

Thesis Political Science

The Giant and the Dwarf

The Responsibility to Protect norm- succesful on paper, worthless in practice -

- A critical reflection on four human rights cases -

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Contents

✓ Introduction	3
✓ Chapter 1: Research design	6
✓ Chapter 2: A Responsibility to Protect	9
✓ Chapter 3: The Kosovo Case- action on the basis of an international Responsibility to Protect	16
✓ Chapter 4: The Chechnya Case- a missing responsibility to protect-	24
✓ Chapter 5: The Libya Case- an example of intervention on the basis of the Responsibility to Protect-norm	32
✓ Chapter 6: The Syria Case- applying or ignoring the Responsibility to Protect- norm?	40
✓ Conclusion	48
✓ Bibliography	54

Introduction

“Sovereignty is not a privilege, but a responsibility”

(ICISS, 2001)

International relations is such a broad research topic which can entail state building, diplomatic relations, humanitarian intervention and human rights. Humanitarian intervention is part of international relations and is the central topic of this thesis. Even within humanitarian intervention there are different subjects that can be explored of which the Responsibility to Protect is one. But, what is the Responsibility to Protect all about? Is it about a measure of overall power politics or is it a legal norm that is binding on all member states of the United Nations? The international community has got some goals in common. For instance, securing world peace and protection of human rights. Throughout history states fight each other over territory and power on the one hand and sign treaties on the other hand. The principle of sovereignty makes that states protect their own territory and interests. I would presume in this sense that states are self-interested and only sign treaties or go into war because of their own interests. Events as the atrocities in Africa or Eastern Europe at the end of the twentieth century show that self-interest of states does not have to conflict with humanitarian intervention in order to stop these atrocities. Stopping atrocities from occurring and preventing enormous amounts of refugees spreading to neighbor states prevents that problems shift to neighbor states and create more regional stability. Making the world more safe will lead to more stability and prosperity. Also, the international community realizes that it is a common responsibility to protect its world citizens from atrocities committed by failed states or rogue organizations. This is why the international community created a new norm called the Responsibility to Protect norm.

Humanitarian intervention is carried out by different global and regional organizations. But, the most common way to deal with humanitarian intervention is through the United Nations. Humanitarian intervention by the United Nations is a problematic issue, because the UN Security Council is often deadlocked on the issues of intervention. Russia and China often abstain from voting on intervention or use their veto-rights which makes

humanitarian intervention by the UN practically impossible. The opposition of Russia and China can be contributed to domestic, self-interested motivations. Both states deal with human rights violations in their own territory and both states are afraid that humanitarian interventions in other states will set dangerous precedents for humanitarian interventions in their territory. The international community established a new norm that should address humanitarian crises earlier on and in a more sufficient way. This norm is the previous mentioned Responsibility to Protect norm.

It is interesting to look at what kind of norm the Responsibility to Protect truly is and what the effect of the norm in practice truly is. In theory a norm that creates a responsibility for the international community to act when gross human rights violations occur sounds perfect. But, is the norm as perfect in practice as it is on paper? Is the Responsibility to Protect norm specifically created as a political instrument for states to call on so they have grounds to surpass the concept of state sovereignty? In the case that the Responsibility to Protect norm can be seen as a political instrument, is this out of humanitarian reasons or out of political motives? What are the consequences of a norm like the Responsibility to Protect in practice? These questions make clear that I'm curious about the purpose and the use of the Responsibility to Protect norm and for that I will look at different case studies. In these cases the Responsibility to Protect norm will be tested on usefulness to stop the violation of human rights. In order to establish the usefulness of the Responsibility to Protect norm I use four cases. Two prior to the official establishment of the norm, the Kosovo and Chechnya case. And, two case studies after the establishment of the Responsibility to Protect norm in order to see why the international community did or did not use the norm in these human rights crisis. These cases are: Libya (2011) and Syria (2012). I know it is very early to use Libya and Syria as case studies but they are already until this point in history very important to make my argument. In these cases the international community is involved in one way or another, but not always in the way intended by the Responsibility to Protect norm. This makes it interesting to see whether or not the Responsibility to Protect norm is just another hollow norm on paper, without any real effect in practice.

It will be interesting to see how the Responsibility to Protect plays a role in filling the gaps of humanitarian intervention. To be honest I am very skeptical about the true impact of the Responsibility to Protect norm. In my opinion the Responsibility to Protect norm looks good on paper, but is worthless in practice. Especially, looking at the humanitarian crisis

going on in Syria at this moment it made me question things. When you have a norm like the Responsibility to Protect norm, which gives the international community an obligation to act when gross human rights violations are taking place like in Syria, why does the international community not act accordingly to the situation? In Libya NATO helped the rebels against the government troops, but was blind to the human rights violations being committed by both Libyan sides. Also, the Responsibility to Protect is created, after interventions, to establish a stable situation in the state where the international community intervened. In the case of Libya the international community does not act to secure a stable situation in that state. So, the human rights situation in Libya is not much better than before according to me. In the Kosovo and Chechnya cases the Responsibility to Protect norm was not officially established, but they are the main cases in discussing the establishment of the norm. I have a very critical opinion on the Responsibility to Protect-norm, but I hope that the case studies will prove me wrong. I want the Responsibility to Protect norm to be useful on paper and in practice, but at this moment of my research I am very pessimistic about that. At this moment, I do not think the Responsibility to Protect norm has any influence in practice looking at the Syria case. It is also interesting that peace negotiator for the UN Kofi Anan does not succeed in his attempts to stop the violence in Syria, while he was one of the instigators of the creation of the Responsibility to Protect norm. To test my critical point of view I study the cases on the basis of my main research question: *“What is the purpose of the Responsibility to Protect norm on paper and what is the impact of the Responsibility to Protect norm in practice? Is there a discrepancy between purpose and impact?”*

In chapter one, I will give an overview of my research design for this thesis. In the second chapter I will give a general overview on what is written in the literature about the Responsibility to Protect norm. In the third chapter I will discuss the Kosovo case. In the fourth chapter I will discuss the Chechnya case, in the fifth chapter the Libya case and in the sixth chapter I will discuss the Syria case. Finally, in my conclusion I hope I can put my critical view aside for a more positive opinion about the Responsibility to Protect norm.

Chapter 1: Research Design

Presumptions

As said in the introduction I study the four cases on the basis of my main research question: “*What is the purpose of the Responsibility to Protect norm on paper and what is the impact of the Responsibility to Protect norm in practice? Is there a discrepancy between purpose and impact?*” In the introduction I have been very critical on the use of the Responsibility to Protect norm, because in practice the norm has not achieved much until now. Especially when I look at the Syria case the Responsibility to Protect norm has had no real impact until now. I want to look at the Responsibility to Protect norm on paper in comparison to its practice. I believe that the norm is perfect on paper, but has had little effect in practice.

Here I put down my presumptions based on the research question. I have four presumptions.

1. The first presumption is that the Kosovo case had an important influence on the establishment of the Responsibility to Protect norm and outlined the foundations and purpose of the norm.
2. The second presumption is that the Chechnya case shows that a responsibility to protect in practice is not as clear cut as on paper.
3. The third presumption is that the Libya case shows a textbook example of implementing the written Responsibility to Protect norm in practice. There is no discrepancy between purpose and impact.
4. Fourth presumption is that the Syria case shows a textbook example of discrepancy between a written norm and application of the norm in practice. There is a discrepancy between purpose and impact.

I know, not very positive in relation to the impact of the norm, but I hope to be proven wrong in this research and end with a more positive note.

Research method

To research the two parts of my research question I will use different sources. First, I will conduct a literature study, so what is written in books and journals about the Responsibility to

Protect-norm. Secondly, I will look at different resolutions and statements from the UN and other relevant commissions and organizations. In these resolutions and statements I hope to find the different motivations for intervention and for the establishment of the Responsibility to Protect-norm. Third, I will conduct a case study on the Kosovo, Chechnya, Libya and Syria cases. I will use articles, books and other relevant documents to find out what the purpose of the Responsibility to Protect norm is and how the norm is applied in practice. I will also look at the role of powerful nations and regional organizations in the decision whether or not to intervene as international community in a humanitarian intervention. It will be a qualitative research and because of my lack of experience in quantitative research I will leave this out of my thesis. It must be an in-depth research on the discrepancy between the purpose and impact of the Responsibility to Protect norm.

Selected cases

To answer the research question in a sufficient way I have selected four case studies. The case studies I selected are Kosovo, Chechnya, Libya and Syria. I selected these four cases from a practical point in order to support and refute my critical opinion that there is a discrepancy between the purpose of the Responsibility to Protect norm and its impact in practice. In all four cases the international community dealt with a humanitarian crisis. The different reactions by the international community to the different cases is important to my research. The Kosovo and Chechnya cases were before the official establishment of the norm. In both cases gross human rights violations took place, but the reaction of the international community was completely opposite from each other. The Libya and Syria cases are after the establishment of the Responsibility to Protect norm, but in the case of Syria the international community was very hesitant to call in the norm in one way or another. In the Libya case, however, the international community was not hesitant at all to call in the norm. So the cases show important similarities and differences which makes the comparison very interesting.

Relevance and scope thesis

The relevance of this thesis research is finding out two important things. One, whether or not the Responsibility to Protect norm is just a hollow norm which is of importance for its application during a humanitarian crisis. And two, what the effect of power politics is in applying a legal norm in the case of a humanitarian crisis. This research is relevant from a scientific perspective. There is a lot written about the Responsibility to Protect-norm and

about respectively the Kosovo, Chechnya, Libya and Syria cases, but there is not much written about the influence of the implication of the norm on paper and in practice. The research question will give an inside in the establishment of one of the most important humanitarian intervention principles and explain why this norm of Responsibility to Protect is so important for other cases in the future.

Chapter 2: A Responsibility to Protect

“A More Secure World, Our Shared Responsibility”

(ICISS, 2004)

Humanitarian intervention

In the last decade of the twentieth century the number of humanitarian intervention cases has increased immensely. The humanitarian intervention concept entails “the threat or use of force across state borders by a state or group of states aimed at preventing or ending widespread and grave violations of the fundamental human rights of individuals other than its own citizens”(Holzgrefe and Keohane, 2003: 18). This is not a standard definition of the concept humanitarian intervention, because there is none. But, it is the definition that I think is the most complete definition of all. According to Gerard Elfstrom there are a couple of criteria to truly speak of a justified humanitarian intervention (Elfstrom, 1983, 713). First, the violation of rights of these citizens must be extreme and seriously grave, involving the systematic violations of the most basic rights such as the right to life, to human dignity, to freedom of expression, or to political actions; Second, the citizens being abused must no longer be capable of stopping the abuse by themselves; Third, the abused individuals must clearly be without outside aid or may reasonably be presumed to be in desperate need of assistance; Fourth, the presumed and responsible authorities charged with dealing with such cases must be either unable to respond or unwilling to respond (Cha, 2002: 140).

There are a lot of debates related to the subject of humanitarian intervention, especially focused on the tension between the use of force to protect human rights and the principle of state sovereignty. It is important, whether or not, a certain humanitarian intervention can be seen as a UN authorized intervention or not. Humanitarian intervention is legal when the UN Security Council, under Chapter VII UN Charter, has authorized the use of military action in case of threat to international security and mass violations of human rights (Finnemore, 2003: 142-144). There are also cases where there was no UN authorization to intervene prior to the intervention, but the intervention was conducted anyway to stop gross

human rights violations. For instance, in the case of Kosovo there was no UN mandate prior to the humanitarian intervention by NATO. In this case it was a regional organization who protected human rights when the UN was not able or willing to protect human rights in the region. There are three criteria when an intervention can be seen as legitimate without prior UN Security Council approval. First, UN Security Council deadlock. When the UN Security Council is deadlocked because of abstaining to votes by important states or veto-power by certain member states. Second, Customary law. This could give an exception to intervention without UN Mandate. Third, Excusable breach. Humanitarian intervention without a UN mandate is technically illegal under the rules of the UN Charter, but may be morally and politically justified in certain exceptional cases. Intervening states or organizations are unlikely to be condemned as action in breach of international rules, because they serve a higher moral duty. The most important norm that fits these criteria is the Responsibility to Protect-norm (Gray, 2008: 428-430).

