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EXAMINING THE CONCEPT OF RESPONSIBILITY TO PROTECT UNDER INTERNATIONAL LAW: PROSPECTS AND CONSTRAINTS

ABSTRACT

The practice of humanitarian intervention has always been countered by authoritarian states to justify gross and systematic violations of human rights with the help international law principles such as sovereignty of state and non-interference in domestic jurisdiction. Concept of Responsibility to Protect (R2P) emerged as an alternate to the earlier practice of humanitarian intervention in the light of its failure to deal with several humanitarian problems in the 90s. This concept provided a systematic process to deal with humanitarian problems in a comprehensive manner compared to earlier process humanitarian intervention where use of force through direct military operation was the only option available. Libyan crisis witnessed a successful implementation of this new process where the international community came together to deal with gross violations of human rights. On the other hand, the failure of international community to deal with a crisis of similar nature in Syria has raised a lot of questions on credibility and fair implementation of this concept. In the light of these two cases studies, the paper would try to understand various facets of R2P in comparison with humanitarian intervention and in contrast with principle of sovereignty of states.

Keywords:- Responsibility to protect, Humanitarian Intervention, Syria, Libya, Sovereignty.

INTRODUCTION:-

“Never again’ we said after the Holocaust. And after the Cambodian genocide in the 1970s. And then again after the Rwanda genocide in 1994. And then, just a year later, after the Srebrenica massacre in Bosnia. And now we’re asking ourselves, in the face of more mass killing and dying in Darfur, whether we really are capable, as an international community, of stopping nation-states murdering their own people. How many more times will we look back wondering, with varying degrees of incomprehension, horror, anger and shame, how we could have let it all happen?” (Garreth Evans, 2004)¹

International community has always condemned or criticized the happening of horrific incidents such as genocide, ethnic cleansing and crimes against humanity. The international community took many steps to ensure that such incidents never happen again, but was unable to stop such situations. The practice of humanitarian Intervention was introduced to reduce this menace, which suffered from many fundamental problems. Finally at the dawn of 21st century, because of continuous efforts of UN Secretary General Kofi Annan and with the consent of majority of nations in the UN, the concept of Responsibility to Protect was established. The responsibility to protect is a principle which seeks to ensure that the international community never again fails to act in the face of genocide and other gross forms of human rights abuse. R2P recognizes that the responsibility to protect any given population lies within the sovereign state. However, if a state is unable or unwilling to protect its population, or is itself the cause of the threat, the international community of states has a responsibility to protect those populations against genocide, war crimes, ethnic cleansing, and crimes against humanity.

This project would try to find out the causes and factors in the factors that led to the origins of R2P. Further, the project would discuss the journey from Humanitarian Intervention to R2P with special reference to efforts made by the then UN Secretary General Kofi Annan. Further, we are also going to mention about the important contributions by of International Commission on Intervention and State Sovereignty (ICISS) and High Level Panel on Threats, Challenges and Change. In this chapter we are also going to discuss the fundamental problems which arose in the application of the doctrine of Humanitarian Intervention. In the other chapters the project would further try to outline the development of R2P in 21st century and the importance of 2005 World

¹ Sandra Fabijanić Gagro, *The Responsibility to Protect (R2P) Doctrine*, 3(1) International Journal of Social Sciences 61, 61 (2014).

Summit. Also the project would try to mention and discuss the scope, structure and Pillars of the doctrine of R2P. Last but not the least, the project would address one of the most challenging question concerning how to move the doctrine of R2P from principal to practice while focusing on successful case of Military Intervention in Libya and implementation problem of R2P in Syria.

ORIGINS OF R2P:-

Journey from Humanitarian Intervention to R2P:-

The concept of Humanitarian Intervention arose in 1990s when there was a controversy between state sovereignty and the need of international intervention to response effectively on gross violations of human rights like genocides, ethnic cleansing and war crimes.

The major debate was between the principle of Non-intervention as mentioned in the UN Charter and the responsibility of the international community to react in cases where gross violations of human rights have taken place. Article 2 (4) of the UN charter refrains every state from the threat or use of force against the territorial integrity and political independence of any state. Further Article 2 (7) of the same document states “Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state...”. It is evident that the UN charter respects the principle of non-intervention; however there are two exceptions to this principle.² First is chapter VII of the UN charter which gives power to the Security Council to authorize use of force when there is a threat to breach of international peace and security. Secondly, under Article 51 member states have been given right to self-defence when they are subject to an armed attack.³

“Humanitarian intervention” had been controversial in both the cases whether it had been done or failed to be done. For some, the international community is not intervening enough; for others it is intervening much too often.

