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United Nations Performance and Responsibility to Protect

Diplomová práce

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Abstrakt

Diplomová práce "United Nations Performance and Responsibility to Protect" aplikuje výzkumný rámec výkonnosti mezinárodních organizací na případy dvou humanitárních krizí, do kterých se zapojila Organizace Spojených Národů v návaznosti na normu "Responsibility to Protect". Případy jsou intervence v Libyi (2011) a krize v sudánské provincii Dárfúr (2003). Práce využívá metodu srovnávací studie a hodnotí výskyt a míru zdrojů výkonnosti, které si ve svém teoretickém rámci definuje.

Abstract

Diploma thesis "United Nations Performance and Responsibility to Protect" applies the research framework of the performance of international organizations on the cases of two humanitarian crises with the involvement of the United Nations in connection to the "Responsibility to Protect" norm. The cases examined, are the intervention in Libya (2011) and the crisis in the Sudanese province of Darfur (2003). The thesis uses the comparative method and evaluates the occurrence and measure of the sources of performance, which it defines in its theoretical framework.

Klíčová slova

Odpovědnost chránit, efektivita, výkonnost, Spojené Národy, mezinárodní organizace, Libye, Darfur, teorie mezinárodních vztahů

Keywords

Responsibility to Protect, effectiveness, performance, United Nations, international organization, Libya, Darfur, theories of international relations

Rozsah práce: 28,441 slov, 155,362 znaků bez mezer

Prohlášení

1. Prohlašuji, že jsem předkládanou práci zpracoval samostatně a použil jen uvedené prameny a literaturu.

2. Prohlašuji, že práce nebyla využita k získání jiného titulu.

3. Souhlasím s tím, aby práce byla zpřístupněna pro studijní a výzkumné účely.

V Praze dne 31. července 2015   Václav Vymětal

Poděkování

Na tomto místě bych rád poděkoval především doc. Janu Karlasovi, vedoucímu práce za veškerou pomoc a podporu.

List of Abbreviations

AMIS	African Union Mission in Sudan
AU	African Union
DPA	Darfur Peace Agreement
DPKO	Department of Peacekeeping Operations
EU	European Union
GA	General Assembly of the United Nations
GoS	Government of Sudan
ICC	International Criminal Court
ICISS	International Commission on Intervention and State Sovereignty
IDP	Internally displaced person
JEM	Justice and Equality Movement
LAS	League of Arab States
NATO	North Atlantic Treaty Organization
NGO	Non-Governmental Organization
PDF	Popular Defense Forces
R2P	Responsibility to Protect
SC	United Nations Security Council
SG	United Nations Secretary-General
SLM/A	Sudan Liberation Movement / Army
UNAMID	United Nations–African Union Mission in Darfur
UNHCR	United Nations High Commissioner for Refugees
USAID	United States Agency for International Development

Obsah

Introduction

The theme of presented thesis is the performance of the United Nations in connection with the norm of Responsibility to Protect. The research question is formulated in the following way: *What are the sources of performance of the United Nations when it comes to applying the doctrine of Responsibility to Protect?* In order to answer this research question the thesis presents the examination of the theoretical research done on the topic of the effectiveness of international regimes, the performance of international organizations and broader issues of relations between states and international organizations as well as on the inner workings and challenges of international organizations. The genesis of Responsibility to Protect from its predecessor in the form of the doctrine of Humanitarian Intervention throughout the process of unanimous adoption by the General Assembly of the United Nations and affirmation by the Security Council is documented. Two cases selected in order to present a study of the sources performance are the crisis in Darfur that begun in 2003 and the crisis in Libya of 2011.

The importance of international organizations influential actors in international politics is undisputable. The international organization fulfil a number of roles and considerably impact the way in which the international affairs are conducted. Furthermore in many cases the international organizations are the main initiator of global or local politics. The chief among them is the United Nation, universal international organization trusted with unprecedented discretion that can, if the need be, encroach the sovereignty of individual states. The United Nations is also, through some of its many agencies, important actor in the situations when it comes to alleviate human suffering, gather resources of number of individual members and influence real change. Among the organs of the United Nations the Security Council is the most powerful body that is entrusted with the primary responsibility to maintain and even enforce international peace and security. The Secretary-General serves as the head of the executive arm of the United Nations and is therefore an important and respected individual who is often seen as spokesperson and leader of the UN. Since the United Nations is a vast and complicated organization the presented study will focus mainly on the performance of the Security Council and the Secretary-General.

The Responsibility to Protect is a norm of international relations that came into existence after the international community grew wary of the concept of Humanitarian Intervention that proved to be ill-developed as well as connected with the controversial applications. Independent commission sponsored by the Canadian government, inspired by the Secretary-General plea from 1999, under the name International Commission on Intervention and State Sovereignty was tasked to rethink the concept of Humanitarian Intervention in a more comprehensive manner. Resulted concept of the Responsibility to Protect (R2P) that was elaborated on in the following years by a several groups with the blessing on the UN Secretariat. In 2005 in the Outcome Document of World Summit the Responsibility to Protect was unanimously embraced by the General Assembly. That would not mean that R2P was not contested soon after the adoption. The survey of the official elaborations on the norm ends in this study with the 2009 Report of the Secretary General who summarized the previous advancements and hurdles and prosed a reworked way forward.

In order to provide a framework for assessing the performance the initial chapter of the thesis will survey the outputs of theories of international relations that deal with establishments and inner workings of international organizations. The point of departure will be the rationalist approach to the study of international organizations, mainly the aim to promote and secure interests of states with special attention on the concept of sovereignty. From there the relationship between states as principal of international organizations and organizations as agents will be examined with the attention on the zone of discretion and levels of organizational autonomy. The study of autonomy of international organization is crucial to understand how the international organizations can possess authority that can be exercised even against the interest of Member States. With the theory of institutional autonomy and authority come theories trying to explain institutional dysfunction. Finally the survey of theoretical concepts will lead to the study of institutional performance and effectiveness of international regimes. This will be crucial part for establishing the theoretical framework and will be presented in the following chapter.

Methodically the presented thesis uses the method of qualitative comparative study that utilizes the within-case analysis in addition to cross-case comparison. Based on the findings from the survey of theoretical approach to the study of international

organizations and their performance the possible sources of performance tailored to the realities of the United Nations will be identified.

The cases that will be examined are the United Nations' response to the crisis in Darfur that is in some manner still ongoing. The Darfur case is significant in several ways. It was viewed by the international society as a grave violation of humanitarian responsibilities of the government, yet the response was slow and inadequate from the most part. It could prove beneficial to study this case from the point of responsibility to protect that was forming at the time and was unanimously embraced by the international society just as the crisis in Darfur was at its apex. The examination will conclude in 2009, by that time the United Nation's mission in area was underway and the International Criminal Court issued a warrant on the sitting president of the country.

The case of Libya was by many observers and also the Secretary General held as first and superb case when the international community, united and resolved, intervened against the regime that was terrorizing its own people. The R2P was cited as an important reason for this and some predicted the dawn of new era. The study will examine the background of the conflict, the role of regional and international actors, and will conclude the case at the time when the Security Council sanctioned NATO operation in Libya ended.

At this point it should be noted that certain changes from the proposed thesis were made. Most notably it is the absence of two other cases I proposed to study, the UN response to Kenya's 2007 post-election violence and the UN involvement in Somali crisis. The reasons are mainly because I decided to focus on the two cases - Darfur and Libya - in greater detail and also a general lack of viable sources that would provide enough data for the analysis.

In order to conduct the presented study literature form several fields had to be selected and assessed. The first chapter is based in the literature that spans several different fields of study of the international organizations from the rationalist to institutionalist frameworks of reference. There is an abundance of available sources for the more broad portions of the chapter. The second part relies heavily on seminal works of authors such Barnett and Finnemore – for the sections on bureaucratic nature of international organizations and their pathologies and Oran Young – for the study of effectiveness of international regimes. The sections that constitute the frame of my

theoretical framework are based in the work of Tamar Gutner and Alexander Thompson presented in their 2010 article *The politics of IO performance: A framework*. This article serves as a guideline for anyone who would try to assess the performance of international organization. The chapter concerning methodologies and operationalization utilizes a modified version of such framework. To my best knowledge there is no other study done that would examine the performance of the United Nations in connection with the Responsibility to Protect and cases I have selected.

The literature on Responsibility to Protect is vast and varied so is the literature on Humanitarian Intervention that serve as a point of departure for third chapter of this study. The chapter utilizes, along the academic articles written on the topic, Reports, Resolutions and other documents of primary sources. There is a number of academic articles written on the Darfur crisis many of those are directly referencing the R2P. The same is true about the literature on the intervention in Libya. Wherever it is appropriate I utilize primary sources mainly Resolutions of the Security Council.

1 Performance of International Organizations

Since the aim of presented thesis is to assess the performance of the United Nations in selected cases it is important to start by surveying the existing concepts and theories concerning the formation and inner workings of international organizations. The objective of the following chapter is to provide an overview of existing theories and applicable research of prominent researcher in the field. The rationalist approach to study of international organizations as a means of states to achieve their goals is taken as a point of departure. The concept of sovereignty and its different forms will be described since it plays an important part in the states' deliberations. The agency that international organizations display will be researched in the subsequent subsection as well as the effects of organizational autonomy. Following subsection will examine how the inner workings or international organizations are understood by prominent researchers and how the particular bureaucratic culture can lead to unintended results. Next subsection will examine the study of effectiveness of international regimes an important issue related to the study of organizational performance. Using existing research the following subsections will try to present a framework to study performance, highlight the relation with effectiveness, classifying levels of analysis and finally identifying the sources of performance.

1.1 Rationalist Approach to Study of International Organizations

Rationalists and institutionalists approach the states as primary actors in world politics. States create international organizations in a manner that is appropriate for pursuing specific goals such as the production of collective goods, collaborating in the realities of prisoner's dilemma, international coordination just to name a few (Abbot, Snidal 1998, 9; Keohane 1984, 107 - 109). In the rationalist view the cooperation between states is mainly influenced by the realities of anarchical international order, states are reluctant to cooperate if there is a little assurance that their counterpart would reciprocate in a similar manner. International institutions are able to create an environment with increased credible commitments from parties, thus lowering the uncertainty that states have when it comes to mutual interactions. Under the international institutions, the individual states are able to create additional safeguards

for maintaining principles that they see as vital and even facilitate enforcement of these interest if they are contested by other parties (Abbot, Snidal 2000, 426 – 427, 430).

For example the creation of the security arrangements under the United Nations enables to enforce - through the Security Council - the sovereignty of member states if they are under threat. Furthermore, going with an institutional solution reduces the transactional cost of future interactions between the states.[1] The UN Charter provides a means of direct enforcement based on the provisions of Chapter VII that is constructed as a prerogative of the Security Council to use military units provided by Member States. In reality, Chapter VII never operated as originally intended – instead of using a stand-by force, which has never been established, the Council authorized individual states to undergo military operations. This can be viewed in two distinct ways: either as a form of powerful states legitimizing their, essentially unilateral, actions as collective actions,[2] or as an impromptu solution to the lack of appropriate institutional arrangements while still maintaining the authority of international institution with responsibility for enforcing international peace and security (Abbot, Snidal 1998, 27 - 28).

Accepting binding obligations that are combined with delegation of authority is especially costly to states. Certain arrangements call for encroachment of state sovereignty. In his work on sovereignty, Stephen Krasner distinguishes between four common uses of the term "sovereignty": domestic, international legal, Westphalian, and interdependence sovereignty. *Domestic* sovereignty is exercised within the borders of the state through the formal organization of political authority. *International legal* sovereignty is the practice of mutually recognizing status of different external powers. *Westphalian* sovereignty is the ability to prevent external actors from influencing domestic authority structures. *Interdependence* sovereignty is the ability to control flow of people, ideas, goods, or capital across borders (Krasner 1999, 3 - 4).

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1 Since it would be extremely difficult for the states to devise such arrangements that would be complete in their constraints on self-serving auto-interpretation, reduction of transaction cost and enforceability, states opt to delegate certain power on supranational institutions (Abbot, Snidal 2000, 433).

2 Two prominent examples of UN military action in this regard are operations in Korea and in Gulf War, where both actions were led by the United States (Abbot, Snidal 1998, 27-28).

The sovereignty costs to states is relatively low when it comes to delegation in the form of international legal commitments limiting state's behavior in particular circumstances. Low cost can be accepted in order to achieve better collective outcomes. Such agreements mainly influence legal sovereignty but can impact other forms as well (provisions to allow flow of goods, adjustment of internal regulations, etc.). Greater sovereignty costs are paid when international bodies are inserted into national decision-making procedures. The greatest cost to sovereignty comes with invading state's relation with its citizens or territory, impacting the Westphalian type of sovereignty. The greater the impact on sovereignty, the more likely are states to be reluctant to cooperate. If they are willing to cooperate they will seek to maximize their gains in other areas. The United States, for example, expressed concerns with the possibility that the International Criminal Court will be able to claim jurisdiction over their soldiers participating in peacekeeping and other foreign assignments. On the other hand, the states sovereignty (in the sense of international legal sovereignty) may be enhanced in the cases when participation in international agreements enhances state's international and domestic position (Abbot, Snidal 2000, 436 - 439)[3].

1.2 Principal-Agent Approach

The proponents of the "principal-agent" approach to the study of international organization grant IOs more agency and autonomy than rationalists. They recognize that states (the principals) establish international organizations with varying degree of autonomy that is needed for the agents to carry out their assigned tasks. International organizations are able to act autonomously within the limits of "zone of discretion" to advance states' interest or to create a policy where the interest of principals is unclear or weak. Adding the concept of "zone of discretion" to the understanding of international organizations helps to explain why IOs sometimes advance policies that are contrary to the interest of some principals (Barnett, Finnemore 2004, 4). Based on this other researchers are focusing on the study of the agent in its own right, arguing that principal preferences and control mechanisms alone are unable to explain fully the process of hiring the agents and how these agents behave once hired. Noting that independent

[3] For example the Article 2 of the Charter of United Nations states the principle of sovereignty, peaceful solution of conflicts and territorial integrity.

strategies of the agents can influence the principal's decision to delegate on IOs and also influence agents' level of autonomy. Certain agents can find themselves in position where they might be able to renegotiate the relationship between them and the principals in the manner or reinterpreting the norms that helped to establish them, develop procedural innovations, or guide principals to formalize guidelines that were previously developed by the agents informally (Hawkins, Jacoby 2006, 200 - 207).

From the perspective of the principal-agent approach, Alexander Thompson aims to explain the role of the Security Council in coercive military interventions (Thompson 2006). The critics of the Security Council point to its inability to arrive at a decision regarding cases such as the 2003 war in Iraq, criticizing it for not being able to prevent the United States to take unilateral action and thus failing in its role as a guarantor of international peace. These critiques rely on a view of the SC as a coherent actor enforcing rules and dictating behavior of states, Thompson sees that as an unrealistic concept that is setting too high of a standard of the Security Council's performance. He argues that, in the realities of international relations, the specialization of applying military force lays with powerful states and not IOs. Principals create IOs to delegate specific tasks, in the case of military intervention this task is to lower the level of uncertainty (that comes from "hiring" coercive agents to deal with the violator on principals' behalf), with providing information to international community about the coercing state's intentions. IOs are in this view endowed with "screening power" that consist of amassing information that can be used by powerful member state to come up with more informed decision and thus potentially more successful implementation. Thompson goes on to argue that IOs with heterogeneous membership are able to send more information to international community regarding potential coercer then more homogenous regional organizations or ad-hoc coalition of like-minded states. In the case of the Security Council, this helps to explain why it is regarded as legitimizer of collective action, more so than regional organizations or ad-hoc coalitions of the willing (Thompson 2006, 229 – 232, 253 - 254).

The autonomy is a key concept of the study of political independence that international organizations enjoy. The independence of political institution shapes its authority and influence on the realm of international politics well beyond what was anticipated by their principals. In order to be able to perform its goals, the international

organization needs not only autonomy, it needs to be delegated certain authority. Truly independent international organization has well defined decision-making mechanisms (providing it with a degree of autonomy and neutrality), has functioning supranational bureaucracies enjoying a certain level of discretion (embodying neutrality and delegation) and is able to provide a third-party settlement (representing delegation of states judicial powers on neutral, autonomous international organization) (Abbot, Snidal 1998, 16; Haftel, Thompson 2006, 253 -257, 261).