The Responsibility to Protect-norm

The Responsibility to Protect-norm is: “A norm or set of principles based on the idea that sovereignty is not a privilege, but a responsibility which focuses on preventing and halting four crimes: genocide, war crimes, crimes against humanity, and ethnic cleansing” (Gierycz, 2010: 110-111). The Responsibility to Protect can be thought of as having three parts. First, ‘a state has a responsibility to protect its population from genocide, war crimes, crimes against humanity and ethnic cleansing’ (ICISS, 2001). States will still have control over their own territories. Second, ‘if the state is unable to protect its population on its own, the international community has a responsibility to assist the state by building its capacity’ (ICISS, 2001). This is still within the boundaries of state sovereignty. Third, ‘if a State is manifestly failing to protect its citizens from mass atrocities and peaceful measures are not working, the international community has the responsibility to intervene first diplomatically or economically, and as a last resort with military force’ (ICISS, 2001).

State sovereignty can be overlooked for a higher purpose which is protecting human rights. In my opinion is the Responsibility to Protect an excusable breach of international law. With an excusable breach of international law I mean that the leading principle of international law is that of state sovereignty. In principle no breach of the state sovereignty is

allowed. The Responsibility to Protect norm, however, allows breaching state sovereignty rights by the international community when gross human rights violations are taking place and the state government is not capable of dealing with the situation or is the aggressor itself. The UN Security Council can decide to military intervene within another state which breached sovereignty rights of that states, but the breach is excused because of the necessity behind the intervention. This does not mean that the intervened state losses its state sovereignty right, because this right stays preserved. International law entails that state sovereignty must be respected by the international community and could only be breached by a UN Security Council Mandate or in the case of self-defense. The Responsibility to Protect-norm is not (yet) a legal binding doctrine, but it is a political norm accepted by the majority of the international community and already accepted as an excuse for intervention by NATO in the case of Kosovo (Bellamy, 2011: 160-165).

The main purpose of the Responsibility to Protect-norm is to make sure that the international community does act when a pressing situation of human rights violation occur. The Responsibility to Protect-norm provides a framework for taking effective actions in order to prevent human rights from being violated. The norm is executed in practice by using measures that already exist, like economic or diplomatic sanctions or Chapter VII UN Charter powers. However, the Responsibility to Protect-norm still states that for military intervention the United Nations Security Council and the General Assembly have the authorization to decide whether or not to intervene (ICISS, 2001). Former UN Secretary General Kofi Annan asked the question: “When does the international community intervene for the sake of protecting populations” (Anan, 1999)? So in other words, when can state sovereignty be neglected for a greater moral good of protecting human rights? Also, the Responsibility to Protect norm does not only expect the international community to prevent human rights violations or address them when they occur in practice, but also that after intervention the intervened state receives enough help to destabilize again (Bellamy, 2011: 189-190).

The Canadian government organized the International Commission on Intervention and State Sovereignty (ICISS, 2001) in September 2000. The Commission was established in response to a question that former UN Secretary-General Kofi Annan posed on when the international community must and can intervene for humanitarian purposes (ICISS, 2001). The Responsibility to Protect-norm was officially released in the ICISS report coming out in December 2001. The Responsibility to protect-norm does not give the right to other states or

organizations to intervene in any case when they feel fit, but focuses on the responsibility of all states to protect people from atrocious crimes against humanity. So, intervention is not a right, but a necessity in those cases. Also, the Responsibility to Protect-norm was developed to make clear that state sovereignty is not a license to act as one pleases in one's own border. Carrying out atrocious human right violations will not be tolerated in any case by the international community is the main message. Sovereignty should be seen as an obligation towards those in one's borders to protect them (A/63/677). It was the former UN Secretary-General Kofi Annan who stated that *"sovereignty of a state does not have to be respected when the violating state does not keep its promise to its citizens; who gave the government its legitimacy in the first place"* (Kofi Annan, 1999).

In December 2004, the High-level Panel released its report, 'A More Secure World: Our Shared Responsibility' (UN High-level Panel, 2004). The report consisted of 101 recommendations in order to strengthen international security and support of the Responsibility to Protect-norm in order to protect populations from atrocities. The Panel claims that: *"The concepts of collective responses and shared responsibility are at the heart of the report, which recognized that a system of genuine collective security will require addressing the security needs of all states"* (ICRtoP, 2004). Afterwards, the UN Secretary-General published his own report entitled 'In Larger Freedom: Towards Development, Security and Human Rights for All' (GA/10334/2005). The UN Secretary-General, just like the High-level Panel, 'emphasized the need of regional organizations to take actions against threats of massive human rights violations and other large scale acts of violence against civilians' (GA/10334/2005). The UN Secretary-General called on governments and regional organizations to support the Responsibility to Protect-norm by stating: *"While it is first and foremost the individual governments responsibility to protect its population, the responsibility shifts to the international community when the state is unable or unwilling to protect their citizens"* (GA/10334/2005). The UN could not stay behind and acknowledged the Responsibility to Protect-norm itself at the 2005 World Summit in paragraphs 138 and 139 (A/RES/60/1). Paragraphs 138 and 139 of the UN's 2005 World Summit Outcome Document explicitly limit the application of the Responsibility to Protect-norm to four types of mass atrocities: genocide, ethnic cleansing, war crimes and crimes against humanity. These four types of atrocities are being supported by other legal documents of the International Criminal Court and those related to the specific individual crimes which give the Responsibility to

Protect-norm a kind of legal basis (A/RES/63/308). The reason for attributing a limited number of cases to the Responsibility to Protect-norm is to avoid abuse of the norm and clarity on when to undertake action and when not.

Since the 2005 World Summit, the Security Council's unanimously adopted Resolution 1674 (S/RES/1674) on the Protection of Civilians in Armed Conflict, which made the first official Security Council reference to the Responsibility to Protect-norm. It made clear that the Security Council acknowledged the importance of the norm and wanted to incorporate it into its decision making procedure. But, a reference to Responsibility to Protect-norm was not accepted by all major states, like China and Russia, who stalled negotiations to make the Responsibility to Protect-norm a legal binding norm. The reason to stall negotiations by Russia and China was self-interested, because they were afraid that other states would intervene on their territory.

The norm was also formalized by the UN Secretary-General Ban Ki-moon in January 2009 in his report 'Implementing the Responsibility to Protect' which addressed the three principles of the Responsibility to protect-norm earlier mentioned (A/63/677). Ban Ki-Moon states: "The report proposes a terminological framework for understanding the Responsibility to Protect and outlines measures and actors involved in implementing the three-pillar approach, first outlined in the Secretary General's July 2008 Berlin Speech". The 2009 Report of the UN Secretary General (A/64/864) assessing the Responsibility to Protect-norm as a response to the Resolution 308 by the General Assembly (A/RES/63/308) made an effort to continue the development of the Responsibility to Protect-norm. The Report states: "A strong majority of States reaffirmed support for the emerging Responsibility to Protect-norm, welcomed the report of my Secretariat and called for continued discussions on in Responsibility to Protect-norm within the UN General Assembly" (A/64/864).

Legality of the Responsibility to Protect-norm

The legality of the Responsibility to Protect-norm is a sensitive issue. Today, the Responsibility to Protect-norm is only a political non-binding norm and not legally binding under international law. The exercise of the Responsibility to Protect-norm depends on the goodwill of the international community, regional organizations and individual member states. But, the failure to adequately respond to the most atrocious crimes against human

rights lead to a special and important commitment to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity by world leaders at the United Nations 2005 World Summit. The international community was convinced that it no longer could ignore the changing conditions of wars and crimes against humanity (ICRtoP, 2009).

There is still much opposition against the Responsibility to Protect-norm. The opposition is convinced that humanitarian intervention should remain illegal, because of the principle of state sovereignty. As claimed in the previous paragraph, it is stated by the World Summit, General Assembly, the Security Council and the UN Secretariat that state sovereignty must be respected. However, states can only claim to have an un-breached sovereignty right when they respect and protect the human rights of their civilians within the boundaries of their state. When the state fails to do so, then its sovereignty can be temporarily breached until the situation has changed. The international community has a duty to protect and support other states in maintaining their commitment to their civilians and otherwise engage in the situation to change it for the better (Kuperman, 2009). However, neither the 2001 Report nor the 2005 Resolution on the Responsibility to Protect are legally binding documents. The Responsibility to Protect-norm is strictly speaking a political agreement and not yet a legal binding norm.

In the literature there are six criteria mentioned to justify the use of the Responsibility to Protect-norm. When the following six criteria are fulfilled; intervention on the basis of the Responsibility to Protect-norm is justified and accepted by the international community. These six criteria are formulated by the Report of the International Commission for Intervention and State Sovereignty (ICISS) in 2001. The six criteria are the following: Just cause, right intention, final resort, legitimate authority, proportional means and reasonable prospects for success (Chesterman, 2001: 133-136).

Although the norm of Responsibility to Protect was officially accepted by the international community it did receive some criticism in the literature. Points of criticism are focused on state sovereignty, the anxiety of imperialistic oppression of western values on the rest of the world, the anxiety for extension of the number of military interventions and the dependence on the political will of states (Chesterman, 2001: 133-136). Respecting state sovereignty is one of the most important principles of the international community. It is protected in article 2 (4) of the UN Charter. There is a lot of discussion going on what should

be given priority: Sovereignty rights or human rights. The Responsibility to Protect-norm gives priority to human rights. The Responsibility to Protect- norm contradicts the Westphalia norm of sovereignty by claiming that sovereignty is not absolute and binding, but a privilege that states earn when they protect their civilians. The ICISS stated: “The Responsibility to Protect-norm has come to be seen as a mechanism that can bolster the capacity of weak states to fulfill their sovereign responsibilities to their own citizens, and how new international obligations imposed upon states have made significant inroads into the old concept of sovereignty as territorial integrity and freedom from external interventions” (ICRtoP, 2009). A point of critic that I want to mention here is the fact that we have such a norm in which the international community can act when gross human rights violations occur, but in practice we barely apply the Responsibility to Protect norm to a certain case.

Chapter 3: The Kosovo Case- action on the basis of an international Responsibility to Protect

3.1. Introduction

One of the most interesting cases for the establishment of the Responsibility to Protect norm is the humanitarian intervention in Kosovo. The Kosovo conflict is about the will of the Kosovo Albanians to establish an independent state free from the Federate Republic of Yugoslavia (FRY). Serbia, however, was not willing to let Kosovo separate from the Federate Republic of Yugoslavia. The situation became very violent at the end of the 1990s after which NATO could not ignore the situation and had to intervene to prevent a humanitarian crisis (Welsh, 2004: 110-111). This summarizes the Kosovo case in just a couple of sentences, but the true reasoning behind the conflict is much more complicated of course as was the situation around the intervention by the international community. The main question posed in this chapter is which factors lead up to the Kosovo conflict in which the international community felt it had a responsibility to protect the civilians targeted? Why is the Kosovo conflict of importance for the establishment of the Responsibility to Protect norm?