Rwanda massacre (1994) revealed the horrors of inaction, where the Security Council refused to take any necessary action, even after being aware of the situation and having UN forces present over there. Failure of UN Peace operations in Somalia in 1992 and 1993 was another display of

² Malcolm D. Evans, International Law, 505 (3rded. 2010).

³ Id. at 506.

flawed planning, poor execution and overdependence on military force. In 1995, the international community was again unable to prevent the massacre of many civilians in Srebrenica.⁴The intervention that took place in Kosovo (1999) was also controversial as it raised many questions about the legitimacy of military intervention in a state. Other questions upon the validity of intervention were also raised along with questions on way it was done.⁵

These four incidents led to a serious debate about the reaction of international community towards gross and systematic violations of human rights. The major conflict was between the unconditional sovereignty of states over their affairs right of the international community to intervene in a state for humanitarian purposes. A major question was raised on the proper application of Humanitarian Intervention. Questions were raised on control of right and limited use of force and on the difference between Humanitarian Intervention and other forms of intervention. The ambiguity of humanitarian purpose was another major concern.

Kofi Annan's Efforts:-

These questions were raised by the Secretary-General Kofi Annan in September 1999 during an address to the 54th session of the UN General Assembly, he reflected upon the tragic dilemma in international order as:

“To those for whom the greatest threat to the future of international order is the use of force in the absence of a Security Council mandate, one might ask -- not in the context of Kosovo -- but in the context of Rwanda: If, in those dark days and hours leading up to the genocide, a coalition of States had been prepared to act in defence of the Tutsi population, but did not receive prompt Council authorization, should such a coalition have stood aside and allowed the horror to unfold?”⁶

He reflected upon the failures of the International community to act in Rwanda and Kosovo, and asked the member states of the UN to “find common ground in upholding the principles of the Charter, and acting in defence of our common humanity.” In his Millennium Report of 2000 to the General Assembly a year later, he restated the dilemma, and repeated the challenge:

“... if humanitarian intervention is, indeed, an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica – to gross and systematic violations of human rights that offend every precept of our common humanity?”(Kofi Annan)

⁴ Gagro, Supra Note 1, at 63.

⁵ Id.

⁶ Address by Kofi Annan to the 54th Session of UN General Assembly, 20th September 1999.

International Commission on Intervention and State Sovereignty (ICISS):-

This address by the secretary general received a mixed response in the General Assembly. However as a result only one country, Canada, Responded to his challenge and formed an international panel of experts named International Commission on Intervention and State Sovereignty (ICISS).⁷ This Commission for the first time used the term ‘Responsibility to Protect’ which was the title of its report.

This report stated that the primary duty to keep people safe within their borders is of the State. It also recognized the right of a state to control its domestic affairs. It further stated that in case the State is not able to protect its people then the international community has the responsibility to react and intervene. This report proposed three elements upon which R2P was to be based.⁸

1. The Responsibility to Prevent
2. The Responsibility to React
3. The Responsibility to Rebuild

The report further laid down four precautionary principles that should be followed before a military intervention under ‘The Responsibility to react’. Firstly, there must be *right intention* i.e to stop humanitarian crisis. Secondly, it should be used as a *last resort* when all other measures have been exhausted. Thirdly, the military force used must be *proportional* to the objective i.e. to protect the civilians, and must be limited to the lowest level. Lastly, there must be a *reasonable prospect* that the consequence of action should not be worse than that of inaction.⁹

High Level Panel on Threats, Challenges and Change:-

In 2004, the recommendations made by the ICISS received huge recognition and endorsement by the Secretary General’s High Level Panel on Threats, Challenges and Change.

This panel adopted the idea of ‘Responsibility to Protect’ with some alterations in the original report. It also came to the conclusion that any such responsibility should be exercised only with the endorsement of the Security Council.¹⁰

⁷ Evans, Supra Note 2, p. 511.

⁸ Id.