1.3 International Organizations as Bureaucracies

The observation that the preferences of the member states and International organizations seem, at times, to be at odds with each other led several researches to propose that IOs would be better understood if viewed as bureaucracies. Bureaucracies are actors equipped with authority that enables them to use discursive and institutional resources to prompt deference from others. This approach is at odds with the international relations theorist who presume that only state sovereignty can be a source of authority in international environment. Bureaucracies adhere to the impersonal set of rules that define the social world and the behavior of actors in it, at the same time bureaucracies are tasked to create new sets of rules to help achieve perceived goals. Bureaucracies embody a form of a rational-legal authority deploying social relevant knowledge to create rules, while promoting their autonomy by exercising control over information and expertise. Bureaucracies are creating bureaucratic culture that is a set of solutions adopted by the groups of people to meet specific problems they face. Over time, the solution becomes institutionalized, internalized and passed on as the rules, rituals and values of the group (Barnett, Finnemore 1999, 707 – 708; Barnett, Finnemore 2004, 5, 19).

Barnett and Finnemore (2004) describe four main forms of authority that IOs can exercise: *Rational-legal* authority provides the international organization with its basic form and behavioral vocabulary, but bureaucracies need to serve a social purpose to be respected and authoritative. *Delegate* authority is the authority provided by the states. For example the authority of the United Nations in peacekeeping is provided in the form of mandate from member states granted through the Security Council, the UNHCR's authority is based on its statute conceived by member states. States often delegate tasks

that they would not be able to accomplish by themselves or that they have a limited knowledge and expertise in. Mandates must be also interpreted and carried out so even on the level of delegated authority IOs have to be autonomous at least in some ways. *Moral* authority of IOs is based on the fact that they are established in the interest of community and as a defender of common values. The UN Secretary-General can, for example, use the moral authority of the United Nations to create autonomy from member states and induce deference from governments and citizens. Where states promote their national interest, IOs balance it with stressing the community benefit. *Expert* authority is based on the expertise that the staff of international organizations can provide in specific issue areas, as international organizations authorized by moral principle must behave accordingly to it so do IOs possessing expertise make their actions consistent with the service of it (Barnett, Finnemore 2004, 22 – 25).

At the heart of bureaucratic power lays the control of information. The bureaucracy is able to transfer information into knowledge that gives the information meaning. The knowledge in turn shapes the social reality and prompts action. International organizations are therefore able to influence the behavior of other actors, they can be selective with the information they collect and decide on what agenda is going to be set, effectively guiding other actors to behave in a way preferable to the international organization. IOs can redefine certain phenomena as problems that need regulating. Human rights were not always seen as a problem that needs international attention, but through the actions of International Organizations and others, they came to be seen as such (Barnett, Finnemore 2004, 29 - 33).

1.4 Pathologies of International Organizations

International Organizations are often criticized of being dysfunctional in the way they perform their perceived responsibilities. Barnett and Finnemore refer to this criticism using the term "pathologies" of International Organizations (Barnett, Finnemore 1999). The first step in judging the dysfunction is to consider what the publicly proclaimed mission of the organization is. It is important to note that a certain behavior of international organization can be seen as either functional or dysfunctional. For example, the decision of the United Nations not to intervene in Rwanda can be seen as utterly dysfunctional from the human rights perspective, but can be considered as

functional for powerful states that wanted to stay out of the conflict, or for the Secretariat that believed that the likely failure would severely impact the organization as a whole (Barnett, Finnemore 2004, 34 -36).

The theories of institutional dysfunction can be categorized in two dimensions: whether they trace the cause of dysfunction inside or outside of IO; or whether they trace the causes to material or cultural forces. *Internal-material* causes view the decisions as a result bureaucratic politics where bargaining over budgets, turf, and staff may play a decisive role. *External-material* sources of dysfunction describe the effects of states' preferences and constraints on IOs dysfunctions. *External-cultural* sources are connected to the notion that IOs are more concerned with being legitimate in the views of world polity,[4] rather than efficient in obtaining their goals. The norms of world polity are varied and can often come into conflict with one another.[5] Finally the *internal-cultural* sources of potential dysfunction can be the unforeseen consequences of the routines, rules and standard operating procedures forming the ritualized behavior. Rules and routines applied in particular cases may obscure the overall mission and larger social role of international organizations. One of the benefits of bureaucracies is its ability to compartmentalize and specialize to be more effective in dealing with problem, on the flip side this can create subcultures in IOs that can have a distinct understanding of priorities and goals than the whole, further complicating the deliberation (Barnett, Finnemore 1999, 715 - 719).

Barnett and Finnemore provide an example of how one of the infamous episode in the history of the United Nations can be explained by their research on pathologies of IOs. The case is the reluctance of the UN Secretariat to undergo necessary steps to prevent the genocide in Rwanda of 1994. Even though there were members of the Security Council calling for response in the first weeks of the crisis, the Secretariat did

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[4] World polity is the concept promoted by certain social scholars who treat the entire world as single society and argue that there is a distinct global culture that compromises of formal and informal rules of international social life. Global culture defines who the principal actors are, how they behave externally and how are they organized internally (Paris 2003, 442).

[5] Roland Paris applied this concept on the international peacekeeping and found that the peacekeepers are limited in their ability to perform their tasks by contesting norms of promoting liberal democracy as a solution for transforming war-torn countries and the norm of non-interference with domestic affairs of any state. Global culture legitimizes in his views the goals of peacekeeping while delegitimizing the means that might be necessary to achieve it (Paris 2003, 461 - 462).

not provide any support to their position. Examining the development of rules of peacekeeping, Barnett and Finnemore demonstrate how the Secretariat categorized the situation in Rwanda as a civil war rather than genocide and proceed to apply the rules of peacekeeping even in the face of mass human losses. In the wake of failures such as Somalia and Bosnia, the Secretariat, concerned with opposition of important capitals and loss of moral authority, reinvented the rules of engagement in order to make peacekeeping more effective.[6] According to their analysis, the peacekeeping culture at the time led the Secretariat and the DPKO to categorize the situation only as reciprocal violence related to civil war. This view and endorsement of "institutional culture of non-intervention" held even against the insistence of the UN personal on the ground that the situation escalated into the genocide (Barnett, Finnemore 2004, 121 – 125, 140, 147).

1.5 Study of Effectiveness of International Regimes

An important research into the problems of performance of international organizations is based on the findings of the research of regime effectiveness, it established several way of how to measure institutional effects and tackles similar methodological problems that the study of performance of international organizations is facing (Gutner, Thompson 2010, 230). Regimes are defined as *"social institutions, consisting of agreed upon principles, rules, procedures and programs that govern the interaction of actors in specific issue area"*. Major role of international regimes is to facilitate cooperation among governments. Regimes are distinguished from international organizations as a broader term, international organizations can be a part of an international regime (Keohane 1984, 62; Young, Levy 1999, 1).

The study of effectiveness of international institutions owes a great deal to the lifelong work of Oran Young and his scientific focus on regime effectiveness, especially in the cases of environmental regimes. Institutional effectiveness refers to the ability of an institution to promote its intended goal that is in contrast to the institutional effects a broader concept of the influence the institution may have without nominally targeting for it (Mitchel 2013, 4 – 5; Wendt 2001, 1044).

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[6] Mainly to only deploy peacekeepers in the areas with on-the-ground stability and to secure the consent of the opposing parties with the deployment while maintain strict impartiality (Barnett, Finnemore 2004, 123,136).

There are several ways how one may come about measuring the regime effectiveness. The *problem-solving* approach measures how the problem was affected by the introduction of the regime designed to address it. The obvious setback is that the regimes do not exist in vacuum and the actors can take steps to the resolution of problem outside the regime they created. The *legal* approach measures the degree of how the contractual obligations are met by the parties to the treaty establishing the regime. A regime can be effective in the legal sense without impacting the problem whatsoever. The *economic* approach adds the efficiency criteria, the less costly measures are deemed more efficient, this approach requires comparison to the alternative regimes or to the theoretical models.[7] The *normative* approach looks at effectiveness in the terms of normative principles such as fairness, participation, stewardship or justice. Finally, the *political* approach views the problems as functions of specific constellations of actors, institutions and interests (forming what Young calls "behavioral complex"), effective regime is able to influence the behavior of actors, the interests of actors or policies of institutions in the way that is beneficial to the management of targeted problem. The political approach does consider a regime to be effective if it is able to spur action (behavioral change) towards the solution of the problem, however that does not mean that such regime would be necessarily considered efficient. Also specific regulatory rules, protocols, and operational targets are means to an end rather than ends themselves. Compliance with the norms does not have a privileged conceptual position, meaning that activities that move the system in the right direction, even if they are of not a full compliance or are even beyond what compliance ask from the actors, signal regime effectiveness (Young, Levy 1999, 4 - 6).

1.5.1 Performance and Effectiveness

Although the terms of performance and effectiveness are sometimes used interchangeably, Gutner and Thompson provide a distinction between the two concepts (Gutner, Thompson 2010, 231 - 232). In the everyday use the good performance is the ability to fulfil the task at hand and it also refers to the way in which the task is

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[7] The literature on regime effectiveness challenge the rationalist-institutionalist assumption that efficient designs are necessarily effective (Gutner, Thompson 2010, 230).

performed. To assess the performance is to assess the outcomes that the international organization provides to the problem solving, this can be useful in the cases where the objectives are well-defined and the organization has a prominent role in the issue area, in cases where there is a disagreement between the parties on what constitutes good performance, this approach can be difficult. Therefore they propose an alternative approach that would conceptualize performance as a function of internal processes, the ability of organization to mobilize its internal resources and be more efficient in its internal operation. The distinction between performance and effectiveness then comes from the appreciation of the underlying processes. While the effectiveness, they argue, is primarily measured by the goal-fulfillment the performance is looking at the inside workings of the organization. Even if the goals are difficult to achieve due to the external constraints, the organization can perform well, at the same time, if the goals are achieved due to their not challenging nature, the organization can perform relatively poorly. The focus on underlying capacity, external constrain and the manner in which the results are achieved are all part of the performance (Gutner, Thompson 2010, 229 - 233).

1.5.2 Levels of Analysis: Output, Outcome and Impact

Commonsensical way thinking about effectiveness of regimes is to assess how they contribute to solving or at least addressing the problems that motivated those who establish them. However, Young points out that there are other ways to look at the effectiveness of regimes in their formation or in their implementation. In any case, it is important to differentiate between the outputs and outcomes of international regimes. *Outputs* are processes, regulations, and infrastructure connected to the decision making or regime forming process (what moves regime from table to practice). *Outcomes* are the consequences that take form in the behavioral changes of actors relevant to the problem. Next level of analysis would be the *impact* of the regime that is the change in the environment (state of affairs) itself. Success in the terms of output and outcome does not necessarily mean that the whole regime would be successful in solving the problem at hand. More ambitious way of looking at the effectiveness is to assess the effectiveness against the probable course of events that would occur had the regime not

been implemented and also against the best possible outcome imaginable (Underdal 2002, 4-7; Young 2011, 19853-19860).[8] Assessing the regime effectiveness is admittedly a difficult task in the best of cases, evaluation of the effectiveness based on the outputs or outcomes is more approachable than assessing overall problem solving.

The work of Gutner and Thompson, which this thesis uses as its basis, categorizes these levels on the spectrum form process-based to outcome-based (Gutner, Thomson 2010, 234 - 237). A research on the performance of given international organization could then focus on the processes -in the terms of regime effectives the outputs - of international institution, through the outcomes of the intermediate nature all the way up to the macro outcomes, that would represent the impact on the problem that is being addressed. On the "process-based" portion of the scale, the outputs of international organization are the focus of the research: how well does the international organization performs its specific tasks and narrow functions. On this level the international organization can be successful in its output performance, but can have a little overall effect on impacting the issue as a whole. The middle of the scale, the "intermediate outcomes", consist of the observable change in actors' behavior, observable political effects of institutions, state compliance and policy change that is consistent with institutional goals. This is what the regime effectiveness literature would call outcomes. Even at this level the international organization can perform well without being able to impact the issue. Finally on the "macro-level" of Gutner and Thompson's, the impact of the international organization on the solving of the issue is measured. The feasibility of assessing the performance in the terms of the impact is hindered by the fact that international organizations do operate in the environment where a number of other factors, outside of the control of IOs, can impact the problem. Furthermore, complex international organizations such as the United Nations have a number of diverse goals that can possibly be at odds with each other and complicate the use of "macro-level" approach (Gutner, Thomson 2010, 234 - 237).

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[8] According to Underdal and other researches the regime as a whole can be evaluated against two hypothetical and complimentary states: one is if the regime would not exist and the other is the most optimal way how the regime would be implemented. In the first case one sees the effectiveness as relative improvement from the previous situation. The other measures it against a collective optimum that is the maximum that the particular group of actors can accomplish (Underdal 2012, 7-9).

1.5.3 Sources of Performance

When it comes to assessing the performance of international organizations it is beneficial to present a system of its determinants. In their work, Gutner and Thompson base their typology on the one presented by Barnett and Finnemore as discussed above. The first line of reasoning is based in rationalist tradition that views IOs as subjected to the design decisions and control of states that limits independent behavior. Undesirable or inefficient outcomes may occur when IOs are under incoherent mandates, irreconcilable political demands of member states and states behavior constraining organizations' ability to perform. The performance, good or bad, is rooted in external forces. On the opposite side the theorist of bureaucratic culture view the performance as mostly a function of internal and social forces. The basic dichotomy is then between the *external-material* and *internal-social* (cultural) sources of performance. Trying to explain the performance of IOs just based on one of these two explanations would hardly be comprehensive as other possibilities exist. The bureaucracies can be motivated by material gain in form of extended discretion, new resources, or career advancement. The inability to perform task can be based simply in the lack of adequate staffing and resources. External influences don't have to be material or formalized, as was discussed above, IOs can be studied as a product of social and cultural environment. In some cases the performance might be hindered by the lack of clear consensus in international community on what norms apply to specific cases or what problem requires solution. External problems can also manifest themselves on the ground where the IO operates in the form of political instability, corruption, insufficient capacity and lack of consensus from relevant parties (Gutner, Thompson 2010, 237 - 239).

Table: Sources of performance according to Gutner and Thompson (2010)

	Internal	External
Social	Organizational culture	Competing norms
	Leadership deficit	Lack of consensus on problem
Material	Inadequate staffing, resources	Power politics among member states
	Bureaucratic / career self-interest	
		Incoherent mandates
		On-the-ground constraints

2 Methodology and Operationalization

2.1 Methods

This thesis approaches the problems of assessing the performance of United Nations in respect to the Responsibility to Protect. As a relatively recent and still contested international doctrine the number of cases that would be applicable is relatively low. This and the fact that in the ten year period since its adoption the Responsibility to Protect underwent a certain evolution, precludes using a large-n study. To conduct a case study seems more fitting given the fact that they are more suitable when the operational links are to be traced over time (Van Evera 1997, 54 – 55).

The research question is formulated in the following way: What are the sources of performance of the United Nations when it comes to applying the doctrine of Responsibility to Protect?

The method selected for answering the research question is the comparative method. In order to achieve useful comparison, I have selected two cases that appear to be "comparable" in the sense that Arend Lijphart uses in his seminal work (Ljiphart 1971, 687). In both cases selected, there appear to be exhibited enough similarities and differences to be suitable for analysis. The method used will be based on a qualitative study that will utilize a within-case analysis and cross-case comparison in the scope of a single study. Such method is described by George and Bennet as well as Collier as being capable to draw strong inference from a case study (Collier 1993, 116; George, Bennet 2005, 18).

The method that will be used is a based in Mill's method of difference described as a method of *"comparing instances in which a phenomenon does occur, with instances in other respects similar in which it does not"* (Ljiphart 1971, 687). Since it is anticipated that almost each of the variables will present itself in both cases the method of difference has to be modified by the method of *concomitant variations*. This modification is able to observe and measure the quantitative variations of the operative variables while relating them to each other. This method will allow to examine the difference between the cases even if, potentially, every variable will be present to certain extend in both cases (Ljiphatr 1971, 688; Ragin, Zaret 1983, 736).

Since the two cases of the UN engagement in studied crises is not static and the period studied have lasted up to several years the method of *"process-tracing"* will be employed in both cases (Collier 1993, 115 - 116). As Stephen Van Evera puts it, the process-tracing enables to research the chain of events or the decision-making process by which initial case conditions are translated into outcomes (Van Evera 1997, 65). The dynamic of change in the response of the UN, be it the Security Council, individual Member States or the Secretary-General will be measured and taken into the consideration.

2.2 *Conceptualization and Operationalization of Theoretical Framework*

The aim of this thesis is to apply a framework of performance of international organizations. The framework used for this study is based on the research on effectiveness and performance that was presented in previous chapter. Assessing the performance of international organization of the scale of the United Nations in the form of impacts is a complicated task that would require considerably more space than is assigned to this thesis. The potential number of variables that have the ability to influence the impact of the performance in a given case would be very difficult to encompass and research with necessary vigor within the confinement of a single study. In order to evaluate the performance in the given cases of application of instruments available to the United Nations, I will focus on the levels of outputs and outcomes. Gutner and Thompson stress that it is crucial to determine a baseline for what constitutes good performance on each level of analysis (Gutner, Thompson 2010, 240).

