

# **FAILURE OF R2P IN SYRIA: DUAL DILEMMA OF “INVITATION-INTERVENTION” AND “RESPONSIBILITY-INTEREST”**

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## ABSTRACT

After eight years of crises and 11 vetoes in the UNSC, the world community has so far failed not only to find a peaceful solution to end the conflict but also to protect the civil population of Syria from mass atrocities. Rather than finding a solution to this crisis, cold-war rivals; United States and Post-Soviet Russia, have made Syria as their “Power-projection ground” by pulling-in other developing neighboring states to the conflict. On one side, some are invited into the conflict by the host state and on the other side, some are intervening on the grounds of “Responsibility to Protect (R2P)”. This ongoing situation has raised serious questions on the principles of R2P and has identified numerous loopholes that allow powerful states to manipulate the principles in their favor. This manipulation in result creates the dual-dilemma of ‘Invitation-Intervention’ and ‘Responsibility-Interest’ leading to the failure of R2P.

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## INTRODUCTION

History shows us that war and power have a powerful connection that is keeping them interlinked since times immemorial. Throughout history, the overarching objective of states has remained the same i.e. to maximize power, however, the means and tools kept on changing. With the advent of 21<sup>st</sup> century and shifting of normative structure, tools became legal in nature but the goals remained the same in terms of the hidden vested interests. Now as direct or conventional wars have become less likely due to considerations such as costs, durations, foreign supported insurgencies and hostile local public opinion, in addition to nuclear threat, powerful states are using indirect means to further their geopolitical influence. The perfect example for this is the Syrian Civil War.

The Syrian Civil War is not only one of the bloodiest conflicts in the world today; it's also one of the most complex.<sup>171</sup> A conflict that started as a peaceful uprising against President

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<sup>171</sup> "Syrian Crises," CNN Online, last modified December 11th, 2017, <https://edition.cnn.com/specials/middleeast/syria>

Bashar Al Assad escalated to an unmanageable crises that has left the Syrian people to the mercy of ‘interest-play’ between major players of international community. This power struggle has not only killed more than 500,000 civilians including women and children but also led to the worst humanitarian crisis of contemporary times.<sup>172</sup> Numerous atrocities have been committed by all parties involved in the conflict. At one side, the government of the Syrian president Bashar Al Assad backed by Russia has been accused for dropping barrel bombs on the rebel held areas and using chemical weapons against innocent civilians. On the other hand, United States and allies are being accused for backing Anti-Assad forces in violation to the sovereignty principle of UN Charter.

After eight years of crisis and 11 vetoes in UNSC, the world community has so far failed to not only find a peaceful solution to end the conflict but also to protect the civil population of Syria from mass atrocities. Rather than finding a solution to this crisis, former Cold-War rivals; United States and Post-Soviet Russia, have made Syria their “power-projection ground” by pulling-in other developing neighboring states to the conflict. On one side, some are invited into the conflict by the host state and on the other hand, some are intervening on the grounds of “Responsibility to Protect (R2P)”. This ongoing situation has raised serious questions on the principles of R2P and has identified numerous loopholes that allow powerful states to manipulate the principles in their favor. This manipulation in result creates the dual dilemma of ‘Invitation-Intervention’ and ‘Responsibility-Interest’ leading to the failure of R2P.

To address the dual-dilemma, this essay is divided into three sections. In the first section, it will highlight the basic principles of R2P, its foundation as per Just War Theory, and the grounds for intervening in any civil war. In the second section, this paper will address the loopholes within R2P which allow powerful states to use force for their vested interests hence creating a clash between ‘responsibility’ and ‘interest.’ In addition to this, the paper will raise the question regarding how R2P will respond when there is an Invitation-Intervention dilemma? In the last section, this essay will analyze the Syrian Civil War and its complexity to provide an empirical base for the discussed arguments. The research is purely

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<sup>172</sup> "Syria: Global Centre for the Responsibility to Protect," Global Centre for the Responsibility to Protect, last modified May 15<sup>th</sup>, 2018, <http://www.globalr2p.org/regions/syria>

in the form of qualitative-deductive analysis and an interplay between Realist and Liberalist ideas. The debate in this essay revolves around a central argument that says: R2P has failed in Syrian Civil War due to the lack of international political will, divergent interests of political players and their inability to compromise on these interests – backed by the dual dilemma of ‘Invitation-Intervention’ and ‘Responsibility-Interest’.