⁹ Thibaut Jageneau, Faculteit Politieke En Sociale Wetenschappen, University Gent, .Interventionism and the Failing of R2P: Syria as a symbol of a Changing World Order, 21 (2017)

¹⁰ Evans, Supra Note 2, p. 513

The panel asserted that the principle of non-intervention cannot be used by State to commit gross violations of human rights. It further added that these acts must be considered as a threat to international peace and security under Article 24 of the UN charter and therefore must provoke an action from Security Council.¹¹

In 2005 Secretary General gave a report titled '*In Larger Freedom: Toward Development, Security and Human Rights for All*', which focuses on R2P by giving a broader understanding of the ICISS Report by assessing it in the light of human dignity and the rule of law. This report emphasized on finding better ways and measures for the Security Council to act in humanitarian crisis.¹²

2005 WORLD SUMMIT AND FURTHER ENDORSEMENT OF THE DOCTRINE:-

In September 2005, for the first time, heads of states and government endorsed the responsibility to protect collectively at the 2005 World Summit. Para 138, 139 and 140 of the Outcome Document of the World Summit mentioned about the future prospects of 'Responsibility to Protect'.¹³ These representatives of various states collectively recognized the responsibility of every state to protect its populations from genocide, war crimes, ethnic cleansing, and crimes against humanity and pledged to act in accordance with it.¹⁴

Further, an emphasis was laid down on the responsibility of the international community to protect these populations in humanitarian crisis. In this case the international community has the responsibility to use diplomatic and peaceful means to protect the civilians. If these means are not adequate to deal with the situation then the Security Council should be prepared to take "timely and decisive" action in accordance with Chapter VII of the UN Charter.¹⁵

The Outcome Document of the World Summit demonstrated a significant restraint on the Responsibility to Protect by the International Community. The crimes in relation to which a responsibility to protect may arise are limited to *genocide, war crimes, ethnic cleansing and*

¹¹ Id.

¹² The Secretary-General, Report of the Secretary-General, *In Larger Freedom: Toward Development, Security and Human Rights for All*, Para. 135, U.N. Doc. A/59/2005 (Mar. 21, 2005).

¹³ G.A. Res. 60/1, World Summit Outcome Document (Oct. 24, 2005).

¹⁴ Id. ; For an overview of the different positions held by states with regard to the responsibility to protect, see Carlo Focarelli, *The Responsibility to Protect Doctrine and Humanitarian Intervention: Too Many Ambiguities for a Working Doctrine*, 13 J. Conflict & Security L. 191, 201-05 (2008).

¹⁵ Chelsea O'donnell, *The Development of the Responsibility to Protect: An Examination of the Debate over the Legality of Humanitarian Intervention*, 24 Duke Journal of Comparative & International Law 557, 561 (2014).

crimes against humanity. The concept of Responsibility to Prevent was hardly found in this document. Further, the document very vaguely talks about the collective action under Chapter VII of the UN Charter, where they talk about being prepared to act on time and on case to case basis. This document neither mentioned specific responsibilities of the Security Council, nor recognized any possibility of military action with authorization of General Assembly or outside the UN framework.¹⁶

The idea, referred to by the High Level Panel, that there may be a certain circumstances in which intervention may be countenanced without authorization of the Security Council did not make its way into the final report.¹⁷ The recommendation on constraint on the use of veto by the permanent members of the Security Council in these cases of gross humanitarian was rejected.¹⁸

R2P, DEVELOPMENT OF THE DOCTRINE: SCOPE, STRUCTURE AND PILLARS:-

This doctrine got its first acknowledgement in a resolution by the Security Council in the year 2006, where the council referred to the Outcome Document of 2005 World Summit and reaffirmed the Responsibility to protect civilians in an armed conflict. The appointment of High Level Mission by the Human Rights Council to assess the situation in Darfur was another sign of recognition of the new doctrine by the international community.¹⁹

In 2009, the Secretary-General issued a report based on the Outcome Document of the 2005 World Summit, which was titled as '*Implementing the Responsibility to Protect*'. This report was an attempt to move the R2P's concept into a global policy and implement R2P within the UN system.

This report mentioned about the three 'Pillars' of the R2P doctrine. The pillars are non-sequential and of equal significance. Like the World Summit Outcome and the ICISS report, Secretary-General Ban's reports assigned exclusive rights to authorize an intervention under the responsibility to protect to the UN Security Council.²⁰

¹⁶ Mehrdad Payandeh, *With Great Power comes Great Responsibility? The Concept of the Responsibility to Protect within the Process of International Lawmaking*, 35 Yale J. Int'l L 469, 473 (2010).

¹⁷ Evans, *Supra* Note 2, at 515.

¹⁸ *Id.* at 516.

¹⁹ *Id.*

²⁰ O'donnell, *Supra* Note 15, at 563.