The main focus in the cases will be given to the role of the Security Council among the institutions of the United Nations, since its approval is required to take action when it comes to implementing the responsibility to protect. Among the members of the SC the most important are the permanent members, since they have the ability to effectively veto any decision that the collective body could make. The analysis of the cases will therefore pay special attention to the permanent members of the Security Council. The Secretariat (Secretary-General, Under-Secretaries and auxiliary bodies) will be the other body of the United Nations that will be examined in the following cases.

On the output level, the United Nations performance will be assessed in the manner that issues presented in cases were discussed by the UN Secretariat and the Security Council. On the level of outputs the manner or response of the UN institutions and the time that passed since the conflict erupted will be measured. When and in what form did the deliberation in the Security Council take place? Did the office of Secretary-General issued a statement or responded in a certain way? The outputs in this sense would be Resolutions that were proposed or passed by the Security Council, Reports and actions of Secretary-General or Under-Secretary General that took place at that time. The baseline outputs of good performance are then in the case of Security Council a passing of a Resolution in a timely manner with provisions that are designed to positively influence the situation at hand are not mere proclamation without proper backing. In the case of Secretary-General, the baseline good performance output will be assessed by measuring the frequency and quality of outputs (in a sense of Reports, proclamations, and visits in the impacted areas and so on).

On the level of outcomes the implementation of the outputs into observable behavioral change on the ground will be examined. On this level the ability to of UN institutions to facilitate compliance and policy change that is consistent with the outputs is the important variable. Here, the baseline of good performance is a fact that the Resolution of SC would be upheld by the parties for whom it is binding and that the provisions translate into observable actions. The outcomes of the Secretariat are not as easily identifiable, here the degree that the outputs (as defined above) of the Secretary General were referenced and respected by other parties, primarily the SC will be measured.

It is important to stress that the performance of the Security Council will be examined independently on the performance of the Secretary-General. This owns to the fact that they generally represent different interest and express different behaviors. The Security Council cannot act against the veto of a permanent member and so when investigating the performance of the Security Council a major attention needs to be on each of the five permanent members. Also since the other ten members of the Security Council rotate on a regular basis and the affirmative vote of nine members is needed for a decision to be passed, the composition of the Security Council in given cases has to be taken into account. The Secretary-General is expected to more stable in the way that his

office will perform over the time. Yet since there was a personal change in Secretary-General in 2007 this should also be taken into the account.

Applying the research on bureaucratic culture, the role of UN Secretariat, and appropriate institutions will also be examined, mainly in the way how they perceived the nature of the conflict and how it fitted to their views of what would constitute the appropriate response, how they promoted their agenda and how was this reflected on the Security Council deliberation.

From the rationalist perspective, the interest of states will also have to be considered. States that have an ability to prevent Security Council to reach a decision, or their allies, may have specific interest in the region or states considered in the cases. These interest may be of importance when it comes to what course of action will these states endorse. States that consider the region being vital to their security should be prone to seek an impactful solution. States with economic interest such as foreign investment would seek the course of action that would be most capable to protect this investment.

The role of the Responsibility to Protect in shaping the views and behavior of relevant actors will be considered. Although R2P was accepted unanimously by the General Assembly in 2005, there were several states with various degree of importance that consistently expressed their reservations or even tried to challenge the emergence of R2P as an enforceable international norm. In the assessment of the cases the position of relevant states on the issue of R2P has to be considered. It is expected that the states that were constant proponents of R2P will be more likely to facilitate positive performance of UN in its implementation. On the other hand, states that questioned its relevance and on the contrary stressed the importance of adhering to state sovereignty will affect the performance negatively by hindering the reaching of agreement on outputs and outcomes.

The number of variables that is examined in the thesis is determined by the framework of potential sources of performance of international organizations presented in the previous chapter (Gutner, Thompson 2010, 239). From the framework it can be stated that the sources of performance can in general be seen as either material or social, external or internal and as combinations of the two dichotomies. The role of following variables will be examined in the cases:

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From the internal - social bracket the organizational culture will be examined. In the sense of selected topic the degree of which the institutions of the United Nations accepted and promoted the Responsibility to Protect will be examined. The role of leadership either on the side of members of the Security Council or the leadership displayed by the Secretary-General is a variable that can determine the overall performance.

The internal – material dimension of sources of performance will not be elaborated on in this study because the character of studied cases and the fact that the Secretary-General is here seen as a singular institution and the possible variables connected to the Security Council are subsumed under the other brackets. There are no agencies competing over turf, budgeting nor stuff: what Barnett and Finnemore would consider as a source of pathology (Barnett, Finnemore 1999, 177). This dimension would be useful if the study would also cover agencies of the UN such as the DPKO.

From the external – social bracket the competing norms of sovereignty and responsibility will be used as variables influencing the performance. The importance of sovereignty on the behavior of states was resented in the previous chapter, the following chapter will elaborate on the concept of responsibility.

The external – material sources of performance are in the framework identified as power politics among states, incoherent mandates and on-the-ground constraints. The situation on the ground in each of the cases will have to be assessed. Also the possible material interests of member states that could influence the outputs and outcomes need to be examined.

The main aim of the research presented in the study is to evaluate the effect these sources had on the performance of the organs of United Nations. The sources will be tracked in the individual cases and their presence or absence will be noted. The measure of which the sources, if present, influenced the cases will also be examined.

Based on the operationalization of the theoretical framework I propose the following hypotheses to be confirmed or rejected based on the findings of the study:

Hypothesis 1: UN Secretariat will promote the issue if it frames it in the way that is consistent with what it perceives as part of its culture.

Hypothesis 2: Member States that consistently accepted and advanced the Responsibility to Protect will continually promote its application in the conflict.

Hypothesis 3: Preexisting interests of Member States will consistently determine their behavior.

3 Responsibility to Protect

This chapter examines the formation of Responsibility to Protect as an emerging international norm. It starts with a summary of the doctrine of Humanitarian Intervention that served as a basis and also a point of departure to the creators and proponents of a new approach that would stress the responsibility to protect rather than the right to intervene. Responsibility to Protect will then be mapped from its inception in the report of the independent International Commission on Intervention and State Sovereignty to the adoption by the High-Level Panel on Threats Challenges and Change, endorsement by the Secretary-General of the United Nation and finally adoption by the Generally Assembly and subsequently by the Security Council. The chapter will track the main ideas and mechanisms and their evolution through time as well as the impact that the individual institutions and member states had on the final form of the doctrine. At the end of the chapter the doctrine of Responsibility to Protect will be compared to its point of departure the doctrine of Humanitarian Intervention.

3.1 United Nations and the Humanitarian Intervention

In order to understand the Responsibility to Protect a brief examination of previous principles underlying international response to the gross violations of human rights is needed. The concept of Humanitarian Intervention that was linked to certain influential interventionist attempts of the second half of the 20th century while being most influential in the 1990s, was based on the belief that: *"outside powers have a right to intervene, through military means, in other countries to protect people against atrocities"* and such an intervention is just *"whenever, for the lack of effective government, the country slides into anarchy, thus seriously jeopardizing the lives, security and well-being of the people"* (Gierycz 2010, 111; Phillips 1996, 16). The idea was philosophically based on the theories of just and unjust wars while viewing sovereignty as an instrumental good and not only as a means to itself. In the words of a prominent author on the topic of just intervention Michal Waltzer: *"if the state oppresses its population to the state that this population cannot resist, such a state gives up the clear title of sovereignty"* (cited in Phillips 1996, 15).

Under the concept of Humanitarian Intervention the involvement in violent conflicts (in many cases internal) with high rate of civilian casualties, such as Bosnia or Somalia, was justified since the conflicts were seen as a failure of the state to uphold the standards of such defined sovereignty. At the same time it was widely perceived that the United Nations was ill-equipped to perform adequately in such cases. That led to the practice of unilateral interventions performed by powerful states, in many cases without obtaining an international mandate. In other areas, the military interventions backed by the ideas of Humanitarian Intervention were led by regional organizations, such as the involvement of West African forces in Liberia or Sierra Leone, and arguably, these involvements were not success stories. Although the NATO operations in Bosnia in 1995 and Kosovo in 1999, the Australian intervention in East Timor and the British one in Sierra Leone in 2000 were effective in regard to stopping the atrocities. On the other hand, they brought criticism and fear of neo-imperialism and neo-colonialism expressed by certain members of the international community. On the one hand the concept of Humanitarian Intervention proved to be ill-developed because of the motivation based concerns, on the other, by the turn of the century, there was a broad demand for effective means to stop gross violations of basic humanitarian conditions of vast populations (Orfort 2011, 32; Gierycz 2010, 112).

Among various conflicts and abuses of basic human rights, the genocide in Rwanda stands as one of the most prominent failures of the international humanitarian response mechanism and thus was an important rally point to the outcries for the clear and universal humanitarian regimes that became louder by the end of the century. In his introductory piece in the volume on Protection against Genocide, Neil Reimer listed *"the need to articulate cogent philosophy of prudent prevention"* and the need to *"develop a wise theory of humanitarian intervention as two of the most pressing matters in humanitarian protection"* (Riemer 2000, 9).

There was a need for a new concept that would aggregate broad support among weaker states that generally feared and opposed anything they would perceive as a possibility for violating their sovereignty. The term "Humanitarian Intervention" in itself became to be perceived as problematic, because it combined two ideas that were by many seemed as in conflict with each other: "Humanitarian action" was seen as an attempt to relief populations of suffering, while "international intervention" was

connoted with the use of armed force. Even the proponents of Humanitarian Intervention preferred to describe actions taken using the term "just war" rather than "humanitarian". Increasingly the term was seen as an attempted legitimization of use of force by the powerful against the weak under more sinister motives (Newman 2009, 94). The way that the conflicts were labeled determined in a substantial way the response that they would get. For example if an instance of mass slaughter was labeled as genocide, it was more likely to attract armed response, which raised concerns of possible side motives among the opponents (Mambandi 2010, 59). The will of the international community to tackle the instances of gross violations and suffering was strong, what was needed, though, was an internationally accepted norm that would have extensive support among both powerful and weaker states, clearly defined rules and the agency to implement itself.

3.2 *Creation of the Responsibility to Protect*

3.2.1 International Commission on Intervention and State Sovereignty Report

What would become the doctrine of Responsibility to Protect began with the work and concluding report of International Commission on Intervention and State Sovereignty ("ICISS Report").9 The Commission was established by the Canadian government that responded to the plea by the UN Secretary-General Kofi Annan from September 1999 to rethink the concept of Humanitarian Intervention and to address the gross and systemic violations of human rights in a more comprehensive manner (ICISS Report, 1.6). The mandate was to present a broader insight into the problem of reconciling intervention for humanitarian sake with the concept of sovereignty (ICISS Report, 1.7). Commission's goal was to present a model that would differ from what was perceived as a failed concept of Humanitarian Intervention, the new approach would put stress not on the "right to intervene", but on the "responsibility to protect" victims of currently happening or impending humanitarian crises (Gierycz 2010, 112).

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9 As some researchers note the ICISS Report can't be seen as the absolute beginning of the process of forming a new approach to the concept of sovereignty because of a relatively short time it took from the original draft until the adoption by the General Assembly and the Security Council (Stahn 2007, 102).

With the aim to present a workable concept the Commission did not cover every humanitarian problem that could possibly occur, but approached only specific selection of preventable violations and atrocities (Newman 2009, 98). Intervention was only to be used as a measure to protect in the most extreme of the situations and would only be justified on the basis of large scale loss of life, genocidal attempt, or large scale ethnic cleansing that would be either initiated by the state or not within capacities or will of such a state to act to prevent them (ICISS Report, para 4.19).[10] The creators of the proposed doctrine seen it as a justifiable and logical follow-up of the concept of sovereignty that is in accordance with what is perceived as a contemporary shift in the extend and justification of state's sovereignty (ICISS Report, 1.5, 1.34; Mayer 2009, 43; Evans 2009, 17).

The Report states that the concept of R2P comprises of not one, but three responsibilities: to *prevent*, to *react* and to *rebuild*. Even though the stress in the Commission report is on multiple occasions given on the responsibility to prevent as "the single most important dimension" (ICISS Report, synopsis (4); Evans 2008, 79) the elaboration beyond The Report was biased towards the latter of the two (Bellamy 2008, 135).[11]

The ICISS would go under scrutiny to substantiate that the proposed concept was different enough from the Humanitarian Intervention doctrine that came before. For that reason a prime attention was given to the prerequisites for the use of force under R2P. The concept they proposed was a buildup on the traditional "just war" doctrine that was a base for humanitarian interventions in the past with additional stress on the special circumstances warranting the use of R2P-based actions, *"right intentions"*, *"just cause"* and *"proportional means"* of response that would see the international community responding in the manner that would not overreach the necessary action in

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[10] The crimes that are defined in the ICISS report are previously acknowledged international atrocities elaborated on by the international law both customary and conventional. For example the crime of genocide is internationally acknowledge since 1949 in The Genocide Convention that empowers the UN and mainly SC to take an action when the international law is breached (Quigley 2006, 80, 85).

[11] The ICISS Report was not the first one to stress the importance of prevention, in the conclusion to the aforementioned publication on Genocide Neal Riemer makes a strong case for the importance of prevention (Reimer 2000, 145-148).

the situations that would clearly permit it.[12] Furthermore the requirement of a *"reasonable prospects"* of a mission success has to be met under the concept offered by the Commission, a condition that seems to be aimed at the critics that would dismiss the whole proposition as too idealistic. While acknowledging the argument that the double standards might be applied when assessing the urgency of a response, proponents argued that such an argument cannot be used to disregard any case when the application of R2P is viable (Evans 2002, 103-106; Doyle 2011, 80).[13]

Being the highest supranational authority under the international law, the importance of United Nations as an actor, a forum and a safeguard of the implementation of the doctrine and its eventual use was always stressed by the proponents of R2P (Evans 2002, 104). Within the structure of the UN, the Security Council was seen as particularly important to making decisions to intervene. Other agencies of the UN system were given a role as well, in the realm of prevention, the establishment of more complex early-warning mechanism as proposed by the ICISS Report. However the prevention area was underdeveloped when compared to the reaction agenda (ICISS Report, para. 3.9). The Security Council was presumed to take the most decisive role especially when it comes to the responsibility to react, it being the embodiment of the idea of "right authority", tailoring the proposed doctrine to the inner workings of the United Nations (Doyle 2011, 80). Nevertheless, seeing the responsibility that the international community has in the protection against the mass atrocities, some other procedures of complement with the responsibilities were drawn up: The Report addressed a possibility where the Security Council would be bypassed by the General Assembly in the procedure that would be similar to the, arguably controversial, practice known as "Uniting for Peace" (ICISS Report, para. 6.9).[14] The last remaining possibility would be to act through a regional organization again under and in accordance with Chapter VIII of the United Nations Charter (Evans 2002, 107).

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[12] Right intentions are crucial to the application of the concept, as such only an action that aims to halt or avert human suffering is legitimate under R2P. Overthrowing a regime is not a legitimate objective, according to ICISS, although disabling the regimes capacity to harm its own populace may be essential to act under the mandate of protection (McMillen, Nickler 2013, 294).

[13] The argument against R2P as a biased practice is raised quite regularly when it comes to the assessment of the doctrine (Luck 2010, 352-354).

3.2.2 A More Secure World: Our Shared Responsibility - Report of the High-Level Panel on Threats, Challenges and Change

"A More Secure World: Our Shared Responsibility" is the title of the report by the High-Level Panel on Threats, Challenges and Change (High-Level Panel Report) published in December 2004. The High-Panel was commissioned by the Secretary-General a year prior and was chaired by the former Thai Prime Minister, Anand Panyarachun, to *"assess current threats to international peace and security; to evaluate how our existing policies and institutions have done in addressing those threats; and to make recommendations for strengthening the United Nations"* (High-Level Panel Report, Note para. 3).[15] Even though the High-Level Panel Report covers a broad range of topics and it is primarily preoccupied with a system-changing agenda propositions concerning the UN, there are important provisions aimed towards the Responsibility to Protect: it stresses the importance of the capability and responsibility of states; development and prevention are of high importance, and there is an accent on the criteria of involvement that are very similar to guidelines proposed by the ICISS. "Peacebuilding Commission" is proposed in High-Panel Report as a new intergovernmental body that would assist the states in the post-conflict transition to the longer-term reconstruction and development. Such a commission would thus embody the main ideas of the responsibility to rebuild (High-Level Panel Report; Notes para 7, 8, 14).

In the views of the High-Level Panel the responsibility to protect is shaping into an "emerging norm" that is collective and international. However, the panel stresses that the norm is exercisable in the form of a military intervention as a last resort only and by the Security Council exclusively. Cases that apply are genocide, mass killing, ethnic cleansing or other serious violations of international humanitarian law where the individual states are unable or unwilling to prevent it (High-Level Panel Report, para 203). The crucial parts that constitute the concept of R2P were not separated from the

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[14] Furthermore Report plead to the opposing veto-empowered members of Security Council to refrain from the voting in the cases where their vital interest was not at stake (Gierycz 2010, 113).

