws of the previous regime and instead implemented his ideology developed through the Green Book (modelled after Mao's Little Red Book) which combined the ideology of Islamic socialism and Arab nationalism (Türkmen, 2014:9). Gaddafi removed laws, bureaucracy, and professional occupations and replaced them with

revolutionary entities fashioned along the Green Book to settle and resolve disputes in society (Hamada, Sökmen, and Zaki: 2020:3).

In theory, the Jamahiriya form of governance was supposed to serve as a tool of direct democracy aimed at providing higher levels of social justice, higher levels of production, the elimination of exploitation, and distributing the nation's wealth in an equitable manner (Winer, 2019:5). The new format was supposed to stimulate and encourage popular engagement in politics and allow citizens to directly participate in the decision-making process. In practice, however, decision-making was concentrated at upper government levels, whilst local decision-making suffered from low levels of political participation. Furthermore, at upper government levels, Gaddafi controlled decision-making, backed by his repressive regime to keep the system going (Winer, 2019:5).

Although Ghaddafi had sought to implement direct democracy, it later turned into a one-man autocratic rule. Gaddafi consolidated his forty-year-rule by exploiting oil rents, Arab nationalism, tribalism, and state use of force to suppress opposition. Gaddafi overhauled state institutions, by purging the old elite, technocrats, and university graduates, and created a new political and economic elite with different social and professional backgrounds to manage the state (Hamada, Sökmen, and Zaki, 2020:3). Gaddafi used Libya's inherent tribalism to his advantage and destabilized the old power balance, through which the previously marginalised and less powerful tribes aligned with the state, forcing the old elite from other tribes to shortly follow suit (Ladjal, 2016:12). Furthermore, he also managed to get rid of most members of the Revolutionary Council, the former 12-person council that ruled Libya from 1969 to 1977 (Hamada, Sökmen, and Zaki, 2020:4). And by 1977, Gaddafi had full control of the Libyan state. This served as the beginning of Gaddafi's authoritarian rule.

Under Gaddafi's 42-year tenure, he not only prevented the formation of opposition and civil society organisations, but he also manifestly failed to invest in the development of the Libyan state. Nearly every sector lacked investment and development – including education, health, manufacturing, and agriculture – which was compounded by a corrupt and ineffective bureaucratic apparatus (Fraihat, 2016:21). Nevertheless, Gaddafi's often generous spending on social and infrastructure projects ensured that the leader enjoyed a measure of support inside the country, despite ideological limitations which significantly hindered growth and development in the country. This is because Gaddafi and the rent-seeking elites built an

economy around the exporting of oil and importing of foreign goods (Winer, 2019:5). Certain sects of Libya's tribal elite benefitted immensely from Gaddafi's four-decade rule.

During Gaddafi's tenure, the elite mainly consisted of members of historically prominent families, his own family, and members belonging to his tribe called the Qadhadhfa (Winer, 2019: 4). Tribes played a significant role in terms of Libyan power, political, and security distribution, as the country is composed of approximately 140 tribes and clans. Many of these clans have connections with Tunisia, Chad, and Egypt. Nonetheless, Gaddafi spread the political and economic influence and power across only 30 of these tribes and clans, thus placing tribal connections at the centre of political and economic activity (Erdağ, 2017:26).

Among the various tribes, Gaddafi mainly entrusted and empowered members of his tribe, the Qadhadhfa, to prominent positions within the security sector. Due to the number of coup attempts he faced, Gaddafi appointed officers and family members who were loyal to him instead of experienced and competent officers. Thus, Gaddafi fashioned a security apparatus to protect the regime and to reinforce its survival against any potential challenge instead of responding to external threats (Erdağ, 2017:26).

Nevertheless, between the 1970s to the 1990s Gaddafi's often erratic foreign policy meant that he was largely alienated from regional organisations and Arab governments (Winer, 2019:4). However, by the end of the 1990s, Gaddafi began to take steps to end its isolation, particularly with western governments. Gaddafi embarked on a process of economic liberalisation and opened the country up to more foreign businesses and investment. Gaddafi undertook a process of gradual transformation in Libyan politics, with the colonel accepting a programme to destroy his weapons of mass destruction (WMD)'s in 2003. Furthermore, he opened up to inspections and ended its chemical and nuclear weapons programme and eliminated all of its nuclear and chemical weapons, and became a signatory of the Additional Protocol of the Nuclear Non-proliferation Treaty (NPT) in 2003 (Squassoni, 2006:1).

As a result, both the US and UN agreed to ease economic restrictions previously placed on Libya. Keeping with its integration into the world stage, in 2007 Libya was elected as a non-permanent member of the Security Council from 2008-2009. In 2009 Gaddafi was elected as president of the AU, and in 2010 the country was elected to the UN Human Rights Council. Amid Libya's reintegration into the world stage, Gaddafi's relations with the US, France, Italy, and the UK began to improve (Noueihed and Warren, 2013:167-168). Leading up to the Arab Spring, Libya's normalisation of relations with the West created some room for

manoeuvrability for the country both economically and politically (Noueihed and Warren, 2013:168)

4.3 The Arab Spring: Libya and the UN-led intervention

The mass protests and political uprising in Tunisia raised questions around the legitimacy of several authoritarian regimes in the Middle East and North Africa (MENA) region. Across Libya's western border the Tunisia president stepped down on 14 January 2011 and acquiesced to the demands of the peaceful protesters. Meanwhile, in Libya's neighbour to the east, Egypt saw its president Hosni Mubarak resign on 11 February 2011 after the president's security forces abandoned him following a failed crackdown on protesters.

The successful protests in Tunisia and Egypt embolden Libyan demonstrators to hold a day of protests. On 15 February 2011, a group of youth protesters held a "Day of Rage" to demand political and economic reforms (Erdağ, 2017:29). Demonstrators gathered to denounce alleged human rights abuses, social program mismanagement, political corruption and called for the resignation of Gaddafi (Bhardwaj, 2012:80). These youths had grown frustrated with the socio-economic effects of the unfair distribution of power, the lack of the economy to provide meaningful employment, slow economic modernisation, and the unequal regional development, particularly in the neglected Eastern region (Pradella and Rad, 2017:12). Although the first few days of protests were peaceful, police started to use heavy-handed tactics to violently suppress and disperse protesters. The heavy-handed response by security forces, and the arrest of an activist consequently spurred further protests.

Whilst protests were getting underway throughout the country, it was evident that Gaddafi had did not have the levels of support that he thought he had had. As demonstrations picked up momentum throughout the country, Gaddafi famously threatened to "cleanse Libya house by house," and launched a military campaign to suppress the uprising (Fraihat, 2016:23). Nonetheless, the frequency and impact of protests escalated, and the protest movement developed into a rebel insurgency. By 20 February, rebels attacked the eastern city of Benghazi, the second-largest city, and captured the main army (Kuperman, 2019:40).

In mid-February, rebels continued to advance along the west coast for nearly two weeks until they reached halfway to the capital city of Tripoli. Following this advancement, Gaddafi mobilised his vastly superior armed forces, who mostly defeated the rebels in just under 10 days and forced them to retreat into Benghazi (Kuperman, 2019:40; Türkmen, 2014:9).

However, a significant number of security forces personnel announced that they would not be part of the brutal repression of protesters and also defected to the rebels.

During this period, several of Gaddafi's top officials joined the rebel group, including the Minister of the Interior, Abdel Fattah Younes – who assumed leadership of the rebels, and the Minister of Justice, Mustafa Abdul-Jalil, who founded the political wing of the rebel group known as the National Transitional Council (NTC) (Kuperman, 2019:40). The widespread violence started to garner international attention.

The proportion and scale of the emerging crisis prompted the UN Security Council to unanimously pass Resolution 1970 on 26 February. The resolution established an arms embargo, travel bans for members of Gaddafi's regime, and froze all assets of Gaddafi and his loyalists (Türkmen, 2014:9). The SC charged Gaddafi with "responsibility for ordering the repression of demonstrations and human rights abuses" (Erdağ, 2017:29). The SC also exercised the rare power to refer the atrocities committed by the Libyan regime to the ICC for investigation and prosecution (Murthy, 2018:122; Türkmen, 2014:10).

On 27 February, the NTC declared itself in a letter to the UN General Assembly as the sole representative and legitimate government of Libya and requested that the international community intervene (Türkmen, 2014:10). France, alongside the two other members of the P3, immediately recognised the NTC – and granting it a hybrid political-legal sovereignty – started bombing Libyan forces alongside the US even before any formal agreement had been put in place (Pradella & Rad, 2017:13). Nonetheless, Gaddafi's continued onslaught left the SC with no other option other than the armed intervention. By this point, Gaddafi was no longer able to hide behind the veil of sovereignty, which cleared most procedural hurdles for foreign states to intervene.

In the week following the move by the SC, various regional bodies, including the AU, the Arab League of Nations, the EU, the Organisation of the Islamic Conference, and the Gulf Cooperation Council denounced the actions of Gaddafi's brutal regime and requested the SC to impose a no-fly zone and demanded that Gaddafi stop the violence against civilians (Türkmen, 2014:10). The international community appeared to be divided on its stance towards Libya, as Germany claimed to be "fundamentally sceptical" towards armed intervention, whereas France and the UK remained intent on conducting airstrikes.

However, calls by the Arab League of Nations to impose a no-fly zone pushed the scales in favour of intervention – it was the first time the Arab League had voted to sanction a fellow Arab state. On 16 March, the P3 (Britain, France, and the US) tabled an SC resolution to intervene militarily. The SC invoked – for the first time since world leaders chose to adopt it at the 2005 World Summit – the concept of R2P to protect civilians. UNSC Resolution 1970 also states to take "all necessary measures...to protect civilians and civilian populated areas under the threat of attack" (Compton, 2020:18; Mwangi, 2016:28). Furthermore, the resolution implemented a no-fly zone over Libya.

Resolution 1973, which provided limited guidance on military intervention, signalled the first signs of tension and potential disagreement over intervention in Libya. Unlike Resolution 1970 which passed unanimously, Resolution 1973 narrowly passed with ten votes in favour, whilst five others abstained, including China, Russia, and three other non-permanent members including India (Murthy, 2018:123). The abstainers felt that there was still an opportunity for the conflict to be resolved using peaceful means. The difference between permanent members became more entrenched as US-led NATO airstrikes appeared to be going beyond the initial mandate of saving civilians and turned into a series of offensive strikes on forces loyal to Gaddafi, and government forces – with the unstated political goal of removing Gaddafi (Murthy, 2018:123). Despite growing objections against the NATO-led airstrike, the US and several of its military allies including the P3 continued its bombing campaign until the fall and killing of Muammar Gaddafi in October 2011 (Murthy, 2018:123). By October, NATO forces had conducted 9 700 bombing missions with an average of 150 airstrikes per day, killing thousands of people and destroying Libyan infrastructure (Pradella & Rad, 2017:13).

NATO's abuse of its mandate resulted in a diplomatic vacuum in Libya. Furthermore, the actions of NATO hardened the resolve of the rebel groups and nullified all progress made by the UN envoy of Abdelelah al-Khatib during their negotiations with the Libyan government (Murthy, 2018:123). Additionally, dissent within the UN grew as various other nations voiced their dissatisfaction over the fact that the UNSC had used the no-fly zone and R2P as an end to their ulterior political motives, namely, regime change and furthering their national interests. The opposition within the UNSC was split between two camps, the seemingly solidarist pro-NATO P3 on one side, and the more pluralist aligned China, Russia, and several other states such as India, Brazil, and South Africa to name a few. Tensions between these two groups of states remained high until Resolution 1973 ended. Fundamentally, the NATO-led intervention

left R2P with a bad image globally and made weaker states more sceptical of powerful states seeking to implement the concept amid the backdrop of a regime change in Libya.

4.4 Intervening self-interests

The NATO-led operation and enforcement of the R2P doctrine have generated a plethora of debates. This is largely a result of the contradicting actions undertaken by NATO forces during the intervention and the extent to which the bombardment of Libya could be considered successful.

The UNSC opted to use force to ostensibly save lives, and to prevent a civilian massacre from occurring in Benghazi as Gaddafi's forces neared the city. Former US President Barack Obama, espousing solidarist arguments and calls for intervention, said that the US had chosen to intervene to protect civilians. However, claims of impending civilian massacres appear to be exaggerated (Compton, 2020:20). Compton states that critics of Gaddafi within Libya exploited the uncertainty and growing protests by exaggerating the threat to civilians and encouraging western powers to intervene. According to a 2016 House of Commons Foreign Affairs Committee investigation into the intervention, Gaddafi's forces mainly targeted rebel groups when retaking cities and that the casualties were mostly male combatants (House of Commons Foreign Affairs Committee, 2016:15).