3.2. Background to the Kosovo conflict

First the historical reasons behind the conflict in Kosovo. Both Serbs and Albanians claim to have a historical right to the territory. The earliest known inhabitants of Kosovo were the Illyrians which are the ancestors of the Albanians (Malcolm, 1998: 340). However, the Serbians claim that they lived first in the territory of Kosovo dating back to the sixth century. The Albanians appeared in the area by the early Middle Ages as nomadic shepherds. By the 12th century almost all Kosovo region was in Serbian hands and Kosovo was their administrative and cultural center (Vickers, 1998: 18-21). However in 1389, in the Battle of Kosovo Polje, the Serbs were defeated by the Ottoman Turks. Kosovo became part of the Ottoman Empire. Afterwards Serbs left Kosovo in large numbers. As a result, Kosovo was resettled by Albanians. The Serbs took over Kosovo control again by 1912 (Malcolm, 1998: 332). At the Conference of Ambassadors in London in 1912 Serbia was given sovereignty

over Kosovo which remained until the end of the Kosovo crisis. Within Kosovo there was much anti-Serbian sentiment since the population was still mostly Albanian. By 1912 around 64 percent of the population of Kosovo was Albanian (Vickers, 1998:32-33). During the Second World War nearly 100.000 Albanians moved into Kosovo territory. In 1940 the Communist Party of Yugoslavia had accepted in writing an autonomous "Peasant Republic of Kosovo", but the promise was not kept. After the war, thousands of Serbs were prohibited from returning to Kosovo, and thousands of Albanians immigrated into Kosovo (Malcolm, 1998: 332).

In 1967 Tito changed his policy in favor of Kosovo. Tito gave more concessions to the Albanian population related to Albanian nationalism, languages, education and other cultural issues. Because of immigration of Albanians, emigration of Serbs and a very high Albanian birthrate between 1961-1971 Albanian population increased from 67 percent to 77 percent of the Kosovo population (Malcolm, 1998: 334). These developments continued and intensified. The 1974 constitution made Kosovo an Autonomous province within the Federation and gave it an equal status as the other territories within the Federation of Yugoslavia (Malcolm, 1998: 335). Tito died on May 4, 1980 after which tension led up again. The extremist part of the Kosovo Albanians desired an ethnically clean Kosovo and intimidated the Kosovo Serbs. Kosovo Serbs protested by the Serbian government about their status in Kosovo. By 1987 the Serbian government proposed to end Kosovo's autonomy. Officially Serbia could not achieve this because Kosovo was under Federal rule and not Serbian. By the beginning of the 1990s Kosovo Albanians made up ninety percent of the Kosovo population (Malcolm, 1998: 341).

Slobodan Milosevic came to power as president of Serbia in late 1987. The process to abolish Kosovo autonomy began in March 1989 when Serbia gained direct control over Kosovo. Serbia wanted peaceful co-existence in Kosovo and adopted the "Program for Achieving Peace, Freedom and Equality in Kosovo (1990)" (Jansen, 1999). Kosovo Albanians, however, did not accept Serbia authority. In 1990, Kosovo Albanians proclaimed the Sovereign Republic of Kosovo. Serbia then officially dissolved Kosovo's government, took executive control and dissolved Kosovo autonomy (Malcolm, 1998: 349-355). The emergency measures imposed by Serbia resulted in a de-Albanianization of cultural and educational institutions in Kosovo with a consequent re-Serbianization occurring (Jansen, 1999). In response Albanian Kosovars adopted a constitution for their Republic of Kosovo.

The League for a Democratic Kosovo (LDK) developed quickly into 700.000 members. In September of 1991 the un-recognized Republic of Kosovo approved a resolution proclaiming the independence and sovereignty of Kosovo. In the summer of 1992 Albanians and Serbs in Kosovo lived almost in complete isolation of each other (Malcolm, 1998: 348).

The Albanian Kosovars were bitterly disappointed by the Dayton Accord following the recent Bosnia War (1992-1995). The Dayton Accord failed to recognize their claim for independence, according to the Kosovo Albanian Kosovars. The Dayton Accord stated that no additional changes in borders within Yugoslavia would be recognized (Jansen, 1999). First the opposition by the Kosovo Albanians was passive under the leadership of Ibrahim Rugova. After the Dayton Accord it became mainly violent. The National Movement for the Liberation of Kosovo and the Kosovo Liberation Army (KLA) entered into a violent campaign to radicalize the situation. Serbia acted brutally to stop the insurgence by the KLA. This made the Kosovo Albanians support the KLA even more (Jansen, 1999). Both sides committed horrible human rights violations, only the crimes committed by Serbia were by government groups and the Kosovo Albanians by a small rebel underground group (Jansen, 1999).

3.3. International community involvement

To stop the tensions between Serbs and Albanians Martti Ahtisaari, chairman at the peace conference in Rambouillet, France (January 1999) warned that NATO was ready to use military force to enforce a peace settlement (Jansen, 1999). Present were the Western allies, Yugoslavia and representatives of the major Albanian Kosovar groups demanding for independence. At the conference, a two-week deadline was issued to accept the peace proposal. Consequence would be, by not complying before the deadline passed, that airstrikes would be carried out by NATO. The settlement of the peace proposal consisted of the demand on Yugoslavia to withdraw its forces from Kosovo, the KLA to lay down their arms and that NATO peace-keeping troops were allowed on the ground to enforce the agreement (Report crisis group 206, 2010: i). A three year waiting period was instigated to settle the political future of Kosovo. The Kosovo Albanians signed the agreement, but the Serbs were not willing to accept Kosovo independence. Serbia also was not willing to give up many aspects of its national sovereignty. By February 1999 tension kept rising and a war between the Kosovo Albanians and Serbia seemed to be unavoidable. Both sides committed horrible crimes and fought the war making a lot of innocent casualties. I think it is remarkable that the

international community put the blame for the violence in Kosovo on Milosevic. The international community imposed several demands on Serbia which it did not comply with. However it was the KLA, who sensed that NATO was on its side and intensified its military efforts (Jansen, 1999). This led to Serbs also intensifying their military campaign.

The UN Security Council only responded to the escalation of the violence in 1999 by imposing a weapons embargo and economic and diplomatic sanctions on the Federal Republic of Yugoslavia. NATO, on the contrary, judged UN actions not adequate enough and threatened Belgrade with air strikes. NATO interpreted UN Security Council Resolution 1199 of 23 September 1998 as a legitimization for the use of force against the Federal Republic of Yugoslavia because the UN called for a complete access for humanitarian organizations (S/RES/1199 of 23 September 1998). After an ultimatum issued by NATO, Yugoslav President Slobodan Milosevic and US special envoy Richard Holbrooke agreed in October 1998 on a partial withdrawal of the Serbian military forces, but the stop of violence was only for short time and in March 1999 NATO started an air campaign against the Federal Republic of Yugoslavia (Jansen, 1999).

The NATO bombing campaign was aimed to force the Serbian side to accept the Rambouillet agreement and prevent a humanitarian crisis. NATO expected that it would take only a few days to bring the Belgrade government to surrender, but instead the military operation took eleven weeks before the war ended (Charney, 1999: 836-839). The intervention took so much time and effort, because Serbian military reacted with extreme violence against the Albanian civilian population. In June 1999, representatives of the Yugoslav military and NATO came up with a military-technical agreement on the withdrawal of Yugoslav troops from Kosovo, which ended the war. "On the basis of Resolution 1244 of 10 June 1999 and the report of the Secretary General of 12 June (S/1999/672), the NATO-led Kosovo Force (KFOR) established its presence in Kosovo.

3.4. A responsibility to protect for the international community?

NATO conducted military intervention in Kosovo without approval of the UN Security Council. The Kosovo case raised a difficult situation for the international community. The international community had to choose between human rights protection and respecting sovereignty rights. It became clear that economic sanctions and diplomatic pressure was not enough in the case of Kosovo. In certain cases military intervention is necessary to prevent

(more) atrocities to take place. However, the UN could not give its consent to military intervention in Kosovo because of the veto rights of China and Russia. The UN did not have a back-up plan when the Rambouillet talks would fail (Thakur, 1999).

The NATO Treaty acknowledges that the "Military intervention is the primary responsibility of the Security Council for the maintenance of international peace and security" (Malmvig, 2006). But, NATO felt the moral need to stop a humanitarian catastrophe in Kosovo and support international efforts to secure a peaceful settlement (Vickers, 1998). The UN Security Council could not forcefully take action, because of the objections by Russia and China to humanitarian intervention in Kosovo. NATO unilaterally decided to intervene. "The choice of NATO to intervene was clearly a European response to a European problem and according to NATO it was not precedent for action outside Europe" (Charney, 1999: 836-840). NATO was convinced that the human rights situation and the threat for Europe by spreading violence and refugee spoil-over would legitimize their decision to intervene. Gray formulated it as "these tensions could lead to crises inimical to European stability and even to armed conflicts which could involve outside powers or spill over into NATO countries, having a direct effect on the security of the Alliance" (Gray, 2008: 39-40). NATO did not want to set a precedent or make military intervention a regular form of action, but felt the moral need to intervene in the Kosovo case (Charney, 1999: 836).

NATO states could point to numerous arguments to support their view of the legitimacy of the humanitarian intervention in Kosovo. The Federal Republic of Yugoslavia (FRY) refused to comply with the Security Council resolution 1199 based on Chapter VII of the UN Charter which intended the Federal Republic of Yugoslavia to halt hostilities, and take immediate steps to prevent a humanitarian catastrophe (S/RES/1199 of 23 September 1998). There was also a report of Kofi Annan warning for a humanitarian crisis in Kosovo. The Federal Republic of Yugoslavia also rejected to comply with the commitments in Resolution 1203, to comply with previous agreements made at the peace conference in Rambouillet, France (S/RES/1203 of 24 October 1998). The Federal Republic of Yugoslavia continued in repressive action against the civilian population and NATO saw the situation in Kosovo as a serious threat to peace and security in the region. NATO governments concluded in general that military action was justified even if it was not technically authorized (Stromseth, 234-235). Still, the last resolution before the intervention, Resolution 1203 of 24 October 1998, specifically "affirms that, in the event of an emergency, action may be needed to ensure their

safety and freedom of movement”. It makes no mention of humanitarian intervention and concludes by stating that the Security Council remains “seized of the matter” (S/RES/1203 of 24 October 1998).

NATO bombing was intended to positively improve the situation in Kosovo for the civilians. Consequences of the air strikes by NATO were not all positive. Instead of backing down the Serbs stepped up their war effort with the KLA and close to a million Albanian Kosovars were driven out of Kosovo. Also, the air strikes did cause innocent civilians to be killed. Both sides were deadlocked in their fighting. Both sides had to compromise and they did in order to stop the fighting. As of June 5, 1999 Serbia and NATO signed a peace agreement. NATO achieved that “Serbia agreed to "substantial" autonomy for Kosovo, withdrawal of all Serb military, police and paramilitary forces, a return of all the refugees, and an international armed security presence in Kosovo” (Akin, 2010). Serbia achieved that its territorial integrity would be respected and that Kosovo remains within the sovereignty rights of Yugoslavia (Akin, 2010).

Now, what is the extended value of a responsibility to protect for the international community in cases like those of Kosovo? Those in favor of the intervention have argued that the intervention brought the ethnic cleansing of Kosovo's Albanians to an end. The bombing campaign speeded up the downfall of Slobodan Milošević's government (Akin, 2010). Those in favor of the military intervention see Milošević as responsible for the gross human rights violations and many more war crimes committed. Those opposed to the intervention saw the intervention as being controversial. For instance, Noam Chomsky “condemned NATO's military campaign in Yugoslavia, particularly its aerial bombing which included the bombing of civilian populated territory and resources. The bombing did not create durable solutions with regard to a full respect of the rights of the people living in the territory”(Akin, 2010). Those in favor of the intervention accepted that “Sometimes principle of territorial integrity has to yield in order to defend a set of values enshrined in human rights law” (Akin, 2010). The Independent International Commission on Kosovo concluded in its report that “the NATO intervention in Kosovo was not legal but legitimate. It was illegal because it did not meet with procedural rules provided by the UN Charter and that the intervention was legitimate because prior to its occurrence all necessary diplomatic means were utilized” (Thakur, 2011). Critics, however, state: “The NATO cure greatly worsened the Milosevic disease” (Thakur, 2011). By the end of 1999, a quarter of a million refugees from Kosovo

were accounted for. The people in favor of the intervention by NATO on the basis of a moral need of a responsibility to protect base their believe on intervention back to the cardinal lesson of Srebrenica, during the Bosnia crisis. The lesson learned in Bosnia is that “a deliberate and systematic attempt to terrorize, expel or murder an entire people must be met decisively with all necessary means, and with the political will to carry the policy through to its logical conclusion” (Thakur, 2011).