[15] The Secretary General is entitled to create such bodies on the bases of the United Nations Charter embodied mainly in the Article 98 of The Charter. The broadly defined peacekeeping is one of such areas where certain amount of autonomy delegated from the Security Council to the office of the Secretary General (Conforti 2010, 318 - 320).

wider human security agenda as it was in the initial ICISS Report and thus somehow limited in its impact (Newman 2009, 97). Nonetheless, the High-Panel Report represents the first acknowledgement of the proposed doctrine by the international body enjoying the legitimacy of United Nations. The concept of responsibility is defined in the way that stresses the individual responsibility of every state in relieving populations from avoidable catastrophe, namely mass murder and rape, ethnic cleansing by forcible expulsion and terror, and deliberate starvation and exposure to disease (High-Level Panel Report, para. 201, 205). The emphasis on every state gives a space for different interpretations from a simple speech-form to an endorsement of the responsibility to every other state to intervene when crucial values are at stake. The ambiguity of interpretation was one of the concerns the critics raise when discussing the legitimacy of R2P as an international norm.

High-Level Panel Report stressed the exclusive authority of the Security Council when it comes to possible applications of responsibility to react. Taking an action by bypassing Security Council as it was implied in the ICISS Report is not an option in the High-Level Panel Report. In fact there is clause that is aimed specifically against the notion that an action could be taken without the consent of the Security Council. Although the High-Level Panel Report as well as the ICISS report encompass appeal to the Security Council not to veto action in the case that the vital interest of a permanent member is not at stake (High-Level Panel Report, para. 206, 256). In general every military action must go through the collective security system, this includes a provisional operations based on regional organizations as well. No coalition of "able and willing" or regional organization was given legitimacy to respond in accordance with Responsibility to Protect on its own, that is without the approval of the Security Council (although this approval can be, in the most urgent cases, given after the operations have commenced) (High-Level Panel Report, para. 272; Stahn 2007, 106).[16]

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[16]Security Council is urged to consider (while deciding on an action, most importantly military response to threat ho humanitarian security) the same five criteria used by the ICISS. Namely: Seriousness of the threat, proper purpose, and last resort, proportional means and balance of consequences (High-Level Panel Report, para. 207). The paragraph 208 of the Report calls for embodying these guidelines for authorizing the use of force in declaratory resolutions that would be made separately by the Security Council and the General Assembly (High-Level Panel Report, para. 208).

By the time the High-Level Panel Report was issued, the post of the United Nations Office of the Special Advisor on Prevention of Genocide was created. This office was formed with an intention to strengthen the United Nations' ability to provide an early warning mechanism when it comes to large-scale violations of human rights and danger of mass murder/genocide while also making policy recommendations in regard to the prevention of genocide. The problem of prevention proved to be particularly dividing, when the Special Advisor gained support from the United States (traditionally distant to the whole R2P issue), but was altogether omitted in the statement issued by the Non-Align Movement. Similarly, the African Union's response to the concept of prevention at this time was considered tepid at best (Bellamy 2008, 139 - 141).[17]

3.2.3 In Larger Freedom: Towards Development, Security and Human Rights for All - Report of the Secretary-General

The Report of the Secretary-General serves as another prime example of several underlying notions about the shaping of the doctrine discussed in this chapter. By itself it paves the route to the 2005 Millennium Conference where the R2P concept was ultimately adopted by the General Assembly. Its importance lays in the acknowledgement of the uneasy position that the doctrine has with certain states, while stating the support for what is being called "emerging norm". The Secretary-General proclaims in this report that he believes that the responsibility to protect must be embraced and, when necessary, acted upon. In the section of the Report called "freedom from fear" the role of the Security Council in the solution of the threats was further elaborated on. The Secretary-General dismisses the notion that alternate means to the actions taken by Security Council should be searched for; instead he backs the Council as a source of international authority, urging it to step up in the cases where the crimes against humanity are committed (Secretary-General Report, para. 123 - 126).

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[17] The Office of the Special Advisor was acclaimed in the 2005 World Summit Outcome document of the General Assembly where it stated simply that: "We fully support the mission of the Special Advisor of the Secretary-General

on the Prevention of Genocide." (Outcome Document, para. 140).

By this time the opposition held firmly the notion that a proposed doctrine could be too easily misused as a platform for unjust intervention. In the previous documents the agenda related to R2P was always found in the sections that would be dedicated to the use of force, here it was subsumed under the freedom to live in dignity. The Secretary-General did so to promote the non-interventionist side of the emerging doctrine that was in the general discourse overshadowed by the concerns voiced by the opposition, while stated that he is "well aware of sensibilities involved in this issue". The overall stress was put on the diplomatic and humanitarian means when it comes to desirable response (Secretary-General Report, para. 135; Stahn 2007, 107).

3.3 Adoption of the Doctrine

3.3.1 Outcome of the 2005 World Summit

The Outcome document of 2005 World Summit (held from 12th to 14th September 2005) can be seen as one of two milestones when it comes to the recognition and acceptance of the Responsibility to Protect as an international norm, the other being Resolution 1674 of the UN Security Council on protection of civilians in armed conflicts.

The Responsibility to Protect itself occupies just two paragraphs of the forty pages long Outcome document putting together a chapter called simply "Responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity". This is notable for two main reasons: Firstly in the previously discussed documents, with understandable exception being the ICISS Report, the concept never appears as independently expressed. Here, on the other hand, it has its place in between chapters concerned with the matters of democracy and children rights. Even though there are chapters on humanitarian action, human rights, protection of internally displaced and many others that could subsume R2P, this did not happen. Arguably this can be better explained in regards to the special position this forming norm had within the general discourse.

In the process of negotiating the Outcome Document, several states initially expressed reservations to incorporating the Responsibility to Protect in the final document. The opponents can be divided into two groups based on how they view the

underlining principle that charged the international community with the responsibility to protect populations after the states have failed to provide it. The first group consists of the states that were concerned with any increased capability of the outside powers to influence the internal affairs of individual states in any way. Such regimes were traditionally, though, not exclusively Iran, Egypt, Cuba, Pakistan Zimbabwe and Venezuela. These states were opposed to the R2P as a part of their general opposition to the notion of intervention. The other group, opposed to the R2P as it was being formed, was a group consisting of some of the more prominent international players with a number of permanent members of the Security Council among its ranks, namely: India, Philippines, China and the Russian Federation. These states did not necessarily oppose to the underlying notions of a responsibility that the international community has, but their concerns were more specifically with the toolset that would be granted by the doctrine. For this group the alleged vagueness of the concept as well as proneness to misuse was among the most prominent arguments against the incorporation of R2P into the Outcome Document (Bellamy 2009a, 112 - 113).

The states that would fall into the first group of opposition along with other members of the Non-Align Movement proposed the use of preventive diplomacy as a better option than the responsibility to protect. Amid this group were a number of states that had been under the international scrutiny over their alleged mistreatments of their populations. And it was these states that were the most likely to call the Responsibility to Protect to the Humanitarian Intervention in disguise (Stahn 2007, 108).[18] The other group had permanent members of SC such as Russian Federation or the People's Republic of China, as well as Philippines, a non-permanent member for the year 2004 and 2005. These members would argue that the system of United Nations was already well enough equipped with the tools to deal with humanitarian crisis and that R2P was in the risk of undermining the Charter and the Security Council (Bellamy 2009a, 113 - 114).

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[18] The idea of misuse of the concept of R2P can be found not only in the position of states but in the academic literature as well. Edward Luck (former special advisor to Secretary-General) points to the inevitability of selective applications of policy measures rendering different results even though the objectively viewed atrocities would be similar, by the same record the danger of misuse by powerful states can be seen as realistic danger (Luck 2010, 354 - 356).

Other states had their reservations in the process of creation of the doctrine as well, among those were most notably the United States. During the process of forming the Responsibility to Protect, the United States expressed concerns that a public commitment to the doctrine could mean that the US would be compelled to deploy troops to the areas where it would not be compatible with its perceived national interest limiting its flexibility. At the time the US were criticized by the Secretary-General for the war in Iraq and the sensibilities in the Washington were generally tepid to the UN. The shift was brought about with a report on the national interest and UN reform agenda published by the influential US Institute of Peace that declared the lack of political will expressed by the SC member states as a main reason for UN's failure to respond to past genocides. It also stated the undeniable collective responsibility of nations and stressed the special role the United States have in the UN system as a host nation, founder and largest contributor (Bellamy 2009b, 81 - 82).

Leading European powers France and Britain expressed support for the R2P from its first draft by the ICISS[19], with the exception that both countries as other permanent members of the Security Council objected to the notion that the SC would be constrained in its powers. For the other powerful European state, Germany, the agenda of promoting responsibility to protect was of a minor importance, German plan for the Summit was mainly to tackle the issues of the Security Council reform (Brockmeier 2014, 436 - 438). The backing of the United States and United Kingdom, which became a leading proponent of the incorporation of the doctrine[20], was combined with the support from the sub-Saharan African nations among whom South Africa, Tanzania and Rwanda were the most prominent. The support of these countries presented a challenge to the position of the Non-Align Movement, improving proponents' position (Evans 2008, 50).

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[19] British support for the international responsibility can be traced back to the speech given by the Prime Minister Blair in 1999 as a reaction to the Kosovo conflict. He stressed that an act of genocide can never be a truly internal matter and that the mass displacement of refugees can be qualified as a "threat to international security" and thus it warrants appropriate response. This notion was shortly after echoed by the president Clinton (Doyle 2011, 79).

[20] During the World Summit British diplomacy publicly proclaimed an agreement on the Responsibility to Protect to be among "the first rank" of their priorities. Furthermore Britain held the rotating presidency of the Council of the European Union in the second half of 2005, furthering its influence (Brockheimer, Kurtz, Junk 2014, 348 - 349).

Out of the three parts of R2P, the responsibility to prevent experienced most of the pushback by the opposition and hence did not get into the original drafts of the Outcome. To the proponents (countries such as Canada, New Zealand, Japan, Mexico, Sweden and notably Rwanda) the responsibility to prevent is arguably the most important out of the whole package and losing it would irreparably cripple the emergent norm or even reduce it into a mere proclamation. These states expressed the notion that the conflict prevention should be a centerpiece of the UN system going forward. Responsibility to prevent was to be the first step on the continuum of "prevention, response, development assistance and capacity building" (as supported by the European Union member states, most notably France and Britain); stressing the commitment to prevention would make the whole doctrine more palatable to its critics; finally Rwanda and Singapore called for any incitement to commit genocide to be especially prevented. Even with this support the notion of responsibility to prevent did not make first two drafts of the Outcome document and it was only included after several rounds of negotiations. In the end the Outcome document would include the early-warning component and reference to the role of the Office of Special Adviser on the Prevention of Genocide with other passages on conflict prevention being relaxed. The General Assembly thus proclaimed its support of the notion to establish the "culture of prevention" without giving itself the means necessary to initiate an institutional change (Bellamy 2008, 141 – 142).

The final text of the 2005 World Summit Outcome therefore represents the final step in the evolution of the doctrine as well as a result of a number of compromises from the backers and opposition. This reflects on the wording of the two paragraphs that compromise R2P in the Outcome document: Paragraph 138 declares the responsibility to protect against genocide, war crimes, ethnic cleansing and crimes against humanity to be immanent to each individual state. The General Assembly accepts this responsibility and states its readiness to act on it. United Nations should encourage states to exercise this responsibility and assist them with the establishment of an early warning capability (Outcome Document, para 138). Paragraph 139 focuses on the responsibility of international community to use appropriate diplomatic, humanitarian and other peaceful means in accordance with Chapters VI and VIII and to be prepared to take collective action, through the Security Council, in accordance with the Chapter VII, on a case-by-case basis when national authorities manifestly fail to

protect their populations from genocide, ethnic cleaning and crimes against humanity. General Assembly also proclaims its commitment to build capacity to protect and to assist those who are under the danger of failing their responsibility (Outcome Document, para 139).

In the first paragraph the responsibility of individual states is stated firmly, without any mitigating circumstances or conditions. It does not give any space to alternate interpretation. Wording of the second paragraph was devised as a more reserved stance on the issue of responsibility to react through collective action. Notably two qualifiers are presented: States merely reaffirmed their readiness to take action, and the responsibility to take such action has to be judged on the case-by-case basis, therefore it is not seen as a systemic duty as it was presented in the High-Level Panel report. In every document that had an impact on the forming of R2P there is a clear notion of complementarity when it comes to the sequence of responsibility: the host state has a primary responsibility and if it fails, the secondary responsibility is executed by the international community. What seems as a reasonable condition can become a trap if it comes to judging what constitutes a failure to comply with the primary responsibility (Stahn 2007, 116 - 117). The Outcome document uses a phrase: "manifestly fail" to protect its populations without elaborating on what would constitute such manifest failure (Pattison 2010, 14 -15). It is imaginable that a state would argue against the action against itself by insisting that it did not yet manifestly fail. Furthermore the varied tools that are available have been traditionally held by a diverse group of policy makers, military figures and diplomats with different notions on how and when to use them. Measures to prevent genocide or war crimes can be difficult to discern from measures relating more broadly conflict prevention. The careful and rather vague wording of this paragraph can be seen as a result of diplomatic negotiations that took place until the very end of the summit. Interestingly, certain states argued that the interpretation of the second paragraph leaves a possibility to act without the Security Council since taking an action outside is not explicitly prohibited[21] (Bellamy 2009b, 99 – 100; Stahn 2007, 109 – 110).

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[21] This was advocated mainly by the United States (Stahn 2007, 109). The report for The Congress of United States devised by senators Gingrich and Mitchell, impactful on US position on R2P states that the

As mentioned before, compromises had an important effect on the shape that R2P took in the Outcome document. Further evidence of this is that the possibility to use force can be only deduced from the mention of the actions under the Chapter VII of the UN Charter without any specific guidelines or alternations. Collective response to the specific atrocities is to be taken in "a timely and decisive manner" through the Security Council. The whole concept of responsibility to react   is   to   be   further assessed by the General Assembly with the consideration to the Charter and international law, a clear concession to the states that felt that the concept is not yet profound enough to be a full international norm. The responsibility to rebuild is addressed mostly by institutional means elsewhere in connection to the Peacebuilding Commission and is mentioned only vaguely as an aim *"to help States build capacity to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity and to assisting those which are under stress before crises and conflicts break out"* (Outcome Document, para. 139, Stahn 2007, 110). That being said, the "triggers" of responsibility to protect - the atrocities and crimes that stand in the beginning of any possible action from the international community - are agreed on and accepted, so even with high level of ambiguity when it comes to what action to take there is no ambiguity when it comes to the foundation for such action (Scheffer 2010, 78 - 80).

3.3.2 Resolution 1674: Protection of Civilians in Armed Conflict

The endorsement of the General Assembly was an important milestone for the Responsibility to Protect identifying the relevant principles and stating United Nations' support. That being said, the Security Council is the institution that matters when it comes to executive action so its support was gravely needed if R2P was to have any lifespan outside the Outcome document (Evans 2008, 50). Such a proclamation of support to the emerging norm came with the Resolution 1674 of the Security Council from April 2006 regarding the protection of civilians in armed conflicts. It links itself to Secretary-General Report from 2005 when it reaffirms the provisions of paragraphs 138

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failure of SC to deliver action should not be used as excuse for non-action by the concerned member states (Feinstein 2009)

and 139 of Outcome Document when it expresses Council's ''readiness'' to adopt appropriate steps, ''where necessary'' (Resolution 1674, para 3, 4, 8, 21).

In the previous decade the council had already tackled issues of large scale population protection, it has been traces back to 1998 when the discussion of protection was called "humanitarian imperative" by the Secretary-General Kofi Annan and later transpired into the landmark Resolution 1265 where Security Council *expresses its willingness to respond to situations of armed conflict where civilians are being targeted or humanitarian assistance to civilians is being deliberately obstructed, including through the consideration of appropriate measures at the Council's disposal"* (Resolution 1265, para 10). The Resolution enjoyed a broad support, while China criticized western "selectivity" with India and Egypt being more vocal about the very existence of legitimate basis for what they have seen as an unfounded stretch of Security Council's powers that can even be at odds with the Charter (Bellamy 2009b, 133 -134).