#### 1. RESPONSIBILITY TO PROTECT – FOUNDATION AND GROUNDS FOR INTERVENTION

The ‘Responsibility to Protect’ also referred as R2P and RtoP, is an international political agreement and commitment of nation states in the UN, to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity, to help member states who are unable to fulfill this responsibility, and to take necessary measures against a state unwilling to do so.<sup>173</sup> With this principle two responsibilities are at play: external i.e. helping other states to cope with such crises, and internal i.e. to protect their nation from any kind of atrocities. This norm of international law emerged after the crises in Iraq and Kosovo when the international community grew skeptical of the United Nation Security Council upon witnessing the hidden agendas that were allowed to play out under the name of humanitarian interventions (HIs). To regain the lost glory and credibility of UN, former secretary General Kofi Annan urged members of the General Assembly to find an alternative to HIs that fulfils the purpose of protecting people globally. During his speech he raised a question that “If humanitarian intervention is, indeed an unacceptable assault on sovereignty, then how should we respond to a Rwanda, to a Srebrenica - to gross and systematic violations of human rights that offend every precept of our common humanity?”<sup>174</sup>

The conflict between the principles of non-interference and humanitarian intervention challenged the global community to come up with a new approach to save the basic purpose of HIs i.e. to protect populations during civil wars or conflicts within a state. To embark upon this journey, at the end of year 2000, the International Commission on Intervention and State Sovereignty (ICISS) was established. This commission came up with the term

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<sup>173</sup> Alex Bellamy, *Responsibility to Protect: The Global effort to End Mass Atrocities* (Cambridge: Polity, 2009), 29

<sup>174</sup> Kofi Annan, ‘Millennium Report 2000,’ *United Nations*, (2000) 48,  
<http://www.un.org/millennium/sg/report>

‘Responsibility to Protect’ and for the first time defined state sovereignty in terms of responsibility rather than the territorial integrity.<sup>175</sup> At 2005 UN World Summit, this term was widely accepted by the member states and became a corner stone of International Humanitarian law. In this summit, all nation states pledged to uphold this new principle focused on Bary Buzan’s concept of Human Security.

The basic difference between R2P and the principle of humanitarian intervention is that the latter was in violation to the non-interference principle of UN Charter, and the former removed this conflict by defining sovereignty in Liberalist terms i.e. ‘responsibility to protect civilians’.<sup>176</sup> This principle argued that if a state is unable or unwilling to protect its population then it loses its sovereignty, and in this case, it’s the responsibility of international community to protect the population of that state.<sup>177</sup> In other words, the ICISS report on R2P created a new discourse that sovereignty is not only about the territorial integrity and non-interference, but also the responsibility to protect inhabiting population. In Kofi Annan’s words, “sovereignty must not be seen as a protective shield from the massive human rights violations, and right to intervene should be observed under the principle of responsibility to protect”.<sup>178</sup>

The report highlighted three key pillars of R2P; Responsibility to Prevent, Responsibility to React, and Responsibility to Rebuild.<sup>179</sup> The Responsibility to Prevent was given extra importance and was highlighted as an equal to Responsibility to Protect. On the question of when to intervene, the ICISS report suggested that external responsibility to protect i.e. international intervention in another state, will be justified under three scenarios. First; if the state is either unwilling or unable to protect its citizens, second; if the state herself is the one committing crimes against its population, and third; if the people in neighboring states are threatened by such actions.<sup>180</sup> In addition to that, it was made clear that the authority to

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<sup>175</sup> ‘Report of the International Commission on Intervention and State Sovereignty’ (2001) International Development Research Centre, Ottawa

<sup>176</sup> Gareth Evans, ‘From humanitarian intervention to the responsibility to protect’ (2006) 19, *Wisconsin International Law Journal*; No: 3, 523-537.