Critics of the NATO-led intervention state that concerns over an "imminent massacre" in Benghazi were largely overstated. This narrative was largely espoused by Libyan expatriates living in Europe who issued dire warnings to the media about impending massacres. The 2016 House of Commons Foreign Affairs Committee investigation into the intervention found that the rapid ascent to violence was due to Gaddafi's initial crackdown on protesters and the presence of an armed opposition group which was quickly established under the interim NTC. Furthermore, death tolls were frequently exaggerated. During the initial clashes in the first few months of protests in 2011, many western media outlets exaggerated death tolls by up to a factor of ten, with some reports citing as many as 2,000 deaths, whilst Human Rights Watch (HRW) only reported 233 deaths across all of Libya during that same reporting period (Igwe, Abdullah, Kirmanj, et al, 2017:6). Additionally, during seven weeks of fighting in Misurata, only 257 people were killed, including rebels and government forces (Compton, 2020:21).

This finding, among others, suggests that the intervention was based on a false premise. Furthermore, it undercuts the solidarist reasoning for intervention as it appears that the claims of a "supreme humanitarian emergency" were greatly overstated. States such as France, UK,

and the US frequently reiterated their desire for Gaddafi to go, whilst appealing to the solidarist international community to ostensibly save lives (Compton, 2020:21; Malito, 2017:291; Igwe, Abdullah, Kirmanj, et al, 2017:6). Additionally, it begs the question of whether intervening powers genuinely believed their statements about an impending humanitarian disaster, or if they willingly created a humanitarian rationale, espousing solidarist arguments for the need to intervene.

While solidarist states focused on neo-liberal language centred around the importance of protecting human lives, the international community's responsibility, and the threat of wider conflict, solidarist state actions were ultimately led by their national interests and their realist perception of the world. As stated in Chapter 3, the reservations held by more pluralist aligned states on R2P suggest that these states are cognisant of the current tensions relating to world order, balance of power, and the perceived shifting of global norms. The potential shift in global norms – that is more powerful states conducting armed intervention – threatens weaker and more authoritarian states, especially if it is in the interests of more powerful states.

Hundreds of arguments have been brought forth either defending or attacking the NATO-led intervention in Libya. Academics such as Don Roth has argued that the intervention did not fall outside the remit of R2P. Gideon Boas, a former legal officer of the ICC, maintains the solidarist argument and agrees with Roth as he states that the attack was legal as it was authorised by the UNSC. Meanwhile, critics of the intervention such as Jeff Sparrow says that concepts of "Humanitarian intervention" and R2P are new manifestations of the "white man's burden" as these concepts attempt to justify imperialist powers invading less powerful countries for the sake of benefitting "the local people" (Elharathi, 2014:72). These power refuse to take the contextual reality into account for the sake of pursuing their interests. This largely informs Bull's initial writings when he stated that great powers do not pursue actions due to altruistic reasons, and instead, state-run humanitarian action is always geared toward national self-interest (Elharathi, 2014:73).

The P3 members refused to recognise the armed nature of the uprising, and instead solely blamed Gaddafi for the violence in the country. During the discussion for the implementation of Resolution 1973 pluralist states such as Russia and Brazil claimed that the resolution, proposed by Lebanon and backed by the P3, did not satisfy the immediate ceasefire. The African Union rejected any form of armed intervention and instead proposed a roadmap for

peace, attempted to facilitate a ceasefire and the formation of a transitional government that included the members of warring factions (Malito, 2017:291).

When negotiations failed to materialise, the international community of states removed Gaddafi's government's international legal sovereignty in July 2011 by choosing to recognise the NTC as the only legal government of Libya. The move by the international community in effect created the permissible conditions for the NATO intervention as the newly recognised NTC government had acquiesced to a NATO intervention (Malito, 2017:291). The choice to recognise the NTC as the legal sovereign representative was in large driven by economic, geopolitical, and strategic interests of the P3. The intersection between interest, solidarist norms, and structural forces surrounding the SC's authorisation for the intervention reveals a "dialect of unity and rivalry of interests" (Malito, 2017:292).

Countries such as Germany and Brazil remained suspicious of the intervening states and contemplated that armed intervention might result in a further deterioration of the security environment and the eventual collapse of the state (Morris, 2013:1272). This concern is supported by Krasner in Chapter 3, when he opined that violation of Westphalian such as armed intervention, often leaves the weaker state (Libya) in a position worse off than what they had previously been in (1999:7). India went as far as suggesting that the use of force was premature and voiced concerns over the ambiguities of Resolution 1973. China claimed to always be opposed to the use of force and shared India's sentiment, as did Russia, who voiced concerns of the potential for the resolution to morph into a large-scale military intervention (Morris, 2013:1272). Nevertheless, the P3 received the crucial backing of regional organisations such as the Gulf Cooperation Council and the Organisation of the Islamic Council (Morris, 2013:1272). Eventually, the UNSC approved the mandate for limited intervention, with the military action spearheaded by the P3.

The P3 are often perceived as the intervening states who most aggressively advocated and requested the support of the international community. Although the UK and US played an integral role in the intervention, France provided the initial driving force for much of what followed (Compton, 2020:21). France exerted significant pressure on Libya and took the leading role in the NATO campaign. The US and then French President, Nicolas Sarkozy, took hard-line stances on the situation in Libya as both attempted to build their image ahead of their respective 2012 presidential elections (Elharathi, 2014:73).

Given Libya and Europe's interconnected markets, France and the UK took diplomatic leadership urging for a military solution (Malito, 2017:292). Both states were eager to get involved in Libya, largely driven by self-interests, namely national security (the flow of migration) and economic interests (oil and gas). The Libyan crisis prompted the "scramble for access to Libya's oil wealth", with the NTC consolidating itself and European investors jumping on the opportunity for oil and reconstruction contracts (Pradella and Rad, 2017:14).

Access to Libyan oil and natural gas had previously constituted a strategic interest for European and American markets. However, the tumultuous relationship between the Gaddafi regime and the West had never been linear or predictable. The prospect of a new government appeared more appealing as it meant that western states would have access to Africa's fifth-largest oil producer and the country with some of the largest proven oil and gas reserves (Igwe, Abdullah, Kirmanj, et al, 2017:7).

All three major powers had significant commercial interests in Libya. The UK had the political interest of protecting British investment in the country, given that several oil and gas companies-maintained operations in Libya. Meanwhile, France perceived Libya as a new strategic point of entry to reassert itself on the continent, with the then French Minister, Alain Juppe, referring to France's involvement in Libya as "an investment for the future" (Malito, 2017:292). Furthermore, France sought to protect the existing interest of French-led oil companies who were already present in the country before the crisis. Before and during the civil war, both France and the UK were pushing for renegotiations of oil and gas contracts.

Amid the NATO-led operations, minor Western oil companies supplied rebel forces whilst NATO largely targeted refineries under the guise of protecting civilians. Minor oil trading companies offered petrol to rebel forces who would, in turn, provide them with crude oil – largely facilitated by the US Treasury and the UK Foreign Department (Malito, 2017:293).

Despite the intervening power's significant overlap of interests in Libya, they all shared the perception that the world order would benefit from new leadership in Tripoli. As stated in Chapter 3, states, especially powerful ones who are least likely to face severe consequences on the global stage, are more likely to act in accordance with the logic of consequences rather than the logic of appropriateness. Thus, intervening powers used the expansion and protection of human rights as a justification for intervention. However, given the choice to advance their interests, the intervention largely stems from the self-serving interests of hegemonic powers. Furthermore, Gulf States were willing to support the intervention as they perceived it was

paramount to keeping control of demands for change in the region, whilst adhering to the Gulf state's political project of neoliberalism and the furthering of Gulf capitalism (Malito, 2017:293).

Because of the actions of the NATO-led intervention, interest groups such as military factions and tribes in Libya were not able to come together. Although NATO's military objectives were achieved, R2P was not fully implemented as the international community made limited to no strides towards implementing the Responsibility to Rebuild and ensure that Libya did not devolve into a failed state – a state in which functionality and institutions have been crippled to a point where the basic conditions and responsibilities of a sovereign government are no longer met. Libyan's did not come together following Gaddafi's death as evidenced by the ensuing civil war. Operation Unified Protector ended on 31 October 2011, with the NTC partially in power, and Gaddafi dead. NATO succeeded in its mission to topple the regime without a single allied casualty and at a limited cost of “several billion dollars”, significantly less than previous intervention (Compton, 2020:22).

4.5 Libya: post-Gaddafi

Following the death of Gaddafi, Libya descended into civil war. Conflicts erupted between the oil-rich and autonomy-seeking Benghazi region in the east and the forces loyal to the post-Gaddafi transitional NTC government stationed in Tripoli (Murthy, 2018:124). The prevalence of militants undermined any authority which had previously existed and worsened the fragile security environment to unprecedented levels, thereby providing a space for more militants to enter – resulting in a self-fulfilling cyclical pattern. The deteriorated security environment provided fertile ground for Islamist extremist terrorist groups to emerge and their power in the form of terror attacks against civilians and American assets (Murthy, 2018:124). In one such incident, militants killed four Americans, including the ambassador to Libya, Christopher Stevens, during an attack in Benghazi in September 2012.

The situation in Libya became more and more complex for the UN. Amid the civil war and the fall of Tripoli, the UNSC set up the UN Support Mission in Libya (UNSMIL), a political mission to “restore public security and the rule of law” and to create an inclusive dialogue and national reconciliation. The mission succeeded in helping the government hold its first parliamentary elections in July 2012 which replaced the TNC with a parliament, the General National Congress (GNC) however, there was a substantial lack of agreement to form an interim government which undermined the legitimacy of both the parliament and the

government (Bartu, 2014:11). However, the UNSMIL mission has been handicapped by the presence of various mediators and stakeholders. These challenges were further underscored by competing claims of divergent power centres in the east, west, and southern regions of the country, rendering any UN political reconciliation project in partnership with the AU and EU unsuccessful (Murthy, 2018:124).

Nonetheless, militant groups continued fighting among themselves, competing for power and resources instead of filling the security gaps left by Gaddafi forces (Fraihat, 2016:30). The competition between militant groups escalated and became more clearly defined in 2014 after Khalifa Haftar, a former general who returned to Libya to fight against Gaddafi became a militia commander.

Haftar, through the use of his forces, launched a campaign to rid the country of Islamist and pro-Islamist militias. On 17 February 2014, Haftar began attacking both revolutionaries who fought against Gaddafi, as well as Ansar al-Sharia (ASL), an al-Qaeda-linked militant group based in Benghazi (Fraihat, 2016:30). In May 2014 Haftar announced that he formed a coalition and began an offensive campaign called “Operation Dignity” to eliminate terrorist groups. The country’s revolutionaries formed a counter alliance called Libya Dawn to defeat Haftar and his allies. This conflict eventually led to the formation of two governments; one backing Operation Dignity and the other backing Libya Dawn (Fraihat, 2016:30). Haftar’s government, the House of Representatives (HOR) is situated in the Eastern City of Tobruk, while the UN-backed and recognised GNC government remains in Tripoli (Compton, 2020:24).

Since 2016, the internationally backed Government of National Accord (GNA) government has remained in Tripoli and it has failed to establish itself as a legitimate political authority in the east. The GNA has been unable to establish itself beyond the capital and has been described as “beholden to militias” (Compton, 2020:24). Meanwhile, Haftar and the HOR have aligned themselves with a parallel 'interim government' in the east, exacerbating tensions, and leaving the government with competing factions claiming authority over key state institutions (Compton, 2020:24).

4.6 Conclusion

Chapter 4 has added value in understanding the conditions under-which the international community is willing to militarily intervene in the face of a humanitarian crisis. Chapter 4 has addressed the research problem, namely: *The Westphalian interpretation of sovereignty and the UNSC’s various interpretations of sovereignty appear inherently incompatible with its*

mandate of upholding human rights and intervening when gross human rights, crimes against humanity, and various war crimes have been committed. This chapter has shown that the UNSC intervention and the use of R2P is not incompatible with the UNSC's mandate of upholding human rights and intervening when gross human rights, crimes against humanity, and various war crimes have been committed. Instead, the international community is readily willing to intervene if it maximises the interests of powerful states. The international community's lack of interest in protecting the Gaddafi regime due to his erratic behaviour on the world stage has created the potential for the emergence of a new norm whereby powerful states are able to militarily intervene in weaker states under the guise of R2P and protecting human lives.