In general NATO’s actions in Kosovo were internationally accepted. Former UN Secretary-General Kofi Annan was critical on the intervention, and on the indecision by the United Nations to not-intervene. A Resolution proposed by Russia condemning the bombing was defeated in the Security Council 12-3, with only Russia, China, and Namibia voting in favor (Thakur, 2011). The majority of the international community was convinced that NATO was right to intervene and that the international community has got a responsibility to protect its world citizens (Akin, 2010). The international community agreed in majority that the intervention by NATO was largely successful in achieving its aims of getting the Albanian refugees back home, and restoring a degree of political stability to the region (Akin, 2010). Russia and China criticized the way NATO undertook its intervention by air campaigns which made a lot of innocent victims as well, only not targeting Serbs, but Albanians. Russia and China had the opinion that NATO tried to protect Kosovo Albanians against Milošević, but completely ignored the human rights and position of Kosovo Serbs (Thakur, 2011).

Another consequence of the feeling of having a moral responsibility to protect is that the UN and NATO felt that they had an obligation to help stabilize the political, economic and social situation in Kosovo (Thakur, 2011). The United Nations Security Council resolution 1244, adopted on 10 June 1999, authorized an international civil and military presence in Kosovo and established the United Nations Interim Administration Mission in Kosovo (UNMIK). Resolution 1244 was adopted by 14 votes to none against. China abstained because it had the opinion that the conflict should be settled by the government and its people and opposed external intervention. China did not veto the resolution because Serbia accepted the peace proposal, the Kemerovo Treaty, of which an interim administration was agreed on. The main responsibilities of UNMIK were the promotion of autonomy for Kosovo, performing and developing civilian administrative functions, maintaining law and order, protecting human rights and ensuring the safe return of refugees. A peaceful situation in

Kosovo had to be maintained by NATO-led peacekeeping force in Kosovo: the Kosovo Force, KFOR (Report crisis group 206, 2010: i).

3.5. Conclusion

In my opinion NATO intervention was a miscalculation by the NATO member states. NATO expected a quick and speedy involvement, but was left with a rising conflict and long-term commitment in Kosovo territory. NATO did not expect around a quarter of a million refugees and even more brutal human rights violations committed by the Serbs. I agree that the international community has a moral responsibility to protect its world citizens against gross human rights violations even when there is no legal basis for it. I do not agree with the air strikes, because the result was even more innocent civilians being killed. The agreement to end the conflict was the best thing both sides could do in light of a responsibility to protect. Positive side to the intervention was that atrocities finally had halted under supervision of a peace force in Kosovo and that the tensions between Serbs and Albanians in Kosovo was decreasing slowly. Downfall to the intervention on the feeling of a moral responsibility to Protect is the long-term involvement of international forces in another states sovereignty, the numerous casualties lost by the airstrikes, disregard of the UN Security Council powers and the more tensed relationship between the US and Russia/China on the issue of humanitarian intervention (Buchanon, 2003:131). In my opinion the Kosovo case must be set forward as a precedent. When the UN Security Council is deadlocked on intervention when pressing human rights violations are taking place a regional organization or an united front of states must intervene to stop violations. The Kosovo case must not be set forward as a precedent for the way it intervened. Air strikes only cause more innocent civilians and still gives the opposition room to commit human rights violations on the ground. Air strike must be combined with ground troops in order to actively stop the violations from taking place (Malmvig, 2006). The idea of a responsibility to protect is a welcome attribute to humanitarian intervention, but the flaws of such a norm must be worked out before put into practice.

Chapter 4: The Chechnya Case

- a missing responsibility to protect -

4.1. Introduction to the Chechnya case

The Chechnya Republic or better known as just Chechnya is an autonomous republic of the Russian Federation. The opposition in Chechnya fights for complete independence from the Russian Federation and calls its state Itsjkerie (Hughes, 2007). Chechnya consisted in the nineties of the twentieth century out of 93,5 percent Chechen population and 3,7 percent Russians (Tiskov, 2004). The rest were small ethnic minorities. Remarkable is that throughout history except right before the outbreak of the second Chechnya War on August 26, 1999 all religious backgrounds lived peacefully coincided (Tiskov, 2004). This is largely to thank to the fact of having a common enemy: Russia. The fall of communism and the Soviet Republic lead to a search to a common collective identity which decreased the tolerability towards other religious groups. The Islamic factor has caused a sharper division between the Chechnya people and the Russians (Tiskov, 2004). The Northern Caucasus has known a lot of different conquerors throughout history. The importance of the area was because of the strategic territorial location between Europe and Asia which made it very attractive as strategic place for profitable trade. A second reason for the popularity of the area is its prosperity of different natural resources. The area has great economic potential. This is also the main reason for the former Soviet Union not to give up the territory together with protecting the unity of Russian territory (Brown, 2010).

It is remarkable in the case of Chechnya that while gross human rights violations are taking place by both Russia and the Chechen rebels the international community does nothing to stop atrocities from happening. Other states do stress the need to stop the violence, but nothing shows they condemn the role of Russia in this conflict. The Chechnya case is, like the Kosovo case, before the establishment of the Responsibility to Protect norm. While in the Kosovo case NATO issued a responsibility to protect human rights and intervened, nothing of the sort was mentioned in the Chechnya case. Both cases occur in the same time period, both cases deal with states who claim to have historical rights to the territory and in both cases

gross human rights violations were taking place by both sides. The only real difference is that Russia is involved in the case of Chechnya. In this chapter I will have a deeper look into the Chechnya conflict, the role of Russia on the in-action of the international community. Finally, why was there not a moral responsibility to protect human rights in the case of Chechnya? Does ignoring this responsibility to protect human rights have any consequences on the establishment of the Responsibility to Protect norm by the international community in 2005?

4.2. Background to the conflict of Chechnya

One of the most important events in history for Chechnya was the arrival of the Russians in the 16th century. From then onwards the relationships and conflicts between Russian leaders and the Chechen is of great importance to the struggles in the twentieth century (Hughes, 2007). The history between Chechnya and Russia started with the realm of the Russian Tsar Ivan the horrible (1556) in which a first tempt to conquer the Caucasus was undertaken. But, it was only until Peter the Great in the beginning of the 18th century that the Russian empire and Chechnya became opposite sides in a struggle for the territory (Hughes, 2007).

In the twentieth century the rebellion in the Northern Caucasus against Russian ruling started again. During the Russian Civil War the Chechen supported the Bolsheviks in their strife with the hope that this would lead to Chechen independence. Result was that they got a form of autonomy on paper, but in reality it was nothing more than just a formality. In 1924 under Stalin Chechen rural area was collectivized. The Second World War gave hope for the Chechen, because the Germans promised them a form of autonomy and respect of Chechen religion, language and culture when they defeated Russia. When Soviet troops started to win from the Germans, Stalin ordered revenge on the Chechen for helping the enemy. The Chechen were deported to Central-Asia in February 1944. Chechnya was wiped of the map and completely integrated as being Russian (Thiskov, 2004). When Stalin died in 1953 his successors did not grant independence or rights to the Chechen. Stalin's successors, however, did allow Chechen to return to what previous was Chechen territory. By 1957 more than 200.000 Chechnya people arrived in former Chechen territory which was occupied by Russian immigrants (Thiskov, 2004). The Chechen were seen as secondary citizens and were often discriminated on. The Chechen people did not accept their situation and undertook violent actions against the immigrants who took over their land (Hughes, 2007).

A second reason for the Chechen opposition to live up again is the power struggle in the Kremlin after the breakup of the Former Soviet Union in 1991 which left a power vacuum. Former Chechen General Doedajev saw his chance fit to call out 'The independent state of Chechnya' under leadership of the Chechen National Congress (CNC) in 1991 (Thiskov, 2004). The Kremlin tried to get Doedajev out of power by naming a pro-Russian government for Chechnya under supervision of Avtoerchanov which failed (Hughes, 2007). Yeltsin, the new Russian leader felt he had no other chance than intervening Chechen territory and bomb Grozny on December 11, 1994 (Hughes, 2007). In the first six months it looked like Russia was on the winning hand, but in reality Russian army was not ready for such a large scale operation and decides to negotiate with the Chechen rebels (Hughes, 2007). Doedajev was murdered and Yeltsin negotiated with his successor Jandarbiev after the loss of Grozny by Russia which led to the Khasavyurt- peace agreements in April 1996. This officially ended the first Chechen War. This does not mean that Russia accepted Chechen independence which in practice it was (Hughes, 2007).

In January 1997 Chechnya held its first free elections as an independent state. Maschadov got the majority of the votes. He was an old soviet Colonel who had lead the Khasavyurt- peace negotiations in 1996. Maschadov was a man with a moderate political view who wanted to keep the dialogue with the Kremlin open (Thiskov, 2004). War must be avoided, because the people want peace. Downside of the election of Maschadov was that he was not Islamic and the a major part of the Chechen politicians wanted to create a Islamic state (Hughes, 2007). Vice-president Basajev laid down his function and joined the Radicals as opposition against Maschadov's government from the Islamic corner. Rebels in favor of a Islamic state attacked neighbor state Dagestan in August 1999 in order to put pressure on the Chechen government and spite Russian reaction(Shah, 2004). Problematic of this event was that Russian troops for the second time invaded Chechnya on October 1, 1999 and the second Chechnya War was a fact (Hughes, 2007). Russians suspected Chechen government to be behind the attacks on Dagestan and the interest of Russia (Shah, 2004). Within a short time frame the Russians owned 80 percent of Chechen territory under prime-minister: Vladimir Putin.

Putin got elected as new president of the Russian Federation in 2000 and named Achmat Kadyrov as new leader of the semi-republic of Russia: Chechnya. Kadyrov was not really pro-Russian, but was seen by the Chechen people as collaborator with the Kremlin

(Hughes, 2007). Russia tried to stabilize Chechnya by investing money in the semi-republic to develop it. This effort did not succeed because of corruption. Chechen economy deteriorated further (Hughes, 2007). In May 2004 the rebels succeeded in murdering Chechen president Kadyrov through a bomb attack during a parade in Grozny. Russia named the pro-Russian Aloe Alchanov as his successor at the next elections. The Chechen people claim there was election fraud committed and opposed the election of Alchanov (Hughes, 2007). The tensions between Russia and Chechen rebels rose up again.

Both Chechen Wars are known for their violent background. A numerous amount of human rights violations have occurred during both wars. During the first war the rebels and the Russian troops fought in civilian occupied territory in which a lot of innocent civilians lost their lives. The second Chechen War was even more brutal because of the bomb attacks and the specific targeting of civilian casualties. The Russian army used excessive amount of violence. More than 100.000 Chechen people fled Chechnya. An estimate is that in both wars 100.000 civilians, military and rebellions were killed (Tiskov, 2004). The Russians engaged in the war, because they tried to prohibit Chechnya from becoming independent. Further, Russia tried to protect economic interests and protect the Russian civilians living in the territory of Chechnya. The Chechen Wars also have a strategic importance in preventing a domino effect in the region. Other parts of the Russian federation like Dagestan and Ossetia would follow the example of Chechnya when it would become independent (Hughes, 2007). The Chechen, however, wanted independence over Chechen territory and improve their financial position (Hughes, 2007). It is clear that both Russia and the Chechens have opposite interests at stake.