Kofi Annan called, in Secretary-General's periodically released report, to the Security Council for the resolution that would acknowledge and back R2P soon after the 2005 World Summit. The resolution was drafted primarily by the UK with France as another strong supporter, but encountered an initial disapproval among other permanent and non-permanent council members (Brockmeier 2014, 440).[22] China, Russia, Algeria, Brazil and the Philippines (last three being the non-permanent members for that session) refused to give their support, stating that the Outcome Document only obligates the General Assembly to carry out further evaluation of the whole concept. On the other side, the European countries together with Canada, Japan and most of sub-Saharan states defended R2P as an embodiment of collective responsibility. Even after the change of non-permanent members took place, where new non-permanent members: Slovakia, Qatar, Congo and Peru all recognized the importance of the Resolution, China and Russia still opposed the public commendation of the doctrine. The situation was resolved only when the United Kingdom issued a new version of draft Resolution that was pre-negotiated with China. In accordance with Chinese requirement the new draft had relaxed the level of endorsement to simple reaffirmation of the principles embodied

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[22] Ramesh Thakur, commissioner on ICISS, acknowledges the role of Kofi Annan as SG as one of the most prominent leaders of the UN in the history, combining aspirational and inspirational leadership matched only with that of Dag Hammarskjöld (Thakur 2006, 333).

in the paragraphs of the World Summit Outcome. With the support of China secured Russia had found itself in the isolated position. The final version was adopted in August, unanimously (Bellamy 2009a, 114 - 116).

3.4 Humanitarian Intervention and Responsibility to Protect

To number of its critics the Responsibility to Protect remains unapologetically interchangeable with the concept of Humanitarian Intervention that came before. It was one of the aims of this chapter to point out the differences between the two, in this space a summary is in order: R2P consist of parts that make it a broader international doctrine than Humanitarian Intervention ever was - the responsibility to protect is in its very core the individual responsibility of every state in the international system to protect its citizens from the genocide, ethnic cleansing, war crimes and crimes against humanity. This is the part of the doctrine that has the vastest support and is generally perceived as a notion that is not challenged by anyone. It is only when the individual states fail that the international community is compelled to take an action to alleviate the suffering and right the wrongs. Under the Responsibility to Protect a number of responsive actions can be taken, they form a scale of different intensity with the intervention by armed force being only the very extreme. The Responsibility to Protect also consist of three distinct responsibilities that broaden the scope of options. The responsibility to prevent comprise of an early warning mechanism and involvement of international bodies that specialize in prevention; other measures include preventive diplomacy, mediation, development assistance and deployment of preventive peacekeeping force. When these measures prove to be inadequate the international community is under the responsibility to react. Humanitarian intervention is a measure falling under this responsibility but it is not the only one. Military, diplomatic and economic sanctions and incentives are all a possibility with the option of using the international justice system as well. The last of the trio is the responsibility to rebuild, a responsibility of the international community to assist the state in need with the post-conflict phase and ensure that the situation does not reoccur. The Responsibility to Protect is also a more focused than the Humanitarian Intervention which was not limited to the humanitarian crises it could cover and also did not counted on the authorization of the Security Council as a primary decision-making body (Evans 2008, 79 – 82, 105 – 106, 149; Pattison 2010, 13).

3.5 *The Secretariat and the Operationalization of Responsibility to Protect*

In an effort to bring R2P back into international consideration after several cases where the R2P was ignored in the deliberations on the conflict where human rights were violated on a mass scale such was Sudan, Sri Lanka or Democratic Republic of Congo, the Secretary-General presented a report during the 63rd session of General Assembly (Gierycz 2010, 116). The report was called "Implementing the responsibility to protect" and outlined a three-pillar strategy for advancing the agenda of R2P. The Report represented a culmination of diplomatic efforts of The Secretary-General Ban Ki-moon to promote the concept of R2P, which began since he assumed office in January 2007. In the period between 2007 and 2009 the SG promoted especially the prevention and protection responsibility of the state and the responsibility of international community to assist states meet that responsibility. These two responsibilities became the first and second pillar of R2P as envisioned by the Secretariat. The Secretary-General promoted the interpretation of R2P that would be the faithful to the Outcome Document. Warning against broadening the concept to natural disasters or disease epidemics, that could potentially render any application inapplicable (Cohen, 2010, 25; Welsh 2011, 260).

The aim of the Secretary-General Report was to rework the concept that was adopted by the 2005 World Summit while keeping the scope of the concept narrow in order not to undermine the consensus. The response, on the other hand, should be deep and containing a whole range of appropriate responses from diplomatic, humanitarian to collective action under Chapter VII of UN Charter. The Secretary-General suggested that the responsibility to protect should be based on three pillars of equal length. The Secretary-General Stressed that the primary responsibility rests first with the state, this responsibility is not based only on R2P, but is a part of the principle of sovereignty and pre-existing legal obligations of the state. As part of the Report the Secretary-General implores the five permanent members of the Security Council to refrain from using the veto in the situations where states manifestly failed to uphold the obligations under R2P (SG Report 2009, Schrijver 2014, 321 - 322).

The first pillar is called "The protection responsibilities of the state" encompassing the enduring responsibility each State has to "*protect its populations, whether nationals or not, from genocide, war crimes, ethnic cleansing and crimes*

against humanity, and from their incitement." Second pillar is called "International assistance and capacity building" and consist of the commitment of international community to assist States to meet the obligations from pillar one. Third pillar named "Timely and decisive response" is the *"responsibility of Member States to respond collectively in a timely and decisive manner when a State is manifestly failing to provide such protection."* The Secretary-General notes that even though the third pillar is widely discussed it is generally understood in a too narrow manner. The force is not the only tool that can be used in a successful and decisive manner under the third pillar. Already existing measures based on the provision of Chapters VI, VII and the collaboration with regional arrangements under Chapter VIII of the UN Charter can all be used as a part of R2P. In order to successfully fulfill the responsibilities the Secretary-General recommends throughout the document additional measures such as membership and respecting the International Criminal Court, involvement in regional organization as well as enabling work of various watchdog NGOs, respecting and supporting lawful international sanctions and other auxiliary measures (Secretary-General Report 2009).

4 Darfur

To the scholars studying the Responsibility to Protect, and broader changes in the way that the international community approaches cases of vast human suffering and international atrocities, the case of Darfur crisis provided one of the first test cases where the effects of R2P can be examined (Badescu, Bergholm 2009, 293, 296; Reinold 2010, 69). Although the region has a longer history of ethnic discord, the crisis that will be studied in this section erupted after the initial ICISS report was published and was much discussed at the same time as the R2P was taking shape in the documents of the United Nations as discussed above.

4.1 Background of the Conflict

Darfur is Sudan's westernmost province bordering Chad and spreading across the area of roughly 500,000 square kilometers (about the size of France). Historically, Darfur was integrated into the British Sudanese colony in 1916 and played only a minor role in conflicts between the southern and northern parts of Sudan. The semi-independent sultanate of Darfur was being incorporated into the broader Sudanese state gradually. The Sudanese state gained its independence from the British-Egyptian Condominium in 1956. There were no known sources of oil in the Darfur region, however in the rest of the country there are significant oil deposits (Natsios 2012, 120).

Ethnically the population is divided between African tribes that are largely sedentary crop farmers and Arabs who are mostly nomadic cattle herders. Almost all tribes in the area are Muslim and using Arabic as the common language in the area. The population of Darfur is of some 6.5 million (some sources estimate the actual number to be as high as 8 million before the conflict erupted), while the largest tribe - the Fur – consists of around 2 million people alone (Olsson 2011, 388 – 389). The population of the region increased to the pre-crisis levels from around one million in the 1950. In the recent decades of the northern part of the region suffered from decrease of rainfall and gradual desertification. Both phenomena led to the increased ethnic tensions as additional stress was being put on the diminishing pastures and agricultural land (Natsios 2012, 120). The Darfur region is populated by around 70 distinct ethnic groups.

The more prominent ones are the "old African" tribes such as Fur and Masalit and "new African" such as Tama, Dajo and Borgo (Olsson 2011, 388 - 389).

The conflict in Darfur that is being examined in this chapter, is only the last of several in recent history. In 1989 the clashes between Arab population that moved into the region and native Fur population peaked. From abroad the regime in Libya was actively supporting the Arab Baqarra tribe in the conflict against the Fur as a part of colonel's Gaddafi attempts to increase his influence in the region. The conflict was eventually settled and in 1994 the government of Sudan (GoS) introduced a new administrative division that split Darfur into three provinces thus weakening the Fur cohesion and autonomy. The relations between the other prominent "old African" tribe: the Masalit and the central government in Khartoum deteriorated after political changes in the ruling party took place in 1990s - to the point that led to a second rebellion. During this rebellion the GoS begin to arm certain local tribes with the intention to weaken the opposition by inciting an internal conflict. This strategy would be repeated in the later conflicts (Waal 2007, 1039). The rebellion ended in 1999 with several significant concessions being made by the central government. The pro-Arab policy of the GoS was toned down and the equal Arab-Masalit representation in local administrations was established (Natsios 2011, 130 - 134).

The broader political situation of Sudan was partially responsible for the inception of the latest Darfuri rebellion as well. In 2003 the Sudanese civil war was coming to a resolution through the Naivasha peace process. The civil war started in 1983, between the Islamist Arab Government in Khartoum and Sudan People's Liberation Army, led by John Garang, representing the interests of predominantly Christian and animist population of the south. The outcome of the peace talks, sponsored by the US-British-Norwegian partnership was the Comprehensive Peace Agreement. Darfur was notably excluded from the power sharing provisions of the peace process, a fact that galvanized the opposition against the GoS (Prunier 2010, 123; Rodman 2008, 541 -542; Waal 2007, 1040). In order to secure his position, president Omar al-Bashir and his faction pushed personal changes in local Darfuri administration, appointing more loyal administrators. Changes were also made to the personnel of the local militia the Popular Defense Forces (PDF). PDF started to intervene in favor of certain ethnic groups, often siding with Arab tribes against African tribes like Fur,

Masalit and Zaghawa. In 2003 the opposition to this process emerged and took form of attacks against the police stations in order to arm itself. The opposition organized itself into two distinctive groups. First was the Sudan Liberation Movement / Army (SLM/A) that adopted the ideology of "new Sudan" where the political power would be given to the majority of Sudan non-Arab population. The second was the Justice and Equality Movement (JEM) that was linked to the dissident Islamist opposition in Khartoum[23]. The third major party to the conflict were the Janjaweed: PDF-backed armed forces supported by the GoS as counter-insurgency measure. GoS provided the Janjaweed with air support, intelligence, and promise of legal impunity. Still the GoS were soon unable to control the Janjaweed effectively resulting in the massacres and mass population displacement (Waal 2007, 1041 - 1042).

The ethnic groups of Fur, Zaghawa and Masalit were the primary targets of the Janjaweed by the end of 2003 there were some 65,000 refugees from Darfur in Chad and estimated 400,000 IDPs in Darfur proper. The UNHCR called for the humanitarian assistance on 1 September 2003. The GoS initially denied the existence of insurrection taking place in Darfur and prevented the USAID mission to reach the area while blocking shipments of humanitarian relief being sent to Sudan. Until December 2003 the official narrative claimed that there was no food crisis in Darfur and that there was only a localized tribal conflict between nomads and sedentary peasants caused by decline in rainfall and progressive desertification (Prunier 2010, 123; Mills 2009, 544).[24]

4.2 Internal Displacement and Humanitarian Situation

As noted earlier the mostly sedentary tribes in Darfur region are the "old" and "new" Africans. "Old" African tribes like Fur and Masalit were historically governing

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[23] The Darfur society is mainly Muslim across the ethnic groups in the region. The degree of religious fundamentalism varies across the whole of Northern Sudan (Breidlid 2010, 560 - 561).

[24] Classifying the situation as a tribal conflict led to significant parallels being drawn with the conflict in Rwanda, where the international community's initial response was halted with devastating results that were partially reason for the adoption of R2P (Mills 2009, 544). The prevailing media portrait of the Darfur Crisis from 2004 onward was an oversimplification as a fight of "Arab" militia aligned with GoS committing genocide on the "African" population. Some researches argue that this framing of the conflict helped international advocacy groups raise awareness and promote action. The analogy to Rwanda was widely used as well (Lanz 2011, 241 - 242).

their own *dars* (homelands with partially independent jurisdiction, thus the name "Darfur"), "new" African tribes traditionally did not have such privileges, although most African tribes were sedentary crop farmers. The third major ethnic group of Darfur – the Arabs - are mostly nomadic cattle herders.[25] In a similar fashion that is the practice in other developing countries, the main model for land rights is customary land tenure. This complicated the position of IDPs and refugees upon returning to their previous settlements (Olsson 2011, 407 - 408)[26].

Studies made in recent years have shown that by 2005 estimated the number of internally displaced to around 2.7 million with additional 200,000 refugees in Chad. The population of rebel tribes decreased the most, while in certain areas the non-rebel population increased. On average, villages in the region lost about one third of its population (Adelman 2010, 129, 138). Non-rebel population (mainly of Arab descent) engaged in squatting in peripheral villages that are further from administrative centers and have good soil and access to water. The internal displacement of large number of people brought about significant redistributions of land. The studies show that the Janjaweed attacks were motivated mainly by the presence of the rebel tribal population in villages. The prospects of gaining land were secondary, although the aim to secure resources played certain role as well (Olsson 2011, 386 – 388). Since 2004 Darfur hosted up to 13,000 relief workers and one hundred relief agencies at time (Lanz 2011, 229).

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[25] The relations between farmers and herders was influenced with the general decrease in rainfalls from 1970s, that changed the traditional relation between settled and nomadic pastoral population and caused tension, yet no particular weather shocks took place around the 2003 outburst of violence (Olsson 2011, 390; Unruh 2012, 276 -277).

[26] Household has usufructuary rights to plots, but the community leaders can rearrange the relations between people and land if necessary. Uncultivated land is free to use by anyone and herders have grazing rights to the fields after harvest. As a general rule the land that has been unoccupied for 2-3 years is considered uncultivated and therefore can be successfully claimed by newcomers. The prospects of the traditional solutions to the land disputes was compromised with the effects of violence and fleeings. The displaced population thus faces a real threat of being without any land rights if the system and law were not amended according to the realities of the humanitarian situation via land reforms (Olsson 2011, 388 – 391, 407 – 408; Unhur 2012, 279).

4.3 Initial Peace Process and the Involvement of African Union

The peace talks between GoS and rebel groups begun in April 2004 in Ndjamena, Chad. The outcome of Ndjamena negotiations was the Ndjamena Humanitarian Ceasefire Agreement existing in two version without an agreed text. Still it became a basis of subsequent involvement of African Union, initially in the form of ceasefire monitors (Waal 2007, 1041). The African Union took over the negotiations soon after and moved the process to Abuja, Nigeria. International community tried to resolve the violence in Abuja talks with the tools of "deadline diplomacy" aiming for the Darfur Peace Agreement. The peace talks spread over several years and were influenced by the personal animosities as well as the broader South-North Sudan negotiations that were concluding at the same time. At the end the peace agreement was not signed by all parties (JEM walked out on the negotiations), however was still considered biding by the UN and the AU.[27] Furthermore the SLM/A started to disintegrate soon after the peace agreement was signed and was thus unable to uphold its commitments. Gradually throughout 2006 the Darfuri rebellion broke into more then 15 distinctive groups mostly along tribal lines (Badescu, Bergholm 2009, 299; Brooks 2008, 414-415, 432 – 437; Prunier 2010, 125).

The Constitutive Act of the AU already contained provisions that were analogous to stipulations of R2P such as determination to promote and protect human rights and condemnation and rejection of impunity of government. The Union was furthermore given a right to intervene in a member state in the cases of war crimes, genocide and crimes against humanity (Geldenhuys 2014, 356 - 357). African Union Mission in Sudan (AMIS) was the first large-scale intervention of AU into the internal conflict within its own member state. The mission was established with the consent of the regime in Khartoum and supported by international donors with AU's own members contributing only a minority of funding and technical expertise (Badescu, Bergholm 2009, 295 - 297). AMIS received almost universal support from international society, including the SC, Secretary-General, the EU, NATO and Arab League. The solution of

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[27] At this point of time the UK and US in particular were pushing for more direct approach to the Darfur crisis, having a binding peace agreement was deemed as necessary for a successful deployment of an UN peacekeeping force (Lanz 2011, 230).

the conflict through the involvement of African Union was upheld as an "African solution to African problem" (Williams 2006, 177 - 179).

By the May 2004 it was estimated that the number of "war-affected" (UN's umbrella term for those killed, raped, displaced, sick or malnourished) in Darfur was around one million. By June the estimates increased to 2.9 million with the estimated number of dead in around 300,000 alone (Williams 2006, 175). In June the AU sent 132 observers supported by 300 soldiers from Nigeria and Rwanda. By October the AMIS force was of some 2,200 including civilian police. The mission was tasked to monitor the situation and report any violations of ceasefire as well as protecting those civilians whom it encountered under immediate threat. The mandate was drafted to satisfy the international donors as well as the Sudanese government. In a one year time the mission grew to personnel of 7,000. IDP camps were a priority when it came to protection tasks (Lanz 2011, 229).