By integrating the theoretical framework as provided by Chapter 3, this section has further contributed to answering the research question "why has the UN been unable to find a consensus on humanitarian intervention?". This chapter has shown that the international community holds a fundamental scepticism towards armed intervention, and the ulterior motives of powerful and intervening states. While the international community is weary that some states may not be advocating for intervention due to their naturally solidarist predisposition, others are weary of the consequences brought by armed intervention, namely: a deterioration of the socio-economic, political, and security environment in the state in which the intervention is taking place.

While the language, aspirations and aims of R2P are commendable, fundamentally it has been shown that the execution, practicality, and lived reality of states operating in the International Society does not align with the cosmopolitan conception of intervention. The Responsibility to Protect doctrine severely lacks the mechanisms to guide and constrain the behaviour of actors to truly save lives and protect populations from gross human rights abuses. The P3 members perceived and used the R2P doctrine as a shiny new toy to overthrow the Gaddafi regime and advance their own interests.

Furthermore, the while the international community and advocates for intervention were eager to use solidarist language advocating for an armed intervention to ostensibly save human lives, powerful states fundamentally acted like opportunists, acting in accordance with the logic of consequences rather than the logic of appropriateness as it better served their national interests. Furthermore, the English School fails to consider that while states are able to espouse solidarist sentiments and compassion for people suffering in warzones, these "solidarist states" are largely driven by their own self-serving interests.

The military intervention of the UNSC into Libya can be regarded as a ruinous failure. The ongoing civil war undermines all efforts to establish a capable and functioning state, with competing governments in the east and western part of the country, and a continued deadlock with few solutions in sight. Libya post-Gaddafi has made no strides forward in the pursuit and upholding of human rights, capable governance, state corruption, and a functioning justice system. In many respects, Libya has regressed economically and politically since the NATO-led intervention and toppling of the Gaddafi regime.

The intervention was largely driven by the self-interest of a select few powerful states who believed the international system would significantly improve with the removal of Gaddafi. The motivation for the intervention was largely built upon a false narrative that the international community made little effort in truly investigating or understanding. Almost at the outset, NATO forces strayed from their initial mandate of humanitarian relief and pursued regime change. The premise for military action – an imminent genocide – was seen to be exaggerated at best and wholly false at worst. This false narrative has led to the destruction and devastation of a country that is unlikely to recover in the foreseeable future. Western powers espoused claims of humanitarian intervention and the protection of civilians and brought military force upon a leader who happened to fall out of favour with the international community.

Eight years after the intervention, Libya remains a chaotic place beset with terrorism, insecurity, and the suffering of large populations. Islamist militant groups and sleeper cells maintain a presence across western, eastern, and southern Libya, and continue to target oil infrastructure, government institutions, and security forces. The hopes and aspirations of a post-Gaddafi Libya have mostly evaporated against the backdrop of the ongoing civil war and persistent political discord and the absence of security.

Today Libya is largely perceived as a failing state, trapped in an endless cycle of conflict between terrorist groups, and political opposition forces. Libya is little better off than under Gaddafi, and the country is demonstrably worse off in many respects. The economy has significantly contracted, governance over areas outside of large cities is virtually non-existent, human rights and rule of law appear to be a pipe dream despite the country's turn to democracy – with two competing governments. Furthermore, the country is also being used as a battleground for proxy wars between various countries such as France, Turkey, Russia, and the US, among others. No doubt, these proxy wars are largely connected to the ongoing Syrian war.

5. Chapter 5: The Syrian case study

5.1 Introduction

Chapter 5 broadly follows the structure of Chapter 4 in an attempt to answer the research question of “...why has the UN been unable to find a consensus on humanitarian intervention?”. Chapter 5 will explore the intervention efforts, or lack thereof, of the international community and discuss how and why the International Society of states has not conducted a meaningful intervention through the use of R2P. This in turn will provide context and a deeper understanding as to why the UNSC and the broader international community struggle to find consensus on humanitarian intervention. Chapter 5 complements Chapter 4 as it highlights the contrasting and almost contradictory response of the international community towards Syria.

The Syrian conflict is used as the second case study as it has become one of the deadliest Arab Springs, turning into a full-fledged civil war with no end in sight and no significant intervention from a united international community. Unlike in Libya, the international community failed to act swiftly – and in some instances when the Syrian government blatantly committed mass atrocities, the international community found itself paralyzed and unable to even issue a statement condemning the actions of the Syrian government.

As explained in chapter 4, the Arab Spring, characterized by the wave of protests against longstanding dictators and authoritarian leaders, first began in Tunisia before spreading to Egypt, Libya, Yemen, Bahrain, and Syria and at a lower intensity in several other Arab states (Lynch, Freelon, and Aday, 2014:1). The Syrian uprisings largely followed the similar framework of other protest movements that erupted in the various Arab countries, such as adopting slogans from Egypt, attempting to seize public places without arms, presenting a civic, non-sectarian, and non-Islamist face at home and abroad, and in some instances calling for a NATO-led intervention (Lynch, Freelon, and Aday, 2014:1). The protests in other countries had different effects but the methods of mass civil unrest were largely similar,

The "Syrian Spring" began in March 2011 after Syrian children, aged nine to fifteen, wrote anti-government messages on a wall, which resulted in their arrest and torture by Syrian security forces. After news of the children's arrest and torture began to spread, thousands of people took to the streets to protest President Bashir al-Assad's brutal regime and arbitrary crackdowns (Kargin, 2018:28). Security forces responded to protests by dispersing protesters with live ammunition and using heavy-handed tactics, killing dozens of people – this served as

the spark that would light the fire of the Syrian Civil War. The civil war has seen hundreds of thousands brutally killed and millions more displaced, as people seek to escape the seemingly never-ending violence. However, the Syrian conflict is multi-dimensional and has its roots in conflicts and issues which go beyond its initial 2011 protests.

Similar to the Libyan case study, several underlying factors escalated the Arab Spring and its associated protests into a civil war. However, unlike Libya, the UNSC and the broader international community have failed to intervene, and instead, Syria serves as a geopolitical battleground for several states vying for power and influence in the middle east.

First, this chapter will seek to explain the root and underlying causes of the conflict in Syria. Syria's socio-economic issues and the authoritative nature of the al-Assad regime will be elaborated on which will serve as a backdrop for the wave of protests and the subsequent conflict. High rates of unemployment, high levels of clan-based inequality, and the government's use of violent and repressive state forces to silence and disappear opposition voices will be shown to be among the primary driving forces of the protests.

Secondly, this chapter will attempt to explain the historical and present-day dynamics of the conflict, including which opposition groups are participating in the conflict and how they fit in. Finally, the geopolitical nature of the conflict will also be explained, including the various stakeholders of the conflict. This in turn will largely shed light on the geopolitical nature of the conflict and the state and non-state actors involved.

Finally, the deadlock of the UNSC finds itself in with regards to Syria will be explained. In this section, I will explain why the UNSC has been unable to find consensus on intervention in the Syrian conflict. This section will also show that the events of Libya and arguments of state sovereignty seemingly dissuade UNSC permanent members from acting when the al-Assad government blatantly commits crimes against humanity and human rights atrocities. Additionally, the use of the P5's veto will be discussed as the crisis has once again brought the UNSC's use of the veto into sharp focus and the need for institutional reform within the UN. Finally, this chapter will look at the role of R2P and explain the sharp contrast between how R2P was used in Libya, with arguments of state sovereignty seemingly carrying little to no weight during the application of the tool.

5.2 Origins of the conflict

The Syrian Arab Spring and its resultant civil war is deeply rooted in the socio-economic and political history and context of the state before and during the war period. After Syria gained independence from France on 24 October 1945, the Syrian government remained politically unstable and experienced a series of coups, which ultimately led to the Ba'athist Coup in March 1963 (Khan and Khan, 2017: 560). The Ba'ath party's ascendancy to power represented a turning point for the Syrian state, where three important developments took place. Firstly, all political parties and opposition parties were banned; secondly, comprehensive agrarian laws and reforms were instilled; third, the country embarked on a period of rapid socialism where major sectors of the economy were nationalised (Darwisheh, 2013:3). The Ba'ath party adopted the Egyptian system of economic and political management and created the foundation for a one-party state that blocked the emergence of opposition and civil society groups critical of the government (Darwisheh, 2013:3).

Following a period of relative political stability, in 1970 General Hafez al-Assad, an Alawite Muslim seized power and in 1971 the general was sworn in as president. Hafez al-Assad was particularly popular throughout his tenure, pursuing policies of economic growth, promoting education, strengthening the military, and placing Alwite Muslims in high administrative and military positions (Khan and Khan, 2017: 560). The individuals placed in administrative and military positions came largely from Hafez al-Assad's clan, drawing the future fault lines for the coming sectarian violence. However, a nexus began to form between the powerful military, the Ba'ath Party, and the bureaucracy, who repressed all opposition with ruthless brutality (Khan and Khan, 2017: 560). By the 1970s Hafez al-Assad allowed for the creation of the National Progressive Front, a coalition of minor left-leaning opposition parties – which served as a loyal opposition party.

Hafez Al-Assad created obedient and malleable citizens who would comply with rule through means of military intelligence and security services (Kargin, 2018:30). Hafez Al-Assad attempted to create a regime built on national unity and in opposition to Israel and its perceived hegemonic ambitions. Nonetheless, most Sunni Muslims rejected their oppression by an alwite minority. Most Syrian nationals feared the military intelligence (al-Mukhabarat) and therefore chose not to discuss politics (Kargin, 2018:30). Furthermore, the neo-liberal policies of Hafez al-Assad only benefitted a select few, whilst pushing the larger majority of Sunni Muslims into unemployment and poverty.

After the death of general Hafez al-Assad in 2000, his son, Bashar al-Assad became head of state and he assumed the presidency. After Bashir assumed power, he promised to adopt democratic reforms and policies that would focus on the modernisation of the economy, administration of the state, and education to align it with the needs and demands of the 21st century (Kargin, 2018:31). Initially, there was optimism about Bashar's rule as he allowed some political activities and lessened political restrictions which resulted in the Damascus Spring – an event where political opposition groups created a list of reforms and demands and presented it to the government (Farooq, Bukhari, and Ahmed, 2017:130).

Much like Gaddafi as discussed in Chapter 4, Assad created a cohesive regime by conflating his identity with the state, therefore portraying any attempt to remove him as a direct attack on the state (Darwisheh, 2013:3). The military became loyal not to the state, but the regime. Assad built his regime upon three building blocks to ensure its preservation: firstly, Assad created a cohesive elite structure of power that had direct control and power over state institutions; secondly, he created a business elite that was dependent on the survival of the state as it largely benefitted from state contracts; and thirdly, the widespread use of violence and suppression was seen as a modality of governance (Darwisheh, 2013:4).

Neo-liberal reforms and the country's subsequent move towards the global market economy neglected equitable income distribution and state-funded social protections, resulting in anti-development economic growth (Berti and Paris, 2014:22). The neoliberal policies failed to create meaningful and substantial employment and only increased the income inequality between the main urban areas and the more impoverished rural areas (Berti and Paris, 2014:22). Due to the neo-liberal policy's which largely only benefitted a few, Syria maintained an unemployment rate of approximately 30 percent during its pre-war period (Kargin, 2018:30). However, it should be noted that under Bashir al-Assad, the government altered the unemployment numbers to appear somewhat lower than what it truly was. Citizens – mostly young people – were forced to find employment through the help of a friend or family member, often paying large bribes to secure employment (Kargin, 2018:30).

Furthermore, the deteriorating living conditions of the lower, middle, and working class, especially those living in rural and periphery areas, were exacerbated by rising inflation, the gradual decline in oil prices, and reduced state-sponsored subsidies (Berti and Paris, 2014:22). The gradual economic decline for most Syrians were further compounded by weak, and ineffective governance and high levels of corruption at the local and regional levels.

Furthermore, the pre-war drought also severely affected unemployment and undermined households whose income depended on agriculture. This dynamic of unequal development, rising unemployment, high levels of corruption, long-standing sectarian tensions, and a declining periphery all sowed the seeds for the demonstrations that erupted the Syrian Arab Spring.