4.3. International community (dis)involvement in the Chechnya crisis- a responsibility to neglect?

From the first Chechen War onward different human rights organizations have warned the international community about the ongoing atrocities committed in Chechnya by both the rebellions and the Russian army. Further, human rights activists and journalist tried to gather prove for the atrocities, but it was very dangerous and hard for them to collect this evidence. Several human rights activists and journalists have been murdered because of their investigation or where just collateral damage (Tiskov, 2004).

The international community did not receive much information about the Russia-Chechen conflict, because the rigid control on media coverage and prohibition of human rights observers in the area. That the information spread was scarce does not give the international community a free pass of ignoring the gross human rights violations taking place in Chechnya. The reasons why the international community did not react to the situation in Chechnya were due self-interested motivations. First, the economic benefits were very important for the decision not to intervene. Chechnya is very important to Russia for its natural resources. The oil- and gas winning is an important revenue for Russia and a lot of states are dependent on Russia for their oil and gas produces (Hilsum, 2004). The international community was afraid that by criticizing or even intervening in Chechnya would amount to Russia stopping the sale of oil and gas. On the other hand, western states were to benefit from Chechen independence. An independent Chechnya would put Russia out of the oil and gas control in the territory which would establish cheaper oil and gas winning by the western states (Hilsum, 2004). A second reason for the international community not to intervene in the crisis was Russia's claim of fighting a war against terrorism. Especially the US saw an important alliance with Russia in the fight against terrorism (Hilsum, 2004). Third, as Hilsum summarizes it perfectly: "The international community has instead chosen the path of self-deception, choosing to believe Russia's claims that the situation in Chechnya is stabilizing, and so be spared of making tough decisions about what actions are necessary to stop flagrant abuses and secure the well-being of the people of the region. All the international community could muster were well-intended statements of concern that were never reinforced with political, diplomatic, financial or other consequences. Chechnya was placed on the agenda of the U.N. Commission on Human Rights, the highest human rights body within the U.N. system, but even there a resolution on Chechnya failed to pass" (Hilsum, 2004). Other states did not dare to intervene because of Russia being a powerful nation. The U.S. and European governments have broad political and economic agendas with Russia and were hesitant to risk a good relationship. Fourth reason is that Russia is a permanent member of the United Nations Security Council, Russia was able to shield Chechnya from serious U.N. actions. Russia would have vetoed all Security Council Resolutions anyway. This leaves the question open why did states not take actions on bilateral or regional level? In my opinion this had to do with Russia being a powerful state. Consequence of not being held responsible for the gross human rights violations is that Russia learned an important lesson about the limits of the international community's political will in

pursuing human rights when a powerful state is involved (Hughes, 2007). In dealing with Chechnya today, governments and multilateral institutions stress the need for a political solution to end the conflict, rather than pressing for an immediate end to human rights abuses, let alone holding Russia account for them (Shah, 2004).

The only form of criticism that Russia got was from the Organization for Security and Co-operation in Europe (OSCE), the UN Human rights Commission and later on the EU. The OSCE tried to put an end to the conflict, but Russia revoked their right mandate to work in Chechnya. So, the OSCE could not much than suspending Russia's voting rights and keep dialogue open. In late 1999, the EU took the measure to freeze certain technical assistance programs with Russia, but never thought about intervening. The OSCE and EU were not prepared to follow through on the consequences that recognizing the massacres as war crimes would entail (Shah, 2004). In 2000 and 2001 the U.N. Human Rights Commission adopted resolutions condemning human rights abuses in Chechnya, but did not follow up on them (Shah, 2004).

4.4. A Comparison with the Kosovo-case

Russia was one of the biggest opponents against a humanitarian intervention mission in Kosovo. Russia even wanted the UN to officially disapprove NATO's intervention in Kosovo and accused NATO of not abiding human rights. However, Russia is violating human rights itself in the Chechen case. NATO told its populations that it bombed Serbia on humanitarian grounds. Russia did the same regarding Chechnya (shah, 2004). Different lessons can be learned from Kosovo according to Russia. Russia argued that NATO's attack on Serbia suddenly removed a Russian taboo against the use of military force in Chechnya. Russia used Kosovo to sweet-talk its actions. Russia stated: "The end justifies the means. The use of force is the most efficient problem solver, if applied decisively and massively" (Thakur, 1999).

In my opinion the cases between Kosovo concur with each other that they both occur in Eastern-Europe and have a similar history. Also, both cases are happening in the same time period. And, in both cases horrible human rights violations have taken place by the government against a rebel group in society fighting for independence. The Kosovo and Chechnya cases differ on important points which explains international state involvement or the lack of it. In the case of Chechnya a powerful Russia was involved and in Kosovo no

powerful nation was involved. From a political and economic position western states had much more to lose in a confrontation with Russia than with Serbia. In the case of Chechnya Russia could prevent the decision to take international measures by the Security Council, because it was a permanent member. Serbia did not have this kind of influence. During the Chechnya conflict the US was also fighting a war against terrorism and needed Russia to support its causes, this is a reason why the US did not want NATO to get involved. NATO ruled itself out of intervention because it was convinced it did not have the resources to oppose Russia (Shah, 2004).

4.5. Conclusion

The armed conflict in Chechnya, has known horrible crimes against the civilian population. It is remarkable that the response by the international community to it has been hesitant and self-interested. The international community has a moral and political obligation to protect fundamental rights of people in and around Chechnya according human rights statutes and that of the UN Statute. In my opinion humanitarian intervention in Chechnya was an imminent necessity. The scale of the civilian damage created by the attacks of the Russian army and the lack of justification for attacking the goals targeted created a humanitarian imperative. It was clear that the UN Security Council would never agree on an intervention in Chechnya, but NATO could have acted accordingly. Russia is not a party to NATO. NATO should have got involved, as it did in Kosovo, to create safe havens within the territory in order to prevent casualties and provide for food aid. We cannot ignore the gross human rights violations just because it involves a super power state. There is a moral obligation to intervene in all conflicts where gross human rights violations occur. It must not matter whether it concerns a minor powerful state as Serbia or a powerful state as Russia. In my opinion it is all about power politics. NATO states, however, have important selfish interests to keep the relationship with Russia good. These reasons are of political, economic or security nature. Even then powerful states themselves should give the right example. By naming human rights protection one of the main obligations of the international community and not act on this is hypocritical. It is important that the international community proves that it is not biased against minor states. I am convinced that Putin can use international intervention to its own advantage. Russia can use it to safe face so they can withdraw from a hopeless war.

NATO and UN member states can effectively end a conflict as Bosnia and Kosovo show. The Bosnia intervention ended with the Dayton agreement and in Kosovo a re-establishment of autonomy and the ousting of President Milosevic which created more stability in the area. Both intervention were without the approval of Russia. It is different in the case of Chechnya because Russia is involved, but that should be an ever bigger reason to intervene for NATO. Human rights abuse by a Security Council permanent member should especially not be tolerated by the international community. The scale of the humanitarian violations in Chechnya is too much to allow selfish motives to dissuade not to intervene. The international community failed in the case of Chechnya in my opinion. Intervening with heavy military power should not have to be an option, but creating safe havens is the least the international community could have done.

Chapter 5: The Libya Case- an example of intervention on the basis of the Responsibility to Protect-norm

5.1. Introduction

The Libyan civil war (Libyan revolution) was an armed conflict in the North African state of Libya, fought between forces loyal to Colonel Muammar Gadhafi and those trying to end his government. The protests against Gadhafi started on Tuesday, 15 February 2011, in Benghazi which led to clashes with security forces that fired on the crowd (Cleas, 2011). The protests escalated into a rebellion that spread across the country. The opposition established an interim governing body, the National Transitional Council, which was recognized by the United Nations on 16 September 2011 and replaced the Gaddafi Government. Muammar Gadhafi remained at large until 20 October 2011, when he was captured and killed attempting to escape from Sirte (ICRtoP, 2012). The National Transitional Council "declared the liberation of Libya" and the official end of the war on 23 October 2011.

The Libyan civil war was part of a bigger wave of protests going around in the Middle East at that moment. The fighting took about half a year before it officially ended. In practice, however, the fighting is still occurring in Libya. The international community got involved during the civil war because it felt it had a responsibility to protect the Libyan citizens from being targeted and stop other gross human rights violations from taking place. It is interesting to see in the case of Libya that the international community did apply the Responsibility to Protect-norm. In this chapter I will look at reasons behind applying the norm in this case and what the consequences are for application of this norm in the future?

5.2. Background to the Libyan Civil War

Muammar Gadhafi became the ruler of Libya in 1969. He abolished the Libyan Constitution of 1951, and adopted laws based on his own ideology *The Green Book* (Hillstrom, 2011). He officially stepped down from power in 1977, but held the reins behind the scene until 2011. Under Gadhafi, Libya was theoretically a decentralized, direct democracy state run according to the philosophy of Gadhafi's *The Green Book* (ICRtoP, 2012), but according to Freedom

House, however, “these structures were often manipulated to ensure the dominance of Gadhafi, who reportedly continued to dominate all aspects of government” (ICRtoP, 2012).

Despite one of the highest unemployment rates in the region, Libya's Human Development Index in 2010 was the highest in Africa (ICRtoP, 2012). Positive for the civilians was that Libya had welfare systems allowing access to free education, free healthcare, and financial assistance for housing, access to fresh water across large parts of the country, but unfortunately was the government control over every aspect of the daily life of the people (Cleas, 2011).

The protests and confrontations began in on 15 February 2011. On the evening of 15 February, between 500 and 600 demonstrators protested in front of Benghazi's police headquarters after the arrest of human rights lawyer Fathi Terbil (Cleas, 2011). Crowds were armed molotov cocktails and stones on which the Police responded with tear gas, water cannons, and rubber bullets. Libyan security forces fired live ammunition into the armed protests (ICRtoP, 2012). The rebels are composed primarily of civilians, such as teachers, students, lawyers, and oil workers, and a contingent of professional soldiers that defected from the Libyan Army and joined the rebels. Gadhafi's administration had repeatedly asserted that the rebels included al-Qaeda fighters. NATO's Supreme Allied Commander James G. Stavridis stated that “intelligence reports suggested "flickers" of al-Qaeda activity were present among the rebels, but also added that there is not sufficient information to confirm there is any significant al-Qaeda or terrorist presence. Denials of al-Qaeda membership were issued by the rebels”(Hillstrom, 2011). International Crisis Group believes this to have been a political maneuver to divert attention away from Gadhafi himself. The Libyan government was convinced that the armed rebellion was composed of mercenaries. But it was actually Gadhafi himself who used mercenaries (Hillstrom, 2011). Gadhafi forces reportedly surrounded themselves with civilians to protect themselves and key military sites from air strikes. Amnesty International cited claims that Gadhafi had placed his tanks next to civilian facilities, using them as shields (Cleas, 2011). According to Libyan state television, the rebels also used human shields in Misrata (Cleas, 2011).

Gadhafi was convinced that the revolt against his rule was the result of a colonialist plot by foreign states, particularly blaming France, the US and the UK, to control oil and enslave the Libyan people. Gaddafi blamed rebel groups of being traitors and engaging into

war on terror against their own population (Hillstrom, 2011). However, The Libyan government were reported to have employed snipers, artillery, helicopter gunships, warplanes, anti-aircraft weaponry, and warships against demonstrations and funeral processions. It was also reported that security forces and foreign mercenaries repeatedly used firearms, including assault rifles and machine guns, as well as knives against protesters (Hillstrom, 2011). Rebel fighter in hospital in Tripoli Amnesty International also reported that security forces targeted paramedics helping injured protesters. Injured demonstrators were sometimes denied access to hospitals and ambulance transport (Cleas, 2011).