The results were mostly dubious: AMIS did not engage with the forces of GoS or Janjaweed even if they encountered them attacking local population, the mobility of peacekeepers was hindered by the lack of necessary equipment and the curfew that the government of Sudan imposed on AMIS in 2005 resulting in the peacekeepers not being allowed to operate between 6pm and 6am. One of the permanent goals: the neutralization of Janjaweed was never met during AMIS tenure (Badescu, Bergholm 2009, 297 - 299).[28]

During 2005 the clashes between belligerent parties diminished as well as number of reported attacks on civilians. This was celebrated by some, others - such as the Secretary-General Kofi Annan - noted that the decrease in attacks can as well be attributed to the reduced number of available targets (Prunier 2010, 123; Williams 2006, 179). By 2006 the tide have turned on the international support of AMIS with more direct UN approach seen as more preferable. AMIS was criticized for administrative incompetence and lack of credibility that led donors to withdraw their support (Badescu, Bergholm 2009, 300).

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[28] The Janjaweed forces at the time were estimated to be about 10,000 – 20,000 strong, severely outnumbering the armed portion of the AMIS peacekeepers. Number GoS forces in the region were around 40,000 (Williams 2006, 176 – 177).

4.4 United Nations' Involvement in Darfur Crisis

As early as June 2003, the Secretary-General Kofi Annan visited Khartoum on a three day mission that was mainly focused on the situation in Darfur. On the same trip he also visited the neighboring Chad, where thousands of Darfuri refugees were already amassing. In April 2004 the office of UNHCR drafted a resolution tackling the Darfur crisis that was initially supported by the GoS, since it did not held Khartoum directly responsible and did not contain any naming and shaming (Ubombana 2005, 1180). In the same month the Secretary-General made a direct comparison between the Darfur crisis and the 1994 Rwandan genocide at the occasion of its 10-year anniversary (Heinze 2007, 367).

The Security Council referenced the situation in Darfur for the first time in Resolution 1547 (11 June 2004) that mainly focused on the endorsement of the North-South peace process with a single paragraph dedicated to calling upon the parties to the negotiations to use their influence to immediate halt of the fighting in Darfur region (Resolution 1547). Another Resolution (1556) followed on 20 July 2004, mainly focused on the broader situation in Sudan and progression of the overall peace process. Although the Resolution called for disarmament of the Janjaweed by the GoS, it failed to provide assistance or monitoring capabilities for its successful implementation (Waal 2007, 1041).

Resolution 1556 gave the GoS a 30 day deadline to disarm the Janjaweed and bring its leaders to justice. It invoked Chapter VII, thus indicating a threat to international peace and justice, therefore requiring enforcement; yet the resolution did not specified sanctions that would be used if GoS failed to comply nor did it held Khartoum responsible for arming and supporting Janjaweed (Resolution 1556). The weak enforcement provisions were a result of conflicting stances of Security Council members. The United States were the most vocal supporters of a forceful stance[29], drawing criticism from Sudanese government that called it neocolonial and analogous to US justifications for Iraqi invasion. China and Russia debated the use of the word "sanctions" in the Resolution. Their position was based on sovereignty grounds and

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[29] The American public was already invested in situation in Sudan with the North – South conflict being portrayed in the media as a war of Arabs on Christians and "enslaved blacks" (Heinze 2007, 369 - 370).

their traditional opposition to sanction, especially in the internal conflicts. The economic self-interest was likely playing a significant role since China, at the time, was the main operator of the Sudanese oil installations and Russia was the principal supplier of arms to the government.[30] Other SC members (such as Great Britain) voiced their concerns that pressuring GoS could jeopardize the ongoing Naivasha peace process. (Igiri, Lyman 2004, 16 – 17; Rodman 2008, 543).

The UN Secretariat shared those concerns and advised against pressuring Khartoum. A report by UN SG's Special Representative for IDP's Francis Deng explicitly linked the Darfur crisis to North-South conflict and warned against undermining Naivasha peace process (Heinze 2007, 380). Subsequent report from the Secretary-General on the implementation of the Resolution found that Khartoum failed to comply with majority of provisions, most importantly the disarmament of militias. As a result Kofi Annan called for the immediate increase of international presence in Darfur (Igiri, Lyman 2004, 17).

Resolution 1564 from September 2004 reiterated on the calls to disarm and prosecute the Janjaweed and called for strengthening the AU peacekeeping force. Notably, the Resolution still lacked explicit criticism of Sudanese government and imposition of sanctions for non-compliance. In the case that the GoS fails to fully conform to the Resolution, the SC, shall consider taking measures aimed against Sudanese oil industry or members of the government. The Resolution calls on the Secretary General to setup an international commission of inquiry to investigate violation of international humanitarian law. Despite the reserved propositions made in the Resolution, China, Russia, Pakistan and Algeria still abstained. They reaffirmed that the responsibility to protect laid primarily with Sudanese government rather than international community and that the sovereignty has to be respected (Glanville 2011, 468; Resolution 1564; Rodman 2008, 544).

The unwillingness of the Security Council member states to hold the GoS directly responsible for the escalation of violence against populations in Darfur that would, quite certainly, classify as prime example of government's failure to uphold its

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[30] At the end China absented from the vote on the Resolution 1556 thus making it passable even in the softened form (Badescu, Bergholm 2009, 295).

responsibility to protect its citizens, was influenced by several factors. As noted above, China and Russia had economic stakes in Sudan, making the antagonization of local government be against the material interests. European states, The United States and Canada were at the time vocal proponents of R2P, however other factors inhibited their resolve to invoke the doctrine in the case of Darfur. Western countries faced criticism from the rest of the international community for the ongoing Iraqi war – the United States had broader interests in Sudan connected to the oil industry as well as intelligence-exchange they did not want to jeopardize. The lack of consensus on how to operationalize protection and legitimacy of the mandate in time before the 2005 World Summit also played a role (Badescu, Bergholm 2009, 292 - 296).

The United Nations established the Commission of Inquiry to assess the extent of the conflict. The Commission's report was published on 25 January 2005, the findings dismissed the accusations of genocide taking place in Darfur made by the United States[31] and found insufficient evidence that the GoS would be pursuing a policy of ethnic cleansing on the level of genocide, instead categorizing the atrocities as mass murder and crimes against humanity aimed at the rebels and forcible removal of population that could be aiding them, but not with a genocidal intent (Heinze 2007, 375). Responsibility for these crimes was, in the view of the Commission, with the high-ranking members of the Sudanese military and government. The Commission urged the Security Council to refer the case to the International Criminal Court (ICC).[32] The appeal to refer the case to the ICC highlighted yet another set of conflicting interest of the member states of the SC. This time it was the United States, itself not a signatory to the ICC Statute, that opposed the referral. Bush administration did not want to participate in the act that could be seen as legitimization of ICC, which it opposed, seeing it as a threat to the freedom of action and potential use of military force and as a curbing of US sovereignty. Other member states, especially United Kingdom, viewed

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[31] United States' State Department launched investigation into whether the atrocities committed in Darfur would qualify as genocide. The investigators sent into Chad concluded that the situation in fact was a genocide. The toolset they used for their qualification broadened the traditional understanding of what constituted genocide by including targeted ethnical killings, mass displacement and rape. This definition was later contested by the UN's Commission of Inquiry (Waal 2007, 1041).

[32] Sudan is not a signatory of Rome Statute of the ICC, yet it is a member of the United Nations and as such is obliged to obey resolutions of Security Council, such as Resolution 1593 obligating Sudan to cooperate with ICC in investigating and prosecuting of war crimes connected to the conflict in Darfur since 1 July 2002 (Doty 2011, 21 - 22).

the ICC referral as non-negotiable. China and Russia never publicly accepted the findings of the Commission. The Darfur case was sent to ICC on 31 March 2005 via SC Resolution 1593 that passed with eleven affirmative votes and four abstentions including China and the United States (Glanville 2011, 471; Rodman 2008, 545 - 546)[33].

After the aforementioned Abuja peace process ended with the signing the Darfur Peace Agreement (DPA) and subsequent fracturing of the Darfuri opposition that signaled renewed period of instability. More voices in the international community started calling for an UN-based solution.[34] On 31 August 2006, Resolution 1706 was passed by the SC. The Resolution was cosponsored by the US and UK and it extended the mandate of UNMIS, mission created to monitor South-North peace process, to encompass Darfur as well. The Resolution directly refers to R2P provisions of the 2005 Outcome document and invokes Chapter VII to empower peacekeepers to use all the necessary means to protect civilians. As a concession to Khartoum the consent of the government with the deployment was required and the force was to have strong African participation and character. As a result of this unwillingness of the Security Council to put decisive pressure on the GoS, the deployment of UNMIS never materialized. Even though the international society acknowledged its responsibility the fact that Sudan had veto power over the deployment meant that the responsibility was never carried out (Mills 2009, 550; Resolution 1709).

Three members of the Security Council abstained from the vote – Russia, China and Quatar. Russian representation stated that they absent since Sudan did not yet granted consent with deployment. From the perspective of R2P the Chinese and Russian insistence on the existence of a Sudanese consent with deployment goes against the proclamation of 2005 World Summit Outcome document, adopted less than a year ago, where member states unanimously declared that they were *"prepared to take collective action"* in situations *"where national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity."*

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[33] The US abstention was secured in exchange for the exemption from ICC prosecution for all non-party states involved in authorized operations in Sudan (Rodman 2008, 546)

[34] The DPA relied on GoS to disarm Janjaweed – a commitment that Khartoum failed to honor six previous times (Rodman 2008, 549).

The findings of Commission of Inquiry from January stated such a manifest failure (Glanville 2011, 472; Outcome Document, para 139). After the failure of Resolution 1706 the United States continued with their support of UN mission, in September president Bush urged the Sudanese government to approve peacekeeping force soon, otherwise he warned the United Nations would have to act on their responsibility (Mills 2009, 551).

4.5 United Nations–African Union Mission in Darfur

The joint UN-AU Mission in Darfur (UNAMID) was established in July 2007 by the Resolution 1769.[35] The resolution reaffirmed the connection to the R2P while also authorizing the peacekeepers to protect civilians *"without prejudice to the responsibility of the Government of Sudan"* (Resolution 1769, para 15; Mills 2009). However, Khartoum and Beijing insisted upon reformulating the mandate of the mission so that it would no longer authorize disarmament of combatants nor confiscation of weapons introduced into Darfur. Sudan also appealed to China with a request to block any reference to R2P from the text of the Resolution (Cohen 2010, 22; Reinold 2010, 71). Russia and China made the joint mission possible since they believed that it respected the sovereignty of Sudan since it rested upon its consent (Glanville 2011, 475). Beijing agreed with the establishment of joined peacekeeping force partly also after a NGO-led "Genocide Olympics" campaign that was aimed against the fact that China, who was being criticized by human rights activist for dealing with Sudan oil producers while ignoring the humanitarian concerns, was to host the Olympic Games in 2008 (Lanz 2011, 231; Lee, Chan, Chan 2012, 429 - 430).

The transition from AMIS was everything but smooth, in the months after the Resolution 1769 passed the government in Khartoum repeatedly challenged the international commitment to R2P. The fighting between rebel groups intensified with several peacekeeper casualties, international observers started doubting if there even was a peace to be kept in Darfur. GoS also tried to back on allowing non-African peacekeepers to enter Darfur, failed to provide UNAMID with necessary land bases and other logistical support. The UN Secretariat generally awaited permission from

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[35] The hybrid force was first proposed to and initially accepted by Khartoum in October 2006 (Mills 2009, 551).

Sudanese authorities on decisions in regard to troop compositions, permissions for night operations and land use. UNAMID became operational on 31 December 2007 and was a first hybrid operation with AU in the history. Initially it consisted of just 9,000 troops (only 2000 more than AMIS previously had and a far cry from 26,000 approved). In July 2008 there was still only 9,200 troops, mostly ex-AMIS forces, 15,444 by November (Badescu, Bergholm 2009, 300 – 302; Mills 2009, 552). In January 2009 the Sudanese government launched aerial attacks against the JEM and further clashes between the rebels and former rebels were reported through the region (Adelman 2010, 138)

The challenges did not only come from GoS's reluctance to cooperate; UNAMID requested two dozen helicopters in order to be mobile in the vast areas it was supposed to cover, yet even after the involvement of Secretary-General in the attempt to acquire necessary tools the mission was still grossly lacking in resources. The permanent members of the SC generally did not contribute the necessary resources leaving the mission without necessary means of air and ground deployment (Reinold 2010, 71). In April 2007 the first warrants from the ICC referral were issued against the leader of Janjaweed and against the Sudanese minister for Humanitarian Affairs, the government refused to turn them over to Hague. In July 2008 the ICC Prosecutor asked the pre-trial chamber of the court to issue a warrant for president al-Bashir on three counts of genocide, five counts of crimes against humanity, including murder, extermination, forcible transfer, rape, and two counts of war crimes (Doty 2011, 11).

That complicated situation as many feared what effect the warrant would have on the North-South relations as well Darfur. The JEM was first to declare that it "won't negotiate with war criminal". Some argued that this could serve as leverage against al-Bashir since the SC could indefinitely delay the prosecution. Suspension of investigation was advocated by the AU, Arab League and supported by Russia as well as Non-Align movement. At the same time the negotiations on the renewal UNAMID's mandate was taking place and countries such as South Africa and Libya supported by China and Russia lobbied to set aside proceedings again al-Bashir. On the opposite side were European states, strongly supporting the ICC actions and resisting the proposition tie the future of UNAMID on the suspension of justice. France declared that it would veto any resolution that would suspend ICC prosecution against al-Bashir, Britain stated

that it would not support such resolution. Surprisingly the United States supported the possibility of criminal prosecution, but abstained from the vote on renewal of UNAMID's mandate. ICC issued a warrant on al-Bashir's arrest in March 2009. This resulted in expulsion of several humanitarian agencies from the country. The charge of genocide was added in 2010. African Union criticized the unprecedented charge against sitting head of government and in the years after the warrant al-Bashir was still able to travel in the region unhindered (Adelman 2010, 139; McMillan, Mickler 2013, 300 - 303; Mills 2009, 555 -555). In his report on a further development of Responsibility to Protect in 2009 the General Assembly discussed in previous chapter, the Secretary-General expressed that he regretted the failure of international community to *"stem the mass violence and displacements in Darfur, as well as in the Democratic Republic of the Congo and Somalia, has undermined public confidence in the United Nations and our collective espousal of the principles relating to the responsibility to protect."* (SG Report 2009, para 60).

5 Libya

5.1 Background of the Conflict

The revolutionary wave of the "Arab Spring" started in Tunisia on 17 December 2010 and moved to Egypt on 25 January 2011. In Tunisia the autocratic regime was in power for 23 years and in Egypt for 30, yet in these two cases the armed forces did not forcefully confront demonstrators calling for change. By the mid-February protests against the regime of Colonel Muammar Gaddafi, in power since 1969, erupted in several major Libyan cities (Helal 2011, 226).

On 16 February 2011 mass demonstrations in the Libya's second largest city Benghazi, following the arrest of prominent human rights advocate in the city, led to a forceful government reaction. The demonstration was dispersed with the use of teargas, batons, rubber bullets and even attackers in plain clothes.[36] However, in next couple of days demonstrations spread into several other major Libyan cities, where they were met by increasingly heavy force. At the beginning, the protests consist of individual citizens showing no evidence of being organized. In retaliation, the government openly announced that protesters will be shot on sight and on 22 February Colonel Gaddafi proclaimed that all the demonstrators will be purged one by one Johnston 2012, 89 – 92; Kuperman 2013, 109 - 111; Pape 2012, 61 - 64.[37]

The government mobilized national military units and personal paramilitary forces controlled by Gaddafi's sons, using tanks, jets and other heavy weapons against crowds. The city of Benghazi was bombed from the air and there were reports of tanks deployed in Tripoli. Rebels were at first equipped with home-made weapons, later with arms provided by the increased number of army defectors and also weapons looted from police and army installations. The reports of the casualties varied heavily with government admitting to killing 374 by March while World Health Organization

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[36] The initial response of government forces was forceful but was aimed to be non-lethal. International media initially reported that the police used live ammunition. As the violence escalated, lethal force was used more broadly (Kuperman 2013, 109 - 110).

[37] The rhetoric of Libyan regime was strikingly overt about it intent to commit crimes against humanity. Paraphrasing the genocide in Rwanda Gaddafi even referenced the purging of cockroaches from every tribe and region (Bellamy 2011, 265).

reported over two thousand dead (with 233 reported after first four days). At the same time an increased number of refugees fled into Tunisia, Egypt and elsewhere amounting up to 320,000 (5 percent of Libya's population) by mid-March. Gaddafi's forces began to focus on the center of the rebellion, the 700,000 city of Benghazi that was taken by the rebels after a three days long battle at the end of February, vowing to show no merci for the rebels. The international agencies projected possible civilian loses (direct or indirect) to be up to 100,000 if the regime was not stopped. By the end of February rebels held several large cities and were joined by several units of army deserters (Johnston 2012, 89 – 92; Kuperman 2013, 109 - 111; Pape 2012, 61 - 64).