5.3 The Syrian Arab Spring and the resultant civil war

As stated previously, pro-democracy demonstrations escalated in the city of Daraa after several teenagers, aged nine to fifteen, were arrested and tortured for spray-painting pro-democracy slogans on a wall (Farooq, Bukhari, and Ahmed, 2017:130). News of the children's detention and subsequent torture resulted in small protests which, at first, demanded reforms rather than the resignation of Bashar al-Assad. By mid-March nationwide protests had erupted in Damascus and other parts of the country. These protests were non-violent and secular. In the city of Banyas, in the northwestern part of the country, demonstrators attempted to gain the favour of al-Assad supporters and Alwite minorities and chanted slogans such as ", "Peaceful, peaceful—neither Sunni nor Alawite, we want national unity." (Erich, 2014:48). Although protests were mostly peaceful, al-Assad mercilessly cracked down on protesters.

The government's excessive use of force created a cycle of violence and increased radicalisation and opposition to the government. By March 2011, protesters rioted and managed to take control of the north and east of the country as they continued to respond to state-sanctioned violence (Farooq, Bukhari, and Ahmed, 2017:130). al-Assad's indiscriminate use of force to squash protests only made the situation worse and resulted in nationwide protests and riots. The cruelty of his radicalised protesters resulted in nationwide and global condemnation and calls for Bashar's resignation in July 2011 (Farooq, Bukhari, and Ahmed, 2017:130).

Nevertheless, al-Assad, thinking he was in a position of power, extended an olive branch and offered to amend some of the restrictions which had been in place and offered political reform. On 24 July 2011, the Syrian Parliament passed a new law that allowed for the creation of additional political parties – something which had been banned since the 1960s. However, this was largely a symbolic gesture as the Syrian constitution still contained a clause recognising the Ba'ath Party as the ruling party, meaning that opposition parties had no real power (Erich, 2014:48). However, opposition groups rejected the perceived weak reforms and continued to call for al-Assad's resignation. In July, during one of the largest protests in the central city of

Hama, security forces had withdrawn after approximately 400 000 people non-violently protested and invited all sects of Syrian society to protest.

Government officials attempted to justify the indiscriminate use of violence against protesters by claiming that extremists had taken control of demonstrations and that they had begun a campaign of launching attacks on security forces. Officials alleged that these extremists were armed and paid by Saudi Arabia, Israel, the United States, and Europe – which ostensibly resulted in the deaths of at least 1 200 police officers (Erich, 2014:49).

Nevertheless, al-Assad's violent crackdown on protesters resulted in a gradual shift from non-violent to violent protests. The tendency for security forces to crack down on protests before they had even begun meant that congregating became increasingly difficult (Erich, 2014:52). The al-Assad regime largely viewed protests through a security lens and adopted a deliberate strategy to induce fear to deter protesters from congregating (Berti and Paris, 2014:22). The regime did so by suppressing all protests before they could even begin, crackdown outside mosques, brutally retaliating against communities that hold anti-government sentiments, arresting, torturing, and even killing protest leaders, following the Libyan example as discussed in Chapter 4 (Berti and Paris, 2014:24). This violent suppression played a key role in turning peaceful demonstrations into a violent uprising. Furthermore, protest leaders accused the government of releasing Islamic extremist protesters from prison in hope that they would escalate the demonstrations into a large armed struggle, therefore legitimising the government's brutality.

In July 2011, defectors from al-Assad's military announced the formation of the Free Syrian Army (FSA), which openly challenged the government. Both the FSA and the government began a campaign of targeted assassinations and attacks. In October, both the FSA and the government had engaged in tit-for-tat high-profile assassinations, targeting the other. In November, the FSA launched an attack on the Harasta Air Force Intelligence Base near Damascus, marking the first major battle between government and rebel forces. By December 2011, FSA and other rebel forces had carried out several attacks, including the bombing of an important security complex in Kafar Souseh (Kafr Sousa) Square in Damascus, which resulted in the death of soldiers and civilians.

Since the escalation of tactics between the Syrian government and rebel groups, dozens of non-state actors and rebel groups, state-sponsored rebel groups, and mercenary groups have since joined the conflict, leaving the country in a protracted state of civil war. The main opposition

group to the Syrian government consists mainly of loosely affiliated rebel groups whose main aim is to overthrow the government. One of the largest alliance rebel groups, the Army of Conquest, consists of Islamist factions such as Ahrar al-Sham and Faylaq al-Sham, with jihadists such as Fateh al-Sham Front, which was previously an Al-Qaeda affiliate (Khan and Khan, 2017:563). Various rebel groups continue to fight in Syria, challenging the state in its bid to overthrow the government.

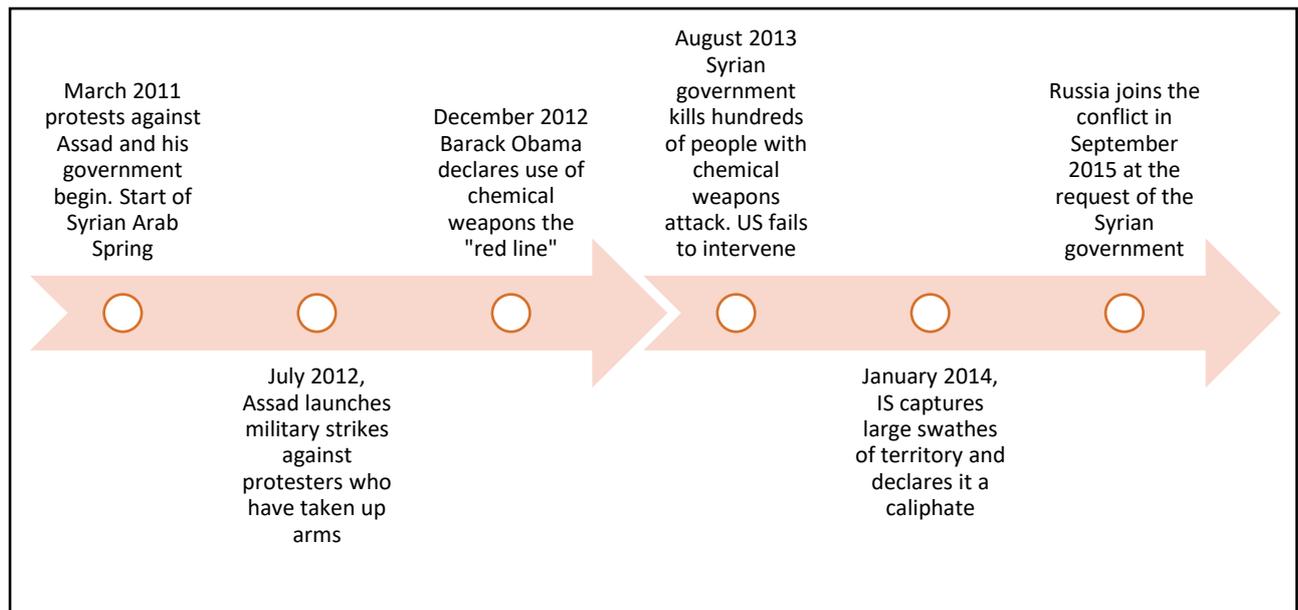


Figure 5.1: Timeline of the Syrian crisis

Source: The author

As time passed the conflict became increasingly brutal, with both sides accused of committing various mass atrocities ranging from war crimes to crimes against humanity. Dozens of official reports by international human rights organisations have shown that all parties of the conflict have committed serious violations of international humanitarian law and human rights law (Guṭan, 2020:178).

In August 2013, videos and images circulated the globe showing hundreds of bodies littered across the floors of makeshift morgues in and around the town of Al Ghouta in the Southeastern region. Reports revealed that the military, during their apparent frustration in securing portions of Damascus from rebel groups, killed 1 429 people, including 426 children with the use of chemical weapons (Erlich, 2014:58). Assad's regime accused rebel groups of using chemical weapons, whilst several investigations indicate that the rockets were fired from a military base that was fully under governments control.

The attack and use of chemical weapons took place despite US President Barack Obama's December 2012 drawing of the "red line", where he indicated that the use of chemical weapons will trigger a US intervention (Droz-Vincent, 2020:118; Phillips, 2019:8). After the August 2013 chemical attacks, Obama grew increasingly open to intervention and enforcing the "red line", with Saudi Arabia and Israel vehemently in favour of an intervention. Nonetheless, the intervention failed to materialise due to several reasons including Obama opting not to intervene without UNSC approval, US congress being pre-occupied with other matters, the American public largely indifferent to the Syrian crisis. Instead, the US opted to follow Russia's lead who created a "joint framework" for the investigating and dismantling of Syria's chemical weapons through the Organisation for the Prohibition of Chemical Weapons (OPCW) (Droz-Vincent, 2020:120).

Furthermore, the war took on a different tone in 2013 with the emergence of the Islamic State in Iraq and Levant or Islamic State (IS). The group was very well organised, well-armed, and had the capability to take control of large sects of territory in Iraq and Syria by the end of 2014 (Oligie, 2019:61). The emergence of IS is another reason why the civil war had also grown increasingly sectarian, as IS and several other Islamist militant groups-controlled territory and effectively governed parts of Syria (Oligie, 2019:61). Nevertheless, by 2015, more actors joined the conflict. In August 2015, the Russian military, at the request of the Syrian regime, started conducting targeted military airstrikes against IS and other rebel groups in the parts which militants had control over. By mid-2016 – after five years of warfare, nearly half a million people had been killed, at least 10 million had lost their homes, and eight million people had become refugees (Zisser, 2016:556). By the end of 2019, with the help of its other regional ally Iran, Russia managed to drive IS out of its territory and regained territory which was previously controlled by IS and other rebel groups (Guţan, 2020:177)

In theory, describing the civil war in Syria should be easy: a population and several rebel groups rise against the authoritarian government to overthrow the regime. However, it is not as simple as that due to the protracted and complex nature of the ongoing conflict – especially given the ethnic and religious factors and also the external factors which have contributed to the longevity of this conflict. Year-after-year more and more rebel groups join the conflict, each with their own goals and intentions – it is estimated that there are several hundred-armed groups currently operating in Syria, with most groups sponsored by various state actors (Guţan, 2020:177).

As of writing, the Syrian war has gone on for nearly a decade, with the peak intensity of the conflict largely over, and Bashar seemingly on the front foot. The war in Syria has become intricate due to the presence and influence of several state actors, particularly Iran, Saudi Arabia, Russia, the US, the European Union, and China to a lesser extent. Summed up in the most succinct terms, the Syrian war is an extension of the regional cold war between Saudi Arabia, Iran, and Turkey, as well as the US and Russia (Berti and Paris, 2014:22). Syria has been used as a battlefield for great powers who are only interested in pursuing their selfish interests.

5.4 UNSC stalemate and the veto

Pluralism within the international community is a reference point in the attempt to answer the question of why the UNSC has failed to intervene or find a consensus on intervention. Due to the problematic nature of humanitarian intervention, it has become a problematic foreign policy tool for members of the UNSC, particularly the P5. While the international community appealed to global solidarist for intervention, the pluralists advocating for non-intervention seem to be the dominating voices with the UN when it comes to Syria.

On the one hand of the conflict, humanitarian interventions have become intertwined with regional and global power politics, and on the other hand, the concept of R2P has become less polemical (BowmanEre, Adedokum, and Jenyo, 2020:62). Customary laws of war define the rules of engagement for states when engaging in conflict during an inter-state conflict with non-state groups, as well as state-level actors. This appears to offer some insight as to why the international community has been hamstrung over the conflict, which started in 2011 (BowmanEre, Adedokum, and Jenyo, 2020:62).

Since the crisis began in 2011, at least half a million people have been killed and 12 million others have been displaced, triggering one of the greatest refugee crises throughout Europe and the Middle East in modern history. The P5 and regional powers have united based on their national interests, into differing sides, leaving the UNSC paralysed and unable to make any meaningful impact on the conflict. This, despite numerous reports that both parties of the conflict (al-Assad and the rebel forces) have committed gross atrocities and human rights abuses (World Report on Human Rights, 2019).