In May 2011, International Criminal Court (ICC) chief prosecutor Luis Moreno-Ocampo estimated that 500–700 people were killed by security forces in February 2011, before the rebels took up their arms (ICRtoP, 2012). According to Moreno-Ocampo, "shooting at protesters was systematic" (ICRtoP). During the siege of Misrata in May 2011, Amnesty International reported "horrifying" tactics such as "indiscriminate attacks that have led to massive civilian casualties, including use of heavy artillery, rockets and cluster bombs in civilian areas and sniper fire against residents" Gadhafi's military commanders also reportedly executed soldiers who refused to fire on protesters (ICRtoP, 2012). In June 2011, a more detailed investigation carried out by Amnesty International found that many of the allegations against Gadhafi and the Libyan state turned out to either be false or lack any credible evidence, noting that rebels at times appeared to have knowingly made false claims or manufactured evidence and the rebels committed crimes against humanity themselves (ICRtoP, 2012).

By the end of February, Gadhafi's government had lost control of a significant part of Libya. But in March, Gaddafi's forces pushed the rebels back and eventually reached Benghazi and Misrata to recover those cities. By 22 August, rebel fighters had gained entrance into Tripoli and occupied Green Square, which was renamed into Martyrs' Square in memory of those who had died (Hillstrom, 2012). The NTC captured Sirte on 20 October 2011, and reported that Gaddafi had been killed in the city. The rebels called for a return to the 1952 constitution and a transition to multi-party democracy. The National Transitional Council tried to consolidate efforts for change in the rule of Libya. The main objectives of the group did not include forming an interim government, but instead to co-ordinate resistance efforts between the different towns held in rebel control, and to give a political "face" to the opposition to present to the world (Cleas, 2011).

5.3. International community and the use of the Responsibility to Protect-norm

According to a report from the International Crisis Group, "much Western media coverage has from the outset presented a very one-sided view of the logic of events, portraying the protest movement as entirely peaceful and repeatedly suggesting that the government's security forces were unaccountably massacring unarmed demonstrators who presented no security challenge" (ICRtoP, 2012). This established danger of a one-sided view of the international community and put all the blame on the other side while reality was that both sides committed crimes.

On 21 February 2011 the Libyan opposition called on the UN to impose a no-fly zone on all Tripoli to cut off all supplies of arms and mercenaries to the regime (Cleas, 2011). On 19 March 2011 the military intervention in Libya on the basis of United Nations Security Council Resolution 1973 began. That same day, military operations began, with US forces and one British submarine firing cruise missiles, the French Air Force, United States Air Force and British Royal Air Force undertaking ground actions across Libya and a naval blockade was established by the Royal Navy. The effort was initially largely led by the United States. NATO took control of the arms embargo on 23 March, named Operation Unified Protector. An attempt to unify the military command of the air campaign first failed over objections by the French, German, and Turkish governments. On 24 March, NATO agreed to take control of the no-fly zone, while command of targeting ground units remains with coalition forces (Hillstrom, 2011). Fighting in Libya ended in late October following the death of Muammar Gaddafi, and NATO stated it would end operations over Libya on 31 October 2011. Libya's new government requested that its mission be extended to the end of the year, but on 27 October, the Security Council voted to end NATO's mandate for military action on 31 October.

International reactions to the 2011 military intervention in Libya were diverse. Opponents against the 2011 military intervention in Libya have made allegations of violating the limits imposed upon the intervention by UN Security Council Resolution 1973. At the end of May 2011, Western troops were captured on film in Libya, despite Resolution 1973 specifically forbidding "a foreign occupation force of any form on any part of Libyan territory" (Hillstrom, 2012). In the article however, it reports that armed Westerners but not Western troops were on the ground. On August 11, after the August 9 NATO airstrike on

Majer that allegedly killed 85 civilians, UN Secretary-General Ban Ki-moon “called on all sides to do as much as possible to avoid killing innocent people”(ICRtoP, 2012). NATO has been accused of being responsible for the deaths of far more civilians than if it had not intervened according those opposed to the intervention (Hillstrom, 2012). In January 2012, independent human rights groups published a report describing these human rights violations and accusing NATO of war crimes. Some critics of Western intervention suggested that resources were the real reasons for the intervention and not democratic or humanitarian concerns. Gaddafi's Libya was known to possess vast resources, particularly in the form of oil reserves and financial capital. Gadhafi himself referred to the intervention as a "colonial crusade...capable of unleashing a full scale war,", a sentiment that was echoed by Russian Prime Minister Vladimir Putin (Hillstrom, 2011).

However, those in favor of the intervention saw the military intervention in Libya as an example of the Responsibility to Protect policy adopted by the UN at the 2005 World Summit. According to Gareth Evans, "The international military intervention (SMH) in Libya is not about bombing for democracy or Muammar Gadhafi's head. Legally, morally, politically, and militarily it has only one justification: protecting the country's people" (Hillstrom, 2011).

The Responsibility to Protect was not implicated in the uprisings in Tunisia and Egypt because they were primarily considered an internal matter with no significant repercussions for the region, the need for appropriate international engagement has been more broadly discussed in relation to the situation in Libya were there was an international implication. These were the refugee spill over and the oil production, beside the human rights violations in Libya were immensely and much worse than in neighbor states. It is of monumental importance that the international community goes beyond condemnations urging the Libyan regime to halt the atrocities and lives up to its commitment of readiness to take “timely and decisive action” (Claes, 2011). In applying the Responsibility to Protect norm in the case of Libya the international community first used diplomatic efforts, economic sanctions, a travel ban and arms embargo. As it became obvious that these tools failed to halt the threat of mass atrocities the Security Council considered more robust measures, and adopted a mandate for a no-fly zone (ICRtoP, 2012). My personal opinion is that there is a glaring double standard in play. If Libya, then why not Yemen and Bahrain? The answer is obvious of course; it is a question of alliances. Bahrain is an ally for the West and action against the regime there

would result in the strengthening of the Shiite majority and shift power in the region toward Iran. It is all about political relationships. The Responsibility to Protect offers help to disadvantaged opposition groups facing a strong government that endangers their lives. But, The Responsibility to Protect norm can also lead to escalation of conflicts by opposition groups. The pure existence of a responsibility to protect gives the assurance that if a conflict is sufficiently bloody the international community will interfere with the government forces and induce a regime change. This means clear support for the opposition forces in trade for a big sacrifice of human life. The critic is that the international community takes one sided action to mediate the conflict. The international troops actively attack the Gadhafi forces instead of only to preserve the Libyan citizens as said in the resolution. This is clearly not covered by the mandate, undermining the foundation of the United Nations, that specifically do not intend to interfere with national sovereignty (Ahmed, 2011).

5.4. The Responsibility to Protect in Libya as the first openly mentioned case

A Just War is one which is waged with legitimate authority, with just cause and right intention. It must be likely to result in the restoration of law and order and the conditions for the fulfilment of human rights; it must be a last resort; and it must be fought proportionally. Finally, it must have a high probability of success: be winnable in the shortest possible time causing the minimum amount of harm. The difficulty in the case of the international engagement in Libya is obvious. Its legitimacy is in doubt, on the one hand, the UNSC has mandated operations to protect civilians; on the other, the governments with authority over NATO forces have declared that their policy goal is Gadhafi relinquishing power. it's hard to separate the one goal from the other. Gadhafi has showed poor governance and abuse of rights and helping him from power is helping the Libyan people so it is a right intention. Problematic in the case of Libya was also the demands of proportionality and making the distinction between military and civilians, and military necessity (Ahmed, 2011).

Libya is perhaps the first time the Responsibility to Protect has been invoked so publicly, on such a scale, and used within the UN Security Council to justify a major military action. So the way it is framed and the way it plays out take on an importance even greater than the well-being of Libyans; affecting the well-being of future populations whose governments fail to live up to their responsibility. "Getting it wrong may mean years of delay

in turning the Responsibility to Protect norm into a doctrine that's widely accepted and provides legitimacy to protect civilians anywhere and in the future" (ICRtoP, 2012).

5.5. Conclusion

Libya presented itself as a unique situation for the international community to apply the Responsibility to Protect norm. In the Libya case Gadhafi committed crimes against humanity and shockingly announced through the media his intentions to commit further atrocities against his own people. States as well as regional organizations have started to respond, denouncing the violence and imposing measures, such as sanctions. This led to the passage of Security Council Resolution 1973 and the agreement to install a no-fly zone, without a single veto from Security Council Members. The Responsibility to Protect norm can imply a range of measures from diplomatic to more coercive, if necessary. The formula of which measures to use at what time is not precise; each case will require a tailored response. It is important that appropriate action is taken when warranted. All states have a responsibility to protect their populations, this includes Syria, Bahrain and Yemen, countries where populations are currently at risk of gross human rights violations. The challenge ahead for the Responsibility to Protect norm is to encourage consistency not only in the invocation of the language of the norm but also in response.

The debate among Member States around the situation in Libya was not about whether to act to protect civilians for mass atrocities but how to best protect the Libyan population. That Member States prioritized the protection of civilians from mass crimes reflects a historic embrace of the Responsibility to Protect norm after establishment of the norm at the 2005 World Summit. "We must help governments understand that the Responsibility to Protect norm seeks to protect civilians from genocide, war crimes, crimes against humanity and ethnic cleansing with a range of measures, of which military intervention is a last resort. At the same time, we must remind Member States not to undermine the Responsibility to Protect norm by confusing civilian protection with other motives such as regime change or resource control" (ICRtoP, 2012).

That human rights were protected in Libya should be seen as a positive outcome of the international community's response. If the UN and NATO had failed to take stronger actions, we would now be questioning whether the commitment to the Responsibility to Protect

norm holds any value. It was suspected after Libya that the international community would intervene more often in other cases. Civil society can and will continue to push for appropriate action by the international community in all cases where crimes are occurring or threaten to occur. Whether this will translate into political will of the international community is up to us all.

Chapter 6: The Syria Case- applying or ignoring the Responsibility to Protect-norm?

6.1. Introduction

At this moment the international community is involved in resolving the crisis in Syria. Gross human rights violations are taking place in different parts of the state. These human rights violations are committed by the government, governmental supporters and by the opposition. Whole villages are said to be murdered by governmental mercenary troops. Images about the atrocities can hardly reach the outside world, because of limitation on the media by the government. The international community is very concerned about the situation in Syria. This is why the UN sent a large amount of observers to monitor the situation. Also, former-UN Secretary General Kofi Anan is the leading diplomat who is negotiating a peace agreement between the government and the opposition. Until now, the international community mainly observed and recently different states opposed diplomatic and economic sanctions on Syria. But, diplomatic and economic sanctions have not done anything to resolve the violent situation in Syria. Until now, the international community is very reluctant to intervene by military means. The international community has mentioned the Responsibility to Protect-norm in different occasions during this conflict, but until now the norm has not done much to improve the situation in Syria. I am questioning whether or not the Responsibility to Protect-norm is very useful in practice, in a case like Syria. Why does the international community not intervene on the basis of the Responsibility to Protect-norm?

6.2. Background to the Syrian conflict (2011-until now)

The Syrian uprising is part of the wider Arab revolts against governments and its leaders. It is a violent conflict that is still ongoing as we speak. The demonstrations across Syria started on January 26th, 2011 and developed into a nationwide uprising by an organized opposition. Protesters demanded the resignation of the Syrian Ba'ath government and more specifically that of President Bashar al-Assad (Beauchamp, 2012). They protested on the streets for more democracy. The protest started peacefully, but soon the Syrian government had the Syrian Army to stop the uprising. The Syrian army used violent measure to disperse

the protesters. The Syrian government denied using violent measures and stated that it is the fault of armed mercenary troops for causing trouble (Kuwailil, 2012). At the end of 2011, the opposition began to unite itself and started to form fighting units in order to oppose the Syrian Army (Kuwailil, 2012).