There were several special circumstances that played a role in the deliberation of how to respond, based on the realities specific to the Libyan conflict. Geographically, Libya is a rather vast county, sparsely populated with the main demographic areas being situated along the coastal areas. In order to control the country, the national forces were dependent on a handful of roads connecting the west to the east. If an area brakes away, the regime forces would need to expose themselves along easily identifiable routes within the reach of foreign air bases on the ground or on the aircraft carriers (Pape 2012, 65).

The operability of Gaddafi's regime was weakened by the fact that a large portion of government officials publicly broke away from the regime already in the first weeks of the unrest, protesting the brutality of the Libyan leadership. They were joined by a significant portion of armed forces and local security apparatus that either joined rebels or refused to aid the regime in campaign of repression. The number of troops left at the regime's disposal by March were estimated to be around 8,000 troops (including foreign mercenaries), armed vehicles numbered in hundreds. Such a force was unlikely to be able to regain control of the vast areas broken from the central government (Helal 2011, 227; Pape 2012, 66).

Furthermore, the prominent tribes, which - rather than ideological or class lines - the Libyan society is predominantly organized by, denied their support to central government, perceiving it more menacing than the potential outside intervention. This meant that the regime, even if it maintained itself in the long run, would likely face

a prolonged resistance. This was accompanied with a large number of areas in the east that have already broken from the regime (Pape 2012, 66 - 67).

5.2 Regional Response: The League of Arab States and African Union

The League of Arab States (LAS), in an unprecedented move, suspended Libyan participation in the organization's organs and demanded that the regime stops using violence against protestors. Later, on 12 March, the League called for the establishment of no-fly zone that would deny the air superiority the Gaddafi's regime used against the opposition. The proposition of no-fly zone came first form the Gulf Cooperation Council, a group of six oil rich Arabian Gulf States that urged League of Arab States and international community to deny air superiority to Gaddafi regime (Helal 2011, 227 - 228). The African Union's Peace and Security Council issued a communiqué on 23 February condemning the use of force against protestors and the violation of humanitarian rights and international law. The AU later established an AU High-Level Committee on Libya to serve as mediator in the conflict (Iyi 2014, 163).

Gaddafi's regime prestige with the other African nations was steadily diminishing in the years leading to the crisis. Libya was one of the largest donor to the collective international institutional such as African Union and League of Arab States, but Gaddafi was personally distrusted and disliked by many African and Middle-Eastern leaders. Being at odds with other regional power – Saudi Arabia – for years and also insulting the traditions of African leaders by proclaiming himself African "king of the kings' and "imam of the Muslims" (Bellamy, Williams 2011, 842). The fact that several major regional organizations such was the AU, the LAS, the Gulf Cooperation Council and the Organization of the Islamic Council all called for a rapid response by UNSC was cited by the Security Council members as an influence to their voting behavior (Morris 2013, 1272).

5.3 United Nations Involvement in Libya

The United Nations acknowledged the crisis almost from its very outset, framing their response in R2P terms and warning of imminent threat of mass atrocities. On 22 February, UN High Commissioner on Human Rights urged the Libyan authorities to stop using violence against demonstrators and emphasized the responsibility to protect

civilians. On the same day the Special Advisors to the UN Secretary-General on genocide prevention and R2P stated that Libyan regime is at risk of committing crimes against humanity and, having the responsibility to protect its population, needs to abide to principles of R2P. From that point the Secretary-General framed the ensuing debate as one about the protection of populations and preventing of mass atrocities. UN Human Rights Council established a commission of inquiry three days later and urged the General Assembly to suspend Libya from the Human Rights Council, it also issued a resolution where it called upon the Libyan government to meet its responsibility to protect its population (Helal 2011, 227; Williams, Bellamy 2011, 276). UN Security Council issued a press statement on the same day (22 February), calling Libya to meet its responsibility to protect its population. Responding just a week into crisis was an unusually quick reaction from the Security Council (Dunne, Gifkins 2011, 519).

On the 26 February the Security Council reacted by issuing the Resolution 1970 that urged Libya to uphold its responsibility to protect its citizens, maintain international peace and security. It also referred Libya to the prosecutor of the International Criminal Court[38], imposed an arms embargo, assets freeze and other measures (Security Council Resolution 1970). The Resolution was adopted unanimously by the members of the Security Council. Invoking the Chapter VII the council demanded an immediate end to the violence; issued travel bans on 16 members of the regime; called upon member states to provide humanitarian aid for Libya and established a sanction committee to monitor the implementation of the Resolution. At this point, several members of the Security Council (namely Russia, China, India a Brazil) indicated that they would be unwilling to implement any harsher or more direct measures. Libyan regime rejected the demands of Resolution 1970 and refused to permit humanitarian convoys into besieged areas. Secretary-General personally contacted Colonel Gaddafi with forty minute conversation in a failed attempt to persuade him to comply with the Resolution (Bellamy, Williams 2011, 840).

By the March Gaddafi forces launched a sustained offensive against rebel-held cities of Brega and Aibiya. In the following days the front between loyalist and rebel

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[38] Resolution 1970 is the only the second instance when the Security Council referred a situation to the ICC, first being in 2005 in the case of Darfur. Out of all the members of Security Council in 2011 five were not signatories of Rome Statute, yet the referral was unanimous (Dunne, Gifkis 2011, 524)

forces shifted rapidly with rebels securing several victories but being dispersed by the superior firepower of regime's military. As the rebel's offensive lost its momentum, calls for international assistance increased. By the second week of March it was certain that the Resolution 1970 would not be sufficient to stop the situation from escalating. Subsequently the Arab League pressed for the establishment of no-fly zone by the Security Council. Coupled with the reports of hundreds of thousands of refugees pouring into neighboring countries the UN Secretary-General urged the Security Council to take immediate action to halt civil war in Libya and called for immediate ceasefire (Silander 2013, 269 - 270). After the Resolution was passed the Secretary-General stated that the responsibility of international community is to do everything possible to protect civilian population against demonstrable risk (Lehman 2012, 127)

The Security Council passed Resolution 1973 on 17 March by ten votes to zero. Permanent members Great Britain, France and United States joined by Bosnia and Herzegovina, Colombia, Gabon, Lebanon, Nigeria, Portugal, and South Africa supported the Resolution. China and Russia joined by Brazil, Germany and India abstained.

The resolution condemns the gross and systemic violations of human rights and considers the widespread and systemic attacks on the population as possibly amounting to the scale of crimes against humanity. It mentions the condemnations made by the League of Arab States, the African Union and the call for the establishment of no-fly zone by the LAS (Security Council Resolution 1973). It defined the situation in Libya as a threat to international security and demanded, under Chapter VII of the UN Charter, the immediate cease-fire and intensified efforts in finding a political solution (Resolution 1973; Williams, Bellamy 2011, 280).

In the operative paragraph 4, the Resolution *authorizes* Member States to "*take all necessary measures, notwithstanding paragraph 9 of resolution 1970 (2011), to protect civilians and civilian populated areas under threat of attack in the Libyan Arab Jamahiriya, including Benghazi, while excluding a foreign occupation force of any form on any part of Libyan territory.* The operative paragraph 6, 7 and 17 further establishes and elaborates on a ban on all non-humanitarian flights in the Libyan airspace. The Resolution also elaborates on the provisions enforcing and strengthening the arms embargo and the asset freeze both introduced by the Resolution 1970. Finally, the

Secretary-General is requested to establish an expert panel to assist in caring out the mandate, making recommendations and reporting on the situational development (Resolution 1973).

It is important to note that the responsibility to protect is in the text of Resolution 1973 as well as resolution 1970 mentioned only in the relation to R2P in the sense of pillar one – responsibility of a state, in this case Libya, to protect its own citizens. During deliberations of the Security Council the majority of members also referred to R2P mostly in the form of pillar one, while the Secretary-General stressed the responsibility of both the individual state and the international community. From the ten states that voted in favor of Resolution 1973 most cited the Chapter VII and Resolution 1970 as the source of legitimacy of the action taken. All of the permanent members stressed the special circumstances that accompanied the Libyan intervention (Hehir 2013, 147 – 148, 150; Morris 2013, 1272 - 1273; Resolution 1970; Resolution 1973).

The Secretary-General praised the adoption of Resolution 1973 as a historic decision, a one that affirms the determination of international community to fulfill its responsibility to protect civilians from violence perpetrated by their own government (Hehir 2013, 139). The proponents of R2P argued that Resolution 1973 represents a milestone in the history of United Nations since it is the first time when the use of military force aimed for human protection was authorized by the Security Council against the wishes of a functioning state (Bellamy 2011, 263). Others argued that the issue of a consent is not legally significant since the Resolution was based on the provisions based on the Article 42, Chapter VII of UN Charter which grands the Security Council power to take action to maintain or restore international peace and security (Hehir 2013, 144).

5.4 Positions of Permanent Members of the Security Council

Resolution 1970 was endorsed by all the permanent member states, however Resolution 1973 resulted from intense negotiations since the permanent members were divided in their positions on how to deal with the regime in Libya. In these deliberation both the interests and the views on the responsibilities of international community played a significant role.

France took the lead in promoting the adoption of Resolution 1973. The French foreign minister Alain Juppe gave several press statements addressed to the Security Council, consistently urging the international community to exercise its responsibility to support popular movements against the tyrannical regimes[39]. He argued that failure to respond in timely and decisive manner would undermine the position of democratic government everywhere and that the message needs to be sent to authoritative regimes that violence against their population is a violation of international law. President Sarkozy publicly compared the situation in Libya to Rwanda and Srebrenica on several occasions. Furthermore, being located on the southern shore of the Mediterranean, the situation in Libya was of strategic importance to Paris (Brokmeier 2014, 445 – 446; Silander 2013, 271 - 272).

The United Kingdom supported French position from the beginning, offering to provide the military support to implement the Resolution. In his statement Prime Minister David Cameron stressed the need to halt the escalation of human suffering that threatens to result into a humanitarian catastrophe if not assisted by the international community. He also stressed that the no-fly zone has the support of rebel leaders and of the relevant countries in the area, represented by the Arab League. A response, in his view, had to be legitimate in accordance to the international law, having all the necessary tools to implement the no-fly zone, while strictly excluding the employment of occupational force on any part of Libyan territory. UK permanent representation to the UN stated that the purpose of the Resolution is to end the violence, protect the population and allow Libyans to proclaim their own future free of tyranny (Glanville 2013, 346; Silander 2013, 272 - 274).

The United States officially supported the draft Resolution presented by France and Britain. The position of the US shifted from original reservation to the support after prominent advocates of the Resolution such as State Secretary Hillary Clinton, Ambassador to the UN Susan Rice and National Security Council staffer Samantha

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[39] Previous French response to the situation in Tunisia and Egypt was criticized for being slow and belated (Helal 2011, 20; Silander 2013, 271). In the beginning of Tunisian revolution, France offered support to the Tunisian dictator Ben Ali, a fact that the French government was also under a criticism for (Brockmeier, Kurtz, Junk 2014, 446). Several authors also point out that the experience of Rwanda and Srebrenica played an important role in the decision-making of Paris and London, when it came to seek action through the SC (Brockmeier, Kurtz, Junk 2014, 446, Wlasic 2011, 167).

Power voiced their support. Obama's administration also believed that the escalation of the Libyan armed forces against rebels was imminent with potential casualties in thousands (Chesterman 2011, 282).[40] In the proclamations made by president Obama, it is the special case-specific set of circumstances that justify the approach (Morris 2013, 1274).

Other factors that were attributed to the US decision to support the Resolution was the "unusual clarity" of the situation where Gaddafi clearly stated his willingness to massacre insurgents combined with the broad international support that included many African states and the League of Arab States. President Obama justified the intervention in the terms of interests and values and responsibilities to fellow human beings under such circumstances. The United States repeatedly emphasized the unique nature of the Libyan situation and insisted that any future implementations of military force will be considered on a case-by-case basis (Junk 2014, 548 – 549). Also, The United States conditioned its involvement in Libya on an existence of a UN mandate, stressing that the burden of intervention should not be America's alone (Widmaier, Glanville 2015, 12). The American position to the Libyan case was to minimize its direct involvement and rather use its allies and NATO, a strategy known as "leading from behind" and ridiculed by some at the time (Chesterman 2011, 283; O'Hanlon 2011).

China traditionally insisted on a rigid conception of state sovereignty, which that manifested itself in reluctance to engage in international humanitarian and international crises. Later, China endorsed the Responsibility to Protect in the form resulting from the 2005 World Summit. But since that time, China consistently downplayed the link between R2P and non-consensual military intervention. China emphasized the first pillar requirement, of the primary responsibility being with the state. In the negotiations on the form of the Resolution, China proclaimed that it is always against the use of force and it had serious concerns with parts of the Resolution and that the crisis should be resolved by peaceful means. On the other hand, China stressed the importance of the

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[40] The American administration broadly proclaimed its support to the concept of Responsibility to Protect in the National Security Strategy of 2010, stating that if the individual states fail to protect their populations from genocide and mass atrocities or even themselves commit atrocities, the international community has a responsibility to act (Jentelson 2014, 405 - 406).

relevant position of the LAS and AU and the special circumstances surrounding the situation in Libya (Garwood-Gowers 2012, 380 - 387).

China traditionally preferred to involve the regional voices in the SC resolutions and although the African members of the SC traditionally opposed the use of force they were sympathetic to the French-British proposal, in this context vetoing the Resolution would mean that the China would choose to ignore regional interests (Williams, Bellamy 2011, 281). Subsequently, China sharply criticized the way the Resolution was implemented by the NATO and together with other BRICS states accused western powers of exceeding the mandate provided by the Security Council (Garwood-Gowers 2012, 387). [41]

Russia was the second permanent member of the SC to abstain from the vote, but not to exercise the power of veto. The Russian government condemned the actions of Libyan regime, but expressed its reluctance to support the provisions of the Resolution 1973, stating that there was no clear limitations to the use of force necessary to impose the no-fly zone, that the Resolution was unclear about who would be enforcing it (Silander 2013, 276 -278). Prior to the adoption of Resolution 1973, Russia presented its own draft proposal that reserved itself to mainly call for political dialogue. In the face of the reports of worsening security situation, the Russian proposal gained little political momentum as more members of the Council became favoring the proposition drafted by France, Britain and Lebanon (Williams, Bellamy 2011, 279). Russian representation in the Security Council proclaimed their support for protection of the civilian population that prohibited them from preventing the adoption of the Resolution (Stuenkel 2014, 16).

5.5 *NATO Operation in Libya*

On 19 March, two days after Resolution 1973 passed the US military air raids targeted Gaddafi forces in Libya as a part of US-led Operation Odyssey Dawn. President Obama stated that the action was necessary to stop Gaddafi from committing

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[41] Chinese government, in the reaction to the NATO campaign, also alleged that the West was acting in self interest in order to gain control over Libyan oil resources (Silander 2013, 276).

further atrocities and to send clear signal to other governments that would use violence against their own people (Silaner 2013, 275).

Soon after the command shifted to the NATO to be known as Operation Unified Protector that lasted until the end of October 2011. Contributions to the operations and rules of engagement varied from different members of alliance, some provided fighter aircrafts, but their rule of engagement precluded participation in air raids (Lehman 2012, 139). NATO soon took steps against the government forces that went beyond the authorization of no-fly zone and were based on a broader interpretation of what constitutes the protection of civilians and civilian populated areas. The United Kingdom, France and the United States all supported the rebel forces either with weapons or military intelligence and there were a substantial number of Quataris advisors on the ground assisting the rebels (Kuperman 2013, 113 - 114). In May president Obama stated that even though that regime change was not part mission the US would assist the opposition in ousting Gaddafi from power. The League of Arab States and the African union expressed concerns about the way the intervention change from initial establishment of no-fly zone (Levine 2011, 343 – 344). The criticism of the use of R2P aroused from the way that the mandate was actually implemented by NATO. Special Advisor of the UN SG on Genocide Francis Deng noted that the forcible application of pillar three toolset (coercive means of protection) can be seen as a necessary component of R2P in the situation where the state has not only failed to protect its citizens but it is actually targeting them (Deng 2011, 450).

The initial bombing of government forces prevented Libyan military from retaking Benghazi and within couple a weeks the rebel forces recaptured several of key cities in the region as a part of their westward offensive. Over the next couple months several cities on the central coast changed hands as the region remained a warzone. By the August 2011 rebels converged on Tripoli and captured it after several weeks of intense fighting on 28 August. Gaddafi and his loyalists retreated south and was eventually captured and executed on 20 October. The war ended three days later, thirty six weeks after it began. The Operation Unified Protector officially concluded on 31 October 2011. In January 2013 the official report of Libyan Ministry of Martyrs and Missing Persons stated that the death toll on the side of rebels and civilians was about 4,700 with a similar number estimated on the loyalist side (Kuperman 2013, 121 - 123).