Unlike the experience of the Libyan crisis as discussed in Chapter 4, the UNSC has been relegated to giving cosmetic treatment to the conflict as seen by the failures and the dissolution of dozens of UNSC sanctioned ceasefires, negotiations, and a resolution to dismantle Syria's

chemical weapons, which was not intended to end the civil war (Olgie, 2019:58). The UNSC's lacklustre and weak approach to the conflict resulted in numerous resolution and council failures. The resolutions (Security Council Resolutions 2042 (2012), 2043 (2012), 2118 (2013), 2139 (2014), 2165 (2014), 2170 (2014), 2175 (2014), 2178 (2014), 2191 (2014), 2199 (2015), 2235 (2015), 2249 (2015) and 2254 (2015) and Presidential Statements of 3 August 2011 (S / PRST / 2011/16), 21 March 2012 (S / PRST / 2012/6), 5 April 2012 (S / PRST / 2012/10), 2 October 2013 (S / PRST / 2013/15), 24 April 2015 (S / PRST / 2015/10) and 17 August 2015 (S / PRST / 2015/15) has had absolutely no effect on the ongoing battles in Syria (Guţan, 2020:177-178). The failure of the UN to pass any meaningful resolution underscores the pluralist nature of the organisation, despite previous solidarist statements used to justify the Libyan intervention.

The P5 members with arguably the most influence in the conflict, namely the US and Russia, failed to address the core problems of the civil war which surrounded the al-Assad regime. While the presence of Islamist extremist groups, as well as at least 250 rebel groups, constitute a massive hindrance to efforts to resolve the conflict peacefully, the UN has manifestly failed to stop the conflict (Olgie, 2019:58). Ultimately, the UN's role in trying to resolve the conflict has been reduced to merely brokering peace deals which inevitably fail.

The failure of the UNSC to meaningfully impact the conflict is largely due to the widespread use and exploitation of the veto by the P5. As previously stated in Chapter 2, the use and abuse of the veto is largely drawn on the conservative and undemocratic pattern of organising power in the UNSC, which confers veto powers to the P5 as per virtue of Article 27 of Chapter of the UN Charter (Olgie, 2019:58).

The conflict has highlighted the existence of the veto and the abuse thereof by permanent members, and subsequently highlighting significant shortcomings in the SC's ability to effectively respond to gross human rights abuses and atrocities (Melling and Dennett, 2018:285). Measures aimed at containing the violence in Syria, such as Kofi Annan, Lakhdar Brahimi, and Staffan de Mistura's peace plans were all aborted due to the reckless use of veto power (Olgie, 2019:58). Russia, and to a lesser extent China, have been the P5 members who have been particularly vocal about protecting Damascus and ardent in their veto use.

Regarding the conflict, Russia and China have repeatedly vetoed attempted drafts that would authorise international intervention (Bellamy, 2014:25). Many scholars point to the lessons learned from the perceived abuse of the R2P doctrine in Libya, however, Russian and Chinese

explanations for their use of the veto lack emphasis on the precedent of Libya (Caruso, 2020:16). For example, during its informal and formal remarks to the Council, China has never publicly expressed concerns over past interventions in Libya as its reason for vetoing a draft resolution on Syria. However, China has on several occasions expressed concern that intervention would only further complicate matters.

So far, very few statements put out by Russia or China explicitly reference or articulate concerns over the use of R2P language in draft resolutions. Ultimately, this demonstrates that China and Russia are seemingly unperturbed by the precedent of Libya or the use of R2P language when exercising their veto powers. The decision to use the veto instead stems from political concerns and interests currently at play. Much like when the US President Barack Obama justified intervention during UNSC debates on issues relating to case-specific circumstances – meaning intervention was similarly driven by national interests – so too has China and Russia articulated reasons for vetoing various resolutions (Caruso, 2020:18). Thus, factors aside from the experience of R2P in Libya are important to consider when analysing why the international community has chosen to not directly intervene.

Due to Russia and China's alignment with the Assad regime, an intervention by western states raises the stakes and threat of world powers facing off in a direct military confrontation. In the case of a western led intervention aimed at toppling the Assad regime, the five most powerful states would all be present on the ground in the same warzone, in an extremely unstable area in the Middle East, teeming with state and non-state combatants. The threat of major world powers clashing is largely due to the complicated and ongoing proxy war in Syria.

5.5 The Proxy war – regional and geopolitical interests

Since 2011 the conflict in Syria has been aptly named a 'proxy war' or the battlefield where several proxy wars are being fought simultaneously. Media and think tanks used the term proxy when explaining the large-scale violence which broke out involving proxies of regional and international actors at various frontlines (Leenders and Giustozzi, 2020:2). The term was increasingly used by politicians and world leaders in an attempt to explain why and how states such as Saudi Arabia, Russia, Iran, Turkey, and Qatar have interfered in the conflict, financed armed groups, provided military assistance and aid to armed groups, and in the process sustained and intensified the violence at the behest of their wider regional and geopolitical struggles (Podraza, 2018:70).

Unlike previous revolutions during the Arab Spring, the uprising in Syria has turned into a protracted quagmire of civil war and proxy war. So far rebel forces have been unsuccessful in toppling the Bashir regime, while terrorist groups such as IS appear to be on the brink of defeat – having lost significant swathes of territory and fighters as compared to 2014 and ejected from its former Eastern stronghold. Furthermore, the Kurdish-dominated Syrian Democratic Forces (SDF) who defeated IS, now fear reprisal attacks by either Bashir, Turkey, or Russia – with the latter seemingly gearing up to challenge the SDF in Eastern Syria as of August 2020 (Phillips, 2019:7; Khan, 2020:1). Fighters that remain in the field are fighting for survival in distant pockets of the country, rather than fighting for control of Damascus (Phillips, 2019:7). Rebel groups who had initially taken arms against the government during the 2011 Arab Spring only maintain control of Idlib and the eastern border town of al-Tanf.

The civil war resulted in a fierce sectarian contest between the Shiite forces led by Iran, while the Sunni camp was supported by the Kingdom of Saudi Arabia and Qatar; the emergence of IS into Iraq and Syria; Kurdish fighters' participation against IS; which was in turn compounded by Russian and Western military intervention into the conflict (Tan and Perudin, 2019:10).

Russia, China (to a small extent), Iran, Lebanese Hezbollah, and Yemeni Houthis support the Syrian government, largely driven by their anti-western and anti-Saudi foreign policy. Russia, the leading external player in the conflict, provides diplomatic, military, and economic support, while Iran and the others provide soldiers on the ground and light arms to keep the Syrian government afloat (Olgie, 2019:79).

Meanwhile, the P3, several Gulf States, Turkey, Saudi Arabia, and other Arab powers are backing the various rebel groups – all of whom appear to have relatively uncommon goals, to remove the current regime so that they can control Syria's government, who will, in turn, be formed by opposition forces which would somehow be friendly to their Middle Eastern strategic goals.

5.6 Regional interests – Saudi Arabia and Iran

The Syrian crisis is shaped by three regional forces, namely: the Arab Spring, sectarianism, and the presence of IS. While the initial protests and Arab Spring of 2011 seemingly erupted without a sectarian dimension, the subsequent conflict became a sectarian struggle, largely driven by regional powers and differing Islamic schools of thought (Olgie, 2019:60). At the regional level, Iran, Israel, Turkey, Saudi Arabia, and Qatar have all played a role in the

ongoing conflict, with their actions ranging from sponsoring various groups, directly placing soldiers on the ground, or both. Regional powers such as Iran, Saudi Arabia, Turkey, and the Gulf states opted to play a role early in the conflict, however, the presence of all regional powers largely balanced one another out – creating a stalemate. It was not until Western powers joined the conflict that the balance of power shifted and some players such as Saudi Arabia and Qatar began playing an increasingly diminished role in the conflict (Phillips, 2019:9).

Iran joined the conflict largely due to its desire to not lose its strategic leverage over Syria and the Levant, which it views of significant importance to the maintenance of its military, political, and economic influence as well as its communication with Hezbollah in Lebanon and Hamas in Palestine (Olgie, 2019:79). After Iran joined the conflict and dispatched Shiite fighters from Iraq and Afghanistan, Saudi Arabia and Qatar similarly joined the conflict, but not in the conventional sense, as they decided to instead support several rebel armed groups with money and weapons (Rabinovich, 2017:45). While Iran views the survival of the Syrian regime as an imperative, as they perceive the Syrian civil war as an existential threat to themselves, Saudi Arabia and Qatar do not prioritize the democratization of Syria as a priority, as they are instead driven by their desire and interest to remove whatever leverage Iran has in Syria.

Saudi views the Syrian conflict as an extension of its ongoing regional power struggle with Iran. Therefore, it largely aims to weaken and sabotage Iran's military power and remove the Bashar government, instead of fighting terrorism and promoting democracy. The contradictory geostrategic goals of Saudi and Iran are rooted in their competition for economic and regional hegemony, as well as sharply differing Islamic sectarian articles of faith, with their origin in several decades of rivalry (Olgie, 2019:81).

The sectarian nature of the conflict has made the conflict and peace negotiations volatile, convoluted, and unpredictable to the point that concerted efforts to resolving the conflict have become near futile. The sectarian dynamic of the conflict has resulted in a cyclical Sunni-Shiite vendetta, which triggered sectarian-based identity massacres across Syria (Podraza, 2018:73). Another driving factor that underscored the sectarian nature of the conflict, was the immense support regional powers such as Saudi Arabia and Qatar gave to Sunni rebel groups, based solely on sectarian consideration, without understanding or caring about the group's strategic goals.

Nevertheless, Saudi Arabia and Qatar's influence and power over the conflict have both greatly diminished in recent years. Both countries were enthusiastic backers of anti-Assad rebel groups

– however, they also contributed to the weakness of the rebel groups by backing too many groups during the fight, and sometimes backing rival groups rather than a single group. Qatar is particularly guilty of using a scattergun approach (Phillips, 2019:12). As a result, rebel groups were fragmented as their regional backers themselves were fragmented, which resulted in a lack of a coherent strategy at fighting Assad, whilst simultaneously fighting IS (Tan and Perudin, 2019:10).

Turkey is also a major regional player in the Syrian war. The main contributing reason for its involvement in the war is because Turkey views the civil war and the expansion of IS as a security threat. Furthermore, it seeks to squash the Kurdish-dominated SDF's goals of establishing an autonomous Kurdish state, given its Kurdish minority within its border. Furthermore, due to its renewed neo-Ottoman identity, Ankara wishes to reassert its position as a regional power and hegemon. Turkey's erratic and sometimes unpredictable behaviour during the crisis has resulted in the deterioration of its relations with Russia, Iran, and also its western allies (Podeaza, 2020:80).

5.7 Geopolitical political interests – Russia and the US

For the most part, western forces have opted to not actively get involved in the crisis with boots on the ground, instead, many have provided military equipment and training, while expecting the Syrian locals to fight the war themselves (Olgie, 2019:81). The reluctance of powerful western states to directly intervene in the crisis underscores the lack of international will within the International Society of states to uphold its solidarist commitment to protecting human rights. The US has supplied arms, non-lethal aid, and training to rebel forces – however, the US committed to not supplying rebels with advanced weapons such as anti-air-weapons in fear that extremist elements may get hold of them.

Sanctions imposed onto Syria by the P3 initially contributed to the al-Assad regime's difficulty in defeating rebels and effectively governing the provinces it recaptured (Tan and Perudin, 2019:10). The P3's insistence to exclude al-Assad from peace negotiations has narrowed the room for Assad to choose to end the conflict through negotiations. Fundamentally, the involvement of the P3 and western states overall has been lacklustre and inconsistent. The international community severely lacks the political will to get involved in the conflict, even after al-Assad's use of chemical weapons on civilians in 2013 (Tan and Perudin, 2019:11). However, Russia's involvement in the conflict marked a shift by the international community.

Since Russian President Vladimir Putin assumed office, he has sought to rebuild and reclaim Russia's position as a superpower. However, Russia is no longer a dominant power as seen during the Cold War, and Putin is aware of his limited resources and capabilities. Nevertheless, Putin has skillfully used his limited resources to strategically place Russia as one of the major powers in the Middle East, and one of the most influential players in the Syrian crisis. Russia leveraged its long-standing military, economic and diplomatic ties with the Syrian regime to enter the conflict.

As early as October 2011, and with the help of China, Russia managed to block all moves in the SC directed at the Syrian regime (Rabinovich, 2017:47). Russia has extensively used its veto at the SC relating to Damascus to protect it from international condemnation, harsher restrictions, and possibly military action. Since 2011, Russia has blocked at least 11 other attempts at UN sanctions and condemnation.