*Pillar One: Every state has the Responsibility to Protect its populations from four mass atrocity crimes: genocide, war crimes, crimes against humanity and ethnic cleansing.*²¹ The measures for this may include intensive diplomatic steps to mediate impending conflict, the adoption of anti-corruption strategies, the early prosecution of those engaging in violent activities, the promotion of human rights and efforts to establish more effective governance.²²

*Pillar Two: The wider international community has the responsibility to encourage and assist individual states in meeting that responsibility.*²³ Here, concentered and directed assistance in the form of development aid, foreign investment, technical assistance, economic incentives, rapid police responsiveness, and more general capacity building will be crucial.²⁴

*Pillar Three: If a state is manifestly failing to protect its populations, the international community must be prepared to take appropriate collective action, in a timely and decisive manner and in accordance with the UN charter.*²⁵ These measures may be supplemented initially by ‘soft’ coercion which may include international fact finding, the deployment of peacekeepers, the imposition of arms embargo, the application of diplomatic and economic sanctions and the creation of safe- heavens and no fly-zones.²⁶ Then, as a last resort a military intervention may be authorized by Security Council.

In furtherance to these pillars the report also made specific recommendations to the state and non-state actors regarding their responsibilities under the third-pillar. It also urged the General assembly to consider its further policy with regard to implementing the responsibility to protect.²⁷

Subsequently, Ban Ki-Moon gained support during the General Assembly meeting in July 2009, for his focus on prevention and capacity building as the basis for implementation of the doctrine of R2P. The 2009 report can be seen as a significant step forwards, since it outlined the need ‘not to reinterpret or renegotiate the conclusions of the World Summit but to find ways of

²¹ Jageneau, Supra Note 9, at 28.

²² Evans, Supra Note 2, p. 517

²³ Jageneau, Supra Note 9, at 29.

²⁴ Evans, Supra Note 22.

²⁵ Jageneau, Supra Note 9, at 31

²⁶ Evans, Supra Note 22, at 517

²⁷ Payandeh, Supra Note 16, at 434.

implementing its decisions in a fully faithful and consistent manner’ and presented a range of measures for doing so.²⁸

The doctrine is to be distinguished from ‘Humanitarian Intervention’. Humanitarian Intervention, the report said, posed a false choice between either standing by in the face of catastrophe or deploying coercive military force to protect populations that were threatened. The Responsibility to protect seeks to overcome this binary divide by recasting sovereignty as Responsibility and then defining in some detail what the respective duties and obligations of nations and the international community to prevent humanitarian disaster should be.²⁹

R2P as International Law:-

R2P today, is a well-known doctrine in the international law whose perimeters were set and elaborated by the World Summit of 2005 and the General Assembly’s debates in 2009. The primary responsibility to protect its people rest on the sovereign nation itself. Further, the gross violation of human rights against which R2P is to be applied is limited. The responsibility of the international community arises only when the sovereign state is unable to prevent the humanitarian crisis. The international community should first provide assistance for capacity building of the nation in crisis to deal with the impending crisis. When this step is proven to be ineffective then the primary responsibility to protect or prevent the crisis falls upon the international community. The international community may take coercive measures on a case-to-case basis and may resort to an internationally mandated military intervention as a last resort. Unilateral intervention is impermissible. The international community also has a responsibility of restoration of peace and security in the country after the intervention has been done.³⁰

R2P IN PRACTICE: THE CASE OF LIBYA (MILITARY INTERVENTION)

In 2011, the international community was confronted with the prospect that large-scale civilian casualties may occur as a consequence of fighting between government and rebel forces in Libya. Colonel Muammar Gaddafi of Libya used the word ‘cockroaches’ to describe those who were rising against him in the city of Benghazi in February 2011. He threatened the protestors and declared that the protesters would be ‘hunted down door to door and executed’. The

²⁸ Jageneau, Supra Note 25.

²⁹ Evans, Supra Note 26.

³⁰ Id. at 521.

rebellion against the Gaddafi regime commenced in February 2011, following closely upon revolutionary changes that were occurring in Tunisia and Egypt. However, whereas in those countries the autocrats in charge had reacted with a measure of restraint, Gaddafi declared war on the Libyan uprising. Many protesters were killed soon and more threats were made by Gaddafi. Many more ‘cockroaches’ (in the words of Gaddafi) were going to be killed soon.³¹

International community was deeply alarmed by Gaddafi’s words. There was an imminent threat of massacre and atrocity by the military forces of the regime. On 25th February, the human rights council urged the General Assembly to expel Libya from Security Council membership. Further a fact finding committee was established to unfold the events in Libya. The Security Council also condemned these attacks on civilians and made it clear that the international community is not going to repeat their earlier mistakes.