The manner in which NATO interpreted the "all means necessary" to protect civilian population clause of Resolution 1973 came under international criticism. All of the BRICS countries (Brazil, Russia, India, China and South Africa) objecting strongly to the shift in the goals of the intervention from the protection of civilians caught in the conflict to the assistance to rebel groups and the pursuit of the regime change. This criticism carried over to the debates on how to deal with the crisis in Syria (Thakur 2013, 69 - 71).

6   Conclusion: Performance of United Nations

It was stated in the hypotheses that the Secretariat will promote R2P if it will see it as a part of its culture. This is consistent with the findings across both cases. There were indeed certain Member States that both accepted and advanced the R2P yet the level of their engagement varied across the cases and time. The preexisting interest of states certainly played a role, yet the behavior would change depending on the specific circumstances.

In this concluding chapter the performance of both the Secretary-General and the Security Council will be assessed.

6.1 *The Performance of the Secretary General*

From the theoretical framework the performance of the SG was evaluated on the levels of outputs in the form of the "outputs" he produced in relation with the given issue at hand. On the level of outcomes the measure of how those were embraced was to be assessed.

In the whole process of adoption of the R2P the Secretariat played an important role. It was the Secretary-General who called for the concept of Humanitarian Intervention to be reworked in 1999 and when the ICISS obliged and came up with the first concept of R2P the Secretary General took over and commissioned the High-Level Panel that, even though not as primary issue, worked with the concept of responsibility. Next step was the "In Larger Freedom" report and the promotion of non-intervention side of R2P. After the 2005 World Summit the Secretary-General urged the SC to adopt resolution that would back the emerging norm. After the departure of Kofi Annan, Ban Ki-moon took the R2P, promoted it in the international community and subsequently presented the world with his three-pillar revision. Based on the research it can be stated that the Secretariat exhibited the most consistent relation with the Responsibility to Protect during the period examined.

In Darfur the Secretary-General played a proactive role involving himself in the crises from the very outset. Later he made a comparison between Darfur and Rwanda,

an infamous case of international failure to protect civilian population. The response of Secretary-General to the crisis in Darfur was at the beginning influence by the Naivasha peace process between South and North Sudan. The case was made, by the SG's Special Representative on IDP's that pressuring Khartoum on Darfur could jeopardize the peace process in larger Sudan. The Secretary-General shared these concerns. However the failure of GoS to disarm the Janjaweed led the SG to call for increased international presence. The level of his outputs in this initial period can be therefore evaluated highly. Subsequently, the SG established the International Commission of Inquiry as directed by the Security Council. After the establishment of UNAMID the Secretariat was unable to prompt the Sudanese government to cooperate with the mission leading delays in deployment. Although the chronical lack of equipment the UNAMID experienced in the whole period covered in this study cannot be attributed to the lack of trying on the side of the Secretariat, on the level of outcomes it needs to be stated that it performed under the baseline for good performance.

In the case of Libya the Secretariat was one of the first to respond when both the UN High Commissioner on Human Rights and the Under-Secretary on genocide prevention expressed the need for Libya to abide by the principles of R2P. In Libya the Secretary-General was both consistent and vehement in stressing the importance of responsibility to protect. After the Libyan refusal of Resolution 1970 the Secretary-general personally contacted Gaddafi, regrettably to no avail. After Resolution 1973 was passed the Secretary-General urged the international community to take on the responsibility as he stated it in the second pillar of his reworked framework. Resolution 1973 was, in the understanding of Secretary-General, affirmation of the international community to fulfill its part of the R2P. The outputs of the Secretary-General were timely and resolute. The outcomes, especially in the form of Resolution 1973, seem to be also influential. However, based on the findings regarding the motivation of Member States the final judgment should be only reservedly positive.

The sources of performance applicable to the Secretary General are clearly to be found in the internal - social bracket. The Secretariat championed the R2P from its outset and apart from the case of Naivasha peace process consistently promoted the norm. The whole performance of the Secretariat was across both cases was influenced by the degree in which the Secretariat accepted the promotion R2P as part of its culture.

6.2 The Performance of the Security Council

The evaluation of the performance of the Security Council is more challenging since the sources form several brackets can manifest themselves in the cases studied. On the levels of analysis the outputs are the individual resolutions that were passed and the outcomes are the way they were implemented.

The Security Council made first reference to the situation in Darfur in Resolution 1547, followed by the Resolution 1556. This was a whole year after the Secretary-General visited Khartoum. Resolution certainly was output of performance, even though the situation in Darfur was only referenced in length in Resolution 1556. The conflicting interest of member states played decisive role, since while the United States supported forceful stance, Russia and China were reluctant to even consider sanctions. The ongoing Naivasha peace process played important role in the decision of permanent members such was Great Britain as well. Resolution 1564 did not produce any real change of the situation. Yet, later the International Commission of Inquiry would prove to be important.

As the research shows the position of Russia and China was initially influenced by the external – material interests, both were trade partners to the sitting regime in Khartoum with reasonably important economical stakes in oil and weapons. That coupled with their standing support of non-intervention and respecting sovereignty of individual states. Overall the external – material influences played important role when it came to performance of the Security Council. China shifted its position of promoting sovereignty only after the pressure from international society that was connected to the different matter – the prestige of hosting Olympic Games – altogether.

This insistence on respecting the sovereignty of Sudan played an important role when it came to transform positive outputs into good outcome performance. The whole period studied was marked by positive outputs of the Security Council – the fact that there was discussion and vocal support to alleviate suffering of Darfuri population and a Resolution passed – was on the ground marred by the lack of logistical support and inadequate staffing for the UNAMID mission. It should be noted that the situation got complicated from the outside factors such was prominently the referral to ICC that was not supported by all of the permanent members and even more by the possibility (that

later became reality) of warrant being issued against president al-Bashir, rendering him even less cooperative.

The Security Council took a part in shaping the Responsibility to Protect in the form of Resolution 1674, the first case of directly referencing provisions of the R2P. It was the one instance in the whole study where there was a difference in the way China and Russia approached the issue. China was convinced and Russia would have to follow. Resolution 1674 was adopted unanimously.

When it came to Libya the situation was quite different. The Security Council issued a press statement on the same day that the Secretary-General did, directly referencing the responsibility of Gaddafi's regime to protect its own citizens. As was noted by several researchers and stressed in the language of representatives of member the case of Libya was very specific and no to be repeated lightly (as was later shown when the Security Council were to tackle Syria). The interest of the states aligned and initially no one was eager to support colonel's Gaddafi extended stay in power.

The Resolution 1970 came soon after the situation was brought before international attention. The Security Council even supported the referral to the ICC. When it came to Resolution 1973, France had historic and strategic relation with Libya and acted accordingly. United Kindom followed. The United States expressed the need to protect civilian population that they believed was under immanent threat. On the level of outcomes the nature of the engagement of NATO and the rejection of the means by the BRIC countries meant that the next resolutions might be facing a more uphill battle.

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UNIVERZITA KARLOVA V PRAZE

FAKULTA SOCIÁLNÍCH VĚD

INSTITUT POLITOLOGICKÝCH STUDIÍ

United Nations Performance and Responsibility to Protect

Projekt diplomové práce

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<u>Theme:</u>

Theme of proposed thesis is the evaluation of the performance of international organization in a given area. In particular the proposed thesis aims to evaluate the performance of the United Nations Organization in the application of the *Responsibility to Protect* doctrine while using the analytical framework for evaluating IO performance elaborated by Tamar Gutner and Alexander Thompson in their paper: *"Explaining IO Performance: The Initial Framework"*.

The work of aforementioned authors is mainly aimed on performance (effectiveness of performance) of international organizations evaluated on the result (the fulfillment of given objectives) as well as the process of performance. The theoretical framework they elaborated on is based on the assumption that the performance of international organization, studied exclusively from the perspective of goal-fulfillment, is ill-equipped to provide the researcher with a valid conclusion. It is only when the processes and specific operational condition of individual organizations are taken into account when the evaluation of the performance can be reached. The key element for the implementation of this theoretical approach in my future thesis is to determine the sources of performance of the United Nations in the cases related to the application of the doctrine known as the Responsibility to Protect.

The Gutner and Thompson's model operates with a dual dichotomy of sources: internal – external and material – societal. By combining those two dichotomies one gets four categories of plausible sources of performance. Each category can be seen as a representative of specific approach to the study of IO in literature and thus is well covered by the previous research in the field of theory of international relations and organizations. Namely: external – material searches for the sources of performance in the material capabilities of member states; internal – societal on the contrary in the specific bureaucratic culture of IO; external – societal in the norms and policy stances of involved state actors and internal – material in the material capabilities and bargains within the IO. All these factors wield and effect (negative or positive) on the performance of IO.

The international organization the proposed thesis will be focusing on is the United Nations. Given the fact that the IO of the size, impact and mandate of the UN that is involved in variety of specific fields using a number of different agencies and internal organs the evaluation of performance of the United Nation as a whole would require much more than is the space given for a thesis, the need to focus on a specific problem or set of problems is thus evident. I have decided to apply the theoretical framework on a specific problematic of international security (peace-keeping and peace-enforcement) under the mandate of UN known as the Responsibility to Protect (RtoP). The thesis aims to research on the reasons that led to different application of this particular doctrine on the four well known and well mapped occurrences (crisis) that sparkled UN involvement in one form or the other. I would argue that such a research is valid on the basis of both better understanding the performance of international organizations (the under-appreciation of such research led Gutner and Thompson to create aforementioned framework in the first place) as well as RtoP more specifically, since this doctrine got increasing attention with military involvement in Libya and elsewhere in recent past.

The Responsibility to Protect doctrine was created in the process involving independent panels as well as agencies within the UN as a reply to a call for a more fitting and less controversial concept of sovereignty in the relation with the applications of the doctrine of Humanitarian Intervention at the end of the 20th century, when the Humanitarian Intervention was under heavy criticism both for its ambivalent results and a concern about the rise of neo-imperialism and western interventionism. The process formally started by creating independent International Commission on Intervention and State Sovereignty in 2001 with a landmark in 2005 when the Responsibility to Protect was formally acknowledged by the General Assembly of UN in its World Summit Outcome document and by the Security Council Resolution the following year. The reason why RtoP was chosen for the proposed thesis is because of its unique character (related to the question of state sovereignty) that sets it apart from the other activities of UN in the field of international security. Responsibility to Protect puts the main emphasis on the protection of states own citizens, but it empowers the international community to take an action in the situation when the specific atrocities (genocide, mass murders, ethnic cleansing and crimes against humanity) take place. In such cases the

international community takes responsibility to act through the Security Council in both non-military and military fashion. In this regard the RtoP goes beyond what is commonly seen as the area of operation for international organization. Because of that the opposition to invoking or acting on RtoP is common in the international environment; this is as well one of the reasons why was this doctrine chosen for the evaluation of UN performance.

Goals and research question:

The goal of proposed master thesis will be the evaluation of effectiveness (performance) of the UN in the area that involves application of Responsibility to Protect in the cases of Darfur, Libya, Kenya and Somalia.

The proposed thesis tries to address the question: *"What are the sources of performance of the United Nations when it comes to applying the doctrine of Responsibility to Protect?"*

Cases used in the thesis and justification of the choice:

The application of the RtoP will be evaluated on the actions that took place in the crises represented in four cases: the conflict in Darfur; international intervention in Libya; mediation after the unrest caused by 2007 election in Kenya and the UN response to the long term security issues in Somalia. Although the origins of Darfur crisis date prior to the acceptance of the RtoP as an international doctrine the dealing with Darfur crisis is cited in the literature as an example of semi-successful use of the doctrine and as such is a valid case for the thesis. In the contrast with ambivalent result of Darfur crisis stands the application for the conflict in Kenya where the successful mediation (after the beginning of political motivated violence sparked by presidential elections) supported by the bodies of UN was carried out by the group of individual negotiators leading by the former Secretary General Kofi Annan (who was one of the initiators of the debate around RtoP while still in the office). The recent situation in Somalia represents another interesting case because even with the realities on the ground (the number of casualties and IDPs surpasses the numbers from Darfur) and voices from international community would suggest action based on the RtoP to be carried out, such motivated action did not occur. The case of intervention in Libya

presents the most recent case of an action that justified itself on the grounds of RtoP as well as brought the doctrine back to general awareness. The particularities of the chosen cases applied in the theoretical and methodological framework will help to determine the causes behind the performance of the UN in the RtoP application.

Operationalization and methodology:

The first part of the research is represented by the preparation of the model for the performance of the International Organization, as is described above. The model would be linked to and anchored in the preexisting theory of international organization and international relations in general. This part will be highly influenced by the previous research done by the work of Gutner and Thompson and additional authors with research relevant to the topic. The categories (modified for the realities of UN) devised by the aforementioned authors will be used as the main categories to divide the sources on the basis of additional literature both theoretical and descriptive towards the United Nations.

The second part of the thesis aims to present the doctrine of Responsibility to Protect by itself. This part will introduce RtoP on the background of the principles of humanitarian intervention and the progress that the RtoP represents in that regard. RtoP will be evaluated from the perspective of the clarity of its definition and acceptance from the international community (although it was accepted unanimously by the international community at the 2005 World Summit opposition voices can be heard prior and after the acknowledgement). Specific stress will be given to the position if the key actors of the RtoP application: the members of the Security Council. This part will be useful for the determination of the causes from each category used in the framework: looking for internal/external and material/societal factors (and their combination). The empirical data based testing of these factors will be done in the following part of the thesis.

Findings of the first two parts will be used as a basis for the comparative study of the cases used in the thesis, the cases where there was, or there could have been, action taken on the basis of the Responsibility to Protect doctrine. With each case the historic background will be included and submitted to the framework as well as the case by itself. This work will help to anchor the case further into the theory as well as into

the framework. The cases will be in general viewed in the perspective of the theoretical framework introduced in the thesis. This will help to keep the focus on the relevant factors of application (or non-application) of RtoP by the UN.

The similarities and the differences found in the comparison of the cases will serve as basis for the finding the most prominent sources (causes) of the UN performance in the area. In detail this will be done in following way: if a source (from one of the categories of framework) is proven to be present in the application or non-application of RtoP (either because it was cited by the actors or its influence is clear from the empirical data) this source will be deemed as influential when it is present in one or several of the other cases. If the source is specific for one case only, but influential enough to determine the result of the case, this will be deemed as a cause of performance if still in the accordance with the theoretical framework. In other words: if the (non)success of the (in)action across the cases correlate with a strong involvement of one of the factors from the theoretical categorization, that factor would be considered as a relevant for the explanation of the performance. Because the cases studied in the thesis contain enough differences and similarities it will be possible to bring conclusion applicable to the RtoP as such. In an encompassing part of the thesis certain remarks about the state of Responsibility of Protect on the grounds of effectiveness of its application by the UN will be made.

In the final part the conclusions from the previous parts will be made and presented as well as the propositions for the further study and critical evaluation of the method and findings.

Sources:

The literature sources for the proposed thesis can be divided into three categories: the first is the literature used for the theoretical part of the thesis that is literature on general theory of international relations and specific literature on theory of international organizations in general. Furthermore specific literature on the performance from different theoretical perspectives can be found and used for the purposes of the thesis. The second bulk of the literature that will be used contains academic research on the topic of United Nations in general and Responsibility to Protect in particular. Even though the doctrine is relatively young the discussion around

it brought plenty of academic writing that stretches from the connection of RtoP to Humanitarian Intervention, legal standing of the doctrine and up to applications of the doctrine into specific cases. In order to fully elaborate on the internal position and bargain within the UN the third bulk of sources need to be introduced: the study of the primary documents published by the bodies of United Nations such as aforementioned World Summit Outcome document, various reports from expert panels and resolutions of the Security Council. These primary sources are plentiful and easily obtainable.

Draft structure of the paper:

1. The introduction to the problematic of international organization performance
   1.1. The presentation of the theoretical model of IO performance
2. Responsibility to Protect
   2.1. United Nations and the enforcement of human rights
   2.2. The transition from Humanitarian Intervention to Responsibility to Protect
   2.3. Application and Issues of RtoP in general
3. Cases
   3.1. Kenya
       3.1.1. Background of the crisis
       3.1.2. Application of the RtoP and its evaluation
   3.2. Darfur
       3.2.1. Background of the crisis
       3.2.2. Application of the RtoP and its evaluation
   3.3. Somalia
       3.3.1. Background of the crisis
       3.3.2. The relation of the conflict and RtoP
   3.4. Libya
       3.4.1. Background of the crisis
       3.4.2. Application of the RtoP and its evaluation
4. Evaluation of the cases and RtoP in the perspective of the UN involvement
5. Conclusion

Sample of the proposed sources:

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