Russia and China's opposition to external intervention in Syria are largely informed by the lessons learned during NATO's abuse of UNSC Resolution 1973 in Libya when it, instead of implementing a no-fly-zone in Libya, it instead aided rebel forces with airpower that resulted in the death of Libyan leader Muammar Gaddafi. Russia and China fear that supporting a similar resolution will result in the same quagmire in Syria, as seen in Libya. The socio-political crisis in Libya serves as a sound reason for Russia and China to not support a large western led intervention – and instead, leaving it up to the Syrian government to decide how it wishes to deal with the crisis.

During the initial outbreak of the crisis, Russia's support towards the Syrian government was largely limited to diplomatic support. However, Putin's decision to actively get involved in the Syrian conflict in 2015 was seen as the key turning point, as it ultimately positioned Russia as the leading external power in Syria, accepted however reluctantly by the regional powers and the US (Phillips, 2019:6). Russia's involvement and presence in the conflict also complicate the situation on the ground for western states because if they choose to attack al-Assad at a later stage, they risk a confrontation with Russian military forces (Tan and Perudin, 2019:11).

As previously stated, Russia's entry into the conflict marked a turning point for Bashir, as Russian air forces supported Syrian and Iranian backed troops and secured Bashir a string of military victories between 2016 and 2018. These victories include securing Eastern Aleppo, Ghouta, and Deraa from the Saudi and Qatar-backed rebels, and Palmyra and Deir-Es-Zor from IS (Phillips, 2019:7). Furthermore, Putin's involvement in the Syrian conflict went beyond just

military intervention. Putin further entrenched Russia's position and physical presence in Syria by building a major new airbase in Khmeimim near Larrakia, he also expanded Russia's existing and strategic naval base in Tartus and built several smaller outposts in Southern and Eastern Syria. Russian headquartered businesses are also lined up to participate in the construction and rebuilding of Syrian infrastructure – several Russian energy companies are being courted by Damascus and simultaneously being promoted by the Kremlin (Phillips, 2019:8).

Normative concerns relating to human rights or concerns over sovereignty do not hinder states from intervening, even when the atrocities of the conflict meet the threshold under which to intervene under the framework of R2P. Instead, powerful states are driven by narrowly conceived self-interests and power-politics. Powerful states have failed to place the individual at the centre of the moral universe as per the R2P doctrine and solidarist account of the international system. Russia was not driven by a responsibility to protect, but rather its aims to advance its self-interests, and to secure its geostrategic goals in the Middle East.

Russia's policy in Syria has facilitated in part thanks to the Obama administration's policies, which contained various strategic goals that required immense balancing. During the early stages of the war, the US government called for the resignation of al-Assad, implemented sanctions against the Syrian regime, and supported rebel groups. However, the collapse of the al-Assad regime was not the US's main priority. The US resolved to prevent al-Assad's chemical weapons from falling into the hands of rebel and extremist groups, limit the power and influence of extremist groups, and avoid damaging the US's geostrategic goals of negotiating a nuclear disarmament agreement with Iran (Phillips, 2019:8). The balancing of these priorities thus created an inconsistent US policy on Syria which often frustrated anti-Assad rebels and the US's regional allies such as Turkey. The Trump presidency in early 2017 produced even more uncertainty, instability, and further shifts in US foreign policy on Syria.

The West's apprehension to intervene when the conflict was new and manageable has resulted in the war transcending the threshold of reversibility, as early intervention in the conflict would have likely prevented the current quagmire (Olgie, 2019:82). Fundamentally, powerful states failed to uphold pillars I, II, and III of the R2P doctrine. Neither the pluralist nor solidarist account of IR fully explains the behaviour of these states. Instead, the behaviour of these powerful states is best explained and understood in terms of a neo-realist understanding of IR.

Powerful states exert force and impose their will on weaker states to advance their self-interests. This has been seen in Libya, and once again in Syria. Despite the attempts by R2P to create a normative and cosmopolitan framework to guide the behaviour of powerful states in the face of a humanitarian crisis, powerful states, and the wielders of the R2P doctrine and veto powers use their privilege and power on the international community to advance their interests.

Western states remain apprehensive about sending ground troops into Syria, despite their desire to get involved, given the costly and painful lessons learned by the US and its NATO allies after getting involved in Afghanistan and Iraq wars, which continue to serve as a destabilisation factor in the Middle East (Olgie, 2019:82). The West's new-found non-intervention position has contributed to untold humanitarian suffering and caused friction between powerful states who have interests in the conflict, which consequently heightened the escalation, protraction, and intractability of the conflict (Mitton, 2016: 288).

5.8 Conclusion

This chapter attempted to answer the research question and problem statement by providing a holistic account of the Syrian crisis and the driving factors of the UNSC stalemate. This chapter showed that despite the presence of the R2P tool at the disposal of the UNSC, powerful states are not driven by their solidarist perceptions and accounts of the world system. Instead, powerful states, especially those in the UNSC are driven by their own narrowly conceived self-interest and power politics – contrary to the solidarist account of IR.

This chapter briefly summarised the socio-economic and political environment which before and after the Syrian Arab spring. It was shown that the fate of the Syrian state had largely been sealed due to the behaviour of the brutish and often violent autocratic regime by the al-Assad family. Uneven economic distribution, a security service with the propensity to violently crackdown on dissent, high unemployment, and the lack of structured and coherent governance all contributed to the emergence of the Arab Spring.

As seen in the Libyan case study, the government's willingness to use excessive force to disperse and squash protesters ultimately led to the radicalisation of protesters and the emergence of rebel groups. However, unlike in the Libya case, the UNSC failed to intervene in the crisis during its early stages. The UNSC's failure to get involved in the crisis has indirectly contributed to the deaths of at least 500 000, and the displacement of at least 12 million people.

However, it is important to note that the deadlock of the UNSC is largely driven by the behaviour of the P5 members. Since 2011, the SC has been paralysed by the crisis as Russia, and China (to a lesser degree) has consistently vetoed draft resolutions related to Syria. The UNSC has failed to facilitate various peace agreements, summits, and temporary ceasefires, largely due to differing views on who should be present during these negotiations. While Russia believes that the al-Assad government should be the leading actor in the negotiations with rebel groups with promises of free and fair elections, western states have remained steadfast in their call for the removal of al-Assad. The presence of IS and other extremist groups has complicated the situation and significantly diminishes the prospects of successful and fruitful negotiations.

Nevertheless, Russia has diplomatically, economically, and militarily supported the al-Assad government. Until 2015, the al-Assad regime appeared to be on the back foot, following the emergence of IS, which managed to capture significant swathes of territory in both Iraq and Syria. However, Russia's decision to intervene in the crisis, following the request of the Syrian government, completely shifted the balance of power in favour of the al-Assad regime.

Russia's airstrikes, although more focused on various rebel groups than compared to IS, significantly weakened rebel groups as well as IS and turned the war in favour of al-Assad. However, the situation in Syria remains volatile due to the sheer number of proxy conflicts that are still ongoing in Syria.

The presence of proxy groups and the parallel wars in Syria largely accounts for the reason that war continues to this day. Various state actors including the P3, several Gulf States, Turkey, Saudi Arabia, and other Arab powers are backing the various rebel groups which have all contributed to the protracted nature and longevity of the conflict. The selfish and national interests of regional powers such as Iran and Saudi Arabia explain the presence of these states in the Syrian conflict.

The fact that Syria has been chosen to serve as a battlefield for various global powers all contribute to the long and protracted nature of the conflict. The UNSC has been unable to find a consensus on humanitarian intervention largely because a precedent has not yet been set – both in customary and codified law. Instead, international actors behave in accordance with their national interests. As seen in the Libya intervention, national interests drove the NATO-led intervention, while the presence of various proxies is similarly driven by national interests. However, the stakes are too high this time around for P3 members to launch an intervention “for humanitarian purposes”.

6. Chapter 6: The conclusion

6.1 Introduction

The purpose of this study was to understand why the UN has been unable to find a consensus on humanitarian intervention in the face of gross human suffering. The ongoing conflicts in Libya and Syria were used as case studies, in conjunction with the theory explored in Chapter 3 to address the research problem, research question and sub-questions. The literature review in Chapter 2, and the case studies in Chapters 4 and 5 all contributed to answering the research questions and solving the research problem.

Addressing these questions is important as it further contributes to our understanding of the global balance of power in the international system. The thesis explored the structure and behaviour states in the anarchic system. This thesis explained, contextualised, and offered insights into R2P, the UN, and power politics within the international system.

This study used the English School as the theoretical lens to address the debate of sovereignty versus humanitarian intervention, and did so through a deconstruction, critique, and problematizing of the concept of sovereignty. This study showed that the principle of sovereignty and humanitarian intervention are not contradictory principles in contestation with one another. Furthermore, this thesis showed that the rules and norms relating to sovereignty have repeatedly been violated by actors in the international arena throughout history. This thesis explained the main arguments and theoretical principles of English School and the pluralist and solidarist arguments relating to intervention.

The study concerned itself with humanitarian intervention and the responsibility of the international community to aid people during instances of war and gross human suffering. The Libyan and Syrian case studies were selected as they were contemporary examples of UNSC action and inaction, respectively. These case studies explained why these atrocities occurred and the forces and influences that drive them.

The second section of this chapter will provide a summary of the thesis and will provide a recap the various themes which were explored in this study. The third section of this chapter will answer the research question and the three sub-questions. The research question: *using the events of Libya and Syria as case studies, why has the UN been unable to reach consensus on humanitarian intervention?* – will be answered. Thereafter I will answer the three sub-questions, namely: *Has the interpretation of Westphalian sovereignty nullified the practice of state sovereignty from an absolute right of rule free from any and all external influence, to a*

responsibility to protect its citizens from mass atrocities? Can R2P be ratified by the UN to address humanitarian intervention in the international arena? Should the UN and its other major organs be allowed to exercise control over and interference in sovereign states in times of humanitarian crises? The fourth section, drawing from Chapters 2, 3, 4, and 5, will explicitly answer the research question. The fourth section will address and answer the research problem: *The Westphalian interpretation of sovereignty and the UNSC's various interpretations of sovereignty appear inherently incompatible with its mandate of upholding human rights and intervening when gross human rights, crimes against humanity, and various war crimes have been committed.* Lastly, after answering the research problem and research questions, this thesis will identify areas for further research in the fifth and final section of this chapter.

6.2 Summary of the study

Chapter 2 of the study concerned itself with the ongoing debates surrounding humanitarian intervention, the history of humanitarian intervention, the role authority responsible for the maintenance of international peace and security, the concept of R2P, and the R2P's legality and adoption.

The chapter showed that the topic of humanitarian intervention has generated a plethora of literature and debate, among governments, academics, and media alike, with interventionists on one side and anti-interventionists on the other. The main tension of the topic concerns the concept of sovereignty, and the right to intervention. Chapter 2 further explored the history of humanitarian intervention, focusing on examples such as the Greek War of Independence in 1821, the French intervention in Lebanon and Syria in 1860, while also highlighting instances of international inaction such as the Second Liberian Civil war, and the Somali Civil war.

The core responsibilities of the UNSC was discussed. It was shown that although the UNSC was created and charged with the maintenance of international peace and security, many of the core principles of the UN Charter centre on the concept of non-intervention and the sovereignty of states. Several articles of the UN Charter highlight the importance of state sovereignty and the protection of states from intervention by foreign powers.

Nevertheless, despite the proliferation of humanitarian intervention in the 1990s, the international community stood by and watched several atrocities and incidents of gross human rights abuses such as the Rwanda genocide and the Srebrenica genocide among others. Following the tragedies in Rwanda and Srebrenica, the UN Secretary-General challenged the international community to find a new consensus on humanitarian intervention. Chapter 2 also

discussed Secretary-General Kofi Anan's challenge to the international community to find a consensus on humanitarian intervention, which led to the Canadian government's ICISS report. The ICISS report was briefly discussed as well as the concept of R2P and its key aims and objectives. The literature showed that the R2P attempted to ameliorate the perceived false dichotomy existing between humanitarian intervention and state sovereignty with the concept of R2P.

The key concepts and pillars of R2P were discussed. It was shown that the concept does not violate Westphalian notions of sovereignty. Furthermore, despite R2P's somewhat controversial underpinnings, the international community respects and understands that their state sovereignty is contingent on their willingness and ability to protect their citizens.

Chapter 3 focused on the study's efforts to ground the research in a theory of International Relations. English School theory was chosen as the guiding framework for this study, which was complimented by Stephen Krasner's reading of *Sovereignty: organised hypocrisy*. The understudied and under-explored theory of the English School was briefly explained and analysed.