<sup>177</sup> *Ibid.* 4

<sup>178</sup> Millennium Report of the Secretary-General of the United Nations, ‘We the peoples: the role of the United Nations in the twenty-first century’, U.N Doc A/54/20 (2000)

<sup>179</sup> Alex Bellamy, *Responsibility to Protect: The Global effort to End Mass Atrocities* (Cambridge: Polity, 2009), 29.

<sup>180</sup> *Ibid.*

intervene lies with the UNSC. This criteria for intervention broadened the scope of HIs and created room for international and regional players looking to further their vested interests.

While discussing the framework of intervention and the essentials of the use of force, the Commission provided the foundation of R2P under the basic tenants of Just War doctrine. This report elaborated that to intervene states must: have ‘right cause’ i.e. to put an end to human suffering; use of force should be opted as the last resort only when all other efforts are being suffocated; force should be proportional to what is necessary; and the benefits should be greater than the cost endured.<sup>181</sup> Although the Commission vested authority in the UNSC, it did not raise any objection on the possibility of interventions sanctioned by the UNGA or key regional states in case the UNSC fails to fulfill its responsibility. Now the question arises: is this a flaw in the R2P mechanism or a strength? We will explore this question in the following section.

Although there is no doubt that R2P is a great contribution to the evolution of international law in the 21<sup>st</sup> century, its effectiveness is highly debated among scholars. Some argue that R2P has filled all the gaps within humanitarian interventions and provides a new framework to uphold the sanctity of international law. As stated by Gareth Evans in his book, R2P has contributed in four ways:

“A new way of talking about humanitarian intervention; it insisted upon a new way of talking about sovereignty; it clearly spelled out what responsibility to protect means and finally it provided guidelines for military intervention”.<sup>182</sup>

On the other hand, some scholars argue that R2P has some unaddressed loopholes that provide room for powerful states to pursue their vested interests. As a result of these loopholes, intervention can become an opportunity for the exploitation of weaker states.

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<sup>181</sup> Gareth Evans, *The Responsibility to Protect: Ending Mass Atrocity Crimes once and for all* (Washington: Brookings Institution Press, 2009) 142.

<sup>182</sup> Ibid.

The next section is devoted to address what these loopholes are and how they provide room for power politics and exploitation. In addition to that, the following section will also argue that the conflict between traditional sovereignty and sovereignty as responsibility is still not fully reconciled under the principle of R2P.

## 2. LOOPHOLES WITHIN R2P AND THEIR POSSIBLE OUTCOMES

There is no doubt that R2P has its merits, but at the same time one must consider its shortcomings to clear out inconsistencies so that an optimal solution can be reached. In this paper, the shortcomings within the R2P will be referred to as loopholes and it is argued that these loopholes provide room for the pursuit of the vested interests of players involved in a conflict which is a failure of the R2P.

The first loophole identified within R2P lies in its redefinition of sovereignty ‘as responsibility’. The problem with this is that due to a diversity of perspectives globally, it is virtually impossible to reach a consensus-based definition of ‘responsibility’ that is operationally substantive and universally accepted. In 1945, the United Nations was established based on the idea of the sovereign equality of all states as stated under Article 2 of the UN Charter. The reason behind, this was to establish international peace and stability so that future wars can be avoided. The redefinition of sovereignty on idealistic terms has now created flexibility, in what was formerly that universally accepted international norm, creating space for suspicion and exploitation.