According to the United Nations up to approximately 14.000–19.000 people have been killed, of which about half were innocent civilians (ICRtoP, 2012). The number of people injured or imprisoned is even much higher. The total official UN numbers of Syrian refugees reached around 180.000 people by June, 1 2012 (ICRtoP, 2012). The claims have been contested by the Syrian government. Anti-government rebels have been accused of human rights abuses as well. For instance, kidnapping and executing loyal government citizens. The worst crimes until now have been committed by the Shabiha. The Shabiha are independent mercenaries loyal to the Assad family. They are suspected of killing whole families (Hehir, 2012).

The uprising occurred in almost every city in Syria, except in the two largest cities of Syria: Damascus and Aleppo. These cities stayed loyal to the government. The opposition acknowledged that without mass participation in these two cities, the government will survive and avoid the same fate of Egypt and Tunisia. However, on 1 February 2012 the Free Syrian army claimed that “Fifty percent of Syrian territory is no longer under the control of the regime and that half of the country was now effectively a no-go zone for the security forces” (ICRtoP, 2012).

Reasons behind the conflict are said to be the call for more democracy, more liberties and the establishment of a better economic situation. Until 2011 there was only one political party which was the Ba’ath party of Assad. No other parties were allowed. The media were watched under constant scrutiny and often oppressed by the government. Further, there was an enormous amount of unemployed young adults who were unsatisfied with their social position. Also, the living conditions were deteriorating quickly because the government did not invest in the standard of living of its people (Beauchamp, 2012).

6.3. International involvement

Since 12 April 2012, both sides, the Syrian Government and the rebels of the FSA entered a UN mediated ceasefire period negotiated by Kofi Anan. Despite the initial plans to begin the ceasefire on 10 April 2012, both sides still engaged in attacks. On 21 April 2012, the United Nations Security Council adopted resolution 2043 as basis for the United Nations Supervision Mission in Syria (UNSMIS) for an initial 90-day period. Hervé Ladsous, the UN Under-Secretary-General for Peacekeeping Operations, said that “both sides had violated the ceasefire agreement of April 12 and so the agreement was void” (ICRtoP, 2012). This statement was affirmed by the increased fighting in the second half of May and the Houla massacre. On 29 May 2012, Kofi Annan headed for Syria to start negotiations again. The Free Syrian Army (FSA) was willing to come to some sort of an agreement with Kofi Annan and announced on 30 May 2012 that they were giving president Assad a 48-hour deadline to abide by an international peace plan to end violence (Beauchamp, 2012). On 1 June 2012, Assad rejected such a peace plan and promised to crush any anti-regime uprising. The rebel group Free Syrian Army (FSA) announced that it was resuming the fight again (Beauchamp, 2012). The situation worsened on June 6, 2012 when 78 civilians were killed in the Al-Qubair massacre committed by pro-government militia, the Shabiha (Beauchamp, 2012). The UN observers rushed to the village in order to investigate the alleged massacre but were prohibited by the government to go to the city and were forced to retreat (ICRtoP, 2012).

Human Rights Watch (HRW) reported in the beginning of June that the attacks by the government reached the level of crimes against humanity in cities across Syria, such as in Homs (ICRtoP, 2012). Then, further access for Human Rights Watch was denied to monitor the situation because of too critical reports. President Assad blocked access to the country of most outside humanitarian aid groups and human rights groups. Information from within Syria remained limited because journalist were not allowed to do their jobs. On 19 December 2011 the only foreign investigation which was allowed by Assad was the independent monitoring mission by the League of Arab States as part of a peace initiative. However, shortly after the mission began reports emerged stating that the Syrian government was obstructing (ICRtoP, 2012).

The Arab League, the U.S and the EU states all have condemned the use of violence against the protesters committed by government troops and supporters. China and Russia have

criticized the government, but advised against sanctions. China and Russia were afraid that sanctions would lead into foreign intervention. However, military intervention has been ruled out by most states. The Arab League suspended Syria's membership over the government's response to the crisis. The latest attempts to resolve the crisis has been made through the appointment of Kofi Annan, as a special peace negotiator to resolve the Syrian crisis. On 1 November 2011, NATO said it had no intention of taking military action in Syria, after the seven-month intervention campaign in Libya. Other states have cut ties with the Assad government like Libya, Britain, Spain, Turkey and the U.S, but they were all not considering a military intervention (ICRtoP, 2012).

Before March 2012 Russia had shown constant and active support for the Assad government. Russia often vetoed a UN Security Council Resolution, in occurrence with China. Russia has shipped arms during the uprising to Assad's government for use against the rebels. Russian Middle East analyst Alexander Shumlin wrote that "The fall of the Syrian regime will mean the disappearance of Russia's last partner in conducting Soviet-style policies in the Middle East whose essence in many ways boiled down to countering the United States" (Hehir, 2012). Russia has used its UN Security council position on several occasions to block resolutions that would harm the Syrian government, including the French and British attempt to condemn the use of force by the Syrian government (Hehir, 2012). Both states state that "when it comes to properly handling the current Syrian situation, it is the correct approach to resolve the internal differences through political dialogue and that the future of Syria should be independently decided by the Syrian people themselves free from external interference"(Beauchamp, 2012). Russia and China most of all wanted to prohibit another Libyan intervention scenario. Out of character for both Russia and China was their public statement were they expressed their desire for Syria to reform and respect the will of the Syrian people. But, both states would never support a proposal for a no-fly zone in Syria because it has been used to support only one side in the conflict and cause more civilian deaths (Beauchamp, 2012). When asked if Russia was supporting the Assad government, the Russian answer was "we are not protecting any regime" (kuwalil, 2012). Other supporters of Syria are Iran, Venezuela and North Korea. These states did not only show support on paper, but sponsored the Syrian government by sending money, weapons and other supplies (Hehir, 2012).

President Barack Obama's administration condemned the use of violence, stating: "The United States stands for a set of universal rights, including the freedom of expression and assembly, and believes that governments, including the Syrian government, must address the legitimate aspirations of their people" (Beauchamp, 2012). Secretary of State Hillary Clinton stated that it was unlikely the US would intervene in Syria, since the US Congress would not approve (Beauchamp, 2012). On 18 May 2011, President Barack Obama imposed sanctions on Syria. US Secretary of State Hillary Clinton condemned the human rights violations and the regimes rigidity. On February 24, 2012 after a veto by Russia and China of an Arab League-backed initiative, Clinton condemned Russia and China position by saying "It's quite distressing to see two permanent members of the Security Council using their veto while people are being murdered — women, children, brave young men... It is just despicable and I ask whose side are they on? They are clearly not on the side of the Syrian people" (Beauchamp, 2012).

6.4. Syria and the Responsibility to Protect norm

An application of the Responsibility to Protect norm aspects UN Member States, regional organizations and governments to urgently work together towards making an end to the violent situation. The United Nations Special Advisers on the Prevention of Genocide and the Responsibility to Protect stated on 2 June, 2012 that "he reminded the Syrian government of its responsibility to protect the civilian population, and called for an investigation into alleged violations of international human rights law. The scale and gravity of the violations indicate a serious possibility that crimes against humanity may have been committed and continue to be committed in Syria" (Beauchamp, 2012). The Special Advisers reminded that "in order to uphold the responsibility to protect, Syria and the international community must build trust among communities within Syria, facilitate the delivery of humanitarian assistance to those in need, and encourage regional cooperation in advancing human rights and preventing further rounds of violence against civilian populations" (Beauchamp, 2012).

The Security Council in the case of Syria failed to act accordingly due to its consistent inability to form an international consensus around the crisis because of Russia and China. The Council released a presidential statement that condemned the violence in Syria but reaffirmed the Council's commitment to the principle of state sovereignty and territorial

integrity of Syria (ICRtoP, 2012). Especially western states were very disappointed by the Security Council lack of power in the case of Syria. However, on 21 March 2012, the UN Security Council adopted a presidential statement expressing "its gravest concern" regarding the situation in Syria (ICRtoP, 2012). The statement gave full support to the peace negotiations process lead by the United Nations-Arab League Joint Special Envoy Kofi Annan, and called on the Syrian government and opposition to work with the Envoy towards a peaceful settlement of the Syrian crisis and the implementation of his initial six-point proposal (ICRtoP, 2012). UN Secretary-General Ban Ki-moon stated that "he praised the clear and unified voice of the Council, expressing his hope that the united action by the Council will mark a turning point in the international community's response to the crisis" (Hehir, 2012).

The violent conflict in Syria is almost one year going on. Until now, no sign of any real solution has shown itself. Both skeptics and defenders of invoking the Responsibility to Protect norm agree that Syria has hurt the image of the Responsibility to Protect norm, which obligates states to acknowledge that they have a responsibility to protect civil society when the government can't or won't. Problem is that military intervention in Syria would be a misapplication of the Responsibility to Protect norm and would radically weaken the norm's role in building both a better Middle East. But, staying out of the conflict will also weaken the norm's credibility, because in a situation where gross human rights violations are taking place the international community does nothing to prevent another massacre from happening (Hehir, 2012).

The basis of the Responsibility to Protect norm is still that state sovereignty entails that states are responsible for the lives and welfare of their citizens. But, Responsibility to Protect is more than only military intervention (Beauchamp, 2012). In fact, the ICISS report states that intervention is only allowed in extreme cases and when certain criteria are met. Those criteria mirror the moral tests from the just war theory, including the intervention must have a reasonable prospect for achieving success, which in light of the Responsibility to Protect norm entails better protection of civilian life than the status quo (Xing, 2012). That's the problem with intervention in Syria, namely that it probably leads to more innocent casualties. Airstrikes alone are not fit for Syria because much of the fighting takes place in cities and would cause significant civilian casualties. Also, Assad's forces are too strong and the opposition still too divided to be defeated. This was different in Libya were the opposition

was more united and Qaddafi forces not that well equipped and organized. But what about using international troops to create safe zones where the resistance could be armed & trained and wounded be taken care of? Kofi Anan has stated: “Understanding the limits of military force in the Syrian case is critical to the viability of the Responsibility to Protect norm as an international norm” (ICRtoP, 2012). A failed intervention would only damage the credibility of the Responsibility to Protect norm for the future. States who are still worried about the use and application of the Responsibility to Protect norm will only doubt the legitimacy of the norm when the mission fails. Developing the norm into a legal doctrine would be impossible when its credibility is lost (Hehir, 2012). Adams said that “the Responsibility to Protect doctrine is providing the framework for Annan’s plan, which will ultimately help open up space in which mass atrocity crimes and crimes against humanity could be stopped. Annan is well acquainted with the R2P doctrine, he’s a founder of the principal; he’s got the skills. I think there is a growing realization that this is it, the alternatives are too horrible” (Leimbach, 2012).

On the other side, Syria interventionists do have a point when they say ignoring Syria could damage the doctrine's credibility. Fortunately, the Responsibility to Protect norm also entails a middle ground between non-involvement and military force. Diplomatic, legal, and economic tactics could be explored that could help make an end to the violence (Beauchamp, 2012). To my opinion diplomatic, legal and economic tactics have all been tried in the Syria case, but until now have failed. The Responsibility to Protect needs more international involvement. Even more important, according to me, is that the Syrian situation tests the international community’s ability and willingness to apply the Responsibility to Protect norm consistently. Syria, just as Libya, is at a breaking point and action is pressing. “The Security Council is paralyzed over Syria, unable to agree not only on the last resort of military intervention, but even on lesser coercive measures such as targeted sanctions” (ICRtoP, 2012). The lack of consensus to act decisively in the Syrian crisis may require UN Member States to seek alternative means to exercise their responsibility to protect the population in Syria just as happened in the Kosovo case (Kuwailil, 2012).