The various worldviews of state actors were also explored through a careful and thorough explanation of the pluralist and solidarist school of thought. It was shown that solidarists are more inclined to armed intervention, whilst pluralists traditionally are more sceptical towards intervention, and instead emphasised the importance of sovereignty.

Chapter 3 showed that arguments relating to sovereign integrity and the right of non-interference from external actors cannot be used as a justification in the face of mass atrocities and human rights abuses. Furthermore, Chapter 3 showed that states have ratified the R2P agreement and have agreed to uphold the norms and rules relating to the principle. The chapter synthesized the relationship between R2P and state sovereignty and showed that intervention is no longer in contention with sovereignty as it is an emerging norm that is and continues to shift the normative behaviour and our understanding of sovereignty.

Chapter 4, the first of the two case studies, focused on Libya. As previously stated, the Libyan and Syrian case studies were selected as they were contemporary examples of UNSC action and inaction, respectively. The chapter started with a contextualisation of the history and conflict of Libya. It shown that the Libyan government was responsible for escalating protests into a violent uprising.

Furthermore, Chapter 4 showed that former President Muammar Gaddafi's lack of international and regional support, and his erratic behaviour on the international stage resulted in the NATO-led intervention. The international community had no allegiance to Gaddafi and found it convenient to intervene in the Libyan crisis. Fundamentally, the NATO-led intervention, and the first explicit use of R2P to ostensibly save lives led to the collapse of the Libyan state and the death of Gaddafi.

Chapter 4 also showed that intervention was not conducted out of normative concerns for human rights and perceived solidarist dispositions for saving lives. Instead, powerful states were driven by their own geopolitical, strategic, and economic goals. The motivation for the intervention was largely built upon a false narrative that the international community made little effort in truly investigating or understanding. Almost at the outset, NATO forces strayed from their initial mandate of humanitarian relief and pursued regime change.

Similarly, Chapter 5 explored another country affected by the Arab Spring. The chapter showed that although there is clear evidence that the Syrian government has committed gross atrocities against its people, the UNSC and the broader international community remains paralysed over the Syrian crisis. UNSC inaction is driven by the protracted proxy conflicts in Syria, as powerful states, specifically the P5 seek to use the Syrian crisis to position themselves to achieve their geostrategic and geopolitical goals in the middle east.

Fundamentally, the UNSC is paralysed by veto use by the various P5 members. These powerful states are guided by their own selfish goals. Furthermore, countries such as Russia and China are also concerned that the UNSC may use the concept of R2P and false narrative of saving lives as an excuse to execute another regime change. These powerful actors are haunted by the memories of the Libyan crisis and its destabilising effects.

6.3 Answering the research questions

This study concerned itself with an overall research problem, one primary research question, and three sub-questions. First the research questions will be addressed and then answered, followed by the three sub-questions. The primary question of this study is: *Using the events of Libya and Syria as case studies, why has the UN been unable to reach consensus on humanitarian intervention?* The three secondary questions of this study are:

- Has the interpretation of Westphalian sovereignty nullified the practice of state sovereignty from an absolute right of rule free from any and all external influence, to a responsibility to protect its citizens from mass atrocities?
- Can R2P be ratified by the UN in order to address humanitarian intervention in the international arena?
- Should the UN and its other major organs be allowed to exercise control over and interference in sovereign states in times of humanitarian crises?

As stated above, the main question will be addressed, followed by the three secondary questions. The UN has been unable to find a consensus on humanitarian intervention due to several reasons. Firstly, the UNSC is a neorealist organisation which has been cloaked as a neoliberal institution, ostensibly concerned about issues such as human rights. Following the end of WWII, the UNSC was created and the international community charged the victors of WWII with the responsibility for the maintenance of global peace, security, and the task of preventing WWIII. The UNSC is fundamentally an undemocratic neorealist organisation. While sects of the UN have been trying to move toward a more cosmopolitan World Society focusing on the protection of human rights, the UNSC has remained steadfast and nearly unchanged for approximately 70 years. Members of the UNSC are not really concerned with human rights, instead, they are concerned with maintaining their global power and advancing their own selfish interests.

The Libyan and Syrian examples are testament to the fact that the UNSC is not concerned with saving strangers. Instead, members of the UNSC will continue to fight for their positions and power in the global system. While the UNSC has the responsibility to show concern for human rights abuses and global atrocities, fundamentally they are more concerned about the maintenance international peace and security and the advancement of their own strategic goals.

Secondly, the veto power of P5 members are problematic and prevent any meaningful reform and action by the international community. The P5's abuse of the veto power has played a significant role in the current Syrian crisis. The abuse of the veto has effectively paralysed the UNSC and has rendered it a bystander to the atrocities of the Syrian crisis. While the veto was initially used as a bargaining chip to ensure world powers join the organisation, it ultimately contributes to the organisation's monolithic tendencies to reject change and meaningful reform.

Thirdly, there is no precedent for humanitarian intervention. While states have routinely said they are conducting an armed intervention for the protection of human rights, realists argue that these states are not concerned with the lives of strangers. Instead, states are driven by their own self-interests. These interests may vary from geopolitical, strategic, economic, to peace and regional stability. States are only ever willing to intervene if the benefits outweigh the costs of intervention. The international community has never conducted an armed intervention for the purposes of saving lives and for the protection of human rights.

To address the secondary questions:

- 1) *Has the interpretation of Westphalian sovereignty nullified the practice of state sovereignty from an absolute right of rule free from any and all external influence, to a responsibility to protect its citizens from mass atrocities?*

R2P has nullified the understanding and previous interpretation of Westphalian sovereignty. While sovereignty was previously used as a veil to protect states from intervention when they were committing crimes against their citizens, R2P has removed sovereignty as an absolute right, and made sovereignty a privilege which is contingent on the ability of states to uphold their responsibility to protect their citizens. Furthermore, it is also worth pointing out that Westphalian sovereignty has never truly existed as envisioned by the signatories of the Treaty of Westphalia. The concept of sovereignty has been consistently violated and no longer exists in the manner in which most states perceive. The concept of sovereignty has been honoured more in its violation than its practice.

- 2) *Should R2P be ratified by the UN in order to address humanitarian intervention in the international arena?*

R2P should be ratified by the UN to better address the issue of humanitarian intervention. The original components of R2P had been watered down once it had made its way through the World Outcome Summit, removing many of the responsibilities it had previously placed on the UNSC and individual states. The watered down R2P has made the concept ambiguous, open to interpretation, and underplays the responsibility of the international community to protect human lives. This ambiguity gives the UNSC significant leeway and opportunity to neglect their responsibility as seen in the Syrian crisis.

- 3) *Should the UN and its other major organs be allowed to exercise control over and interference in sovereign states in times of humanitarian crises?*

No. The UNSC requires significant reform and overhaul if it is to legitimately exercise control over and interference in sovereign states in times of humanitarian crises. In its current form, the UNSC is too undemocratic, lacks broader regional representation, and no longer represents the balance of power found in the international arena in the 21st century. Members of the UNSC can act with limited accountability due to their privileged positions. The structure of the UNSC is a remnant of the Cold War era, and its realist interpretation and outlook of the world is growing increasingly incompatible with the realities of the 21st century.

6.4 Solving the research problem

This study concerned itself with the following research problem: *The Westphalian interpretation of sovereignty and the UNSC's various interpretations of sovereignty appear inherently incompatible with its mandate of upholding human rights and intervening when gross human rights, crimes against humanity, and various war crimes have been committed.*

Through rigorous research and consultations with a plethora of academic work, this thesis is able to address the research problem which was first posed in Chapter 1. Following a rigorous interrogation of the history of humanitarian intervention, R2P, the English School theory, and Stephen D. Krasner's *Sovereignty: Organized hypocrisy*, this thesis has shown that the concept of Westphalian sovereignty has never truly existed as envisioned by the signatories of the Treaty of Westphalia. Foreign powers have been intervening in the domestic affairs and violating the territorial sovereignty of other states for centuries. As previously stated, the concept of sovereignty has been honoured more in its violation than its practice.

Additionally, countries can have more than just one type of sovereignty, including domestic sovereignty, interdependence sovereignty, international legal sovereignty, and Westphalian sovereignty among others. These types of sovereignty are continuously violated, amended, and changed as the world increasingly becomes globalised and the balance of power among states shift. As previously stated in Chapter 3, whether willingly or unwillingly, insofar as states uphold their commitments to the treaties and various accords, UN signatories violated their domestic and Westphalian sovereignty when they signed the UN Charter and pledged to uphold human rights.

Furthermore, the concept of R2P and the UN's alleged shift to focusing on human rights does not allow states to use the concept of sovereignty and territorial independence as a veil to hide behind when committing gross human rights atrocities. After the various heads of state signed the World Summit Outcome Document at the 2005 World Summit, all states agreed to and

recognised that sovereignty had become a privilege and responsibility. Thus, it is evident that the concept of Westphalian sovereignty is not incompatible with the UN's mandate of upholding human rights. Instead, the P5's lack of political will results in a failure of the UN to uphold human rights and intervene when gross human rights, crimes against humanity, and various war crimes are committed.

6.5 Opportunities for further research

In Chapters 3 the English School theory provides a cosmopolitan description and interpretation for the behaviour of states in the international system. While the pluralist and solidarist lens of the English School offers their respective non-interventionist and pro-interventions approach to humanitarian intervention, the theory falls short of explaining the behaviour of states beyond its own methodological approach and definitions. The English School theory interprets the behaviour of states as it ought to be, not as it is. This is a large shortfall of the English School, as it focuses on the cosmopolitan and neoliberal framework of IR, whilst neglecting its constructivist approach.

As previously stated in Chapter 3, the concept of World Society is underdeveloped and there is a lack of a fundamental framework and clear distinction between it (World Society) and International Society. Additionally, the purpose, characteristics, and utility of World Society needs to be further developed and explained.

Finally, the research encompassed by this body of work has been conducted using two case studies. As discussed in Chapter 4, the Libyan uprising was the first instance where the UNSC invoked R2P as a justification for armed intervention. While the literature tends to focus on the responsibility to react (the second pillar), very little attention has been given the first and third pillars of R2P, the responsibility to prevent and the responsibility to rebuild, respectively. Research need not be limited to armed intervention, but the responsibility of international community to set in place early warning mechanisms of possible crises which have the potential to erupt into another Libyan or Syrian crisis.

Bibliography

- Ade-Ibijolav, A. (2015). The United Nations Security Council Reforms and The Permanent Five Challenge: A Historical Perspective. *Journal International Studies*, 11, 131-140. doi: 10.32890/jis2015.11.8
- Adibe, C. (1997). The Liberian conflict and the ECOWAS-UN partnership. *Third World Quarterly*, 18(3), 471-488. doi: 10.1080/01436599714821
- Akbarzadeh, S., & Saba, A. (2018). UN paralysis over Syria: the responsibility to protect or regime change?. *International Politics*, 56(4), 536-550. doi: 10.1057/s41311-018-0149-x
- Ayoob, M. (2002). Humanitarian Intervention and State Sovereignty. *The International Journal of Human Rights*, 6(1), 81-102. doi: 10.1080/714003751.
- Bachman, J., 2015. R2P's "Ulterior Motive Exemption" and the Failure to Protect in Libya. *Politics and Governance*, 3(4), pp 56-67.
- Bhardwaj, M. 2012. Development of Conflict in Arab Spring Libya and Syria: From Revolution to Civil War. *The Washington University International Review*,
- Bain, W., 2014. Rival Traditions of Natural Law: Martin Wight and the Theory of International Society. *The International History Review*. Pp 95-108.
- Bain, W., 2010. *The Pluralist–Solidarist Debate in the English School*. London: Oxford University Press.
- Bellamy, A., 2003a. Humanitarian Intervention and the Three Traditions. *Global Society*, 17(1).
- Bellamy, A., 2003b. Power, rules and argument: new approaches. *Australian Journal of International Affairs*, 57(3), pp. 449-512.
- Bellamy, A. J., 2014. From Tripoli to Damascus? Lesson learning and the implementation of the Responsibility to Protect. *International Politics*, Volume 1, pp. 23-44.
- Bellamy, A., 2012. R2P - Dead or Alive? *The Responsibility to Protect – From Evasive to Reluctant Action? The Role of Global Middle Powers*.
- Bellamy, 2015., 2015. *The Responsibility to Protect: A Wide or Narrow Conception?* Brill Nijhoff.
- Berti, B. & Paris, J., 2014. Beyond Sectarianism: Geopolitics, Fragmentation, and the Syrian Civil War. *Strategic Assessment*, 16(4).
- Berrang, S., 2014. *R2P: Does The UN Security Council Have A Legal Obligation To React?* pp1-10
- Blair, T., 2009. Doctrine of the. *Yale Journal of International Affairs*.
- Blanchard, C. M., 2016. Libya: Transition and U.S. Policy. *Congressional Research Service*, pp. 1-26.
- Breau, S., 2016. The Responsibility to Protect in International Law: An Emerging Paradigm Shift.
- Bull, H., 2012. *The Anarchical Society: A Study of Order in World Politics*. Hampshire: Macmillan Publishers Limited.
- Buzan, B., 1993. From International System to International Society: Structural Realism and Regime. *International Organisation*, pp. 327-352.