The Security Council issued a press release through which they called upon the Libyan Government to meet its responsibility to protect its population. Further, acting upon *Resolution S-15/1* of the Security Council, the General Assembly suspended Libya on 1st March from the membership of Security Council. The Arab League also suspended Libya’s Membership from the league. A set of coercive measure was set in place by *Resolution 1970* of the Security Council. It imposed an arms embargo; a freeze on their assets overseas; a travel ban on key figures in the Libyan administration; and it called for a review of progress with respect to these measures within 120 days. While on the other hand, the Libyan Government wanted this operation to be suspended till the claims made were confirmed.

Security Council after *Resolution 1973*, authorized coercive military intervention in a sovereign state without the consent of that state’s governing authorities, for the first time. Use of force by a coalition of nations under the North Atlantic Treaty Organization’s umbrella was authorized after this. Furthermore, a no-fly zone was to be established to protect the civilians, which was to be ensured by NATO. Some countries like China and Russia were completely against it because of their commitment to the principle of non-intervention in the affairs of sovereign states.

Fourteen NATO countries along with 4 partner nations combined their naval and aerial forces whose primary objective was the protection of civilians. 40% of the sorties were flown by France

³¹ Spencer Zifcak, The Responsibility to Protect after Libya and Syria, 13(1) Melbourne Journal of International Law 59, 64 (2012).

and Britain while other countries also helped by enforcing the no fly zone and the arms embargo at sea. On May the 1st, Gaddafi's youngest son was killed along with three of his grandchildren, which was described as 'disproportionate use of force' by Russia. The question was raised on amount of force that must have been used by NATO. Could destruction of infrastructure, fuel dumps and electricity grids be regarded as properly falling under the purview of UN 'civilian protection' mandate.

Finally with NATO's intervention and bravery of the Libyans on the ground, the conflict came to an end substantially in August 2011. A UN support Mission in Libya was established and the National Transitional Council was recognised as the official representative of Libya at UN. The 'responsibility to protect' had been exercised by the international community, but the 'responsibility to rebuild' remained an obligation and a challenge of formidable proportions. This intervention was a landmark in the use of this doctrine as it was the first military intervention with a purpose to protect civilians from gross human rights abuses by their own national government. Entire doctrine would have collapsed, if this intervention had failed.

Professor Thomas Weiss commented on this case, *"If the Libyan intervention goes well, it will put teeth in the fledgling RtoP doctrine. Yet, if it goes badly, critics will redouble their opposition, and future decisions will be made more difficult — for one thing, because the decibel level of claims by contrarians about RtoP's potential to backfire through 'moral hazard' will increase."*³²

Unlike prior humanitarian interventions, the Libyan one proceeded with the authorization of the UN Security Council. This was not a unilateral intervention by Western forces such as that which had created such enormous legal controversy in Kosovo. The Libyan intervention fell squarely within the terms of the Charter of the United Nations ('UN Charter').³³ It solidified the view that the application of Pillars 1, 2 and 3 need not proceed sequentially. From time to time, there will be desperately urgent cases in which Pillar 3 intervention must be the first option to be considered, not the last. The Libyan intervention demonstrated clearly, however, that much work

³² Thomas G Weiss, *R2P Alive and Well after Libya*, 25 *Ethics & International Affairs* 287 (2011).

³³ Zifcak, *Supra* Note 31.

remains to be done in determining the nature and limits of military strategy and tactics in the implementation of a Pillar 3 intervention.³⁴

R2P: ISSUES AND CHALLENGES: THE IMPLEMENTATION PROBLEM IN SYRIA:-

Crimes against humanity in Libya, for the first time led to an international intervention by the international community under the umbrella of Responsibility to protect. Although many controversies were raised during these operations, but the intervention could be considered as a successful one.

However, another controversy was arising in Syria at the same time where the conflict between the government and rebels had led to a massacre which led to many people being killed, or internally or externally displaced. After the successful intervention in Libya a same level of intervention was expected to take place in Syria as well.