6.4. Comparison Responsibility to Protect in the case of Libya and Syria- concluding -

“In Libya, a tyrant turned his guns on his own people. The UN Security Council invoked the Responsibility to Protect norm and endorsed international military intervention to save the Libyan people from an imminent massacre. In Syria, a tyrant has turned his guns on his own people. The UN Security Council is struggling to even formally condemn the actions that have left 1400 people dead, according to human rights groups, and led to some 4,000 Syrian refugees crossing the border into Turkey”(Penketh, 2011). Further, “in the case of Libya, the Arab League appealed to the UN Security Council to establish a no fly- zone over Libya. In the case of Syria, no such request has been done because of fear of regime change, of being the cause for civil war and regional instability” (Penketh, 2011). Russia and China believed that UN resolution 1973 on Libya has been stretched beyond its mandate in in order to achieve a regime change and end Gadhafi’s ruling. No such thing Russia and China wanted to happen in Syria (Beauchamp, 2012). Also in the case of Libya, the Libyan opposition cried out for help to the international community. The Syrian opposition, however, has not ask outside help in ending Assad’s ruling (Penketh, 2011).

So what happened to the Responsibility to Protect norm in the short period between Libya and Syria? In deciding to invoke the Responsibility to Protect-norm it is clear that intervention is decided on a case by case basis and in cooperation with relevant regional organizations who are willing and able to undertake such an intervention. In Libya the situation presented itself as being perfect for applying the Responsibility to Protect norm with a lot of international support. In the Syria case no such support was present. Also, in the Libya case NATO was willing to intervene, because it saw reasonable prospects for success, but in Syria NATO saw a perfect case for failure (Kuwailil, 2012). That NATO did not intervene in Syria had also something to do with the fact that NATO was exhausted from the Libya intervention and did not want to engage in another violent conflict (Kuwailil, 2012). To my opinion, it is a weak excuses from NATO not willing to intervene because they just ended another intervention. When a situation is so pressing as in Syria action is necessary. It is a failure of the Responsibility to Protect norm not to act adequately in the case of Syria. It is just as in the Chechnya case a failure that the international community did not act, because powerful nations are against actions out of selfish motives. It is a shame that they rather let innocent people get killed than that they give up their selfish interest just a bit.

Conclusion

“The impossibility of gaining Security Council authorization for the intervention indicated a disturbing tension between two core values of international legal system; respect for state sovereignty and commitment to peaceful relations among nations and on the other hand protection of basic human rights” (Buchanan, 2003: 131).

In the beginning of writing this thesis I was very skeptical about the role of the Responsibility to Protect norm in practice. At the end of this conclusion I will let you know if I still am that skeptical or that the case studies have changed my opinion. The main research question posed was: *“What is the purpose of the Responsibility to Protect norm on paper and what is the impact of the Responsibility to Protect norm in practice? Is there a discrepancy between purpose and impact?”* As I said I was very critical before studying the case studies. I had four presumptions related to the research question and the case studies. In this conclusion I will discuss these presumptions and answer my main research question. My presumptions were:

1. The first presumption is that the Kosovo case had an important influence on the establishment of the Responsibility to Protect norm and outlined the foundations and purpose of the norm.
2. The second presumption is that the Chechnya case shows that a responsibility to protect in practice is not as clear cut as on paper.
3. The third presumption is that the Libya case shows a textbook example of implementing the written Responsibility to Protect norm in practice. There is no discrepancy between purpose and impact.
4. Fourth presumption is that the Syria case shows a textbook example of discrepancy between a written norm and application of the norm in practice. There is a discrepancy between purpose and impact.

The UN can be deadlocked on the decision whether or not to intervene when the situations calls for humanitarian intervention. The UN Security Council deadlock has to do with power politics and selfish interests of states like Russia and China. Some conflicts are so pressing that UN Security Council deadlock is a dead sentence for innocent civilians in the conflict area. The international community, until the twenty-first century, was in need of a new measure or norm to address the problem of not being able to intervene when gross human rights atrocities are taking place.

The lessons from what happened in Africa and Eastern Europe led to the establishment of a new norm The Responsibility to Protect, which gave the international community a legal way to intervene in a state and even allows a temporarily breach of sovereignty rights. The Responsibility to Protect goes even as far as to say that the international community has a legal and moral obligation to intervene in another state were gross human rights violations take place. The Responsibility to Protect-norm is: *“A norm or set of principles based on the idea that sovereignty is not a privilege, but a responsibility which focuses on preventing and halting four crimes: genocide, war crimes, crimes against humanity, and ethnic cleansing”* (Gierycz, 2010: 110-111). The main purpose of the Responsibility to Protect-norm is to make sure that the international community does act when a pressing situation of human rights violation occur. The Responsibility to Protect-norm provides a framework for taking effective actions in order to prevent human rights from being violated. The norm is executed in practice by using measures that already exist, like economic or diplomatic sanctions or Chapter VII UN Charter powers. However, the Responsibility to Protect-norm still states that for military intervention the United Nations Security Council and the General Assembly have the authorization to decide whether or not to intervene (ICISS, 2001). The approval is still with the UN Security Council which makes sure the norm fits within the international community measures. The Responsibility to Protect-norm was officially released in the ICISS report on December 2001. Intervention is not a right, but a necessity. Also, the Responsibility to Protect-norm was developed to make clear that state sovereignty is not a license to act as one pleases in one’s own border. Carrying out atrocious human right violations will not be tolerated in any case. Sovereignty should be seen as an obligation towards those in one’s borders to protect them (A/63/677).

This makes me conclude that on paper the Responsibility to Protect norm sound like the perfect norm to stop gross human rights violations. The international community has an

obligation to intervene when the government can't or won't. The problem is, however, that the norm on paper knows its flaws as while. The application of the norm depends on a case to case basis, this weakens the claim that the international community has to act whenever gross human rights violations are taking place. Further, the norm states that it is still the UN Security Council that decides on the measures taken. Unfortunately the UN Security Council is often deadlocked on the issue of measures related to the Responsibility to Protect norm, because China and Russia are often opposing measures.

Concerning the impact of the Responsibility to Protect norm in practice. The Responsibility to Protect norm is a norm that was established out of practice. The several horrible violent conflicts at the end of the twentieth century, which led to unspeakable human rights atrocities and innocent civilians being killed, made clear that the international community should act. Of course, every conflict is different and in every case other interests are at stake. This is why I choose four case studies to be compared. The case studies I selected were Kosovo, Chechnya, Libya and Syria. Kosovo and Chechnya present two case studies prior to the establishment of the norm in which intervention happened in Kosovo and not in Chechnya. Both cases have in common that they are both in Eastern Europe, in both cases they fight for independence and both cases dealt with a humanitarian crisis. But, after looking closer into the two cases there are also a lot of difference between the two cases. The background of the two cases is different looking at the demographics, history and political situation. The international community involvement differs from each other and the interests at stake differ. Also, with comparing different cases in similar regions it is interesting to see that in the case of a violation by a powerful state as Russia the international community is hesitant or withholding intervention, while in the case of a minor state the international community feels obliged to undertake action even without UN Security Council approval.

In conclusion it can be said that both the Kosovo and Chechnya case contributed to the establishment of the Responsibility to Protect norm. The first presumption that the Kosovo case had an important influence on the establishment of the Responsibility to Protect norm and outlined the foundations and purpose of the norm is true according to me. In the case of Kosovo the international community missed a norm that could force states to intervene when human rights situations called for it and the UN would be deadlocked. The Responsibility to Protect norm gives the possibility to intervene in a sovereign state when human rights atrocities occur. The second presumption that the Chechnya case shows that a responsibility

to protect in practice is not as clear cut as on paper is also true. In the case of Chechnya the Responsibility to Protect norm was established more as a political norm. In the case of Chechnya the international community dealt with a powerful nation of the UN: Russia. Humanitarian intervention going through the Security Council would be impossible as Russia would not agree to it. The western states had other (economic and political) interests involved to keep the relationship with Russia good and felt their hands were bound. An official norm as the Responsibility to Protect would overcome Security Council deadlock, but also give a political instrument for other states to keep the dialogue with Russia open and achieve results not through military intervention, but through diplomatic or economic measures in order to improve the human rights situation. In the case of Kosovo regional security and human rights played the decisive role, while in the case of Chechnya diplomatic and economic interest were more important. The Responsibility to Protect norm is a product of all these elements involved. That is why the norm leaves open diplomatic, economic or military measures for the international community. The Responsibility to Protect is a political and legal norm and not one or the other. It depends on the conflict and the parties involved which side of the norm gets precedence over the other.

To test the discrepancy between the norm on paper and the impact in practice I have chosen two case studies: Libya and Syria. Although, both cases are of very recent nature, they both contribute a lot to my presumptions. My presumptions were that the Libya case shows a textbook example of implementing the written Responsibility to Protect norm in practice. There is no discrepancy between purpose and impact. And that the Syria case shows a textbook example of discrepancy between a written norm and application of the norm in practice. There is a discrepancy between purpose and impact. The two cases both have the same background of establishment of the conflict. Both states were influenced by the Arabic revolts against the current regimes and their leaders. In both states the opposition wanted democracy and protested in the streets. In both cases the demonstrations were put down violently which ended in a violent conflict between government troops and opposition troops. So why did the international community apply the Responsibility to Protect norm in Libya and not in Syria?

“In Libya, a tyrant turned his guns on his own people. The UN Security Council invoked the Responsibility to Protect norm and endorsed international military intervention to save the Libyan people from an imminent massacre. In Syria, a tyrant has turned his guns on his own

people. The UN Security Council is struggling to even formally condemn the actions that have left 1400 people dead, according to human rights groups, and led to some 4,000 Syrian refugees crossing the border into Turkey”(Penketh, 2011). Further, “in the case of Libya, the Arab League appealed to the UN Security Council to establish a no fly- zone over Libya. In the case of Syria, no such request has been done because of fear of regime change, of being the cause for civil war and regional instability” (Penketh, 2011). Russia and China believed that UN resolution 1973 on Libya has been stretched beyond its mandate in in order to achieve a regime change and end Gadhafi’s ruling. No such thing Russia and China wanted to happen in Syria (Beauchamp, 2012). Also in the case of Libya, the Libyan opposition cried out for help to the international community. The Syrian opposition, however, has not ask outside help in ending Assad’s ruling (Penketh, 2011).

So what happened to the Responsibility to Protect norm in the short period between Libya and Syria? In deciding to invoke the Responsibility to Protect-norm it is clear that intervention is decided on a case by case basis and in cooperation with relevant regional organizations who are willing and able to undertake such an intervention. In Libya the situation presented itself as being perfect for applying the Responsibility to Protect norm with a lot of international support. In the Syria case no such support was present. Also, in the Libya case NATO was willing to intervene, because it saw reasonable prospects for success, but in Syria NATO saw a perfect case for failure (Kuwailil, 2012). That NATO did not intervene in Syria had also something to do with the fact that NATO was exhausted from the Libya intervention and did not want to engage in another violent conflict (Kuwailil, 2012). To my opinion, it is a weak excuses from NATO not willing to intervene because they just ended another intervention. When a situation is so pressing as in Syria action is necessary. It is a failure of the Responsibility to Protect norm not to act adequately in the case of Syria. It is just as in the Chechnya case a failure that the international community did not act, because powerful nations are against actions out of selfish motives. It is a shame that they rather let innocent people get killed than that they give up their selfish interest just a bit.

In the case of Libya the Responsibility to Protect norm was used as intended by the purpose on paper. It was just as the Kosovo case had intended a perfect example of translating the norm from paper into practice. In the case of Syria the Responsibility to Protect norm was neglected, just like the Chechnya case, because of selfish motives from powerful states within the UN. The intention of the norm to protect innocent civilians against atrocities was

neglected in practice. Politics is more important at the moment than legal implications. The norm is still not applied in a consistent manner in practice and that is why there is still a discrepancy between the norm on paper and in practice. I feel that the Kosovo and Libya cases are exceptions where the norm was applied, but the overall practice concurs with the Chechen and Syria case. In practice there are still too many downfalls to the working of the norm to be consistently applied. It is a work in progress, but until now it has failed in my opinion.

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