- Buzan, B., 1993. From International System to International Society: Structural Realism and Regime Theory. *International Organization*, pp. 327-352.
- Buzan, B., 2001. The English School: An Underexploited Resource in IR. *Review of International Studies*, pp. 471-488.
- Caruso, A., 2020. Why Libya, but not Syria? The Authorization of Military Intervention by the United Nations Security Council. *Journal of International and Public Affairs*, 2(11).
- Compton, S., 2020. More harm than good: should states intervene to protect civilians. *Birkbeck Politics Occasional Paper*.
- Cronogue, G., 2012. Responsibility to Protect: Syria The Law, Politics, and Future of Humanitarian Intervention Post-Libya. *International Humanitarian Legal Studie*, 3(1), pp. 124-159.
- Dahlman, C., 2009. *Key Concepts in Political Geography*. West Sussex: s.n.
- Dal, E. P., 2018. The Contagion of the Syrian Civil War into Turkey Under the Impact of ISIS and YPG Cases: Conditioning Factors and Diffusion Mechanisms. *Springer International Publishing*, pp. 211-233.
- Darwisheh, H., 2013. Syria and the Arab Spring: Unraveling the Road to Syria's Protracted Conflict. *Institute of Developing Economies, Japan External Trade Organization*, 44(1), pp. 1-13.
- DEMİR, S. & RIJNOVEANU, C., 2013. The Impact Of The Syria Crisis On The Global And Regional Political Dynamics. *Journal of Turkish World Studies*, 13(1), pp. 55-77.
- Dent, E., 2020. US Policy And The Resurgence Of Isis In Iraq And Syria. *Middle East Institute*.
- Droz-Vincent, P., 2020. The Renewed 'Struggle for Syria': From the War 'in' Syria to the War 'over' Syria. *Italian Journal of International Affairs*, 55(3), pp. 115-131.
- Dunne, T., 2011. The English School. In: *The Oxford handbook of political science*. West Sussex: Oxford University Press.
- Dunne, T., 2016. The English School and Humanitarian Intervention. In: *System, Society and the World: Exploring the English School of International*. s.l.:s.n., pp. 1-5.
- Elharathi, M., 2016. Libya And North Atlantic Treaty Organization: Revolt, War And Intervention. *Journal of South Asian Studies*, 6(1).
- Elharathi, M. M., 2014. Humanitarian Intervention: Morals Versus Realism. *World Affairs: The Journal of International Issues*, 18(1), pp. 72-85.
- Ercan, P., 2015. R2P: From Slogan to an International Ethical Norm. *Uluslararası İlişkiler*, 11(43), pp 35-52.
- Erdağ, R., 2017. *Libya in the Arab Spring: From revolution to insecurity*. New York: Palgrave Macmillan.
- Ere, E. M. B., Adedokun, B. & Jenyo, O. G., 2020. War in Syria: Implications of International Law and Humanitarian Intervention. *Africa Peace Review*, 16(1), pp. 62-79.
- Erllich, R., 2014. *Inside Syria*. New York: s.n.

- Farooq, S., Bukhari, S. & Ahmed, M., 2017. Arab Spring and the Theory of Relative Deprivation. *International Journal of Business and Social Science*, 8(1), pp. 126-132.
- Fraihat, I., 2016. *Unfinished Revolutions: Yemen, Libya, and Tunisia and the Arab Spring*. New Haven and London: Yale University Press.
- Gaspar, D., 2020. Human Security: Sibling of human development - Overview of a perspective in social analysis and policy. *International Institute of Social Studies*, pp. 576-600.
- Gifkins, J., 2012. R2P in the UN Security Council: Darfur, Libya and Beyond. pp. 1-20.
- Halliyadde, M., 2016. Syria - Another Drawback for R2P?: An Analysis Of R2p's Failure To Change International Law On Humanitarian Intervention. *Indiana Journal of Law and Social Equality*, 4(2).
- Hamada, A., Sökmen, M. & Zaki, C., 2020. Investigating The Libyan Conflict and Peace-Building Process: Past Causes and Future Prospects. *The Economic Research Forum*.
- Harrison, T., 2006. Realism, sovereignty and international relations: An. *Graduate Theses and Dissertations - University of South Florida*.
- Hofmann, G. P., 2015. R2P Ten Years on: Unresolved Justice Conflicts. *Global responsibility to protect*, pp. 275-299.
- House of Commons Foreign Affairs Committee., 2016. *Libya: Examination of intervention and collapse and the UK's future policy options*.
- Jackson, R., 2007. *Sovereignty*. Cambridge: Polity Press.
- Jenkins, B. M., 2014. The Dynamics of Syria's Civil War. *Rand Corporation*.
- Jubilut, L. L., 2012. Has the 'Responsibility to Protect' Been a Real Change in Humanitarian Intervention? An Analysis from the Crisis in Libya. *International Community Law Review*, pp 309-355.
- Karp, D. J., 2008. The utopia and reality of sovereignty: social reality, normative. *Review of International Studies*, 34(2), pp. 313-335.
- Khan, H. U. & Khan, W., 2017. Syria: History, The Civil War and Peace Prospects. *Journal of Political Studies*, 24(2), pp. 557-573.
- Krasner, S., 2000. *Problematic Sovereignty*. West Sussex: Columbia University Press.
- Krasner, S. D., 1999. *Sovereignty organized hypocrisy*. West Sussex: Princeton University Press.
- Kuperman, A., 2015. Obama's Libya Debacle. *FOREIGN AFFAIRS*, pp. 1-9.
- Kuperman, A., 2019. Did the R2P Foster Violence in Libya?. *Genocide Studies and Prevention: An International Journal*, 13(2), pp. 38-57.
- Ladjal, T., 2016. Tribe and state in the history of modern Libya: A Khaldunian reading of the development of Libya in the modern era 1711–2011. *University of London*, pp. 1-18.
- Lake, D., 2005. The New Sovereignty in. *International Studies Review*, 5(1), pp. 303-323.
- Law, M., 2017. R2P: Activating the International Community's Responsibility to Protect by Shifting Focus Away from Collective Action by the Security Council towards Early Warning and Prevention. *The King's Student Law Review*, 8(1), pp. 88-107.

- Leenders, R. & Giustozzi, A., 2020. Foreign sponsorship of pro-government militias fighting Syria's insurgency: Whither proxy wars?. *Mediterranean Politics*.
- LYNCH, M., 2013. How Syria Ruined the Arab Spring. *Foreign Policy*, pp. 1-6.
- Lynch, M., Freelon, D. & Aday, S., 2014. Syria in the Arab Spring: The integration of Syria's conflict with the Arab uprisings, 2011-2013. *Research and Politics*, pp. 1-4.
- Malito, D. V., 2017. The Responsibility to Protect What in Libya?. *Peace Review*, 29(3), pp. 289-298.
- Mathieu, X., 2010. Discourse and reality of sovereignty: the performativity of. *International Organisation*.
- Melling, G. & Dennett, A., 2018. The Security Council veto and Syria: responding to mass atrocities through the "Uniting for Peace" resolution. *Indian Journal of International Law*, 57(3), pp. 285-307.
- Morris, J., 2013. Libya and Syria: R2P and the spectre of the swinging pendulum. *International Affairs*, 89(5), pp. 1265-1283.
- Mundy, J., 2018. Libya. In: *The Middle East*. s.l.:s.n., pp. 1-34.
- Murthy, C., 2018. United Nations and the Arab Spring: Role in Libya, Syria, and Yemen. *Contemporary Review of the Middle East*, 5(2), pp. 116-136.
- Newman, E., 2013a. R2P: Implications for World Order. *Global Responsibility to Protect*, pp. 235-259.
- Newman, E., 2013b. The United Nations and Human Security: Between Solidarism and Pluralism. *Routledge Handbook of Human Security*.
- Oligie, C. N., 2019. A Protracted Civil War in Syria Defies All Concerted Efforts to End It. *ACTA UNIVERSITATIS DANUBIUS*, 12(2).
- Oliveira, R. S. d. & Verhoeven, H., 2018. Taming Intervention: Sovereignty, Statehood and Political Order in Africa. *Survival*, 60(2), pp. 7-32.
- Phillips, C., 2019. International actors in the Syrian conflict. *Orient*.
- Podraza, A., 2018. Geopolitical and Strategic Causes and Implications of the Syrian Civil War and. *Nação e Defesa*, pp. 69-87.
- Pradella, L. & Rad, S. T., 2017. Libya and Europe: Imperialism, Crisis and Migration. *Third World Quarterly*, pp. 1-17.
- Pradhan, R., The Principle of Responsibility To Protect: Implementation And Response Of The International Community. *Journal of Indian Research*, 5(1), pp 1-12.
- Prokhovnik, R., 1999. The State of Liberal Sovereignty. *British Journal of Politics and International Relations*, pp. 63-83.
- Rabinovich, I., 2017. The Syrian Civil War as a Global Crisis¹. *Israel Institute, Washington and Jerusalem*, pp. 191-192.
- Reus-Smit, C., 2001. Human rights and the social construction of sovereignty. *Review of International Studies*, 12(2), pp. 519-538.
- Ruggie, J. G., 1993. Territoriality and Beyond: Problematizing Modernity in International Relations. *International Organization*, pp. 139-174.

- Ruggie, J. G., 1993. Territoriality and Beyond: Problematizing Modernity in International Relations. *International Organisation*, 47(1), pp. 139-174.
- Schulz, M., 2014. Logic of Consequences and Logic of Appropriateness. *Palgrave Encyclopedia of Strategic Management*.
- Shah, A., 2018. Shades Of Sovereignty: Understanding Sovereignty In International Politics. *Journal of International Affairs*, 2(1), pp. 19-42.
- Stent, A., 2016. Putin's Power Play in Syria: How to Respond to Russia's Intervention. *foreign affairs*.
- Stivachtis, Y., 2018. Introducing the English School in International Relations. In: *IR Foundations beginner's textbook*. s.l.:e-book, pp. 1-5.
- Suganami, H., 2010. The English School in a Nutshell. *Ritsumeikan Annual Review of International Studies*.
- Tan, K. H. & Perudin, A., 2019. The "Geopolitical" Factor in the Syrian Civil War: A Corpus-Based Thematic Analysis. *Sage Journals*, pp. 1-15.
- Thakur, R., 2002. Intervention, Sovereignty and the Responsibility to Protect: Experiences from ICISS. *Security Dialogue*. 33(3).
- Thakur, R., 2013. R2P after Libya and Syria: Engaging Emerging Powers. *The Washington Quarterly*, 36(2), pp. 61-76.
- Türkmen, F., From Libya to Syria: The Rise and Fall of Humanitarian Intervention? *Kadir Has University, Istanbul, Turkey*, pp. 1-30.
- Walsh, J., 2011. A normative case for pluralism:. *International Affairs*, pp. 1193-1204.
- Weinert, M., 2011. Reframing the Pluralist-- Solidarist Debate. *Millennium - Journal of International Studies*, pp. 21-41.
- Wheeler, N., 2000. *Saving Strangers*. Oxford: Oxford University Press.
- Williams, J., 2005. Pluralism, Solidarism and the Emergence of World. *International Relations*, 19(1), pp. 19-38.
- Williams, J., 2013. Pluralism, solidarism and the emergence of world society in. *Review of International Studies and Global Society*, pp. 19-38.
- Winer, J. M., 2019. Origins Of The Libyan Conflict And Options For Its Resolutions. *Middle East Institute*, pp. 1-36.
- Zisser, E., 2017. Syria – from the six day war to the Syrian civil war. *British Journal of Middle Eastern Studies*, 44(4).