This loophole can be addressed within the framework of Realism which argues that states are unitary actors and the sole protectors of their inhabitants. It further argues that whatever happens within a state is the responsibility of the government and others cannot intervene in their internal affairs. This concept was the basis of Westphalian system of Nation-states and traditional sovereignty. Under customary international law, the concept and principle of non-interference is widely accepted in the ever-evolving arena of international law. The principle of non-interference provides complete right to a sovereign state to exercise its hold within its

territory.<sup>183</sup> The jurisdiction reinforces the authority of a state to govern the people and property within its territorial boundaries. By this principle other states have no right to intervene in the internal affairs of a sovereign state.<sup>184</sup> Now, as the R2P argues that sovereignty means ‘responsibility to protect’, the acceptance of this interpretation comes to question. Many modern nation-states are unwilling to accept this interpretation because they perceive it as a tool to enhance the Liberalist agenda of its creators. In conflict-driven environments, such interpretations can have the deadliest outcomes resulting in the exploitation of weaker states at the hands of powerful ones.

The outcome of said loophole is the ‘intervention verses invitation’ dilemma. To describe this dilemma, let’s assume a state under civil war that invites an ally to help her in removing the threat or to act as a mediator to end the conflict. Meanwhile another state or group of states intervene based on R2P without the permission of host-state. Under such a scenario, which actor(s) are the legitimate intervener(s)? Such scenarios are not considered by the principle of R2P and mark the biggest flaw in its conceptualization. This flaw is directly attributed to the concept of sovereignty defined under R2P because invitation fulfils the criteria of states’ responsibility and presents no hurdle for the concept of traditional sovereignty in terms of non-interference, leaving no room for another intervention. But what if this invitation leads to more human rights violation and crimes against humanity? Do interventions become legitimate in such cases? The complexity of these questions creates a bigger problem for R2P and leads to its failure as evident in the case of Syria.

The third important loophole within the R2P paradigm lies in its criterion addressing the question of when to intervene. It stipulates that neighboring states can intervene in another state if they feel that the actions taking place within that state can be threatening to the peace of their own state. This criterion is so vague that it allows states tremendous leeway to interpret the clause in any way that suits them. This difference of interpretation results in

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<sup>183</sup> Sir Michael Wood, ‘The Principle of NON-INTERVENTION in Contemporary International Law: Non-Interference in a State’s Internal Affairs used to be a Rule of International Law: Is it still?’ *Chatham House*, 3. (2007)

<http://www.chathamhouse.org/sites/default/files/public/Research/International%20Law/il280207.pdf>

<sup>184</sup> Erfoun Nooroz, ‘Responsibility to Protect and its applicability in Libya and Syria,’

*ICL Journal: Vienna Journal on International Constitutional Law* 33, no.11 (2014): 213, [https://www.icl-journal.com/media/ICL\\_Thesis\\_Vol\\_9\\_3\\_15.pdf](https://www.icl-journal.com/media/ICL_Thesis_Vol_9_3_15.pdf)

power politics within a region and allows neighboring states to use such an opportunity for their vested interests.

Finally, the question of authority to authorize use of force that rests with the UNSC. In case the UNSC is unable to act, the authority to authorize an intervention lies with the UNGA or regional players and organizations. This loophole is dangerous because most of the time it results in the clash of interests between two competing global or regional powers resulting in more human rights violations, reducing the conflict state to a ground for power-projection. This outcome is not only the resultant of this loophole but can also be attributed to other loopholes formerly discussed. The Syrian Civil War is an excellent case study in the defence of this assertion.

### 3. A CASE STUDY: SYRIAN CIVIL WAR & THE DUALITY OF 'INVITATION-INTERVENTION' AND 'RESPONSIBILITY-INTEREST' DILEMMA

The history of the Middle East is full of conflicts involving genocide and crimes against humanity such as in the case of Libya and Iraq (or more recently Yemen) but the Syrian crisis is arguably the worst in this nature. Since this crisis began, 500,000 people have lost their lives up to date, 5.7 million people have fled the country, and 6.6 million people have been displaced having left their cities and homes.<sup>185</sup> Despite the enormous number of casualties in seven years, the international community has not only failed to find a peaceful solution but has also been unable to protect the population of Syria. This marks the biggest failure of the UNSC in general and of R2P in particular. The question is, is it lack of political will (due to divergence of interests), or the loopholes of R2P that are preventing the Syrian crisis away from reaching a peaceful conclusion?