These atrocities were condemned by many international organizations and on 18th Dec 2012, Adama Deing, UN Special Advisor of the Secretary General on the Prevention of Genocide, declared in a statement: *“The Government of Syria is manifestly failing to protect its populations. The international community must act on the commitment made by all Heads of State and Government at the 2005 World Summit to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity, including their incitement.”*³⁵

There had been a consensus among the international community about gross violations of human rights done by the Syrian Government on the general population of the country which was evident from many resolutions passed by the Security Council, but all those measures were limited to condemning the violence and brutalities committed by the government and opposite groups.³⁶

On 21st of Dec, 2016 Resolution (S/RES/2332) was adopted by UNSC which reaffirmed that Syrian authorities had primary responsibility to protect their population and the parties’ o the

³⁴ Id.

³⁵ Jageneau Supra Note 9.

³⁶ Zifcak, Supra Note 31, at 68.

conflict must take necessary measures to protect the civilians. Through this resolution only the first pillar of R2P had been invoked by the international community.³⁷

But these measures were unable to stop or reduce the continuing massacre in Syria. Recently (4th April 2017), a new chemical weapons attack was reported on the town held by rebel Khan Sheikhun. These chemical weapons had already been banned by the Security Council resolution 2118(2013a) which gave the task to ‘Organisation for the Prohibition of Chemical Weapons’ (OPCW) to destroy Syria’s chemical weapons. Most of the western countries along with US blamed Syrian President Bashar al-Assad for this and US went on to the extent of bombing a Syrian airbase on 7th of April, 2017. This event was even accepted by Russia who had always been strong supporter of the President of Syria. But that didn’t changed Russia’s response towards the problem. On 12th April, 2017, Russia used its veto power against the draft resolution, which was strongly supported by US, UK and France, on the ground that it would pre-judge the government of Syria.

Security Council was powerless to stop countries like Russia to jeopardize humanitarian crisis like Syria and to protect their international relations with some countries. Dichotomous, inconsequent and ineffective methods of the United Nations Security Council are evident from these two different approaches taken by the different nations towards gross violations of human rights. The Syrian civil war being immensely complex needed a different approach than Libya. Gaddafi’s downfall was majorly welcomed by the neighboring states, while those states are afraid of the destabilizing effects of the removal of Bashar al-Assad.³⁸

The effectiveness of R2P is strongly connected to the use of veto power by permanent members of UNSC. The most pertinent way to enforce R2P is to ensure consensus in the Security Council. The question about the seriousness of harm and justification of military action and violation of State Sovereignty is still another challenge that needs to be solved. Many more debates are also required regarding the lack of formal legal authority to handle the situation where any resolution for R2P is vetoed.³⁹

³⁷ Jageneau, Supra Note 9.

³⁸ Jageneau, Supra Note 9.

³⁹ Id.

CONCLUSION

This Responsibility to protect has been adopted as substitute to the earlier concept of Humanitarian Intervention which had some fundamental controversies involved. After the failure of this earlier doctrine to avoid events like Rwandan and Kosovo, the concept of R2P was formed with the efforts of many international leaders and many other enlightened members of the international community.

The formulation of R2P had many challenges involved within, but the successful military intervention authorized by the Security Council in Libya (2011) under this doctrine proved to be a test for the third pillar approach. The Libyan intervention demonstrated clearly, however, that much work remains to be done in determining the nature and limits of military strategy and tactics in the implementation of a Pillar 3 intervention.⁴⁰

However, almost on the same timeline, civilians from another state were in dire need of protection and help by the international community. As discussed in the last chapter, in the case of Syria, the international community failed in their responsibility to protect Syrian civilians and in their duty to prevent. There was a deadlock between members of the UNSC and the international community, on the actions to be taken in Syria. This situation has damaged the credibility of the basic principles and concepts of R2P.

The success of the initial purpose of R2P, as formulated by the ICISS, to avoid events like Kosovo and Rwanda in the future, is disputable. A real practical answer to “never again” has not been found yet, leading to the failing of the replacement of “humanitarian intervention” by “sovereignty as responsibility” in international affairs’ vocabulary. As Kahtryn Kersavage (2014), Iraq Program Officer at the US Department of State, points out: *“It is counterproductive to call R2P a success or failure. [...] This does not mean the ultimate failure of R2P, or even that a reinterpretation of the norm is needed. Instead, we must continue work on developing operational and strategic guidelines.”*⁴¹

⁴⁰ Zifcak, Supra Note 31, at 69.

⁴¹ Jogeneau, Supra Note 9.