This paper argues that it is in fact both the absence of political will *and* loopholes of R2P. These factors are directly linked to each other and have gone hand in hand in exacerbating this crisis and even further away from a peaceful solution. The 'Invitation-Intervention' dilemma as discussed in the previous section is of a complex nature that makes it difficult to

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<sup>185</sup> "Syria: Global Centre for the Responsibility to Protect," *Global Centre for the Responsibility to Protect*, last modified May 15<sup>th</sup>, 2018, <http://www.globalr2p.org/regions/syria>



decide which side is legitimate. The dilemma is crucial because it attacks the very first objective of international law, which is to ‘recognize the legitimacy.’ This outcome of the discussed dilemma allows us to raise the question: if it is not clear under the premises of international law, then how can one reach to a peaceful solution? The Syrian crisis is a practical manifestation of this clash between theoretical concepts of two different schools of thought i.e. Realism and Liberalism, over the definition of same subjects. The two powerful international players of Syrian crisis are United States and Russia, with the latter supporting the Assad regime and being invited into the crisis and the former in opposition to Assad having intervened on grounds of R2P.

This Invitation-Intervention dilemma has also created another dilemma namely that of ‘Responsibility-Interest’. The US and its allies have justified the intervention in Syria based on R2P but have also acted against the Resolutions of the UNSC because Russia has vetoed resolutions granting them permission to intervene in Syria. As R2P gives UNSC the authority to intervene, the intervention of the US and its ten allies becomes unjustifiable, creating a clash between responsibility and interests. During this clash, the Realist school of thought would argue that states would prefer interests to responsibility because states look for opportunities to gain power over their adversaries. If it was about responsibility, then we should have seen a similar approach in the Yemen conflict as opposed to the current double standard. And in such cases where responsibility comes second to deadly powerplay, outcomes are bleak. This is why Syria has become a power-projection ground between Russia and United States.

While discussing the third loophole, this paper argued that neighboring states and regional powers could interpret the threat emerging from conflict states as a danger to their national peace and security. As R2P allows these neighboring states to intervene in the victim state, the criterion can result in conflict states becoming victims of interpretations that may or may not suit the vested interests of regional stakeholders. This is the case in Syria, where different regional players are involved in fighting and financing different factions already involved in the crisis. These players are Turkey, Israel, Jordan, Lebanon, Iran and Saudi Arabia. All these regional and neighboring players have justified their actions under the same criterion

proposed by R2P, but evidence shows that their goal is to gain and secure their vested interests within Syria rather than protecting civilians from mass atrocities.

### CONCLUSION

The Syrian Civil War is a case study of the failure of the Responsibility to Protect (R2P) principle and has identified major loopholes within its conceptualization. This case has initiated a debate amongst scholars about the effectiveness of R2P and it is argued R2P has given more leeway for the exploitation of weaker states. The first loophole discussed in this paper was the concept of sovereignty as responsibility which is in direct contradiction to the Westphalian concept of traditional sovereignty. As noted by Max Huber in the case of 'Island of Palmas', "Sovereignty in the relations between States signifies independence. Independence in regard to a portion of the globe is the right to exercise therein, to the exclusion of any other State, the function of a State." The new concept of sovereignty as responsibility will take time to be accepted as a universal alternative to its traditional concept. Until and unless it reaches to that point, R2P cannot be fully successful in its implementation.

The other major loopholes within R2P are; Invitation-Intervention clash and the criterion that allows neighboring states or regional organizations to intervene in the conflict state. Such a criterion is in direct confrontation to the accepted and non-contested principle of Non-Interference stated under UN charter. Such a clash between two principles of international law is discouraging for the viability of R2P in general and human security in particular. Furthermore, these loopholes also provide room for major players to intervene at the behest of their own interests. As in the case of the Syrian Civil War, such a scenario leads towards a clash between responsibility and interests and allows these states to project their power capabilities in order to create more influence in the region. The presence of these inconsistencies within R2P have had a devastating impact on international peace and stability as evident from the Syrian crisis. To successfully reach a resolution, states have to find unified grounds for humanitarian interventions with safeguards against selective interventions and the exploitation of weaker states.